

STATE OF CONNECTICUT
SITING COUNCIL

PETITION OF UNITED ILLUMINATING COMPANY
CERTIFICATE OF ENVIRONMENTAL COMPATABILITY
AND PUBLIC NEED FOR THE FAIRFIELD TO CONGRESS
RAILROAD TRANSMISSION LINE 115-KV REBUILD PROJECT
THAT EXTENDS FROM FAIRFIELD TO BRIDGEPORT, CT

DOCKET NO. 516

**APPLICATION TO INTERVENE UNDER CEPA, §22A-19, §4-177a, § 16-50n, § 16-50o,
AND §22a-120, AND REQUEST FOR ADDITIONAL EVIDENTIARY HEARING**

I. PRELIMINARY STATEMENT

The Town of Fairfield (the “Town”) hereby moves the Connecticut Siting Council (the “Council”) to become a party intervenor in the above captioned case, brought by petition of the United Illuminating Company (“UI”). The Town also requests an additional evidentiary hearing so that the Town may present fact and expert witnesses, and cross-examine witnesses introduced by UI. The purpose of this intervention is to participate in these proceedings so as to prevent unreasonable impacts to the natural resources of the Town and State, including: scenic vistas; historic districts; environmental impact from the removal of native trees and use of herbicides; land seizure for new easements; and environmental impacts on wetlands surrounding the proposed facility locations.

II. RELEVANT FACTS

The UI application for a Certificate of Environmental Compatibility and Public Need (the “Application”) for the Fairfield to Congress Railroad Transmission Line 115-kilovolt (“kV”) Rebuild Project consists of the relocation and rebuild of its existing 115-kV electric transmission lines from the railroad catenary structures to new steel monopole structures and related modifications along approximately 7.3 miles of the Connecticut Department of Transportation’s

Metro-North Railroad corridor between Structure B648S located east of Sasco Creek in Fairfield and UI's Congress Street Substation in Bridgeport. The Application also involves the rebuild of two existing 115-kV transmission lines along 0.23 miles of existing UI right-of-way to facilitate interconnection of the rebuilt 115-kV electric transmission lines at UI's existing Ash Creek, Resco, Pequonnock and Congress Street Substations traversing the municipalities of Bridgeport and Fairfield, Connecticut.

The Town and its residents enjoy the property rights they have acquired without easements, a scenic historic district and improving wetlands and environmental health in and around the area of the proposed facilities in the Town. The proposed electrical transmission facilities will have a negative impact on the scenic vistas, historic district and natural resources of the village of Southport and the Town's surrounding areas due to the building of new electrical transmission lines that rise significantly above the tree line (110-140 feet high).

Pursuant to Conn. Gen. Stat. §22a-19 ("CEPA"), R.C.S.A § 16-50j-14 and Conn. Gen. Stat. §4-177a, the Town is responsible for the representation and well-being of more than sixty thousand (60,000) Town residents. The Town and its residents will be specifically and substantially affected by the viewshed of the proposed activities of UI. Some Town residents also are likely to suffer property value loss different from and greater than that of the general public due to the proximity of the proposed UI activities to residential properties. As a result, the Council is being asked to render a decision which will impact the substantive rights of many Town residents.

The Town intends to submit evidence which has not previously been considered, in the form of expert testimony which will substantiate the feasibility of available alternatives to the proposed facilities that have less visual impact, thereby assisting the Council in complying with its mandate to minimize impact as required by C.G.S §16-50g and §16-50p(3)(G)(b)(1). The Town

will demonstrate that the UI design does not incorporate the best available technology for reducing the visual impacts of the facilities, in that the design fails to fully consider impacts to historic districts, property owners, natural habitats, neighboring property uses, and nearby homes, businesses and municipalities.

Intervenor participation will be in the interests of justice and is proper under CEPA in that the evidence and testimony to be given will show that the proposed activity for which UI seeks a certificate is likely to unreasonably harm the public trust in the air, water or other natural resources of the State of Connecticut in that, if granted, the proposed activity will, *inter alia*, unreasonably impair the visual quality of the environment in and around the transmission line throughout the Town; and is reasonably likely to cause viewshed deterioration that is unreasonable because at least one feasible alternative solution of lesser impact exists.

The Town is governed by Town Charter and has a democratically elected Town government that consists of a Board of Selectmen and Representative Town Meeting. The First Selectwoman, Brenda Kupchick, is the Chief Executive Officer of the Town. The First Selectwoman's business address is Sullivan Independence Hall, 725 Old Post Road, Fairfield, Connecticut 06824. Due to the expedited nature of these proceedings, the Town asserts that good cause exists for the timing of the filing of this application to intervene and request for additional evidentiary hearing.

III. LEGAL ARGUMENT

Pursuant to Section 16-50j-15a(c) of the Council's Regulations, "[t]he council will determine the proposed intervenor's participation in the proceeding, taking into account whether such participation will furnish assistance to the council in resolving the issues of the case, is in the interests of justice, and will not impair the orderly conduct of the proceedings." As set forth above, this standard is readily met.

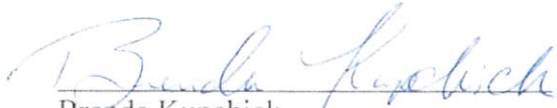
Moreover, the right of municipalities to intervene in cases for the purpose of protecting the public interest has been recognized by the courts. See Avalon Bay Communities v. Zoning Commission of the Town of Stratford, 87 Conn. App. 537, 553(2005), quoting Rommell v. Walsh, 127 Conn. 16,21 (1940). "It is clear that one basic purpose of [the Environmental Protection Act of 1971, § 22a-15] is to give persons standing to bring actions to protect the environment." Belford v. New Haven, 170 Conn. 46, 53-54 (1975). Indeed, statutes "such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose." Avalon Bay Communities, Inc. v. Zoning Commission of the Town of Stratford, 87 Conn. App. at 548; Keeney v. Fairfield Resources, Inc., 41 Conn. App. 120, 132-33 (1996). Additionally, in Red Hill Coalition, Inc. v. Town Planning & Zoning Commission, 212 Conn. 727, 734 (1989) the Court stated: "[S]ection 22a-19[a] makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded;" see also Polymer Resources, Ltd. v. Keeney, 32 Conn. App. 340, 348-49 (1993) ("[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.")

CONCLUSION

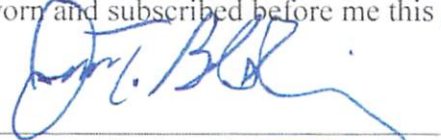

Based on the foregoing, the Town respectfully submits that this application requesting intervenor status and an additional evidentiary hearing should be granted.

VERIFICATION

The undersigned, Brenda Kupchick, duly authorized as First Selectwoman of the Town of Fairfield, duly sworn, hereby verifies that the above application is true and accurate to the best of her knowledge and belief.


Brenda Kupchick
First Selectwoman, Town of Fairfield

Sworn and subscribed before me this 24 August, 2023


Notary Public; My Commission Expires


Respectfully submitted,

By: 
Timothy M. Herbst, Esq.
Marino, Zabel & Schellenberg, PLLC
657 Orange Center Road
Orange, CT 06477
P: (203) 864-4611
Email: therbst@mzslaw.com