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Connecticut Energy Advisory Board
Subcommittee on the Study of Various Energy Issues
c/o Gretchen K. Deans
Director of Administration
The Connecticut Economic Resource Center, Inc.
805 Brook Street, Bldg. 4
Rocky Hill, CT 06067

RE: Comments on CEAB Draft Various Energy Issues Phase 2 Report

Dear Subcommittee Members:

The Connecticut Siting Council (Council) wishes to submit the following comments with respect to the Draft Report and Recommendations on Various Energy Issues. Thank you for this opportunity to present these items for your review and consideration.

FINDING C: A state entity should have statutory authority to act promptly in response to market opportunities that are in ratepayers' best interest.

As to the recommendation that the state should establish limited authority to act without delay to procure resources or enter contracts in narrow circumstances...

- Projects approved under §16-243m(g) with regard to measures to reduce federally mandated congestion charges are eligible for "expedited siting" under §16-50k(a), which requires the CSC to approve by declaratory ruling.
- DPUC has standing authority under §16-243m(g) to act promptly to "capture market opportunities that clearly advance or avoid harm to an identified state objective."
- What criteria determine whether or not inclusion in the limited circumstance category is successful and what recourse is available to remedy any errors?
- What are the implications of the state as a "market participant" that would act expeditiously on a market opportunity?

An expedited process already exists; DPUC has authority under §16-243m(g) to act promptly in response to market opportunities that are in ratepayers' best interest. Under that section, DPUC is required to "give preference to proposals that (1) result in the aggregate reduction of FMCCs, (2) make efficient use of existing sites and supply infrastructure and (3) serve the long-term interests of ratepayers." This statutory criteria could be combined or synthesized with the report's suggested criteria of time limitation, substantial evidence that no other opportunity exists and that the resource under



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consideration is consistent with a need. The declaratory ruling process itself provides an expedited process that preserves the due process rights of affected parties and entities. Pre-approval of certain contracts opens the door to exclusion of public comment and to administrative appeals. Therefore, any expedited process to pre-approve certain contracts should be well defined, as well as confined to very limited and special circumstances, such as renewable energy projects.

FINDING D: CT should facilitate and otherwise enhance the integration of individual state entity plans, strategies and actions toward achieving energy, environmental and economic goals.

1. As to the recommendation under “harmonizing agency criteria regarding costs” that may preclude DEP and/or DPUC from considering each others’ standards in decision-making to further both environmental and agency goals on page 16:

- CSC is statutorily charged to consider both environmental and energy goals under C.G.S. §16-50g (“provide for the balancing of the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state... to provide environmental quality standards and criteria for the location, design, construction and operation of facilities for the furnishing of public utility services at least as stringent as the federal environmental quality standards and criteria...”)
- DEP standards are considered under C.G.S. §16-50k(a) with reference to the siting of generating facilities to be approved by declaratory ruling “... (2) construction and location of any fuel cell unless the council finds a substantial adverse environmental effect... with a capacity of not more than 65 megawatts... *as long as such project meets air quality standards of the DEP...*”

2. As to the recommendation under “eliminate barriers to inter-agency communications and coordination” to eliminate by statutory or administrative act any real or perceived impediments to DEP staff’s full participation in CSC or DPUC proceedings on page 17:

- Pursuant to C.G.S. §16-50j(h), the DEP is notified of pending proceedings and invited to comment (...the council shall consult with and solicit written comments from the *Department of Environmental Protection...*)
- The DEP may also intervene in a CSC proceeding pursuant to C.G.S. §16-50n(b) (The Council may permit any person to participate as an intervenor...) in conjunction with C.G.S. §4-177a (“...status as an intervenor...”), as well as pursuant to C.G.S. §22a-19 (“In any administrative... proceeding, and in any judicial review thereof... any instrumentality or agency of the state... may intervene as a party... asserting that the proceeding... involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.”).
- Pursuant to C.G.S. §16-50j(b)(1), the DEP Commissioner or their designee is a voting member of the Council.

4. As to the recommendation under “overlapping jurisdictions and criteria regarding project need determinations and alternatives analysis” to modify duplicative and overlapping authorities through statutory changes on page 19:

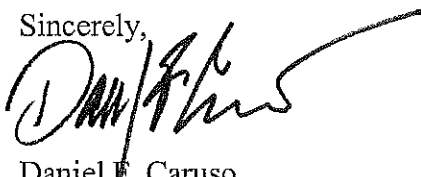
- Pursuant to C.G.S. §16-50p(h), “a public need exists for an energy facility if such facility is necessary for the reliability of the electric power supply for the state,” which is directly related to the legislative finding and purpose for the Council in balancing public need with the need to protect the environment; each “need” is amenable and pertinent to the CEAB recommendations to meet energy, environmental and economic goals.
- The two concerns related to statutory modifications illustrate the necessity that renewable energy projects, most specifically wind and solar, are areas within which the Council that should be granted explicit jurisdiction that should not be subject to interpretation particularly in relation to local land use authorities potentially making decisions pertaining to these projects without considering the state’s energy interests.

5. As to the recommendation under “sequencing regulatory reviews of projects and minimizing substantive and administrative overlap” to streamline regulatory processes on page 20:

- Any changes in the regulatory processes (such as length of time or consideration of prior approvals) must ensure due process protections and a mechanism by which decisions can be appealed to the superior court.
- Sequencing or streamlining processes or designation of an entity to conduct both siting and environmental permitting or joint environmental and public utility preapplication meetings, whether vested in DEP or CSC, must not limit access to and participation in state proceedings by the public and other stakeholders affected by the proposed projects.

Again, the Council appreciates your review and consideration of this input into its research study and associated report and recommendations. We would welcome the opportunity to respond to any questions or requests for further information with respect to these matters.

Sincerely,



Daniel F. Caruso
Chairman

DFC/SDP/cm

