



General Assembly

February Session, 2004

**Raised Bill No. 5418**

LCO No. 1320

\*01320\_\_\_\_\_ET\_\*

Referred to Committee on Energy and Technology

Introduced by:

(ET)

**AN ACT CONCERNING ELECTRIC TRANSMISSION LINE SITING CRITERIA.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 16-50p of the general statutes, as  
2 amended by section 10 of public act 03-140, section 6 of public act 03-  
3 221 and section 120 of public act 03-278, is repealed and the following  
4 is substituted in lieu thereof (*Effective from passage and applicable to*  
5 *applications for a certificate of environmental compatibility and public need*  
6 *for which the Connecticut Siting Council has not rendered a decision upon the*  
7 *record prior to the effective date of this section*):

8 (a) In a certification proceeding, the council shall render a decision  
9 upon the record either granting or denying the application as filed, or  
10 granting it upon such terms, conditions, limitations or modifications of  
11 the construction or operation of the facility as the council may deem  
12 appropriate. The council's decision shall be rendered within twelve  
13 months of the filing of an application concerning a facility described in  
14 subdivision (1) or (2) of subsection (a) of section 16-50i, as amended, or  
15 subdivision (4) of said subsection (a) if the application was  
16 incorporated in an application concerning a facility described in

17 subdivision (1) of said subsection (a), and within one hundred eighty  
18 days of the filing of any other application concerning a facility  
19 described in subdivision (4) of said subsection (a), and an application  
20 concerning a facility described in subdivision (3), (5) or (6) of said  
21 subsection (a), provided such time periods may be extended by the  
22 council by not more than one hundred eighty days with the consent of  
23 the applicant. The council shall file, with its order, an opinion stating  
24 in full its reasons for the decision. Except as provided in subsection (c)  
25 of this section, the council shall not grant a certificate, either as  
26 proposed or as modified by the council, unless it shall find and  
27 determine: (1) A public need for the facility and the basis of the need  
28 taking into consideration other feasible and prudent alternatives  
29 provided to the council by a party or intervenor that address the same  
30 public need; (2) the nature of the probable environmental impact of the  
31 facility, or a feasible and prudent alternative provided to the council  
32 by a party or intervenor, alone and cumulatively with other existing  
33 facilities, including a specification of every significant adverse effect,  
34 whether alone or cumulatively with other effects, on, and conflict with  
35 the policies of the state concerning, the natural environment, ecological  
36 balance, public health and safety, scenic, historic and recreational  
37 values, forests and parks, air and water purity and fish, aquaculture  
38 and wildlife; (3) why the adverse effects or conflicts referred to in  
39 subdivision (2) of this subsection are not sufficient reason to deny the  
40 application, including why other feasible and prudent alternatives  
41 with less adverse effects or fewer conflicts that are provided to the  
42 council by a party or intervenor do not address the same public need;  
43 (4) in the case of an electric transmission line, (A) what part, if any, of  
44 the facility shall be located overhead, (B) that the facility conforms to a  
45 long-range plan for expansion of the electric power grid of the electric  
46 systems serving the state and interconnected utility systems and will  
47 serve the interests of electric system economy and reliability, [and] (C)  
48 that the overhead portions, if any, of the facility, or a feasible and  
49 prudent alternative provided to the council by a party intervenor, are  
50 cost effective and the most appropriate alternative based on a life-cycle

51 cost analysis of the facility and underground alternatives to such  
52 facility, and are consistent with the purposes of this chapter, with such  
53 regulations as the council may adopt pursuant to subsection (a) of  
54 section 16-50t, and with the Federal Power Commission "Guidelines  
55 for the Protection of Natural Historic Scenic and Recreational Values in  
56 the Design and Location of Rights-of-Way and Transmission Facilities"  
57 or any successor guidelines and any other applicable federal  
58 guidelines, (D) where the cumulative voltage of the overhead portions,  
59 if any, of the proposed facility and any existing electric transmission  
60 line within the easement or right-of-way in which the proposed facility  
61 is to be located is more than sixty-eight and less than two hundred  
62 nineteen kilovolts, that there is no private or public school, licensed  
63 child day care facility, licensed youth camp or public playground  
64 within one hundred feet of the edge of such easement or right-of-way,  
65 (E) where the cumulative voltage of the proposed facility and any  
66 existing electric transmission line within the overhead portions, if any,  
67 of the easement or right-of-way in which the proposed facility is to be  
68 located is between two hundred twenty and three hundred forty-four  
69 kilovolts, that there is no private or public school, licensed child day  
70 care facility, licensed youth camp or public playground within two  
71 hundred fifty feet of the edge of such easement or right-of-way, and (F)  
72 where the cumulative voltage of the overhead portions, if any, of the  
73 proposed facility and any existing electric transmission line within the  
74 easement or right-of-way in which the proposed facility is to be located  
75 is not less than three hundred forty-five kilovolts, that there is no  
76 private or public school, licensed child day care facility, licensed youth  
77 camp or public playground within six hundred feet of the edge of such  
78 easement or right-of-way; (5) in the case of an electric or fuel  
79 transmission line, that the location of the line will not pose an undue  
80 hazard to persons or property along the area traversed by the line; and  
81 (6) in the case of a facility described in subdivision (6) of subsection (a)  
82 of section 16-50i, as amended, that is proposed to be installed on land  
83 under agricultural restriction, as provided in section 22-26cc, as  
84 amended, that the facility will not result in a material decrease of

85 acreage and productivity of the arable land. The terms of any  
86 agreement entered into by the applicant and any party to the  
87 certification proceeding, or any third party, in connection with the  
88 construction or operation of the facility, shall be part of the record of  
89 the proceedings and available for public inspection. The full text of any  
90 such agreement, and a statement of any consideration therefor, if not  
91 contained in the agreement, shall be filed with the council prior to the  
92 council's decision. This provision shall not require the public  
93 disclosure of proprietary information or trade secrets.

94 Sec. 2. Subsection (a) of section 16-50p of the general statutes, as  
95 amended by sections 10 and 11 of public act 03-140, section 6 of public  
96 act 03-221, section 120 of public act 03-278 and section 1 of this act, is  
97 repealed and the following is substituted in lieu thereof (*Effective*  
98 *October 1, 2004*):

99 (a) (1) In a certification proceeding, the council shall render a  
100 decision upon the record either granting or denying the application as  
101 filed, or granting it upon such terms, conditions, limitations or  
102 modifications of the construction or operation of the facility as the  
103 council may deem appropriate.

104 (2) The council's decision shall be rendered in accordance with the  
105 following:

106 (A) Not later than twelve months after the deadline for filing an  
107 application following the request-for-proposal process for a facility  
108 described in subdivision (1) or (2) of subsection (a) of section 16-50i, as  
109 amended, or subdivision (4) of said subsection (a) if the application  
110 was incorporated in an application concerning a facility described in  
111 subdivision (1) of said subsection (a);

112 (B) Not later than one hundred eighty days after the deadline for  
113 filing an application following the request-for-proposal process for a  
114 facility described in subdivision (4) of said subsection (a), and an  
115 application concerning a facility described in subdivision (3) of said

116 subsection (a), provided such time periods may be extended by the  
117 council by not more than one hundred eighty days with the consent of  
118 the applicant; and

119 (C) Not later than one hundred eighty days after the filing of an  
120 application for a facility described in subdivision (5) or (6) of said  
121 subsection (a), provided such time period may be extended by the  
122 council by not more than one hundred eighty days with the consent of  
123 the applicant.

124 (3) The council shall file, with its order, an opinion stating in full its  
125 reasons for the decision. Except as provided in subsection (c) of this  
126 section, the council shall not grant a certificate, either as proposed or as  
127 modified by the council, unless it shall find and determine:

128 (A) A public need for the facility and the basis of the need;

129 (B) The nature of the probable environmental impact of the facility  
130 alone and cumulatively with other existing facilities, including a  
131 specification of every significant adverse effect, whether alone or  
132 cumulatively with other effects, on, and conflict with the policies of the  
133 state concerning, the natural environment, ecological balance, public  
134 health and safety, scenic, historic and recreational values, forests and  
135 parks, air and water purity and fish, aquaculture and wildlife;

136 (C) Why the adverse effects or conflicts referred to in subparagraph  
137 (B) of this subdivision are not sufficient reason to deny the application;

138 (D) In the case of an electric transmission line, (i) what part, if any,  
139 of the facility shall be located overhead, (ii) that the facility conforms to  
140 a long-range plan for expansion of the electric power grid of the  
141 electric systems serving the state and interconnected utility systems  
142 and will serve the interests of electric system economy and reliability,  
143 (iii) that the overhead portions, if any, of the facility are cost effective  
144 and the most appropriate alternative based on a life-cycle cost analysis  
145 of the facility and underground alternatives to such facility, and are

146 consistent with the purposes of this chapter, with such regulations as  
147 the council may adopt pursuant to subsection (a) of section 16-50t, and  
148 with the Federal Power Commission "Guidelines for the Protection of  
149 Natural Historic Scenic and Recreational Values in the Design and  
150 Location of Rights-of-Way and Transmission Facilities" or any  
151 successor guidelines and any other applicable federal guidelines, [(D)]  
152 (iv) where the cumulative voltage of the overhead portions, if any, of  
153 the proposed facility and any existing electric transmission line within  
154 the easement or right-of-way in which the proposed facility is to be  
155 located is more than sixty-eight and less than two hundred nineteen  
156 kilovolts, that there is no private or public school, licensed child day  
157 care facility, licensed youth camp or public playground within one  
158 hundred feet of the edge of such easement or right-of-way, [(E)] (v)  
159 where the cumulative voltage of the overhead portions, if any, of the  
160 proposed facility and any existing electric transmission line within the  
161 easement or right-of-way in which the proposed facility is to be located  
162 is between two hundred twenty and three hundred forty-four  
163 kilovolts, that there is no private or public school, licensed child day  
164 care facility, licensed youth camp or public playground within two  
165 hundred fifty feet of the edge of such easement or right-of-way, and  
166 [(F)] (vi) where the cumulative voltage of the overhead portions, if any,  
167 of the proposed facility and any existing electric transmission line  
168 within the easement or right-of-way in which the proposed facility is  
169 to be located is not less than three hundred forty-five kilovolts, that  
170 there is no private or public school, licensed child day care facility,  
171 licensed youth camp or public playground within six hundred feet of  
172 the edge of such easement or right-of-way;

173 (E) In the case of an electric or fuel transmission line, that the  
174 location of the line will not pose an undue hazard to persons or  
175 property along the area traversed by the line;

176 (F) In the case of an application that was heard under a consolidated  
177 hearing process with other applications that were common to a  
178 request-for-proposal, that the facility proposed in the subject

179 application represents the most appropriate alternative among such  
180 applications based on the findings and determinations pursuant to this  
181 subsection; and

182 (G) In the case of a facility described in subdivision (6) of subsection  
183 (a) of section 16-50i, as amended, that is proposed to be installed on  
184 land under agricultural restriction, as provided in section 22-26cc, as  
185 amended, that the facility will not result in a material decrease of  
186 acreage and productivity of the arable land.

187 Sec. 3. Subsection (c) of section 16-50p of the general statutes, as  
188 amended by section 12 of public act 03-140 and section 1 of public act  
189 03-248, is repealed and the following is substituted in lieu thereof  
190 (*Effective from passage and applicable to applications for a certificate of*  
191 *environmental compatibility and public need for which the Connecticut Siting*  
192 *Council has not rendered a decision upon the record prior to the effective date*  
193 *of this section*):

194 (c) (1) The council shall not grant a certificate for a facility described  
195 in subdivision (3) of subsection (a) of section 16-50i, as amended, either  
196 as proposed or as modified by the council, unless it finds and  
197 determines: (A) A public benefit for the facility; (B) the nature of the  
198 probable environmental impact, including a specification of every  
199 significant adverse and beneficial effect that, whether alone or  
200 cumulatively with other effects, conflicts with the policies of the state  
201 concerning the natural environment, ecological balance, public health  
202 and safety, scenic, historic and recreational values, forests and parks,  
203 air and water purity and fish and wildlife; and (C) why the adverse  
204 effects or conflicts referred to in subparagraph (B) of this subdivision  
205 are not sufficient reason to deny the application. For purposes of  
206 subparagraph (A) of this subdivision, a public benefit exists if such a  
207 facility is necessary for the reliability of the electric power supply of  
208 the state or for a competitive market for electricity.

209 (2) The council shall not grant a certificate for a facility described in  
210 subdivision (1) of subsection (a) of section 16-50i, as amended, which is

211 substantially underground or underwater except where such facilities  
212 interconnect with existing overhead facilities, either as proposed or as  
213 modified by the council, unless it finds and determines:

214 (A) A public benefit for the facility, in the case of such facility that is  
215 substantially underground, and a public need for such facility, in the  
216 case of such facility that is substantially underwater, taking into  
217 consideration other feasible and prudent alternatives provided to the  
218 council by a party or intervenor that address the same public need or  
219 public benefit, as applicable;

220 (B) The nature of the probable environmental impact of the facility,  
221 or a feasible and prudent alternative provided to the council by a party  
222 intervenor, alone and cumulatively with other existing facilities,  
223 including a specification of every single adverse and beneficial effect  
224 that, whether alone or cumulatively with other effects, conflict with the  
225 policies of the state concerning the natural environment, ecological  
226 balance, public health and safety, scenic, historic and recreational  
227 values, forests and parks, air and purity and fish and wildlife;

228 (C) Why the adverse effects or conflicts referred to in subparagraph  
229 (B) of this subdivision are not sufficient reason to deny the application,  
230 including why other feasible and prudent alternatives with less  
231 adverse effects and fewer conflicts that were provided to the council  
232 by a party or intervenor do not address the same public need or public  
233 benefit, as applicable;

234 (D) In the case of a new electric transmission line, (i) what part, if  
235 any, of the facility shall be located overhead, (ii) that the facility  
236 conforms to a long-range plan for expansion of the electric power grid  
237 of the electric systems serving the state and interconnected utility  
238 systems and will serve the interests of electric system economy and  
239 reliability, and (iii) that the overhead portions of the facility, if any, (I)  
240 are cost-effective and the most appropriate alternative based on a life-  
241 cycle cost analysis of the facility and underground alternatives to such  
242 facility and are consistent with the purposes of this chapter, with such

243 regulations as the council may adopt pursuant to subsection (a) of  
244 section 16-50t, and with the Federal Energy Regulatory Commission  
245 "Guidelines For the Protection of Natural Historic Scenic and  
246 Recreational Values in the Design and Location of Rights-of-Way and  
247 Transmission Facilities" or any other successor guidelines and any  
248 other applicable federal guidelines, and (II) meet the criteria  
249 enumerated in subparagraphs (D) to (F), inclusive, of subdivision (4) of  
250 subsection (a) of this section, as amended by this act; and

251 (E) In the case of an electric or fuel transmission line, that the  
252 location of the line will not pose an undue hazard to persons or  
253 property along the area traversed by the line. For purposes of  
254 subparagraph (A) of this subdivision, a public benefit exists if such a  
255 facility is necessary for the reliability of the electric power supply of  
256 the state or for the development of a competitive market for electricity.

257 (3) Any application for an electric transmission line with a capacity  
258 of three hundred forty-five kilovolts or more that is filed on or after  
259 May 1, 2003, and that proposes the underground burial of such line in  
260 all residential areas and overhead installation of such line in industrial  
261 and open space areas affected by such proposal shall have a rebuttable  
262 presumption of meeting a public benefit for such facility if the facility  
263 is substantially underground, and meeting a public need for such  
264 facility if the facility is substantially above ground. Such presumption  
265 may be overcome by evidence submitted by a party or intervenor to  
266 the satisfaction of the council.

267 Sec. 4. Subdivisions (1) and (2) of subsection (c) of section 16-50p of  
268 the general statutes, as amended by sections 12 and 13 of public act 03-  
269 140, section 1 of public act 03-248 and section 3 of this act, are repealed  
270 and the following is substituted in lieu thereof (*Effective October 1,*  
271 *2004*):

272 (c) (1) The council shall not grant a certificate for a facility described  
273 in subdivision (3) of subsection (a) of section 16-50i, as amended, either  
274 as proposed or as modified by the council, unless it finds and

275 determines: (A) A public benefit for the facility; (B) the nature of the  
276 probable environmental impact, including a specification of every  
277 significant adverse and beneficial effect that, whether alone or  
278 cumulatively with other effects, conflicts with the policies of the state  
279 concerning the natural environment, ecological balance, public health  
280 and safety, scenic, historic and recreational values, forests and parks,  
281 air and water purity and fish and wildlife; (C) why the adverse effects  
282 or conflicts referred to in subparagraph (B) of this subdivision are not  
283 sufficient reason to deny the application; and (D) in the case of an  
284 application that was heard under a consolidated hearing process with  
285 other applications that were common to a request-for-proposal, that  
286 the facility proposed in the subject application represents the most  
287 appropriate alternative among such applications based on the findings  
288 and determinations pursuant to this subdivision. For purposes of  
289 subparagraph (A) of this subdivision, a public benefit exists if such a  
290 facility is necessary for the reliability of the electric power supply of  
291 the state or for a competitive market for electricity.

292 (2) The council shall not grant a certificate for a facility described in  
293 subdivision (1) of subsection (a) of section 16-50i, as amended, which is  
294 substantially underground or underwater except where such facilities  
295 interconnect with existing overhead facilities, either as proposed or as  
296 modified by the council, unless it finds and determines:

297 (A) A public benefit for the facility, in the case of such facility that is  
298 substantially underground, and a public need for such facility, in the  
299 case of such facility that is substantially underwater;

300 (B) The nature of the probable environmental impact of the facility  
301 alone and cumulatively with other existing facilities, including a  
302 specification of every single adverse and beneficial effect that, whether  
303 alone or cumulatively with other effects, conflict with the policies of  
304 the state concerning the natural environment, ecological balance,  
305 public health and safety, scenic, historic and recreational values,  
306 forests and parks, air and purity and fish and wildlife;

307 (C) Why the adverse effects or conflicts referred to in subparagraph  
308 (B) of this subdivision are not sufficient reason to deny the application;

309 (D) In the case of a new electric transmission line, (i) what part, if  
310 any, of the facility shall be located overhead, (ii) that the facility  
311 conforms to a long-range plan for expansion of the electric power grid  
312 of the electric systems serving the state and interconnected utility  
313 systems and will serve the interests of electric system economy and  
314 reliability, and (iii) that the overhead portions of the facility, if any, (I)  
315 are cost-effective and the most appropriate alternative based on a life-  
316 cycle cost analysis of the facility and underground alternatives to such  
317 facility and are consistent with the purposes of this chapter, with such  
318 regulations as the council may adopt pursuant to subsection (a) of  
319 section 16-50t, and with the Federal Energy Regulatory Commission  
320 "Guidelines For the Protection of Natural Historic Scenic and  
321 Recreational Values in the Design and Location of Rights-of-Way and  
322 Transmission Facilities" or any other successor guidelines and any  
323 other applicable federal guidelines, and (II) meet the criteria  
324 enumerated in [subparagraphs (D) to (F), inclusive, of subdivision (4)]  
325 subclauses (iv) to (vi), inclusive, of subparagraph (D) of subdivision (3)  
326 of subsection (a) of this section, as amended by this act;

327 (E) In the case of an electric or fuel transmission line, that the  
328 location of the line will not pose an undue hazard to persons or  
329 property along the area traversed by the line; and

330 (F) In the case of an application that was heard under a consolidated  
331 hearing process with other applications that were common to a  
332 request-for-proposal, that the facility proposed in the subject  
333 application represents the most appropriate alternative among such  
334 applications based on the findings and determinations pursuant to this  
335 subdivision. For purposes of subparagraph (A) of this subdivision, a  
336 public benefit exists if such a facility is necessary for the reliability of  
337 the electric power supply of the state or for the development of a  
338 competitive market for electricity and a public need exists if such

339 facility is necessary for the reliability of the electric power supply of  
340 the state.

This act shall take effect as follows:	
Section 1	<i>from passage and applicable to applications for a certificate of environmental compatibility and public need for which the Connecticut Siting Council has not rendered a decision upon the record prior to the effective date of this section</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>from passage and applicable to applications for a certificate of environmental compatibility and public need for which the Connecticut Siting Council has not rendered a decision upon the record prior to the effective date of this section</i>
Sec. 4	<i>October 1, 2004</i>

**Statement of Purpose:**

To prohibit the Connecticut Siting Council from siting certain overhead electric transmission lines within a certain amount of feet of a private or public school, licensed child day care facility, licensed youth camp or public playground.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*