

STATE OF CONNECTICUT



*AUDITORS' REPORT
CONNECTICUT SITING COUNCIL
FOR THE FISCAL YEARS ENDED JUNE 30, 2008 AND 2009*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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AUDITORS OF PUBLIC ACCOUNTS

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

JOHN C. GERAGOSIAN

ROBERT M. WARD

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AUDITORS' REPORT CONNECTICUT SITING COUNCIL FOR THE FISCAL YEARS ENDED JUNE 30, 2008 AND 2009

We have examined the financial records of the Connecticut Siting Council for the fiscal years ended June 30, 2008 and 2009. This report on that examination consists of the following Comments, Recommendations and Certification.

Financial statement presentation and auditing are being done on a Statewide Single Audit basis to include all state agencies including the Connecticut Siting Council. This audit examination has been limited to assessing compliance with certain provisions of financial related laws, regulations and contracts and evaluating the internal control structure policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Connecticut Siting Council (Siting Council) operates primarily under Title 16, Chapter 277a and several sections of Title 22a of the General Statutes. A chairman, appointed by the Governor from among the five public members, heads the Siting Council, as provided for in Section 16-50j, subsection (e), of the General Statutes. The chief administrative officer of the Siting Council is the executive director, who is appointed by the chairman of the Council, with consent of five or more other members, in accordance with Section 16-50j, subsection (g), of the General Statutes.

Statutory responsibilities of the Siting Council include site regulation of electric generating facilities and substations of utilities and large private power producers, fuel and electric transmission lines, community antenna television towers, cellular telephone towers and telecommunication towers owned or operated by the state or public service companies (Chapter 277a); hazardous waste management facilities (Chapter 445); a low level radioactive waste management facility (Chapter 446a) and ash residue management facilities (Chapters 446d and

446e). Section 16-50aa of the General Statutes authorizes the Siting Council to regulate the shared use of existing telecommunication towers to avoid the proliferation of unnecessary tower structures. In accordance with Section 16-50r of the General Statutes, the Siting Council publishes a ten-year forecast of electric loads and resources.

The Siting Council's primary mission is to provide a regulatory process for balancing the need for adequate and reliable public utility services with the need to protect the environment and ecology of the state, and to regulate siting of hazardous waste and low-level radioactive waste facilities in order to protect the health and safety of Connecticut citizens. The Siting Council reviews and acts on applications for approval of sites for construction, operation, and maintenance of facilities for electric generation and transmission, fuel transmission, telecommunications, hazardous waste management, low-level radioactive waste management, and ash residue management.

According to the Siting Council, 23 and 30 public hearings were held in fiscal year 2007-2008 and fiscal year 2008-2009, respectively. Other activities of the Siting Council during the fiscal years audited included 29 and 25 council meetings in fiscal year 2007-2008, and fiscal year 2008-2009, respectively, petitions for declaratory rulings, dockets filed and adjudicated, certificates issued, administering modifications to facilities, tower sharing orders, and approval or development of management plans.

Public Act 05-251, Section 60, subsection (c), effective July 1, 2005, allows the Commissioner of the Department Administrative Services (DAS), in consultation with the Secretary of the Office of Policy and Management, to develop a plan whereby the DAS would merge and consolidate personnel, payroll, affirmative action, and business office functions of selected executive branch agencies within DAS. The Connecticut Siting Council was one of the agencies selected for consolidation of its personnel, payroll, affirmative action, and purchasing and expenditure functions.

Siting Council Members:

Pursuant to Section 16-50j, subsections (b) through (d), of the General Statutes, the Siting Council may consist of between nine and thirteen duly appointed members depending on the type of proceedings being heard. Members of the Siting Council, as of June 30, 2009, were as follows:

Permanent Members:

Daniel F. Caruso, Chairman
Colin C. Tait, Esq., Vice Chairman
Edward S. Wilensky
Philip T. Ashton
Daniel P. Lynch
Barbara Currier Bell
James J. Murphy, Jr.

Additional Members for Energy and Telecommunications Matters (as of June 30, 2009):

Commissioner of Environmental Protection:

Regina McCarthy

Chairperson, Public Utilities Control Authority:

Donald W. Downes

Additional Members for Hazardous Waste, Low Level Radioactive Waste and Ash Residue Disposal Matters (as of June 30, 2009):

Commissioner of Public Health:

J. Robert Galvin, M.D., M.P.H.

Commissioner of Public Safety:

John A. Danaher III

In addition, in proceedings concerning Hazardous Waste and Low Level Radioactive Waste matters, the Siting Council will also include four ad hoc members, three of whom shall be electors from the municipality in which a proposed facility is to be located and one elector from a neighboring municipality likely to be most affected by the proposed facility. There were seven and four meetings held during the respective audited fiscal years of the Hazardous Waste and Low Level Radioactive Waste committee. There were no meetings of the Ash Residue Disposal committee during the audited period.

Pursuant to Section 16-50j, subsection (f), of the General Statutes, the public members of the Siting Council, including the chairman, the members appointed by the Speaker of the House, and President Pro Tempore of the Senate, and the four ad hoc members, shall be compensated for their attendance at public hearings, executive sessions, or other Council business at the rate of two hundred dollars, provided in no case shall the daily compensation exceed two hundred dollars.

S. Derek Phelps served as the Executive Director throughout the audited period and until his departure on August 18, 2010, when Melanie A. Bachman began serving as Acting Executive Director. On August 27, 2010, Linda L. Roberts was appointed Executive Director and continues to serve in that capacity.

Significant New Legislation:

Legislative action affecting the Siting Council during the audited period included the following:

- Public Act 08-94, among other things, requires applicants seeking approvals for facilities in an environmental justice community from the Department of Environmental Protection (DEP) or the Connecticut Siting Council to (1) file and receive approval of a meaningful public participation plan including meetings with DEP or the Connecticut Siting Council, and (2) consult with officials of the towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement for the storage of asbestos-containing materials.

- Public Act 09-111, among other things, authorized the transfer of \$800,000 from the Siting Council Fund to the General Fund to help reduce a projected deficit in that fund for the year ending June 30, 2009.

RÉSUMÉ OF OPERATIONS:

The operations of the Siting Council are accounted for within the Siting Council Fund. Receipts consisted primarily of assessments on applicable energy and communications services, and recoveries of expenditures from applicants for costs incurred in conducting hearings and proceedings, in accordance with Section 16-50v of the General Statutes. A comparative summary of Siting Council Fund receipts for the audited period, as compared to the period ended June 30, 2007, is shown below:

	Fiscal Year Ended June 30,		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Annual Assessments:			
Energy Industry	\$999,999	\$582,027	\$667,996
Communications Services Industry	89,532	162,654	298,067
Recoveries of Expenditures:			
Energy Industry	473,452	226,572	99,593
Communications Services Industry	<u>174,045</u>	<u>504,320</u>	<u>475,470</u>
Total Receipts	<u>\$1,737,028</u>	<u>\$1,475,573</u>	<u>\$1,541,126</u>

In general, the amounts of the annual assessments fluctuate between the energy industry and the communications services industry based on the amount of time spent by the Siting Council on each industry's dockets and petitions in the prior calendar year and in accordance with the assessment guidelines set forth in Section 16-50v of the General Statutes. Variances in the recoveries of expenditures in each fiscal year are the result of differences in the number of dockets and petitions filed by each industry during each year and the actual expenses and corresponding reimbursements related to each case.

Total receipts decreased by \$261,455 in fiscal year 2007-2008 over fiscal year 2006-2007 receipts, a decrease of 15 percent. Most of this decrease is attributable to decreased receipts from assessments on the energy industry. In fiscal year 2008-2009, total receipts increased by \$65,553, an increase of four percent over fiscal year 2007-2008 levels. This increase was mainly attributable to a large increase in the assessments on the communications services industry, which was offset by decreased receipts from recoveries of expenditures associated with various dockets pertaining to the energy and communications services industries. There has been no work performed for the hazardous waste industry since the fiscal year ended June 30, 2000; therefore, hazardous waste companies were not assessed during the audited period.

A comparative summary of the Siting Council Fund expenditures for the audited period, as compared to the period June 30, 2007, is shown below:

	Fiscal Year Ended June 30,		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Personal services	\$517,675	\$557,604	\$628,507
Contractual services	566,802	580,654	503,792
Commodities	24,663	11,965	4,857
Sundry charges	452,485	476,545	752,693
Equipment	<u>28,372</u>	<u>21,764</u>	<u>0</u>
Total Expenditures	<u>\$1,589,997</u>	<u>\$1,648,532</u>	<u>\$1,889,849</u>

Total expenditures increased by \$299,852, or 19 percent, during the audited period. Personal services and sundry charges accounted for the majority of expenditures during the audited period.

Increases in personal services costs were the result of (1) an increase of two filled full-time positions from eight to ten during the audited period, representing a 25 percent increase in filled positions, and (2) salary increases under collective bargaining agreements. Increases in sundry charges were due to (1) increases in fringe benefit costs consisting mainly of increases in medical insurance payments and contributions to the State Employee's Retirement System (SERS), and (2) increases in indirect overhead charges due to new procedures adopted by the State Comptroller in calculating the costs.

As of June 30, 2007, the available cash balance in the Siting Council Fund was \$2,298,269. As of June 30, 2009, the cash balance was \$976,586, a decrease of 58 percent during the audited period, which more closely reflects the fund's cash needs. As noted earlier, an \$800,000 transfer from this fund to the General Fund, authorized by Public Act 09-111, occurred for the year ending June 30, 2009.

CONDITION OF RECORDS

Our current review of the Connecticut Siting Council's records disclosed no audit findings.

RECOMMENDATIONS

Status of Prior Audit Recommendations:

- **The Connecticut Siting Council should comply with all provisions of Section 16-50v of the Connecticut General Statutes when budgeting for the anticipated expenses of the agency and when calculating the annual assessments on the energy and communications industries. The Connecticut Siting Council should maintain a fund balance that more closely reflects its cash needs, and consider revising its regulations to address the application of year-end cash surpluses.** The Siting Council sufficiently complied with statutory requirements for budgeting, expenses and assessments, revised regulations, and maintained fund balances to reflect cash needs. As a result, this recommendation is not being repeated.
- **The Connecticut Siting Council and the Department of Administrative Service's Business Office Services unit should improve controls to ensure that all expenditures are properly encumbered prior to the receipt of goods or services.** The Siting Council and DAS improved controls, ensuring expenditures are made appropriately; therefore, this recommendation is not being repeated.
- **The Connecticut Siting Council and the Office of the State Treasurer should return the funds to the applicants as required by Section 16-50bb of the General Statutes, and develop written procedures to ensure that the Municipal Participation account is being administered according to the General Statutes. The Office of the State Treasurer should credit the account for interest earned, as required by Statute. The Connecticut Siting Council should establish procedures to ensure that when more than one municipality seeks monies from the account, that the funds are evenly distributed among the municipalities. The Office of the State Treasurer should end the practice of disbursing funds to municipalities on a first come, first served basis, and the Connecticut Siting Council should ensure that the funds are evenly distributed as required by Statute.** The Siting Council and the Office of the State Treasurer complied with statutory requirements for the Municipal Participation account; therefore, this recommendation is not being repeated.

Current Audit Recommendations:

No recommendations resulted from the current review.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Connecticut Siting Council for the fiscal years ended June 30, 2008 and 2009. This audit was primarily limited to performing tests of the agency's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the agency's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the agency are complied with, (2) the financial transactions of the agency are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the agency are safeguarded against loss or unauthorized use. The financial statement audits of the Connecticut Siting Council for the fiscal years ended June 30, 2008 and 2009, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Connecticut Siting Council complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

In planning and performing our audit, we considered the Connecticut Siting Council's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the agency's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of providing assurance on the effectiveness of the agency's internal control over those control objectives.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect on a timely basis unauthorized, illegal, or irregular transactions or the breakdown in the safekeeping of any asset or resource. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the agency's ability to properly initiate, authorize, record, process, or report financial data reliably, consistent with management's direction, safeguard assets, and/or comply with certain provisions of laws, regulations, contracts, and grant agreements such that there is more than a remote likelihood that a financial misstatement, unsafe treatment of assets, or noncompliance with laws, regulations, contracts and grant agreements that is more than inconsequential will not be prevented or detected by the agency's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that noncompliance with certain provisions of laws,

regulations, contracts, and grant agreements or the requirements to safeguard assets that would be material in relation to the agency's financial operations, noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions, and/or material financial misstatements by the agency being audited will not be prevented or detected by the agency's internal control.

Our consideration of the internal control over the agency's financial operations, safeguarding of assets, and compliance with requirements would not necessarily disclose all deficiencies in the internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the agency's financial operations, safeguarding of assets, and compliance with requirements that we consider to be material weaknesses, as defined above.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Connecticut Siting Council complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the agency's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended for the information and use of agency management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

We wish to express our appreciation for the cooperation and courtesy extended to our representatives by the Connecticut Siting Council during this examination.



William T Zinn
Principal Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts