

STATE OF CONNECTICUT



**AUDITORS' REPORT
CONNECTICUT SITING COUNCIL
FOR THE FISCAL YEARS ENDED JUNE 30, 2010 AND 2011**

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

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JOHN C. GERAGOSIAN

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

ROBERT M. WARD

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AUDITORS' REPORT CONNECTICUT SITING COUNCIL FOR THE FISCAL YEARS ENDED JUNE 30, 2010 AND 2011

We have examined the financial records of the Connecticut Siting Council for the fiscal years ended June 30, 2010 and 2011. This report on that examination consists of the Comments, Recommendations and Certification that follow.

The financial statement presentation and auditing of the books and accounts of the state are 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 internal control policies and procedures established to ensure such compliance.

COMMENTS

FOREWORD:

The Connecticut 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 council, as provided for in Section 16-50j subsection (e) of the General Statutes. The chief administrative officer of the 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 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 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 council publishes a ten-year forecast of electric loads and resources.

The 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 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.

The council held 42 and 45 public hearings in the 2009-2010 and 2010-2011 fiscal years, respectively. Other activities of the council during the audited period included 24 and 35 council meetings in the 2009-2010 and 2010-2011 fiscal years, respectively, handling petitions for declaratory rulings, dockets filed and adjudicated, certificates issued, administering modifications to facilities, tower sharing orders, and approval or development of management plans.

During the audited period, the council's personnel, payroll, affirmative action, and purchasing and expenditure functions were performed by the Department of Administrative Services' Small Agency Resource Team. Council employees were responsible for receipt collection and processing and accounts receivable functions.

We note that subsequent to the audited period, effective July 1, 2011, the Department of Environmental Protection was merged with the Department of Public Utility Control into the newly created Department of Energy and Environmental Protection (DEEP). As a result of this merger, the council was transferred to DEEP for administrative purposes only.

Siting Council Members:

Pursuant to Section 16-50j subsections (b) through (d) of the General Statutes, the council may consist of between nine and thirteen duly appointed members depending on the type of proceedings being heard. Members of the council, as of June 30, 2011, were as follows:

Permanent Members

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

Additional Members for Energy and Telecommunications Matters:

Daniel Esty, Commissioner, Department of Energy and Environmental Protection
Kevin M. DelGobbo, Chairman, Department of Public Utility Control (now PURA)

Additional Members for Hazardous Waste, Low Level Radioactive Waste and Ash Residue Disposal Matters:

Dr. Jewell Mullen, Commissioner, Department of Public Health
Rueben F. Bradford, Commissioner, Department of Public Safety

Daniel J. Caruso served as chairman until his resignation on March 24, 2011. Mr. Stein was subsequently appointed chairman by Governor Malloy.

In proceedings concerning hazardous waste and low-level radioactive waste matters, the 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 no meetings of the Hazardous Waste and Low Level Radioactive Waste Council or the Ash Residue Disposal Council during the audited period.

Pursuant to Section 16-50j subsection (f) of the General Statutes, the public members of the 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 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 continued to serve in that capacity until her departure on May 1, 2013. Melanie A. Bachman again began serving in the position of acting executive director and remains in that position.

RÉSUMÉ OF OPERATIONS:**Siting Council Fund Revenues and Receipts:**

The operations of the council are accounted for within the Siting Council Fund. Receipts consisted primarily of assessments on applicable energy and telecommunications 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, 2009, is shown below:

	<u>2008-2009</u>	<u>Fiscal Year 2009-2010</u>	<u>2010-2011</u>
Annual Assessments:			
Energy Industry	\$667,997	\$701,571	\$712,642
Telecommunications Industry	281,727	658,966	1,134,213
Total Annual Assessments	<u>949,724</u>	<u>1,360,537</u>	<u>1,846,855</u>

Recoveries of Expenditures:

Energy Industry	98,344	258,489	111,613
Telecommunications Industry	491,810	465,461	508,212
Total Recoveries of Expenditures	590,154	723,950	619,825
All Other	1,249	5,141	8,826
Total Receipts	\$1,541,127	\$2,089,628	\$2,475,506

In general, the amounts of the annual assessments fluctuate between the energy industry and the telecommunications industry based on the amount of time spent by the 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 increased by \$548,502 and \$385,877 during the 2009-2010 and 2010-2011 fiscal years, respectively. The increases are primarily attributable to increases in industry assessments prompted by decreases in fund reserves. Public Acts 09-111 and 09-3 stipulated \$800,000 and \$500,000 be transferred from the Siting Council Fund to the General Fund in the 2009-2010 and 2010-2011 fiscal years, respectively. To ensure sufficient funding would be available to cover projected operating costs, industry assessments were increased for the 2009-2010 and 2010-2011 fiscal years.

Siting Council Fund Expenditures:

A comparative summary of the Siting Council Fund expenditures for the audited period, as compared to the period ended June 30, 2009, is shown below:

	2008-2009	Fiscal Year 2009-2010	2010-2011
Personal Services and Employee Benefits	\$994,474	\$1,085,614	\$985,471
Council Member Fees and Reimbursements	92,462	117,732	124,705
Council Meeting and Hearing Costs	145,230	157,001	166,044
Central Service Agency Overhead Costs	385,887	515,461	457,592
Premises and Property Expenses	127,177	127,793	128,405
All Other	144,619	102,255	121,556
Total Expenditures	\$1,889,849	\$2,105,856	\$1,983,773

Total expenditures increased by \$216,007 during the 2009-2010 fiscal year and decreased by \$122,083 during the 2010-2011 fiscal year. Personal services and employee benefits accounted for the majority of expenditures during the audited period.

The increase in personal services and employee benefit costs in the 2009-2010 fiscal year was the result of salary increases under collective bargaining agreements and increases in fringe benefit costs, including medical insurance payments and contributions to the State Employees Retirement System. Council activity increased considerably during the 2009-2010 fiscal year, which resulted in an increase in related expenditures, including council member fees and

reimbursements and costs associated with council meetings and public hearings. Increases in central service agency overhead costs resulting from new procedures adopted by the State Comptroller also contributed to the increase in expenditures in the 2009-2010 fiscal year. The decrease in expenditures in the 2010-2011 fiscal year was due primarily to changes in staff resulting in a decrease in personal services and employee benefit costs.

CONDITION OF RECORDS

Our review of the Connecticut Siting Council's records revealed the following areas that require improvement.

Municipal Reporting:

- Criteria:* According to Section 7-163(b) of the General Statutes, the chief elected official of each municipality shall file annually each October a report with the Connecticut Siting Council containing the location, type and height of each existing and proposed telecommunications tower and antenna. Section 16-50dd of the General Statutes requires the council to maintain and update a database containing such information and make it available for public inspection.
- Condition:* For the 2010 calendar year, 22 percent of municipalities did not file an annual report and 25 percent of the reports filed were submitted between three and 82 days late. For the 2011 calendar year, 60 percent of municipalities did not file an annual report and four percent of the reports filed were submitted between three and 19 days late. A preliminary review of the 2012 calendar year revealed that submission rates continued to decline with 67 percent of municipalities not filing an annual report and 15 percent of reports submitted between one and 17 days late.
- Effect:* Annual telecommunications reports are not being submitted by municipalities in accordance with Section 7-163(b) of the General Statutes; thus, the telecommunications database maintained by the council may not contain current information.
- Cause:* Each year the council sends out memorandums to municipalities requesting telecommunications reports. In 2010, the council also sent out second requests and made phone calls to municipal representatives. In 2011 and 2012, no follow-up action was taken, and, as we noted, response rates were significantly lower.
- Recommendation:* The Connecticut Siting Council should strengthen its controls to ensure municipalities are filing annual telecommunications reports in compliance with Section 7-163(b) of the General Statutes. (See Recommendation 1.)
- Agency Response:* "The Connecticut Siting Council does not agree with this recommendation. Multiple memoranda requesting the timely submission of telecommunications reports and follow up phone calls to municipal representatives are the extent of the controls the Connecticut Siting Council can exercise to obtain annual

telecommunications reports from municipalities. The Connecticut Siting Council has no enforcement authority over municipalities' compliance with C.G.S. § 7-163(b) and there is no provision under that statute regarding any consequences for failure to comply. Due to the lack of submission by municipalities of annual telecommunications reports and the lack of enforcement authority over municipal compliance with C.G.S. § 7-163(b), the electronically accessible telecommunications database maintained by the Connecticut Siting Council on its website pursuant to the requirements of C.G.S. §16-50dd contains the statement, 'Although the Siting Council has made every effort to ensure that this database is as inclusive as possible, it makes no representation that all telecommunications sites in the state are included in this listing.'"

RECOMMENDATIONS

Status of Prior Audit Recommendations:

No recommendations resulted from the prior review.

Current Audit Recommendations:

- 1. The Connecticut Siting Council should strengthen its controls to ensure municipalities are filing annual telecommunications reports in compliance with Section 7-163(b) of the General Statutes.**

Comments:

Our review of telecommunications reports for the audited period found numerous instances in which municipalities either submitted annual reports late or not at all. For calendar year 2010, 22 percent of municipalities did not file an annual report and 25 percent of reports were submitted between three and 82 days late. For calendar year 2011, 60 percent of municipalities did not file an annual report and four percent of reports were submitted between three and 19 days late. A preliminary review of calendar year 2012 revealed that submission rates continued to decline with 67 percent of municipalities not filing an annual report and 15 percent of reports submitted between one and 17 days late.

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, 2010 and 2011. 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 agency for the fiscal years ended June 30, 2010 and 2011 are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

In accordance with Public Act 05-251, certain executive branch agencies can be subject to some or all business office and other administrative functions being assumed by the Department of Administrative Services (DAS). When this occurs, memoranda of agreement are to be executed detailing whether DAS or the audited agency retains ultimate responsibility for compliance with laws, regulations, contracts and grant agreements. In the absence of such agreements, the audited agency would remain responsible for all compliance issues that may arise. When referring to the controls of the audited agency, we are also referring, where appropriate, to the relevant controls that DAS has in place to ensure compliance.

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 agency 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:

Management of the agency and the Department of Administrative Services are responsible for establishing and maintaining internal control over the agency's financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts, and grants. In planning and performing our audit, we considered the agency'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 expressing an opinion on the effectiveness of the agency's internal control over those control objectives. Accordingly, we do not express an opinion on the effectiveness of the agency's internal controls over those control objectives.

A *deficiency in internal control* 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 and correct on a timely basis, unauthorized, illegal or irregular transactions, or breakdown in the safekeeping of any asset or resource. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions and/or material noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that would be material in relation to the agency's financial operations will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance with requirements was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the agency's financial operations, safeguarding of assets, or compliance with requirements that we consider to be material weaknesses, as defined above. We do not consider the deficiencies described in detail in the accompanying Condition of Records and Recommendations sections of this report, to be significant deficiencies. A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the agency 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 their 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*. However, we noted certain matters which we reported to the agency's management in the accompanying Condition of Records and Recommendations sections of this report.

The agency's responses to the findings identified in our audit report are described in the accompanying Condition of Records sections of this report. We did not audit the agency's responses and, accordingly, we express no opinion on them.

This report is intended for the information and use of the agency's management, the Department of Administrative Services, 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.



Audrey Kelliher
Auditor II

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts