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June 3, 2011

Robert Shea, Presiding Officer
Energy Facilities Siting Board
One South Station
Boston, MA 02110

Re: Brockton Power Company LLC, EFSB 07-7A/D.P.U. 07-58/D.P.U. 07-59

Dear Mr. Shea:

Brockton Power Company LLC (“Brockton Power” or the “Company”) has reviewed the Issues Memorandum issued in the above-referenced proceeding on May 24, 2011, and offers its comments below.

On April 9, 2010, the Company submitted a proposed project change (the “Project Change Filing” or “PCF”) with regard to the facilities approved by the Energy Facilities Siting Board (the “Siting Board”) in its August 7, 2009 Final Decision. Brockton Power Company, LLC, EFSB 07-7/D.P.U. 07-58/D.P.U. 07-59 (2009) (“Brockton Power”). In Brockton Power, the Siting Board approved the petition of Brockton Power for the construction and operation of a state-of-the-art 350 megawatt combined-cycle electric generating facility (the “Project”), along with the necessary ancillary equipment associated with the Project. The Project will be located on a long-vacant, 13.2-acre site in the center of the 70-acre Oak Hill Industrial Park off of Route 28 in the southeastern portion of the City of Brockton (the “City”). The Project site abuts the City’s wastewater treatment plant and residuals landfill (“AWRF”).

In its Project Change Filing, the Company responded to certain directives of the Siting Board as contained in the Brockton Power Final Decision. In pertinent part, the Company proposed three significant improvements to the Project’s design and operational plans, reflecting Brockton Power’s continued commitment to optimize the Project from a reliability, cost and environmental-impact perspective in accordance with the Siting Board’s statutory mandate and applicable standards. Specifically, the Company: (1) proposed to eliminate the use of Ultra-Low Sulfur Distillate (“ULSD”) as an alternative fuel and to use natural gas for all of the Project’s electricity generation;¹ (2) presented a detailed analysis of its alternative to use water from the City’s municipal water system as a potential cooling water alternative (recognizing the Company’s continued preference to use treated effluent from the City’s

¹ The Project will continue to use ULSD for its black start/emergency diesel generators. These units will not produce power for sale via the grid.

AWRF); and (3) proposed to redesign the Project in order to achieve compliance with the City's zoning code. Consistent with Siting Board precedent, the Project Change Filing included detailed analysis of the potential impacts associated with each element of the PCF.

- **Introduction**

Brockton Power appreciates the opportunity to comment on the Issues Memorandum and the effort by the Siting Board staff that went in to its compilation. The Issues Memorandum reflects an extensive evidentiary record amassed over six days of evidentiary hearings and through over 440 exhibits, consisting primarily of the Company's PCF and the Company's responses to information requests and record requests. As the Presiding Officer noted, "the parties in this project change proceeding have been afforded a more expansive adjudicatory process than has been afforded to any other parties in previous project change cases heard by the Board." Issues Memorandum at 2.

In addition, Brockton Power emphasizes that, based on the extensive record of this proceeding, the Project, if approved as modified, would be the most efficient combined-cycle facility ever permitted by the Siting Board. In that regard, it bears emphasis that the Company specifically designed the Project so that it satisfies by a substantial margin the rigorous standards applied by the Siting Board, the Department of Environmental Protection ("DEP") and other state and federal permitting agencies in Massachusetts. By proposing a state-of-the-art combined-cycle generating facility that uses the cleanest fossil fuel available, Brockton Power will help ensure the reliability and economics of the regional electricity grid over the long term with extremely modest environmental impacts. Indeed, the Project will be at the top end of the cleanest generating facilities in New England. For these reasons, the Siting Board should direct the staff to prepare a Tentative Decision approving the Project.

- **Specific Areas of Comment**

The Issues Memorandum highlights well the many key pieces of record evidence that support a finding that the Project will contribute to a reliable energy supply consistent with the minimization of environmental impacts and costs and should be approved by the Siting Board. With these comments, Brockton Power merely seeks to clarify certain issues raised with respect to two elements proposed in the Project Change Filing (*i.e.*, evaluation of the alternative for use of municipal water and the proposed elimination of ULSD).

- **Water**

One issue in the proceeding was the analysis of whether the Company's proposed alternative to use the City's municipal water supply for cooling tower makeup would minimize water use impacts consistent with the minimization of costs associated with the mitigation, control and reduction of those impacts. Issues Memorandum at 20. As is well described in the Issues Memorandum, the evidence supporting a finding in favor of Brockton Power's proposed use of municipal water is substantial and persuasive. Issues Memorandum at 11-19. However, a few additional points are worth noting.

o The Siting Board's Findings in *Brockton Power*

First, the Issues Memorandum states: "In the Original Proceeding, the Board concluded that using AWRF water was preferable to using City water thereby implying (but not explicitly stating) that the environmental impacts of using City water are greater than the impacts of using AWRF water." Issues Memorandum at 20, n.12. The Company offers the following clarification on this statement.

The Siting Board's specific findings in this regard were as follows:

The Siting Board notes that the record shows that the Company has indicated its strong preference for use of water from the Brockton AWRF for the majority of the water requirements of its proposed facility. The Siting Board concludes, consistent with the Company's preference, that proposed use of ***recycled water*** for the proposed facility would be preferable to using City of Brockton potable water – the identified backup water supply source to operate the proposed facility. However, we also note the uncertainty, based on the latest information in the record, around the availability of Brockton AWRF water supply.

Brockton Power at 42 (emphasis added). The Company does not agree that this finding implies "that the environmental impacts of using City water are greater than the impacts of using AWRF water." The Company believes that the finding merely reflects the fact that reusing a supply of treated wastewater is generally preferable to using a supply of potable water.² This solely reflects a preference for recycling or reuse of water resources; it was not a finding that reflected a comparison of environmental impacts for both alternatives. In fact, the Siting Board determined that, in order to properly and fully analyze the potential impacts of the Project's alternative to use municipal water, the Siting Board required the Company to provide "a detailed analysis focused on those issues that are germane to the use of potable water, including opportunities for water conservation." Brockton Power at 42. The environmental analysis of the use of the City's municipal water was thoroughly presented in the Company's Project Change Filing and the record of the proceeding.

The Company reiterates that it has not presented, nor is the Siting Board constrained to, an "either/or" choice in this proceeding. The Siting Board must only make a determination (as it did for AWRF effluent) that the proposed *alternative* to use BMWS water for the Project's cooling tower makeup minimizes environmental impacts consistent with Siting Board precedent and the minimization of costs associated with the mitigation, control, and reduction of the environmental impacts of the proposed generating facility. Rather than requiring a direct comparison to the AWRF alternative, the record of the PCF supports a

² Use of either AWRF or City water as cooling tower makeup allow the Project to use wet mechanical cooling towers, with the attendant efficiency advantage and reduction of regional air emissions, particularly under hot summer conditions.

separate finding that the option to use BMWS water satisfies the Siting Board's standards because it is a reliable source of water that minimizes costs and environmental impacts (see, e.g., Exhs. BP-C-1, at 2-12 – 2-16, 2-25 – 2-34; EFSB-C-W-5; EFSB-C-W-11; EFSB-C-W-20; RR-EFSB-C-19).

o Siting Board Precedent – Municipal Water Supply

The Issues Memorandum correctly notes that the Siting Board has previously permitted generating facilities proposing to use municipal water for wet mechanical cooling. Issues Memorandum at 15. Indeed, the Siting Board has approved the use of municipal water for wet mechanical cooling on multiple occasions. See, e.g., Pioneer Valley Energy Center, LLC, EFSB 08-1, at 20-21 (2009) ("Pioneer Valley"); Berkshire Decision, 4 DOMSB 221, at 385-387 (1996); see also Altresco-Pittsfield, Inc., 17 DOMSC 351, at 402-03 (1988). The primary focus of the Siting Board in assessing the impacts of a proposal to use municipal water is whether the record supports a finding that the municipal system's withdrawal allocation could support the proposed use without adverse impacts to the local water resources. Pioneer Valley at 20, citing Berkshire Decision, 4 DOMSB 221, at 385-387; see also Altresco-Pittsfield, Inc., 17 DOMSB 351, at 402-03 (finding that impacts are minimized where record documents adequate supplies).

Based on the substantial record evidence in this proceeding, the Company submits that it would be consistent with precedent for the Siting Board to approve the Project's proposed use of the City's municipal water supply, particularly in light of the fact that the record supports a finding that the Brockton municipal system could easily support the proposed use without adverse impacts to the local water resources, and most (if not all) of the incremental water needed to supply the Project will come from Aquaria rather than the City's historical system (Exhs. EFSB-C-W-1; EFSB-C-W-20; Tr. 4, at 550-55; Tr. 5, at 720; Tr. 6, at 948). In fact, the record also shows that there would be material economic benefits to the City, amounting to a net of approximately \$2.8 million per year, if the City's municipal water system were the source of cooling water for the Project (Exhs. BP-C-1, at 2-34; EFSB-C-W-8; Tr. 5, at 730-31). The sum represents approximately 17 percent of the City's annual water system budget and could be used by the City to reduce rates to ratepayers or to implement other appropriate changes to modify its use of other water body systems such as Silver Lake (id.). This evidence is un rebutted on the record before the Siting Board and provides a compelling basis to approve the Company's proposed project change.³

➤ **The Benefits of Eliminating ULSD**

The record clearly demonstrates that eliminating ULSD significantly and substantially improves the Project's overall air emission profile. Issues Memorandum at 4-5; see Exhs.

³ In addition, the Project has developed and committed to several incremental water conservation opportunities, including a commitment by the Company to make available the sum of \$100,000 for use in leak detection programs, leak repair and/or water pipe replacement (Exhs. BP-C-1, at 2-31; EFSB-C-W-23).

BP-C-1, at Table 3.1-1. Table 3.3-2 and Table 3.3-3; EFSB-C-A-7.⁴ Moreover, the Air Plan conditionally proposed for approval by DEP provides that “the final results of the source interactive modeling analysis indicated that under no condition will the Permittee [Brockton Power] by itself or with existing sources, violate the Federal or State ambient air quality standards or cause a condition of air pollution. Issues Memorandum at 5, citing Exh. EFSB-C-G-6(A) at 8-3.⁵

Although the benefits associated with the elimination of ULSD are clear and well-documented (and essentially uncontested), the Issues Memorandum raises a theoretical question regarding the reliability of the electric power system in the event that the Siting Board approves the Project to fire solely on natural gas. Issues Memorandum at 7. The record on this point, however, is uncontroverted and amply supports a finding that the Project would be as reliable as the already-approved dual-fuel facility. As noted in the Issues Memorandum, one critical reason supporting the reliability of the Project is the existence of a firm 365-day contract for natural gas. Issues Memorandum at 7; see Exh. BP-C-1, at 1-1. In addition, the record supports a finding that the elimination of ULSD will have no adverse impact on the Project’s reliability in large part because the natural gas markets in New England and Eastern Canada have expanded and become more reliable with the influx of incremental liquefied natural gas (“LNG”) delivered via new gasification terminals as well as upgrades and expansions to the region’s existing pipeline infrastructure (Exh. EFSB-C-G-7). In approving the Project to fire solely on natural gas, the Siting Board would be acting in accordance with its precedent in several cases in which natural-gas-only facilities have been approved. See, e.g., Sithe Mystic, 9 DOMSB 101, at 134 (1999); ANP Blackstone, 8

⁴ With respect to the table presented on page 5 of the Issues Memorandum (Modeled Air Quality Impacts vs. SILs and NAAQS), the Company notes for perspective that the information presented on page 5 was originally presented in the Petition in two separate tables that are appended hereto as Attachment A (Exh. BP-C-1, at Table 3.3-2 and Table 3.3-3). The table as presented on page 5 does not readily demonstrate how much the background dominates the overall impact. For instance, for annual NO₂ impact, the measured background is 9.4 ug/m³, which is approximately 9.4% of the NAAQS. Adding in the Project impact of 0.0265 ug/m³, the overall Project impact increases only to 9.43 ug/m³ or 9.4% of the NAAQS. The measured background dominates the total impact for all pollutants, ranging from 95.8% for 24-hour PM₁₀ to 99.98% for annual SO₂. The Company notes further that the table presented on page 5 requires three minor corrections: (1) the Gas Only Maximum Impacts for PM_{2.5} is 0.41 ug/m³ rather than 0.61 ug/m³; (2) the percent reduction in impacts for PM_{2.5} between the approved project and the Project with natural gas only is 88%, not 82%; and (3) the Gas Only Total Impact as a percentage of NAAQS for NO₂ is 9.4% rather than 9%.

⁵ In addition to noting the significant reductions in the Project’s overall air emission profile, the Issues Memorandum also notes that the elimination of the ULSD storage tank will reduce visual impacts and that the elimination of ULSD will reduce the Project’s water requirements because of the reduced use of the nitrogen oxide control system. Issues Memorandum at 7. For the sake of completeness, the Company notes that, given that there will be no firing with ULSD, the Project’s process water requirements are reduced by approximately 150,000 gallons per day as compared to the water requirements approved by the Siting Board in Brockton Power (Exh. BP-C-1, at 2-30). Furthermore, although not specifically noted in the Issues Memorandum, the Company adds that the record also supports a finding that the elimination of the use of ULSD will eliminate the need for truck deliveries and associated traffic impacts (including diesel emissions).

DOMSB 1, at 125 (1999); ANP Bellingham, 7 DOMSB 39, at 152 (1998); and Dighton Power Associates, 5 DOMSB 193, at 234-235 (1997).

- **Conclusion**

Brockton Power appreciates the opportunity to comment on the Issues Memorandum and looks forward to the opportunity to present at the Siting Board's June 9th meeting and be available to address any questions that arise. The Company believes that, upon a full weighing of the record evidence, the Siting Board should direct the staff to prepare a Tentative Decision approving the Project as modified by the PCF.

Respectfully Submitted,

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TABLE 1: AIR QUALITY IMPACTS VS. SILS

Pollutant	Avg Period	Approved Project Max Impact $\mu\text{g}/\text{m}^3$	Gas Only Max Impact $\mu\text{g}/\text{m}^3$	% Reduction	SIL $\mu\text{g}/\text{m}^3$	Gas Only Max Impact % of SIL
NO ₂	Annual	0.0325	0.0265	-19%	1	3%
SO ₂	3-Hour	0.229	0.098	-57%	25	0.4%
	24-Hour	0.137	0.055	-60%	5	1%
	Annual	0.00225	0.002	-10%	1	0.2%
PM ₁₀	24-Hour	3.43	1.90	-45%	5	38%
	Annual	0.25	0.24	-5%	1	24%
PM _{2.5} *	24-Hour	3.43	0.41	-88%	1.2*	34%
	Annual	0.25	0.03	-89%	0.3*	9%
CO	1-Hour	7.78	1.44	-82%	2,000	0.07%
	8-Hour	4.43	0.69	-84%	500	0.14%

* EPA promulgated final SILs for PM_{2.5} on 9/29/10.

See Exhs. BP-C-1, at 3-5, Table 3.3-2; EFSB-C-A-6.

TABLE 2: AIR QUALITY IMPACTS VS. NAAQS

Pollutant	Avg Period	Value*	Approved Project $\mu\text{g}/\text{m}^3$	Gas Only Project $\mu\text{g}/\text{m}^3$	% Reduction	Measured Background $\mu\text{g}/\text{m}^3$	Gas Only Total Impact $\mu\text{g}/\text{m}^3$	NAAQS $\mu\text{g}/\text{m}^3$	Gas Only Total Impact % of NAAQS
NO ₂	Annual	Max	0.0325	0.0265	-19%	9.4	9.4	100	9.4%
SO ₂	3-Hour	H2H	0.21	0.088	-58%	57	57.1	1,300	4.4%
	24-Hour	H2H	0.06	0.027	-55%	34	34.0	365	9.3%
	Annual	Max	0.00225	0.002	-10%	8	8.00	80	10.0%
PM ₁₀	24-Hour	H2H	1.67	1.55	-7%	35	36.6	150	24.4%
	Annual	Max	0.25	0.24	-5%	18.3	18.5	50	37.1%
PM _{2.5}	24-Hour	**	1.15	0.41	-65%	27.9	28.3	35	80.9%
	Annual	Max	0.25	0.03	-89%	9.43	9.46	15	63.1%
CO	1-Hour	H2H	6.12	0.99	-84%	3,429	3,430	40,000	8.6%
	8-Hour	H2H	3.65	0.53	-85%	1,889	1,890	10,000	18.9%

* Max = Maximum value, H2H = Highest Second High value

** Five-year average of the maximum 24-hour high values

Exhs. BP-C-1, at 3-6, Table 3.3-3; RR-EFSB-C-1.