



STATE OF RHODE ISLAND

Energy Facility Siting Board

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Chairman Ronald T. Gerwatowski
Board Member Meredith E. Brady
Board Member Terrence Gray

August 1, 2022

**IN RE: MAYFLOWER WIND ENERGY LLC :
APPLICATION FOR A LICENSE TO :
CONSTRUCT MAJOR ENERGY FACILITIES:**

Docket No. SB-2022-02

Procedural Directive Regarding Briefing of Issues Relating to Motions to Intervene

The Energy Facility Siting Board (Board) is in receipt of Motions to Intervene filed by the Town of Middletown and the Town of Little Compton (jointly referred to as “the Towns”). The Board needs further information regarding the Towns’ respective requests for intervention prior to the Preliminary Hearing on August 18, 2022.

The Towns are directed to file memoranda of law to explain their respective positions with more specificity and detail, addressing how each of the interests of the Towns identified in their respective motions to intervene may be directly and materially affected. The interests that were identified included seafloor disturbance, subsea hazards, sedimentation, safety of the buried cables, water access, recreation, commerce, boating, mooring, swimming, community events, navigation and associated infrastructure, fishing and fishing gear, views, and electromagnetic fields.

The cited interests appear to relate exclusively to potential impacts of the undersea cable installation, operation, and maintenance within the Sakonnet River. In the memoranda, the Towns need to identify and explain which of the interests cited will not be either exclusively or sufficiently addressed by the processes of the other agencies set forth in Section 10 of the application, and why that would be the case in each instance. In particular, the Board also refers to R.I. General Laws § 42-98-7(a)(3) regarding the exclusive permitting authority of the department of environmental management (DEM) and the coastal resources management council (CRMC), respectively. There are legal questions relating to potential limits on the Board’s authority to issue a binding order placing conditions on the undersea cable installation, maintenance, and operation to address the identified concerns of the Towns that may relate to matters within the exclusive jurisdiction of CRMC, DEM, the United States Army Corps of Engineers, or any one of the other state or federal authorities identified in Section 10.

It also will be important for the Town of Little Compton to explain why it believes electromagnetic fields from the undersea cables may directly affect the Town's interests, given the distance of the cables to the surface and to the shore.

The Board also notes that the turbines and platforms associated with the project referenced in the Motions to Intervene are proposed to be located within federal waters and thus not within the jurisdiction of the Board. If it is the position of the Towns that the Board has jurisdiction over these turbines and platforms, please provide the legal basis for this position.

The Towns shall file their memoranda in support of their motions with the Board by noon on Tuesday, August 9, 2022. Any response from Mayflower Wind is due by noon on Monday, August 15, 2022.

Should you have any questions, do not hesitate to contact counsel for the Board, Patricia S. Lucarelli, Esq.

ec: Service List