

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

**IN RE: THE NARRAGANSETT ELECTRIC :
COMPANY :
APPLICATION TO CONSTRUCT AND :
OPERATE A PORTABLE LNG : SB-2021-04
VAPORIZATION FACILITY :
OLD MILL LANE :
PORTSMOUTH, RHODE ISLAND :**

PRELIMINARY DECISION AND ORDER

I. INTRODUCTION

On April 1, 2022, The Narragansett Electric Company (TNEC or Applicant) filed with the Energy Facility Siting Board (EFSB or Board) a Supplemental Application to its May 19, 2021 Application to operate a portable liquified natural gas (LNG) Vaporization facility (facility) on Old Mill Lane in the Town of Portsmouth Rhode Island (Portsmouth).¹ The alleged purpose of the facility is to provide standby peak-shaving and backup supply to the Aquidneck Island natural gas distribution system. Because the proposed Facility will gasify, treat and/or store LNG, it qualifies as a major energy facility as defined by R.I. Gen. Laws § 42-98-4.

II. THE FACILITY

The proposed portable LNG facility at Old Mill Lane in Portsmouth, Rhode Island consists of the following portable equipment: 1) vaporizers, 2) booster pumps, 3) storage tanks, 4) a generator, and 5) a mobile office. The approximate five-acre property, owned in fee by TNEC, is adjacent to the only connection between the Company’s natural gas distribution system and the interstate natural gas transmission system on Aquidneck Island. For the past three years, TNEC has used

¹ The Application, Supplemental Application, and all documents filed are available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or at https://ripuc.ri.gov/efsb/2021_SB_04.html, organized by docket number. Simultaneously, the Company filed a Petition for Waiver of Extension that requested the Board grant a two-year extension to the waiver of licensing requirements to temporarily operate the facility, which was originally granted by the Board on January 8, 2020.

the property and portable LNG equipment to perform stand-by peak-shaving for Aquidneck Island, where the natural gas supply is capacity constrained and subject to capacity vulnerabilities. The equipment will be relocated to the rear of the property to improve the site layout and to minimize noise impacts to the surrounding community.

III. TRAVEL OF THE CASE²

Until May 2018, the site where the equipment is currently being located was vacant. In May 2018, in order to be prepared should the supply of gas be affected during a scheduled inspection process, the Company set up a temporary vaporization facility at the Old Mill Lane site in Portsmouth, from May through June 2018. The Company neither informed the Board about its intent to operate the equipment nor sought a license for the facility at that time. Once the aforementioned inspection of the pipeline was complete, the equipment was removed, the property was restored, and the site remained vacant again until January 2019.

In response to distribution outages caused by low transmission supply from its natural gas supplier that occurred in January 2019,³ TNEC installed the temporary vaporization facility on the Old Mill Lane property in Portsmouth to provide back-up natural gas to Aquidneck Island during a period of low supply. After proceedings involving a Petition for Waiver of Licensing Requirements and a Petition for Declaratory Order, the Board granted a waiver of the licensing requirement to set up and operate a temporary portable LNG vaporization facility for a period of two years,⁴ but later ruled that the facility constituted a major energy facility requiring a full application for a license to be filed with the Board.⁵ TNEC was ordered to file an application to

² The travel of this case is more fully detailed in Order No. 150.

³ This January 2019 event resulted in many residents and businesses losing gas service for seven days during extremely cold weather.

⁴ Docket No. SB-2019-04, Order No. 142 (Nov. 6, 2019).

⁵ Docket No. SB-2020-02, Order No. 147 (Dec. 18, 2020).

construct a major energy facility with the Board no later than June 1, 2021. The application was filed on May 19, 2021 and was docketed as SB-2021-04. In the Application, TNEC acknowledged that it was still in the process of selecting a permanent, long-term solution to the capacity constraint and vulnerability challenges on Aquidneck Island, and that it hadn't yet determined that continuous operation of the Old Mill Lane facility would be its preferred long-term solution. Included with the application was a Petition for Waiver Extension asking the Board to extend its original two-year waiver from the licensing requirements for an additional one year so that the Company could operate during the upcoming winter of 2021/2022 and until the Board ruled on the application for continued operation on Old Mill Lane.

After public notice, a preliminary hearing was convened on August 12, 2021.⁶ The purpose of the preliminary hearing was “to determine the issues to be considered by the Board in evaluating the application, and to designate those agencies of state government and of political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions on these issues, and to determine petitions for intervention.”⁷ At the preliminary hearing, the Board recognized the Notice of Intervention filed by the Town of Portsmouth.⁸ Motions to Intervene by the following were considered and granted: 1) the Town of Middletown (Middletown), 2) the Rhode Island Attorney General (Attorney General), 3) the Conservation Law Foundation (CLF), 4) the Acadia Center (Acadia), 5) the Division of Public Utilities and Carriers (Division).⁹

⁶ Notice of the preliminary hearing was published in the *Providence Journal* and *The Newport Daily News*; sent directly to the service list; posted on the Public Utilities Commission and Secretary of State websites; and posted in the Public Utilities Commission and the Department of Environmental Management office buildings.

⁷ R.I. Gen. Laws § 42-98-9(a).

⁸ Rule 1.10(A)(1) provides that “[p]articipation in a proceeding as an intervenor may be initiated as follows: 1. By the filing of a notice of intervention by CRMC, DEM, *the city or town in which the proposed facility is to be located* or designated agencies.” (emphasis added).

⁹ Rule 1.10(B)(2) allows intervention to a person with “an interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Board’s action in the

Neither during the August 12, 2021 hearing nor subsequent thereto did any of the parties object to the one-year extension of the waiver. The Company also provided testimony regarding its progress toward determining a long-term solution to the capacity constraint and vulnerability challenges on Aquidneck Island. The Board allowed the parties until August 18, 2021 to propose conditions to the requested waiver supported by witness testimony and subsequently scheduled another hearing for August 26, 2021 to address the proposed conditions, which included imposing a moratorium on future gas connections on Aquidneck Island. TNEC asserted that the Board lacked the authority to impose a moratorium.

Immediately following the August 26, 2021 hearing, the Board convened an Open Meeting and found that addressing its authority to issue a moratorium was not necessary at this stage of the proceedings. The Board expressed concern with the passage of time since the January 2019 event and the Company still not having chosen a permanent, long-term solution to the capacity constraint and vulnerability challenges on Aquidneck Island. It identified specific issues that were created or would be created by the Company's lack of incentive to file an application identifying a permanent, long-term solution in an expeditious manner. It approved the request for an extension of the waiver with a number of conditions, including that TNEC file an application identifying a permanent, long-term solution by April 4, 2022 or be subject to possible financial consequences.¹⁰

As set forth above, the Supplemental Application was filed on April 1, 2022.

After public notice, a preliminary hearing on the Supplemental Application was convened on July 25, 2022.¹¹ TNEC presented Jeffrey Montigny, a principal engineer with the Company, and

proceeding." Rule 1.10(B)(3) allows intervention to a person that can establish "any other interest of such nature that petitioner's participation may be in the public interest."

¹⁰ Docket No. SB-2021-04, Order 150 at 29 (Aug. 26, 2021).

¹¹ Notice of the preliminary hearing was published in the *Providence Journal* and *The Newport Daily News*; sent directly to the service list; posted on the Public Utilities Commission and Secretary of State websites; and posted in the Public Utilities Commission and the Department of Environmental Management office buildings.

Brian Kirkwood, the manager of LNG operations. Mr. Montigny, who is managing all aspects of the project, explained the operations and set up of the site; Mr. Kirkwood discussed the Freeport Texas LNG facility, which had been raised as a concern in public comment, and distinguished the Freeport facility from the facility on Old Mill Lane in Portsmouth.

Mr. Montigny explained how all of Aquidneck Island's natural gas supply is fed by a single main lateral feed from the transmission company making it vulnerable to possible gas interruptions.¹² He described how the facility is needed to address the two challenges Aquidneck Island faces: supply vulnerability - when something happens upstream to affect the flow of gas; and capacity constraint - when customer demand exceeds the availability of the quantities of gas available to the Company.¹³ While the total cost to develop the site is projected to be approximately \$15 million, Mr. Montigny testified that annual operating costs, which include mobilization, equipment rental, security and staffing, and materials costs, will be approximately \$1.5 million.¹⁴ He provided that construction would commence the spring following approval and would be seasonal beginning mid-November until demobilization in April.¹⁵

Mr. Montigny described the historical and current layout of the Facility on the approximate five-acre property, how the equipment is mobilized, and the process that occurs when vaporizing.¹⁶ He noted that the primary reason for moving the operation to the rear of the site was to minimize the noise impact on the neighbors which would also be addressed with the installation of sound attenuating walls.¹⁷ To minimize visual impacts, the proposed layout incorporates a composite fence along Old Mill Lane that looks like a stone wall as well as 8 foot fencing around the entire

¹² Hr'g Tr. at 20 (Jul. 25, 2022).

¹³ *Id.* at 21-22.

¹⁴ *Id.* at 22.

¹⁵ *Id.* at 22-23.

¹⁶ *Id.* at 24-33.

¹⁷ *Id.* at 31-34.

property.¹⁸ Mr. Montigny also testified that the Company has begun and will continue with a strong community outreach campaign.¹⁹

Mr. Kirkwood provided testimony regarding the Freeport LNG site and the June 8, 2022 incident that occurred there. He testified that the Freeport LNG facility is a production facility and is the seventh largest liquefaction facility in the world and the second largest facility in the United States.²⁰ He noted that unlike the Freeport LNG facility, the facility on Old Mill Lane is not a production facility, but a much smaller reliability facility. He described a number of differences between the two facilities including the size of the piping: Old Mill Lane hoses are approximately 3 inches in diameter while the Freeport LNG hoses are over a foot and a half in diameter.²¹ When questioned about the size of the Freeport LNG service area, Mr. Kirkwood described it as massive noting that it is primarily an export facility.²²

At the end of the open meeting the Petition for a Second Waiver Extension from the Board's licensing requirements was discussed. The Company, through counsel, modified the request to a one-year extension from the two-year extension originally requested.²³ The Board asked that any objections to the request for a one-year extension be filed by Friday, August 6, 2022. As of the date of this order, no objections have been filed.

On August 24, 2022, the Board conducted an Open Meeting.²⁴ As required by law, the Board determined the issues to be considered in evaluating the application and designated those agencies

¹⁸ *Id.* at 35-36.

¹⁹ *Id.* at 38-39.

²⁰ *Id.* at 59.

²¹ *Id.* at 59-61.

²² *Id.* at 63.

²³ *Id.* at 86-87.

²⁴ Notice of the open meeting was posted on the Public Utilities Commission and Secretary of State websites and in the Public Utilities Commission and the Attorney General office buildings.

of state government and of political subdivisions of the state to render advisory opinions.²⁵ The issues and designated agencies to render advisory opinions are set forth below.

IV. THE ENERGY FACILITY SITING ACT

The Energy Facility Siting Act (Siting Act), R.I. Gen. Laws §§ 42-98-1 *et seq.*, consolidates in the Board, with two exceptions, all state and local governmental regulatory authority for the siting, construction, operation, and alteration of facilities for the conversion, gasification, treatment, transfer, or storage of liquified natural and liquified petroleum gases, which are included in the definition of “major energy facility.”²⁶ Thus, the Board is the “licensing and permitting authority for all licenses, permits, assents or variances which, under any statute of the state or ordinance of any political subdivision of the state, would be required for siting, construction or alteration of a major energy facility in the State of Rhode Island.”²⁷ A Board decision in favor of an application to site a major energy facility in Rhode Island “shall constitute a granting of all permits, licenses, variances, or assents, which under any law, rule, regulation or ordinance of the state or of a political subdivision thereof which would, absent this chapter, be required for the proposed facility.”²⁸

Although the Board does consider and act upon each of such permits, licenses, variances, and assents, the Board does so in a comprehensive manner that is distinct in nature from the review that would be performed by the several agencies absent the Siting Act. Whereas each such agency would review its respective permitting, licensing, variance, or assent issues according to its own particular mandates and concerns, the Board will evaluate all of such issues in a single and

²⁵ R.I. Gen. Laws § 42-98-9(a).

²⁶ *Id.* § 3(d).

²⁷ *Id.* § 7(a)(1).

²⁸ *Id.* § 11(c).

comprehensive decision based upon the “overall impact of the facilities upon the public health and safety, the environment, and the economy of the state.”²⁹

While the Siting Act makes the Board the final licensing authority, an applicant for a Board license must still apply to all state and local governmental bodies for permits and license that would, absent the Siting Act, be required. Instead of issuing a permit or license, however, the state or local governmental body must act at the direction of the Board and issue an advisory opinion to the Board regarding such permit or license. The Board has authority to designate “those agencies of state government and political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions.”³⁰ Each agency must follow its statutory procedures for determining “the license, assent, or variance [and] shall forward its findings from the proceeding, together with the record supporting the findings and a recommendation for final action, to the siting board”.³¹ Such advisory opinions must be submitted to the Board not more than six months following designation by the Board of the agency that will render the advisory opinion. Such advisory opinions will be considered by the Board before it renders its final decision. A state or local governmental body that renders an advisory opinion to the Board as a designated agency may also intervene as a matter of right and participate in Board hearings.³²

In addition to those advisory opinions specifically authorized under the Siting Act from agencies that, in the absence of the Siting Act, would have permit, license, assent, or variance authority, the Board may require further advice from other or additional state and local agencies to assist it in assessing the overall impact of a facility. Due to the comprehensive nature of the ultimate issues facing the Board, the Board will often require expertise beyond the scope of those

²⁹ *Id.* § 1(a).

³⁰ *Id.* § 9(a).

³¹ *Id.* § 7(a)(2).

³² Rule 1.10(A)(1).

issues raised in the particular permit and license reviews at the agency level. The Siting Act provides broad discretion in this regard for the Board to summon further information and advice deemed necessary for the discharge of its duty,³³ and also provides that its provisions shall be construed liberally to effectuate its purposes.³⁴ Further, the Siting Act clearly envisions that the Board shall have the benefit of the full range of technical expertise available within other existing agencies in making its decisions.³⁵ Accordingly, the Board may request the opinion of various agencies on matters in addition to those issues covered by the specific permits, licenses, assents, or variances that would be required in the absence of the Siting Act.

The primary discussion of issues to be considered in the review of a major energy facility alteration application, and the designation of agencies to act at the Board's discretion, occurs at the Board's preliminary hearing. Following the preliminary hearing, the Board issues a preliminary order establishing the agenda of issues for the Board's final hearing and designates agencies to act at the Board's discretion. Such agenda may be modified, and additional agencies and issues may be designated and determined as needed at any time before the final hearing.³⁶ The advisory opinions directed by the preliminary order must be submitted to the Board within six months of this Order, i.e., by April 5, 2023. Final Board hearings must begin no later than forty-five days after the date for submission of advisory opinions, whether or not such opinions are submitted. Final hearings regarding the instant application have not yet been scheduled but should begin no later than May 19, 2023.³⁷

³³ R.I. Gen. Laws § 42-98-7(b).

³⁴ *Id.* § 18.

³⁵ *Id.* § 1(d).

³⁶ Rule 1.9(f).

³⁷ At times, it is not possible to conduct hearings within the statutory timeframe due to the complexity of some applications as well as Board members' schedules. There are numerous cases supporting that these time periods are directory rather than mandatory. *See West v. McDonald*, 18 A.3d 526 (R.I. 2011); *New England Development, LLC v. Berg*, 913 A.2d 363 (R.I. 2007).

The purpose of the final hearing is not to rehear evidence presented in hearings before designated agencies providing advisory opinions, but rather to provide the parties the opportunity to address -- in a single forum and from a consolidated, statewide perspective -- the issues reviewed and the recommendations made by such agencies.³⁸ The final hearing must be concluded not more than sixty days after its initiation, and the Board must issue its final decision within sixty days after conclusion of the final hearing. A final decision that favors the applicant shall constitute a granting of all required and jurisdictional permits, licenses, variances, and assents; and such final decision may be issued on any condition or conditions the Board deems warranted by the record.³⁹

V. ISSUES TO BE CONSIDERED AT FINAL HEARING

The statutory standards by which the application must be judged are found in the Siting Act.⁴⁰ Each of the issues that need to be considered are set forth below:

ISSUE 1: Is the proposed Facility necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed Facility?⁴¹

As part of determining whether the proposed Facility meets the needs standard, the Board will ask the Public Utilities Commission (PUC), with participation of the Division of Public Utilities and Carriers (Division), OER, and the Division of Statewide Planning of the Department of Administration, to render a single advisory opinion on the need for the Project⁴² and whether the Project is cost-justified, consistent with the objective of ensuring that the construction and operation of the Facility will be in compliance with all applicable laws, rules, and regulations.

³⁸ R.I. Gen. Laws § 42-98-11(a).

³⁹ *Id.* §§ 11(b), 11(c).

⁴⁰ *Id.* §§ 11(b), 9(e).

⁴¹ *Id.* § 11(b)(1).

⁴² *Id.* § 9(d).

ISSUE 2: Is the proposed Facility (A) cost-justified and can it be expected to produce (transmit) energy at the lowest reasonable cost to the consumer; (B) capable of remaining consistent with the objective of ensuring that its construction and operation will comply with all applicable laws, rules, regulations, and ordinances under which, absent the Act, a permit, license, variance, or assent would be required; or (C) does consideration of public health, safety, welfare, security, and the need for the proposed alteration justify a waiver of some requirement where compliance therewith cannot otherwise be assured?⁴³

The foregoing broad and far-reaching statement may be broken down into the component issues of cost-justification; compliance with all applicable legal requirements; and if such total compliance is not possible, whether some aspect of the applicable requirements should be waived.

Issue 2A: Is it cost-justified?

The issue of whether the proposed project will produce energy at the lowest reasonable cost to the consumer is included in the advisory opinion required of the PUC. The evaluation of the need for the project will expressly include whether the power from the Facility is needed at the projected cost to construct and operate the Facility. In rendering its opinion, the PUC must specifically analyze the projected cost impact of the Facility upon Rhode Island retail gas customers under a wide range of reasonable factual assumptions involving the types and costs of fuel to be used. The PUC and the Board must also specifically consider the respective costs to retail customers of power derived from reasonable alternative sources.

Issue 2B: Will the Facilities comply with all legal requirements applicable absent the Siting Act?

⁴³ *Id.* § 11(b)(2).

The Board must consider whether the Facility as proposed will meet all those requirements that, absent the Act, the Applicant would have to satisfy in obtaining necessary permits, licenses, variances, and assents.⁴⁴ In furtherance of those considerations, the Board should receive advisory opinions from each of the entities that would have had the authority to determine whether the Facility, in fact, does meet that entity's requirements. The specific advisory opinions in this regard are set forth below.

Issue 2C: Would a waiver from certain laws be justified?

In the event the Board decides that the construction and/or operation of the Facility would fail to comply with some aspect of otherwise governing legal requisites (or conditions), the Board must determine whether the overall benefits of the Facility justify a waiver from that provision subject to the Board's jurisdiction.

ISSUE 3: Will the proposed Facility cause unacceptable harm to the environment?⁴⁵

In the Board's consideration of this issue, it construes the term "environment" broadly, including individual and cumulative environmental impacts such as, but not limited to, the Facility's impacts on public health, air quality, water quality, water supply, groundwater, wetlands, ambient noise, traffic, wastewater disposal, fish, wildlife, and soil.

ISSUE 4: Will the proposed Facility enhance the socio-economic fabric of the state?⁴⁶

The Division of Statewide Planning, within the Department of Administration, must conduct an investigation and render for the Board's consideration an opinion as to the impact of the Facility's operation and construction on the socio-economic fabric of the state.⁴⁷

⁴⁴ *Id.* § 9(b).

⁴⁵ *Id.* § 11(b)(3).

⁴⁶ *Id.*

⁴⁷ *Id.* § 9(e).

ISSUE 5: Is the proposed Facility consistent with the Act on Climate?⁴⁸

Pursuant to R.I. Gen. Laws § 42-6.2-8, the Board is obligated to address the impacts of climate change when exercising its authority.

VI. EXEMPT LICENSES

In addition to all permitting within the jurisdiction of federal agencies, the Board finds the following permits and licenses to be exempt from its jurisdiction pursuant to R.I. Gen. Laws § 42-98-7(3):

- Freshwater wetland alteration permits issued pursuant to the Freshwater Wetlands Act, R.I. Gen. Laws § 2-1-21.
- Air pollution prevention of significant deterioration permit for construction of a facility that will discharge air pollutants from the combustion of natural gas and fuel oil issued pursuant to authority delegated to DEM by the Environmental Protection Agency (EPA) pursuant to the Clean Air Act, 42 U.S.C. Sec. §§ 7401, *et seq.* R.I. Gen. Laws § 23-23-1 *et seq.*
- Water quality certification pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 *et seq.*, R.I. Gen. Laws §§ 46-12-1 *et seq.*
- Rhode Island Pollution Discharge Elimination System permit for point source discharge, issued pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 *et seq.*

VII. ADVISORY OPINIONS⁴⁹

A. Jurisdictional Agencies

⁴⁸ R.I. Gen. Laws § 42-6.2-1 *et seq.*

⁴⁹ The designation letters are attached to this Order as Appendix A.

The following agencies and subdivisions of state and local government that, absent the Siting Act, would have the authority to act upon permits, licenses, assents, or variances required for the proposed Facility, are required by the Act to issue advisory opinions as directed by the Board and shall act at the direction of the Board in issuing the advisory opinions designated below. An agency so designated should, to the extent possible, render its advisory opinion pursuant to procedures that would be followed absent the Siting Act, and such advisory opinion should conform to the provisions of the Rhode Island Administrative Procedures Act (APA), R.I. Gen. Laws §§ 42-35-1 *et seq.*, regarding Decisions and Orders.⁵⁰ The agency must, however, render an advisory opinion to the Board regarding the issuance of the license or permit, rather than a final decision. Unless otherwise provided, if the agency does not issue its advisory opinion within six months after its designation by the Board (i.e., April 5, 2023), its right to render an opinion shall be forfeited.⁵¹

The agencies and the respective advisory opinions they are directed to render are as follows:

1. **The Town of Portsmouth Zoning Board of Review** is directed to render an advisory opinion as to whether the Facility would meet the requirements of its respective zoning ordinances and whether any variance, including a special use or dimensional variance, should be granted.
2. **The Town of Portsmouth Building Inspector** is directed to render an advisory opinion as to (i) whether the work proposed in the municipality as part of the Facility's construction and operation is subject to the municipality's Soil Erosion Sediment Control Ordinance, and if so, whether TNEC's Soil Erosion and Sediment Control Plan would conform to the Ordinance, and (ii) whether the Project would meet the requirements of other municipal ordinances.

⁵⁰ Rule 1.11(A).

⁵¹ R.I. Gen. Laws § 42-98-10(a).

3. **The Rhode Island Historical Preservation & Heritage Commission** is directed to render an advisory opinion as to (i) whether the Facility would be subject to its jurisdiction and, if so, whether the Facility would conform with requirements relevant thereto, and (ii) whether any required approval or exception should be granted.
4. **The Town of Portsmouth Department of Public Works** is directed to render an advisory opinion as to the potential impacts upon traffic and road conditions associated with the construction and operation of the Facility on Town roads.
5. **The Rhode Island Department of Environmental Management** is directed to render an advisory opinion as to (i) the impact on vegetative community, fish and wildlife that will be caused by disruption of the habitat and (ii) whether the Facilities will present an unacceptable harm to the environment.
6. **The Town of Portsmouth Planning Board** is directed to render an advisory opinion as to (i) whether a major variance is required and will be granted for the Facility; and (ii) whether TNEC will be able to comply with the Town of Portsmouth Comprehensive Community Plan.
7. **The Town of Portsmouth Town Council** is directed to render an advisory opinion as to the whether the Project will meet the Town noise ordinance limits and, if not, whether an exemption from the Portsmouth Noise Ordinance should be granted.

B. Non-Jurisdictional Agencies

The Board has both the obligation and authority to request further advisory opinions from agencies other than those that, absent the Siting Act, would have some specific authority over the proposed Facility. In addition to the mandatory opinions required from the Jurisdictional Agencies by the Siting Act, the Board in its discretion may and hereby does request informational advisory

opinions from the agencies listed below for which there are no applicable license, permit, assent, or variance proceedings required for the Facility.

In the absence of a proceeding conducted in accordance with the APA, the Board requests that each such agency named below prepare to have a representative appear at the final hearing of the Board to sponsor the informational advisory opinion, as well as to sponsor and enter into evidence any information outside of the record of this docket that is relied upon in the advisory opinion. At such time, the Applicant, the Board, and other parties will have the opportunity to cross-examine the sponsoring agency representative.

For each non-jurisdictional advisory opinion, the subject agency may request, and the Applicant shall provide, any information or evidence deemed necessary to support the subject opinion. The Applicant shall provide information in a timely manner. The Applicant shall remain responsible for ensuring that the information provided to the Board and the various agencies remains consistent and up-to-date.

1. The Rhode Island Public Utilities Commission is directed to render an advisory opinion on several related issues. Because this matter is unique and involves the analysis of very complex issues, a discussion of these issues is necessary to define the advice the Board is requesting from the PUC. A license is typically issued in perpetuity by the Board. But the facts associated with the license sought in this case present a different set of circumstances regarding the question of need. In most other cases, the need for a facility is indefinite. But in this case, there is a question regarding the duration of the need, given the policy underlying the Act on Climate to reduce greenhouse gas emissions. This issue of duration was identified by the Attorney General in his pre-hearing brief.⁵² Given that Rhode Island has a policy that is intended to reduce reliance on

⁵² “Rhode Island Attorney General’s Memorandum with Respect to Scope of Application Review,” July 11, 2022, at 4-5.

natural gas, there is a question relating to the extent to which natural gas demand on Aquidneck Island will increase or decrease. In turn, to the extent there is a material decrease in demand over time, it could affect the need for the continued operation of the Facility, even if the Facility is needed in the near term. Given that, the Board may choose to exercise its authority to issue a conditional license with a contingent term limitation allowing the Applicant to renew the license periodically if stipulated conditions are met.⁵³

The Board requests the PUC to address the following:

- (i) whether the proposed Facility is needed, as such opinion from the PUC is required by the Siting Act.⁵⁴ The need analysis should also include the potential duration of the license, whether the license should contain a contingent expiration date, identifying the conditions that would need to be met for granting an extension, and proposing such a date if a contingent expiration is deemed appropriate. The PUC should also advise on the extent to which a moratorium on new gas connections on Aquidneck Island could materially contribute to shortening the period over which the proposed Facility would be needed.⁵⁵
- (ii) whether the Facility is cost-justified. The cost justification analysis should include an evaluation of alternatives. As part of its assessment of cost and alternatives, the PUC should include in its advisory opinion an evaluation of the extent to which there are any cost-effective, non-infrastructure options (such as energy efficiency, heating conversions, and demand response initiatives) which would avoid the need for the Facility. In

⁵³ See R.I. General Laws § 42-98-11(c)(the license “may be issued on any condition the board deems warranted by the record.”).

⁵⁴ R.I. General Laws § 42-98-9(d).

⁵⁵ It is important to note that the evaluation of the impact of a moratorium is being requested as a hypothetical and useful tool for evaluating emissions impacts. It should not be construed as an indication at this stage that one should necessarily be imposed. There also remains a question regarding the extent to which the Board or the PUC has the authority to impose a moratorium and the Board is not requesting the PUC to address that legal question when issuing the advisory opinion.

performing the evaluation of any non-infrastructure options, the PUC should determine the extent to which there are technically feasible solutions available at a reasonable cost to ratepayers that could eliminate the need for the Facility, and whether any such solutions could be reasonably relied upon to eliminate the need for the Facility within a reasonable period of time. As part of this analysis, the PUC should evaluate the Applicant's assumptions related to fuel switching and the relative emissions of different heating sources.

- (iii) whether the Facility is expected to produce energy (i.e., provide and vaporize liquified natural gas) at the lowest reasonable cost and perform its reliability function at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed Facility will be accomplished in compliance with all of the requirements of the laws, rules, and regulations.

Additionally, the Board is also requesting the PUC to estimate a range of hypothetical emissions impacts if an island-wide moratorium on new gas connections was imposed, considering the alternative heating choices available to the public.⁵⁶

The PUC may hire experts, if needed, to assist in the performance of its evaluation of greenhouse gas emissions impacts over time for the expected useful life of the project for purposes of the advisory opinion, including any cost-effective non-infrastructure options considered pursuant to paragraph (ii) above, and be reimbursed by the Applicant through the Board's statutory authority. The Division of Statewide Planning, the Office of Energy

⁵⁶ Parties have raised questions regarding the forecasting methodologies used by the Applicant for forecasting the emissions impact caused by alternative non-natural gas heating sources. See Memorandum of Acadia Center "Re: Scope of Proceeding," at 5-8 (Jul. 12, 2022) and "Pre-Preliminary Hearing Memorandum of Conservation Law Foundation" at 3-6 (Jul. 12, 2022).

Resources, and the Division of Public Utilities and Carriers shall participate in the PUC proceeding pursuant to R.I. Gen. Laws § 42-98-9(d).

2. **The Division of Statewide Planning** is directed to render an advisory opinion as to (i) the socio-economic impact of the proposed Facility, including its construction and operation; (ii) the proposed Facility's consistency and compliance with the State Guide Plan including the State Energy Plan – Energy 2035; and (iii) in coordination with the Rhode Island Office of Energy Resources, a particular examination of the proposed Facility's consistency and compliance with the State Energy Plan or any other applicable and/or relevant statute enacted during this session of the General Assembly that would relate to the project, and state energy policies. In addressing the issue of socio-economic impact, consideration must be given to economic and reliability benefits, including employment and tax benefits to the Town of Portsmouth and/or to the State.
3. **The Rhode Island Department of Health** is directed to render an informational advisory opinion on (i) the potential public health concerns relating to the proposed Facility and (ii) the potential impacts on the quality of drinking water associated with the construction and operation of the proposed Facilities.

Accordingly, it is hereby

(156) ORDERED

1. The following State of Rhode Island and local agencies and political subdivisions of the state shall act at the direction of the Energy Facility Siting Board for the purpose of rendering advisory opinions on the issues determined by the Preliminary Decision of the Energy Facility Siting Board:
 - a. The Town of Portsmouth Zoning Board

- b. The Town of Portsmouth Building Inspector
- c. The Historical Preservation & Heritage Commission
- d. The Portsmouth Department of Public Works
- e. The Department of Environmental Management
- f. The Town of Portsmouth Planning Commission
- g. The Town of Portsmouth Town Council
- h. The Public Utilities Commission
- i. The Division of Statewide Planning
- j. The Department of Health

2. The Coordinator of the Energy Facility Siting Board shall prepare and forward to all agencies designated above a certified copy of this Preliminary Decision and Order and a separate written notice of designation.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND THIS DAY OF OCTOBER 19, 2022.

ENERGY FACILITY SITING BOARD

Ronald T. Gerwatowski

 Ronald T. Gerwatowski, Chairman

Meredith E. Brady
 Meredith Brady (Oct 18, 2022 14:24 EDT)

 Meredith E. Brady, Member

Terrence Gray

 Terrence Gray, Member



APPENDIX A

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH BUILDING
INSPECTOR TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Building Inspector has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH ZONING BOARD
OF REVIEW TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Zoning Board of Review has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE RHODE ISLAND HISTORICAL PRESERVATION AND
HERITAGE COMMISSION TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Historical Preservation and Heritage Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating. Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH DEPARTMENT OF
PUBLIC WORKS TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Department of Public Works has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Environmental Management has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH PLANNING
COMMISSION TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Planning Commission has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2106, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE TOWN OF PORTSMOUTH TOWN COUNCIL
TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Portsmouth Town Council has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE RHODE ISLAND PUBLIC UTILITIES
COMMISSION TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Public Utilities Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE RHODE ISLAND DIVISION OF STATEWIDE
PLANNING TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Division of Statewide Planning has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY D/B/A NATIONAL GRID
APPLICATION TO CONSTRUCT AND OPERATE A PORTABLE LNG VAPORIZATION
FACILITY ON OLD MILL LANE IN PORTSMOUTH, RHODE ISLAND
DOCKET NO. SB-2021-04

**NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF HEALTH
TO RENDER AN ADVISORY OPINION**

By Order No. 156 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Health has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Narragansett Electric Company d/b/a National Grid's (Narragansett Electric) application to construct and operate a portable LNG vaporization facility in Portsmouth, Rhode Island filed in Docket No. SB-2021-04. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 151 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before April 5, 2023, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(A) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(C) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2173, or by email at emma.rodvien@puc.ri.gov.

Emma Rodvien, Coordinator
Energy Facility Siting Board
October 19, 2022