



STATE OF RHODE ISLAND
Public Utilities Commission

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Chairman Ronald T. Gerwatowski
Commissioner Abigail Anthony
Commissioner John C. Revens, Jr.

MEMORANDUM

To: Service List in Docket No. 22-42-NG
From: Cynthia Wilson-Frias, Chief of Legal Services
Date: November 18, 2022
Re: PUC Docket No. 22-42-NG – In re: Issuance of Advisory Opinion to Energy Facility Siting Board (EFSB) Application to Construct LNG Vaporization Facility on Old Mill Lane, Portsmouth, RI

PROCEDURAL SCHEDULE AND BRIEFING QUESTION

Thank you for your participation in yesterday's pre-hearing conference. The following represents the procedural schedule:

Discovery questions issued before December 26, 2022, will have a 21-day response period. Questions issued after December 26, 2022, will have a 14-day response period. Extensions of time may be requested for good cause.

- 12/01/2022 Deadline to file for intervention
- 12/19/2022 Rhode Island Energy's Pre-Filed Testimony is due
- 02/06/2023 Intevenor and Division Testimony or Position Statement are due (position statements must have a sponsor if they contain factual statements, i.e, not just arguments of policy or law). The sponsor is expected to attend the hearing.
- 03/06/2023 Rhode Island Energy's Rebuttal Testimony is due
- 03/20/2023 Intervenor and Division Surrebuttal Testimony or Surrebuttal Position Statement are due (same rules as for position statements)
- 03/27/2023 **9:30 A.M.** – Public Hearing in Hearing Room A – Public Comment at the start
Written public comments will be accepted for review by the Commission through the decision in this matter. However, to ensure review and consideration of the comments, members of the public are advised to send in their comments by April 5, 2023. Comments can be mailed, hand-delivered, or emailed (preferred method) to Luly.Massaro@puc.ri.gov
- 03/28-03/29/2023 Hearings continue

The hearing schedule will be refined prior to the commencement of the hearings and will likely be organized by topic. Witnesses, however, are advised to keep all three hearing days available on their calendars until the hearing schedule is set.

04/19/2023 Written Advisory Opinion due to the EFSB

Briefing Question

Rhode Island Energy and the Division of Public Utilities and Carriers are expected to brief the following question while other parties are requested to file a brief on or before February 17, 2023. The Commission cautions that this briefing question is being asked as part of the needs assessment only.

Background

R.I. Gen. Laws § 42-98-9(d) states: (d) The public utilities commission shall conduct an investigation in which the division of planning of the department of administration, the governor's office of energy assistance and the division of public utilities and carriers shall participate and render an advisory opinion as to the need for the proposed facility.

“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.” (EFSB Order No. 156 at 11).

The EFSB has also requested the Commission consider, as part of its needs analysis “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.” (EFSB Order No. 156 at 17).

In approving a license, the EFSB must find that “construction of the proposed facility is necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed facility” and that it be in compliance with law and regulation. (R.I. Gen. Laws § 42-98-11(b)(1)-(2)).

Question:

Whether a project designed to serve only a portion of the state, Aquidneck Island, which is served by a single natural gas pipeline, falls within the definition of “necessary to meet the needs of the state and/or region”

In responding to this question, the brief shall consider, at a minimum, the following:

- (1) Whether the possibility of a supply constraint or contingency event to one portion of the state where there are other areas of the state with no access to gas supply at all is a “need of the state” standard in the Energy Facility Siting Act.

- (2) Whether the utility has a legal/regulatory duty to serve future incremental growth in customers and/or usage and if so, how that duty correlates to a “need of the state” standard in the Energy Facility Siting Act.
- (3) Whether or how the utility’s legal/regulatory duty to provide reliable service to existing customers under the type of contingency event described in the filing correlates to a “need of the state” standard in the Energy Facility Siting Act.

cc: Commissioners Anthony and Revens
Linda George, Administrator DPUC