

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

Issuance of Advisory Opinion to Energy Facility Siting  
Board Application to Construct LNG Vaporization Facility  
on Old Mill Lane, Portsmouth, Rhode Island

Docket 22-42-NG

**UNOPPOSED MOTION FOR INTERVENTION  
OF CONSERVATION LAW FOUNDATION**

**I. Introduction**

The Conservation Law Foundation (“CLF”), pursuant to Public Utilities Commission (“PUC” or “Commission”) Rule of Practice and Procedure 1.14(B), hereby moves to intervene in this Docket.

On May 19, 2021, The Narragansett Electric Company (the “Company”) filed an Application for a License to Construct and Alter Major Energy Facilities. On June 18, 2021, the Energy Facility Siting Board (“EFSB” or the “Board”) docketed the Application and assigned Docket Number SB-2021-04. The proposed facility would consist of portable vaporization equipment that would be mobilized to address the known gap on extremely cold days between peak gas demand and available gas capacity for the Aquidneck Island natural gas distribution system. The facility would also be mobilized for any planned or unexpected disruptions of the Aquidneck Island gas supply. In April of 2022 the Company<sup>1</sup> filed a supplemental application with the EFSB. The Board held a Preliminary Hearing on July 25, 2022, and issued a

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<sup>1</sup> Ownership of the Narragansett Electric Company was transferred from National Grid USA to PPL Rhode Island Holdings, LLC between the initial and supplemental applications. See R.I. Division of Public Utilities and Carriers Docket No. D-21-09.

Preliminary Decision and Order on October 19, 2022, directing several municipalities and state agencies, including the PUC, to issue advisory opinions on issues related to the docket. The PUC subsequently opened the instant docket regarding its advisory opinion.

CLF's participation in this proceeding will be in the public interest within the meaning of PUC Rule 1.14(B)(3). Moreover, CLF will be directly affected by the outcome of this proceeding and its interests are not adequately represented by the existing parties, within the meaning of Rule 1.14(B)(2). Both the Company and the Division of Public Utilities and Carriers have indicated that they will not oppose CLF's motion for intervention.

## **II. The Intervenor**

CLF is New England's leading environmental advocacy organization. Since 1966, CLF has worked to protect New England's people, natural resources, and communities. CLF is a nonprofit, member-supported organization with offices throughout New England. The Rhode Island CLF office is located at 235 Promenade Street, Suite 560, Providence.

CLF promotes clean, renewable, and efficient energy production and heating throughout New England and has an unparalleled record of advocacy on behalf of the region's environmental resources. In the course of its 55-year legacy, CLF has been a party in the landmark case where the United States Supreme Court ruled that the Environmental Protection Agency has an obligation under the Clean Air Act to consider regulating tailpipe emissions that contribute to global warming, *Massachusetts v. E.P.A.*, 127 S. Ct. 1438 (2007); CLF has obtained an injunction to stop oil and gas drilling in the environmentally sensitive Georges Bank, *Conservation Law Foundation v. Sec'y of the Interior*, 790 F.2d 965 (1st Cir. 1986); CLF has litigated to ensure enforcement of an earlier settlement agreement in a case stemming from the Big Dig, which settlement agreement required twenty public transit projects in and around

Boston, including the construction of additional subway and rail lines, *Conservation Law Foundation v. Romney*, 421 F. Supp. 2d 344 (D. Mass. 2006); and CLF has successfully advanced legal strategies to restore groundfish to the Gulf of Maine and southern New England waters, *Conservation Law Foundation v. Evans*, 211 F. Supp.2d 55 (D.D.C. 2002).

Additionally, CLF has a long history of participation in PUC dockets related to energy concerns, renewable resources, distribution system policy, and rates. These include Docket No. 4111 (the first of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project); Docket No. 4185 (the second of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project); Docket No. 4600 (concerning the development of goals for the future electric system and a benefit-cost framework for proposals before the PUC); Docket No. 4770 (the most recent gas and electricity rate case); Docket No. 4780 (the concurrent Power Sector Transformation case); Docket No. 4822 (reviewing National Grid's request for proposals for contracts for up to 400 megawatts (MW) of newly developed renewable energy resources); and Docket No. 4929 (reviewing National Grid's contract for the purchase of energy and renewable energy certificates from a proposed 400 MW offshore wind farm).

More recently, CLF successfully opposed the permitting of a 1,000-megawatt fossil-fuel power plant in Burrillville, Rhode Island before the EFSB, and intervened and participated as a full party in the PUC docket concerning the PUC's advisory opinion in that case. *In Re Application of Invenergy Thermal Development LLC's Proposal for Clear River Energy Center*, SB-2015-06; PUC Docket No. 4609.

### **III. The Standard Governing this Motion**

Intervention in PUC proceedings is governed by PUC Rule 1.14. CLF bases its motion on the provisions of Rule 1.14(B)(3), which states that a party may intervene where “appropriate” if the party has “any . . . interest of such nature that petitioner’s participation may be in the public interest.” Additionally, CLF and its members will be directly affected by the outcome of this proceeding and its interests are not adequately represented by the existing parties, within the meaning of Rule 1.14(B)(2).

### **IV. CLF’s Interest in This Proceeding**

As an organization committed to using the law to protect New England’s environment and combat the climate crisis, CLF has extensive experience in energy law and policy, including advocacy for responsible siting and permitting of both fossil fuel and renewable energy projects. As discussed above, CLF has participated, without objection from any party, in many previous PUC and EFSB dockets related to energy concerns and energy resource siting. Additionally, CLF has participated in recent stakeholder processes in Rhode Island related to the siting of solar energy resources, the procurement of 100% of the state’s electricity from renewable resources by 2030, and the transformation of the heating sector. Of particular relevance to this proceeding, CLF is a party to EFSB Docket No. SB-2021-04, the docket in which the EFSB has requested an advisory opinion from the PUC. Prior to that, CLF submitted comments on National Grid’s petition in Docket No. SB-2020-02 (National Grid Petition for Declaratory Order Regarding Portable LNG Vaporization Equipment), and on National Grid’s Aquidneck Island Long-Term Capacity Study. As a result of this history, both in Rhode Island and in the rest of New England, CLF can play a constructive and helpful role in this Docket. CLF anticipates being able to

present information that will be directly relevant to this proceeding, useful to the PUC, and in the interest of the public.

The resolution of this docket, and of the related docket at the EFSB, could have implications for the State's ability to meet the statutory mandates of the Act on Climate, R.I. Gen. Laws §§ 42-6.2-1–12. This statute sets mandatory, enforceable carbon emissions reduction requirements for Rhode Island of 45% below 1990 levels by 2030; 80% below 1990 levels by 2040, and net-zero emissions by 2050.<sup>2</sup> It could also influence how the State's natural gas utility may position itself to reach net-zero emissions by 2050. It could reveal that the utility is poised to intentionally or inadvertently encourage increased gas use and gas connections. It could also help determine how the utility could be incented to drive demand growth and potential new hook-ups to non-gas alternatives such as heat pumps. Decisions in this matter, as to the design, use, and lifespan of the proposed LNG facility, will have important impacts on Aquidneck Island and on Rhode Island's thermal sector generally.

CLF has a keen interest in ensuring that the Company's actions on Aquidneck Island are consistent with the requirements of the Act on Climate, and it can aid the Commission in its application of the provisions of the Act on Climate. CLF has extensive experience related to the creation, implementation, and interpretation of statutes mandating emissions reductions throughout New England, including successful litigation to require Massachusetts to create and implement regulations to meet its carbon emissions reduction mandates under its equivalent of the Act on Climate—the Global Warming Solutions Act. *Kain v. Dep't of Env't Prot.*, 49 N.E.3d 1124 (Mass. 2016).

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<sup>2</sup> Section 8 of the Act on Climate confers the power, the duty, and the obligation on the Commission to consider the climate change implications of proposals that come before it. R.I. Gen. Laws § 42-6.2-8.

Moreover, the participation in this proceeding of a public interest organization such as CLF will serve the public interest. *See, generally*, John E. Bonine, *Public Interest Environmental Lawyers: Global Examples and Personal Reflections*, 10 *Widener L. Rev.* 451 (2004) (emphasizing the constructive and salutary role of public interest environmental lawyers in a wide range of legislative, judicial, and regulatory fora).

**V. Conclusion**

WHEREFORE, for the foregoing reasons, CLF respectfully requests that its motion to intervene in this Docket be granted.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

By its attorneys,

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**NOTICE OF APPEARANCE OF COUNSEL**

Pursuant to Rule 1.5 of the Rhode Island Public Utilities Commission's Rules of Practice and Procedure, please enter my appearance on behalf of Conservation Law Foundation in the above-captioned proceeding.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that the original and four copies of this Motion and attached Notices of Appearance of Counsel were filed with the Public Utilities Commission. In addition, a PDF version of this Motion was served electronically on the service list of this Docket, as that list was provided by the PUC on November 17, 2022. I certify that all of the foregoing was done on December 1, 2022.

/s/ James Crowley\_\_\_\_\_