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VIA USPS AND ELECTRONIC MAIL

Ms. Luly Massaro
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888
Luly.massaro@puc.ri.gov

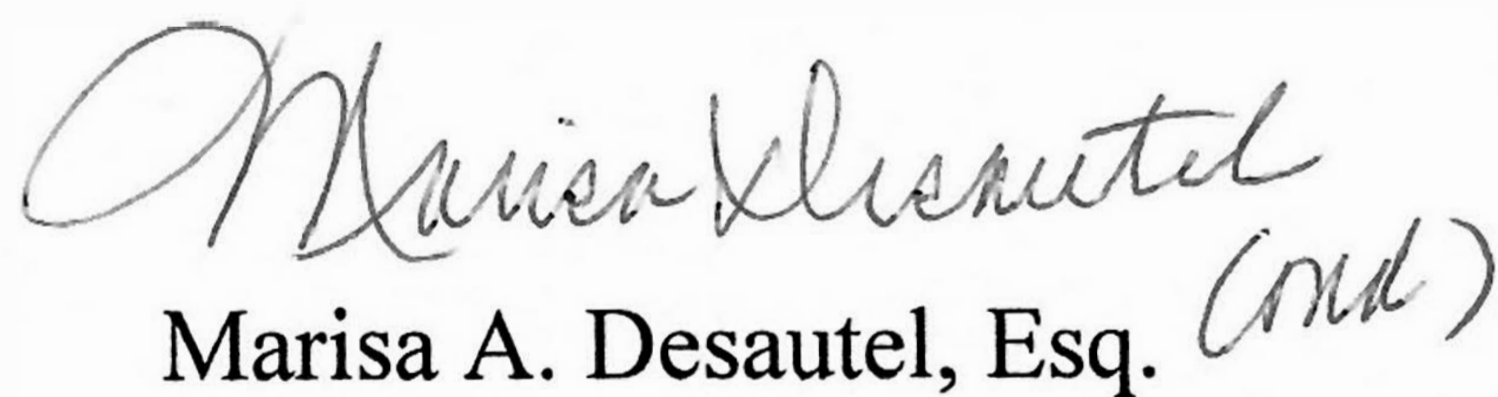
RE: Docket No. 22-42-NG – RE: Issuance of Advisory Opinion to Energy Facility Siting Board (EFSB) Application to Construct LNG Vaporization Facility on Old Mill Lane, Portsmouth, Rhode Island

Dear Ms. Massaro:

Enclosed herewith please find an original and five (5) copies of The Town of Middletown's Motion to Intervene to be filed in the above-entitled matter.

Please be advised that an electronic copy of this document has been sent to the Service List updated November 25, 2022. Thank you for your attention to this matter.

Sincerely,


Marisa A. Desautel, Esq. (MD)

Enclosures

cc: Service List Updated 11/25/2022

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

Docket No. 22-42-NG – RE: Issuance of Advisory Opinion to Energy Facility Siting Board (EFSB) Application to Construct LNG Vaporization Facility on Old Mill Lane, Portsmouth, Rhode Island

**THE TOWN OF MIDDLETOWN’S UNOPPOSED
MOTION TO INTERVENE**

NOW COMES the Town of Middletown (“Town”), by and through its undersigned counsel, and hereby moves to intervene in the above-captioned proceeding pursuant to Rule 1.14 of the Rhode Island Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”). In support of its Motion, the Town avers:

I. STANDARD OF REVIEW

Pursuant to Paragraph 1.14(A) of the Commission’s Rules, “[p]articipation in a proceeding as an intervenor may be initiated by order of the Commission upon a motion to intervene.” Further, in accordance with Paragraph 1.14(B) of the Commission’s Rules, “...any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Commission.

Such right or interest may be:

1. A right conferred by statute.
2. An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Commission’s action in the proceeding...
3. Any other interest of such nature that the movant’s participation may be in the public interest.”

In accordance with the Commission's Rules, the Town's motion sets out below clear and concise facts which form the nature of the Town's interest in this case, grounds for the Town's proposed intervention, and the Town's position in this proceeding.

II. ARGUMENT

The above-quoted section of the Commission's Rules makes it clear that it is appropriate for the Town of Middletown to intervene in this matter. The Town's intervention is necessary and appropriate, as the activities occurring at the Old Mill Lane facility are directly affecting Middletown residents. The Town's concern for its residents cannot adequately be represented by another party presently involved in this matter. The Town should also be allowed to intervene here because of the attention paid by the Commission's Rules to public input, including participation of and requiring notice to municipalities.

A. FACTUAL BASIS FOR THE TOWN'S INTEREST IN THIS CASE

The factual basis for the Town's interest in this case results from the project's location. It backs up to many residential properties in Middletown and is directly adjacent to the Portsmouth/Middletown town line. The Town's property owners will be directly impacted by the construction and operation of the project and the Town's infrastructure and staff will be used during the project's operation.

The portable vaporization facility that is currently at Old Mill Lane was always intended to be a short-term solution to Aquidneck Island's capacity constraint and capacity vulnerability problem. The intention for the facility falls squarely within the Commission's mandate in this proceeding: the "need for the Project 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." See EFSB Order, p. 10.

However, the four long-term alternatives that the Narragansett Electric Company (“TNEC”) has suggested are not sufficient because they leave Old Mill Lane as the only viable long-term solution. Even if TNEC were to pursue an alternative to Old Mill Lane, they are expected to still need to operate at the Old Mill Lane site for a number of winters. TNEC is also considering the acquisition of properties adjacent to Old Mill Lane to create additional space to ensure the facility’s isolation. These factors will have a negative impact on the Town of Middletown, as the site was intended only as a temporary solution.

The particular impacts from this project on the Town’s safety, health, residents, businesses, and infrastructure show that only the Town can adequately represent its interests. This project is the first of its kind in the area; there is no similar project in or near the Town such that TNEC can provide a history of safe and/or secure operation and transportation of liquid natural gas.

B. GROUNDS FOR THE TOWN’S PROPOSED INTERVENTION

Pursuant to the Commission’s Rules, Section 1.14 entitled “Intervention,” the Town has a statutory interest in intervention in this case. RIGL §42-98-9.1, entitled “Public notice and hearings on construction projects in cities and towns affected” requires that specific notice would be sent to the Town in this case:

“(a) Upon receiving a utility company application the board shall immediately notify, in writing, the councils of the towns and cities affected by the construction...”

(e) Public input shall be a part of the decision making process.”

This project is exactly the type of project contemplated by state law; it carries major implications for the Town’s infrastructure, its residents, and its businesses. Inquiry of TNEC during the regulatory process is the only process by which the Town may participate to ensure that its exclusive concerns are adequately addressed.

C. THE TOWN'S POSITION IN THIS CASE

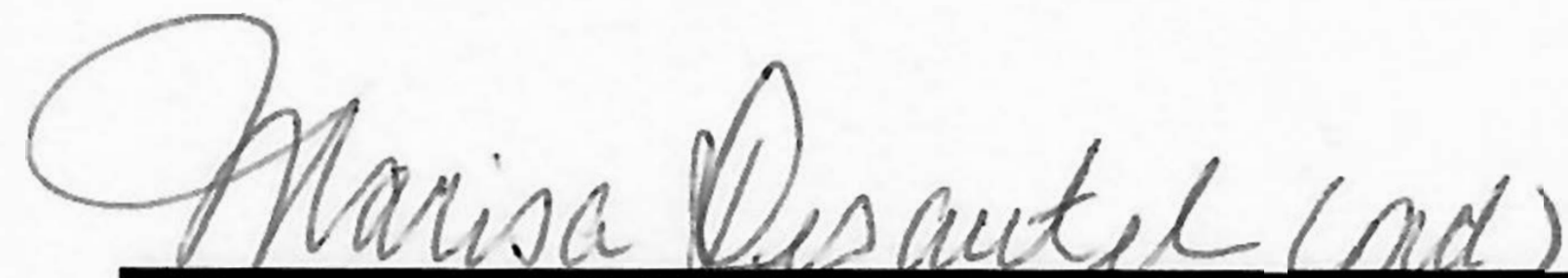
The Town's position in this case is that the proposed activity and facility at Old Mill Lane may affect the health and safety of the Town's residents and that the project should not be permitted because it is not cost-justified. The alternative long-term solutions proposed by TNEC are likewise not carefully considered, as all proposals are dismissed by TNEC without adequate justification. As a result, the Town seeks further oversight and review of the proposals, as alternative long-term solutions and this facility must be appropriately considered and cost-justified.

The PUC requires that TNEC must demonstrate "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, regulations, and ordinances, under which, absent this chapter, a permit, license, variance, or assent would be required..." Simply stated, the Town does not believe that sufficient evidence exists to demonstrate that TNEC's proposal will meet the Town's ordinances. Given the public concerns inherent with this project, the Town needs a seat at the regulatory table.

WHEREFORE, based on the foregoing, the Town respectfully requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

Town of Middletown
By its Attorney



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CERTIFICATION

I, the undersigned, hereby certify that I filed an electronic copy of the within Unopposed Motion to Intervene with the Public Utilities Commission, as well as all parties on the Service List for Docket 22-42-NG, on this 1st day of December, 2022, and placed the original and five (5) copies in the USPS to the Commission.

