



STATE OF RHODE ISLAND  
OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903  
(401) 274-4400 • [www.riag.ri.gov](http://www.riag.ri.gov)

*Peter F. Neronha*  
*Attorney General*

March 13, 2022

Luly Massaro, Clerk  
Division of Public Utilities and Carriers  
89 Jefferson Blvd.  
Warwick, RI 02888  
[Luly.massaro@puc.ri.gov](mailto:Luly.massaro@puc.ri.gov)

***RE: IN RE: The Narragansett Electric Co. d/b/a Rhode Island Energy Issuance of Advisory Opinion to Energy Facility Siting Board Regarding The Narragansett Electric Co. Application to Construct LNG Vaporization Facility***  
***Docket No. 22-42-NG***

Dear Ms. Massaro:

Enclosed please find for filing an original and nine (9) copies of the Attorney General's Motion Objecting to the Narragansett Electric Company's First Set of Data Requests Issued to the Attorney General in the above-referenced docket. Please note that the Attorney General's Objections and Responses to the Data Requests are also included herewith as *Exhibit A*.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

*/s/ Nicholas Vaz*

Special Assistant Attorney General  
[nvaz@riag.ri.gov](mailto:nvaz@riag.ri.gov)

Enclosures

Copy to: Service List

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: ISSUANCE OF ADVISORY** :  
**OPINION TO ENERGY FACILITY SITING** :  
**BOARD RE: THE NARRAGANSETT** :  
**ELECTRIC COMPANY’S APPLICATION** : **DOCKET NO. 22-42-NG**  
**TO CONSTRUCT LNG VAPORIZATION** :  
**FACILITY ON OLD MILL LANE,** :  
**PORTSMOUTH, RI** :

**THE ATTORNEY GENERAL’S MOTION OBJECTING TO  
THE NARRAGANSETT ELECTRIC COMPANY’S (“TNEC”)  
FIRST SET OF DATA REQUESTS ISSUED TO THE  
STATE OF RHODE ISLAND OFFICE OF THE ATTORNEY GENERAL**

**NOW HERE COMES** the Rhode Island Attorney General, Peter F. Neronha (“Attorney General”), and pursuant to RICR 810-RICR-00-00-1.19(C)(3) hereby objects to each of the Data Requests Issued by The Narragansett Electric Company (the “Company”) in its First Set of Data Requests Issued to the State of Rhode Island Office of the Attorney General.

In further support hereof, please see the memorandum below and the Attorney General’s Objections and Responses to The Narragansett Electric Company’s First Set of Data Requests Issued to the State of Rhode Island Office of the Attorney General, attached hereto and filed herewith as Exhibit A.

**I. STANDARD OF REVIEW**

With respect to objections to discovery requests, the Commission’s Rules of Practice and Procedure (“Commission Rules”) provide, in relevant part:

Objection to a data request in whole or in part on the ground that the request is unreasonable and/or the material is not relevant or not permitted or required by law shall be made by motion filed as soon as practicable and in no event later than ten (10) days... The

relevancy of a request shall be determined under the standards established for such determinations under Rule 26 of the Superior Court Rules of Procedure.

Commission Rule 1.19; 810-RICR-00-00-1.19(C)(3). In turn, Superior Court Rules of Civil Procedure provide:

(b) Discovery: Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party....

The frequency or extent of use of the discovery methods set forth in these rules shall be limited by the court if it determines that...

(C) [t]he discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subdivision (c).

## **II. ARGUMENT**

The Energy Facility Siting Board ("EFSB") is currently considering an application for a license to construct and operate a portable liquefied natural gas vaporization and injection facility at 111 Old Mill Lane in Portsmouth, Rhode Island (the "Project") in its Docket No. SB-2021-04. Pursuant to R.I. Gen. Laws § 42-98-10, on October 19, 2022, the EFSB issued its Order No. 156 designating the Commission as one of several agencies from which advisory opinions would be required. The EFSB directed the Commission to render an advisory opinion on several issues, namely:

(i) whether the proposed Facility is needed, as such opinion from the PUC is required by the Siting Act. 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.

(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 performing the evaluation of any noninfrastructure 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.

EFSB Order 156, 17-18 (footnotes omitted). As a result, the above-captioned docket was opened to examine those issues.

This docket is just one of several matters considering the Company's proposed Project. Other advisory opinions are being drafted by other agencies, and the original EFSB matter still remains pending. These proceedings will elicit information not yet available, and there is still

opportunity for additional testimony, public comment, hearings, and discovery. As movant, it is the Company's burden to show that its Project has met the standard for approval set forth in the Energy Facility Siting Act. *See* R.I. Gen. Laws § 42-98-11(b). This includes showing that the facility is necessary to meet the needs of the state, that the facility is cost justified and expected to produce energy at the lowest reasonable cost to consumers, and that the facility will not cause unacceptable harm to the environment or society. *See id.*

Still, the Company has issued six data requests to the Attorney General that essentially seek to turn the burden of proof in this matter on its head. All of the requests seek broad and conclusory answers. They also seek to place an unreasonable burden on the Attorney General in light of his role in these proceedings. It is not the job of the Attorney General, or any party other than the Company, to develop alternatives to the Project (although some parties to these proceedings may) or to affirmatively go out and seek alternate locations. Moreover, the lack of a given proposal from other parties does not necessarily mean that the Company should not have considered it. Rather, the Company must satisfy its burden to identify and consider alternatives and must put forth any analysis needed for consideration of its application. Likewise, it will be the responsibility of the Commission, other agencies, and ultimately the EFSB, to determine whether the Company has met that burden.

More specific objections to each of the Company's Data Requests can be found in the Attorney General's Objections and Responses. *See* Exhibit A attached hereto.

### **III. CONCLUSION**

For the reasons outlined above, as well as those that may be raised at any oral argument, the Attorney General hereby objects to the Company's First Set of Data Requests and asks that the Commission sustain his objections.

Respectfully submitted,

PETER F. NERONHA  
ATTORNEY GENERAL

By his attorney:

/s/ Nicholas M Vaz  
Nicholas M. Vaz, Bar No. 9501  
Special Assistant Attorney General  
Office of the Attorney General  
Environment and Energy Unit  
150 South Main Street  
Providence, Rhode Island 02903  
Telephone: (401) 274-4400, ext. 2297  
[nvaz@riag.ri.gov](mailto:nvaz@riag.ri.gov)

Dated: March 13, 2023

CERTIFICATE OF SERVICE

I hereby certify that on the 13<sup>th</sup> day of March 2023, the original and nine hard copies of this motion and the attached Data Request Responses were sent, via electronic mail and first-class mail, to Luly Massaro, Clerk of the Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888. In addition, electronic copies of the document were served via electronic mail on the service list for this Docket on this date.

/s/ Nicholas M. Vaz

## **Exhibit A**

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: ISSUANCE OF ADVISORY** :  
**OPINION TO ENERGY FACILITY SITING** :  
**BOARD RE: THE NARRAGANSETT** :  
**ELECTRIC COMPANY’S APPLICATION** : **DOCKET NO. 22-42-NG**  
**TO CONSTRUCT LNG VAPORIZATION** :  
**FACILITY ON OLD MILL LANE,** :  
**PORTSMOUTH, RI** :

**THE ATTORNEY GENERAL’S OBJECTIONS AND RESPONSES TO  
THE NARRAGANSETT ELECTRIC COMPANY’S (“TNEC”)  
FIRST SET OF DATA REQUESTS ISSUED TO THE  
STATE OF RHODE ISLAND OFFICE OF THE ATTORNEY GENERAL**  
(Issued on March 3, 2023)

**TNEC 1-1** Does the Office of the Attorney General (“Attorney General”) dispute that on island vaporization of LNG during heating seasons (November 1 to April 1) is necessary to ensure reliable delivery of natural gas to all customers on Aquidneck Island in the event of an upstream supply disruption?

**AG OBJECTION to TNEC 1-1:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek “such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding.” This request prematurely seeks the ultimate position of a party to an ongoing docket.

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company’s obligation to identify and analyze potential alternatives to its proposal.

**AG RESPONSE to TNEC 1-1:**

Subject to and without waiving the objections above, the Attorney General provides the following:

At this time, the Attorney General is without sufficient information to admit or deny that on island vaporization of LNG during heating seasons (November 1 to April 1) is necessary to ensure reliable delivery of natural gas to all customers on Aquidneck Island in the event of an upstream supply disruption.

His determination will require careful analysis of the full scope of information available in this matter (and possibly related matters). Additional information is likely to be brought forth through testimony, hearings and data request responses



that have not yet been made available. It is likely that essential information is currently held by the Company, and potentially other parties to this docket.

**TNEC 1-2** If the Attorney General contends that there exist alternatives to on island LNG vaporization and injection to ensure reliable delivery of natural gas to all customers on Aquidneck Island in the event of an upstream supply disruption for any heating season from 2023/24 to 2033/34, please describe that alternative in detail and indicate in which year(s) it would achieve the intended purpose.

**AG OBJECTION to TNEC 1-2:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek “such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding.”

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company’s obligation to identify and analyze potential alternatives to its proposal.

**AG RESPONSE to TNEC 1-2:**

Subject to and without waiving the objections above, the Attorney General provides the following:

At this time, the Attorney General has not independently identified specific alternatives to on island LNG vaporization and injection to ensure reliable delivery of natural gas to all customers on Aquidneck Island.

This docket remains ongoing and alternatives may be identified through these or other proceedings. The Attorney General reserves all rights to identify alternatives in the future at the appropriate time, as contemplated by applicable procedural schedules.

**TNEC 1-3** For any alternatives identified in response to Data Request TNEC 1-2, please identify the amount of customer demand, expressed in Dth/hr that the Attorney General contends could be serviced or avoided by that alternative and explain the calculations performed to arrive at that contention.

**AG OBJECTION to TNEC 1-3:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek “such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding.”

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company’s obligation to identify and analyze potential alternatives to its proposal.

**AG RESPONSE to TNEC 1-3:**

Subject to and without waiving the objections above, the Attorney General provides the following:

Not applicable at this time.

**TNEC 1-4** For any alternatives identified in response to Data Request TNEC 1-2, please provide the cost of implementation for each year in which such expenses would be incurred in order to achieve operation in time to meet customer demand for the heating season(s) that the Attorney General identified in response to Data Request TNEC 1-2.

**AG OBJECTION to TNEC 1-4:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek “such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding.”

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company’s obligation to identify and analyze potential alternatives to its proposal.

**AG RESPONSE to TNEC 1-4:**

Subject to and without waiving the objections above, the Attorney General provides the following:

Not applicable at this time.

**TNEC 1-5** If the Attorney General contends that there exists a site(s) that is preferable to Old Mill Lane for the vaporization and injection of LNG into the gas distribution system serving the Company’s customers on Aquidneck Island, please identify the site(s) and explain the reasons that the site(s) are preferable to the proposed Old Mill Lane site.

**AG OBJECTION to TNEC 1-5:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek “such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding.”

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company’s obligation to identify and analyze potential alternatives to its proposal.

### **AG RESPONSE to TNEC 1-5:**

Subject to and without waiving the objections above, the Attorney General provides the following:

At this time, the Attorney General has not independently identified specific alternative sites for TNEC's proposed operations.

This docket remains ongoing and alternatives may be identified through these or other proceedings. The Attorney General reserves all rights to identify alternatives in the future at the appropriate time, as contemplated by applicable procedural schedules.

**TNEC 1-6** Please identify all preferable alternatives to natural gas heat that the Attorney General contends would satisfy the heating demands of Aquidneck Island residents presently relying upon natural gas for any heating season from 2023/34 to 2033/34 and identify the natural gas demand, expressed in Dth/hr, eliminated for each year in which such alternative(s) would be operating.

### **AG OBJECTION to TNEC 1-6:**

The Attorney General objects to this data request as it is not proper pursuant to Public Utilities Commission Rule of Procedure 1.19 (C) which allows parties to seek "such data, studies, workpapers, reports, and information as are reasonably relevant to the proceeding."

The Attorney General further objects to this request as it is vague, overbroad, unduly burdensome, and not properly limited as to scope. Moreover, it is the Company's obligation to identify and analyze potential alternatives to its proposal.

### **AG RESPONSE to TNEC 1-6:**

Subject to and without waiving the objections above, the Attorney General provides the following:

As the State works to comply with the mandates set forth in the Act on Climate all alternatives to the burning of fossil fuels, including liquified natural gas, must be considered. This requires consideration of electrification, development of geothermal systems where appropriate, and other technologies (including those currently being studied and potential future technologies). In working towards significant greenhouse gas emission reductions in the short-term and net zero by 2050, all potential paths forward must be carefully considered.

The Attorney General is not in possession of any data analysis described in this request. TNEC is the utility company and is the moving party in this proceeding and must provide any relevant analyses it believes support its position that its preferred path is necessary and to assess the proposal's impact on the Act on Climate. *See* Settlement Agreement between PPL and the Attorney General dated May 19, 2022, Attachment A, ¶ 2.g.

Respectfully submitted,

PETER F. NERONHA  
ATTORNEY GENERAL

By his attorney:

*/s/ Nicholas M Vaz*

Nicholas M. Vaz, Bar No. 9501  
Special Assistant Attorney General  
Office of the Attorney General  
Environment and Energy Unit  
150 South Main Street  
Providence, Rhode Island 02903  
Telephone: (401) 274-4400, ext. 2297  
[nvaz@riag.ri.gov](mailto:nvaz@riag.ri.gov)