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VIA ELECTRONIC AND FIRST CLASS MAIL

Emma Rodvien
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Coordinator
Energy Facility Siting Board
89 Jefferson Boulevard
Warwick, RI 02888

RE: RIEFSB Docket #SB-2021-04

Ms. Rodvien:

Enclosed please find the Town of Middletown's pre-filed testimony with respect to the above-referenced matter, prepared by Jeff Loiter. An original and four copies of same is being mailed to you. Please note that a copy of this letter and the pre-filed testimony is being electronically delivered to the service list for this docket.

Thank you for your attention to this matter.

Sincerely,

Marisa Desautel, Esq.
ec: service list

BEFORE THE
STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD

IN RE: AQUIDNECK ISLAND GAS)
RELIABILITY PROJECT)

Docket No. SB-2021-04

1 I. INTRODUCTION

2

3 Q: Please state your name and business address.

4 A: My name is Jeffrey Loiter. My address is 11 Tracy Lane, Shelburne, Vermont 05482.

5 Q: By whom are you employed?6 A: I am employed by the National Association of Regulatory Utility Commissioners as a
7 Technical Director, but in this proceeding, I am acting as an independent consultant on
8 behalf of the Town of Middletown.**9 Q: Please summarize your work relevant to your role in providing testimony in this
10 docket.**11 A: I hold a bachelor's degree in Civil and Environmental Engineering from Cornell
12 University and a master's degree in Technology and Policy from the Massachusetts
13 Institute of Technology. I have over 20 years of experience in environmental policy,
14 energy, and utility regulation. In previous consulting roles I became a trusted policy
15 advisor and expert witness for advocacy groups, state consumer advocate offices, and
16 energy efficiency advisory councils in three states, covering topics including integrated
17 resource planning, cost-effectiveness and the economics of energy efficiency, and the
18 available potential for efficiency.**19 Q: Have you previously testified before the Rhode Island Public Utility Commission or
20 the Energy Facility Siting Board?**21 A: Yes. I testified before the PUC in Docket No. 22-42-NG, regarding the issuance of an
22 advisory opinion to the EFSB on the application to construct LNG vaporization facility
23 on Old Mill Lane.**24 Q: What is the purpose of your testimony in this proceeding?**

25 A: My testimony will make the following points:

26 1. That permanent siting of an LNG vaporization facility on Old Mill Lane is
27 contrary to the interests, public health, safety, and environmental objectives of the
28 Town of Middletown and the State of Rhode Island.

1 2. That alternatives to the LNG vaporization facility exist and should be considered
2 by the EFSB.

3 3. That if the EFSB approves the LNG vaporization facility sited for Old Mill Lane,
4 such approval should be a) for a limited time period and b) subject to 2-year a
5 periodic review, with continued operation contingent on RIE meeting
6 requirements related to reducing the demand for gas on AI.

7 **II. THE PERMANENT SITING OF THE FACILITY ON OLD MILL LANE IS**
8 **CONTRARY TO THE INTERESTS OF THE TOWN OF MIDDLETOWN AND**
9 **THE STATE OF RHODE ISLAND.**

10 **Q: Have you reviewed the application materials and testimony related to this project?**

11 A: Yes, I have. Prior to submitting testimony before the PUC in the advisory opinion docket,
12 I reviewed the Aquidneck Island Gas Reliability Project Siting Report (“Siting Report”)
13 submitted by Rhode Island Energy (RIE or “Company”) and testimony submitted by the
14 Company in earlier phases of this docket before the EFSB. During the PUC docket I
15 reviewed testimony, data requests, and responses to data requests submitted by both the
16 Company and other intervenors. I also participated in the PUC advisory opinion hearing
17 on May 8 and May 9, during which I gave direct testimony and responded to cross-
18 examination by the Company and other parties.

19 More recently, I reviewed the advisory opinions rendered to the EFSB by various
20 agencies (including the PUC) and the testimony submitted by RIE on 8 September 2023.

21 **Q: What do you conclude from your reviews?**

22 A: I conclude that there continues to be concern over the impact of the facility on both the
23 local environment and on the state’s legislated climate goals.

24 **Q: What are the impacts to the local environment that you are referring to?**

25 A. The Town of Middletown is concerned about a variety of impacts. These include noise
26 from the facility in excess of permitted levels; the risk from storage of hazardous
27 materials in close proximity to residential properties and schools; the potential for surface
28 and groundwater contamination from releases of hazardous materials; and traffic safety
29 impacts from increased commercial and industrial traffic in residential neighborhoods.

30 **Q: What evidence is there of these concerns?**

1 A: Both the Portsmouth Town Council and the Portsmouth Zoning Board have denied the
2 Company's applications for needed local permits. The Town Council unanimously
3 denied the application for a "long term, indefinite, and open-ended variance to continue
4 to violate the [Noise] Ordinance." The Council further found that "an industrial LNG
5 vaporization facility does not belong in this residential neighborhood."¹ The Zoning
6 Board of Review voted unanimously to deny the application for special use permit on
7 grounds that the desired use would be detrimental to the surrounding area, incompatible
8 with neighboring land uses, create a nuisance or hazard in the neighborhood from the
9 presence of large tanker trucks, fail to control noise or other objectionable features, and
10 not be in conformance with purposes and intent of the comprehensive plan and zoning
11 ordinance of the Town.²

12 I will also note that, despite repeated voicing of concerns by abutters and nearby
13 residents, safety was not conclusively addressed in any of the advisory opinions. The
14 Department of Health limited their opinion to the effects of noise and the potential impact
15 to drinking water, stating that DOH "lacks the expertise to evaluate risks related to fire
16 safety or building security, which can be better assessed by others."³ Similarly, the
17 Portsmouth Public Works Department found only that traffic impacts and impacts to road
18 condition would be minimal, but made no statements about potential roadway safety.⁴ Of
19 greatest concern to the Town of Middletown is the fact that the Department of
20 Environmental Management's opinion does not include any conclusions regarding
21 potential impacts to wetlands and to air quality, as those determinations will not be made
22 until separate permitting decisions are made. As a result "DEM cannot yet render an
23 opinion as to whether the Facility presents an unacceptable harm to the environment."⁵

1 "Corrected Advisory Opinion of Portsmouth Town Council on Application for Sound Variance," Town Council
of the Town of Portsmouth, July 24, 2023.

2 "Advisory Opinion on Application for Special Use Permit," Town of Portsmouth Zoning Board of Review, July
21, 2023

3 Letter from Michael C. Byrns, Principal Environmental Health Risk Assessment Toxicologist, Rhode Island
Department of Health, June 2, 2023

4 Memorandum from Brian Woodhead, Director of Public Works, May 18, 2023

5 *Department of Environmental Management's Advisory Opinion to the Energy Facility Siting Board Pursuant to
the Notice of Designation Issued October 19, 2022*, Jason McNamee, May 8, 2023

1 **Q: What are the impacts on the state’s legislated climate goals?**

2 A: The Division of Statewide Planning found that the LNG Facility does not help advance
3 the greenhouse gas emission reduction targets expressed in the State Energy Plan.⁶

4 **Q: The issue of greenhouse gas emissions resulting from the Project was discussed at**
5 **length during the PUC’s Advisory Opinion hearing. How would you characterize**
6 **the current state of understanding on this topic?**

7 A: I would characterize the current state of understanding regarding the potential GHG
8 emissions from this project as confused and uncertain. The Company’s assumptions
9 regarding the future availability of gas service and customer choice in the presence of a
10 moratorium are inconsistent with the current situation and continuous evolution in the
11 market for non-fossil fuel-based heating. With respect to the availability of gas service,
12 the Company insists on comparing the emissions from continued operation of the facility
13 with the presence of a moratorium on new gas connections, despite the fact that no such
14 moratorium exists. While it is true that the choice of “baseline” for GHG comparisons
15 does not change the relative emissions from different alternatives, *ceteris paribus*, it does
16 imply the proposed facility will REDUCE GHG emissions when in fact it will not. The
17 proposed solution (i.e., the LNG facility) does not include a moratorium and therefore the
18 proposed baseline that includes a moratorium unnecessarily complicates the analysis of
19 the GHG emissions. Furthermore, the Company’s analysis of the effects of a moratorium
20 incorrectly assumes that all customers who would otherwise have switched to or installed
21 new gas heating would remain on or choose to install oil-fired equipment. I testified
22 before the PUC that this assumption is almost certainly incorrect. Some customers in
23 Rhode Island already choose electrified heating over fuel-oil, and recent increases in the
24 incentives available for heating electrification are likely to further shift customers away
25 from fuel-oil in cases where gas is not available. In some cases, customers may even
26 select electric heating over natural gas heating equipment.

27 **Q: Are there alternatives to the project that would reduce GHG emissions?**

6 *Advisory Opinion on the Socio-economic Impact and State Guide Plan Consistency*, Rhode Island Division of Statewide Planning, June 1, 2023

1 A: Yes, there are, and I recommend that the EFSB seriously consider these.

2 **III. ALTERNATIVES TO THE PROJECT EXIST AND SHOULD BE CONSIDERED**
3 **BY THE EFSB**

4 **Q: What alternatives to the LNG facility have been considered by the Company?**

5 A: The alternatives fall into one of two main categories: supply side or demand side (or
6 “non-infrastructure”). On the supply side, alternatives include an LNG facility at a Navy-
7 owned property on Aquidneck Island (either permanent or temporary), an LNG barge,
8 and expansion or reinforcement of the existing AGT gas delivery system. According to
9 the Company, each of these alternatives has flaws, whether related to cost, feasibility, or
10 both. I have not performed my own analysis of these options, but in my view, they all
11 suffer from the same flaw: continued investment in natural gas infrastructure is contrary
12 to Rhode Island’s climate goals and the need to transition to a low-carbon energy system.

13 **Q: What are the demand-side solutions you mentioned?**

14 A: A demand-side solution is one that seeks to resolve a capacity shortfall by reducing
15 demand rather than increasing supply. More broadly, demand-side solutions have been
16 used widely to reduce the total cost of serving customer’s energy requirements, notably
17 through energy efficiency programs such as those delivered by the Company and its
18 predecessor for over 15 years.

19 **Q: What would a demand-side solution consist of?**

20 A: Efforts to reduce gas consumption and peak gas demand on Aquidneck Island would be a
21 combination of energy efficiency, demand response, and heating electrification. In this
22 context, energy efficiency refers to efforts reduce total gas consumption by increasing the
23 efficiency of both a building’s “shell” (i.e., walls, roof, and floor) and the efficiency of
24 the equipment used to provide space heat and hot water. Demand response refers to
25 actions taken for a short period of time to reduce gas consumption during periods of peak
26 gas demand, such as temporarily setting thermostats to a lower temperature. Heating
27 electrification would eliminate or reduce gas used for heating (and water heating) through
28 the use of electric heat-pumps. A successful demand-side solution in this case would
29 likely require all three of these approaches.

1 **Q: Why didn't the Company select a non-infrastructure or demand-side solution?**

2 A: The Company asserts that a non-infrastructure solution is unable to address the capacity
3 vulnerability caused by the single pipeline supplying Aquidneck Island. That is, as long
4 as anyone on the Island has gas service, they are vulnerable to disruption of service
5 regardless of how much efficiency, demand response, and electrification is implemented.
6 The Company also asserts that the non-infrastructure solutions will cost more than the
7 preferred solution and take longer to implement at the scale needed to resolve the
8 capacity constraint.

9 **Q: Do you agree with these assertions?**

10 A: Only in the abstract. In my testimony before the PUC, I explained how the gas system
11 failure of 2019 resulted from a combination of controllable factors and does not,
12 therefore, represent a realistic scenario for planning gas supply. Furthermore, the
13 Company admits that their preferred solution would not, in and of itself, eliminate the
14 capacity vulnerability for all customers on Aquidneck Island under all conditions.⁷ By
15 this metric, it is not superior to a non-infrastructure solution that also does not resolve the
16 capacity vulnerability.

17 Testimony by myself and others before the PUC also explained how the Company's
18 assessment of non-infrastructure alternatives was flawed with respect to their estimated
19 costs and carbon emissions. The PUC's Advisory Opinion states that no witness disputed
20 that the non-infrastructure alternatives were more expensive than the LNG facility, but
21 that cost comparison fails to acknowledge 1) cost savings to customers who switch to
22 electric heating, 2) the effect of new federal incentives for weatherization and home
23 electrification, and 3) the value of avoided GHG emissions.

24 **Q: How would you suggest the EFSB consider the relative cost of the non-**
25 **infrastructure solution, then?**

26 A: The Company's cost estimates, undiscounted and based on outdated assumptions about
27 both equipment costs and program costs, should not be the only comparison. In response

⁷ Middletown Data Request 1-4: "If a vulnerability event occurs during colder conditions...customer curtailments would need to [be] considered..."

1 to discovery, the Company provided the results of the Rhode Island Test for the project
2 alternatives.⁸ The net costs of the non-infrastructure solution as compared with the
3 baseline are \$7.8 million with a gas moratorium and \$5.2 million without a moratorium.
4 These are net costs relative to a baseline of both the proposed project and a moratorium
5 on new gas connections. Looked at another way, the choice is between a net present
6 value cost of \$9.2 million for the Company's preferred solution (assuming a moratorium)
7 or \$17 million for the non-infrastructure solution.

8 **Q: In light of this, how do you view the feasibility of the non-infrastructure alternative?**

9 A: I think the EFSB should consider the extra \$7.8 million cost of the non-infrastructure
10 solution in the context of 1) the avoided direct impacts to the Towns of Portsmouth and
11 Middletown and 2) the fact that the non-infrastructure solution is more in keeping with
12 the State's overall climate and energy goals.

13 **IV. IF APPROVED, THE LNG FACILITY LICENSE SHOULD BE LIMITED IN**
14 **TERM AND CONDITIONAL ON NON-INFRASTRUCTURE INVESTMENTS**

15 **Q: How do you suggest that the EFSB reconcile the PUC's finding that the LNG facility**
16 **is necessary in the short-term and your comments so far?**

17 A: I understand that, given the PUC's finding, the EFSB is unlikely to reject the siting of the
18 LNG facility outright, despite its rejection by two important local agencies. The PUC's
19 Advisory Opinion offers a potential 'middle road' that was also supported by other
20 witnesses, one that requires strong efforts be made to limit the amount of time the facility
21 is needed and the number of times it is used. While I am in favor of this approach in
22 general, my suggested solution differs in some respects.

23 First, I agree that the Company should be required to invest and deploy non-infrastructure
24 solutions, but not that these should be limited to those identified by the Company's own
25 analyses. Rather than leave it in the Company's hands, a third-party entity should design
26 a plan to aggressively reduce gas consumption on AI as quickly as possible, leveraging
27 the substantial new federal incentives in this area. This effort should also consider the

1 recommendations of Heating Sector Transformation in Rhode Island report as referenced
2 by the Division of Statewide Planning in its Advisory Opinion:

3 In the Heating Sector Transformation Report, the policy recommendations
4 include the need to “use pilot and demonstration projects, targeting state-
5 specific issues or in collaboration for more general issues” and “local pilot
6 and demonstration projects can also be useful for learning about how
7 technologies and approaches may apply in Rhode Island circumstances.”
8 The capacity vulnerability and capacity constraint issues facing Aquidneck
9 Island represent exactly the type of issues for which those
10 recommendations apply. - Advisory Opinion, p. 22

11 Second, the PUC declined to recommend a limited-term license for the facility,
12 recommending instead a periodic review to ensure continued need. This puts the burden
13 of proof on parties other than the Company to argue for the reopening of the license and
14 the removal of the facility. A limited-term license that requires periodic renewal instead
15 puts the burden of proof on the Company to demonstrate continued need. Such renewal
16 proceedings would also provide an opportunity to review the Company’s progress on
17 non-infrastructure solutions and, if necessary, implement changes to ensure maximum
18 effectiveness towards the goal of obviating the need for the facility. Furthermore, five
19 years is too long an interval between investigations. Given the rapidly evolving policy
20 and technical landscape, the Company should be required to demonstrate need no less
21 frequently than every two years. I will also note that a longer five-year interval before the
22 first review as proposed by the PUC leaves little room for course correction before the
23 “critical” Act on Climate milestone in 2030.

24 Third, the Company should be required to monitor the facility to ensure compliance with
25 all applicable noise ordinances, monitor for methane releases, provide adequate training
26 and education to the Town of Middletown’s Fire Department and first responders, a
27 calibration station, a facility walk-through on each of the Fire Department’s four shifts,
28 and adequate education for all surrounding properties on the activities and scheduling of
29 the facility, at the least.

30 **Q: Does this conclude your testimony?**

31 **A:** Yes.