

**ADOPTED MOTIONS: Docket SB-2021-04**

**At Open Meeting on August 22, 2024**

**1. Advisory Opinions**

- a. **PUC** – Move that the Board accept the conclusions of the Advisory Opinion of the PUC which found (1) that facilities are needed to meet a winter capacity constraint now and in the short-term, (2) that such need exists even if an island-wide moratorium on new service connections were imposed, and (3) that the Project is cost justified and will transmit energy at the lowest reasonable cost to Rhode Island ratepayers.
  
- b. **Statewide Planning Program** – Move that the Board accept the conclusions of the Advisory Opinion of the Statewide Planning Program which finds that (1) the Project is consistent with the State Guide Plan, and (2) the Project will have an overall positive socio-economic impact, subject to one exception with respect to the conclusion regarding the Act on Climate, which the Board modifies in finding (ix) below. Specifically, the Board adopts the findings that the Project will:
  - i. have no impact on energy costs for RI consumers;
  - ii. ensure energy security on Aquidneck Island;
  - iii. have a positive impact on job creation and revenue;
  - iv. have no impact on Portsmouth’s municipal revenue;
  - v. not result in significant population changes in Portsmouth;
  - vi. not significantly impact federally protected populations;
  - vii. have no impact on the number of housing units that exist;
  - viii. have relatively limited impacts from the construction and operation activities; and
  - ix. based on current gas demand served by the facility, have no material impact on greenhouse gas emissions and, therefore, is consistent with the Act on Climate.
  
- c. **Department of Health** – Move that the Board accept the Advisory Opinion of the Department of Health (DOH) which identified the largest public health concern to be the impact from noise, then found (1) that the Company’s proposed mitigation was appropriate and recommended follow-up monitoring, (2) that as long as controls are in place and operating, it had no concerns about the public health impacts from noise, and (3) that the project is not in a source water protection area and was not likely to impact municipal drinking water supplies, and concluded that it did not anticipate any direct adverse impacts to public health.
  
- d. **Historical Preservation and Heritage Commission** – Move that the Board accept the Advisory Opinion of the Historical Preservation and Heritage Commission which

agreed with the conclusion of a study performed on the site by a cultural resources consultant who concluded that the facility will have no effect on historic properties.

- e. **Department of Environmental Management** – Move that the Board accept the Advisory Opinion of the Department of Environmental Management (DEM) which opined that whether there is unacceptable harm to the environment will depend upon the analysis and decision on the permit applications now pending and, therefore, failure of the Company to obtain any of the permits would constitute an unacceptable harm to the environment. Conversely, if DEM grants the permits, the issuance of its permits would constitute a finding of no unacceptable harm to the environment.
- f. **Town of Portsmouth Building Inspector** – Move that the Board accept the Advisory Opinion of the Portsmouth Building Inspector who found that the soil and sedimentation control plan was acceptable.
- g. **Town of Portsmouth Department of Public Works** – Move that the Board accept the Advisory Opinion of the Portsmouth Department of Public Works which found potential impact to roads to be minimal.
- h. **Town of Portsmouth Planning Board** – Move that the Board accept the Advisory Opinion of the Portsmouth Planning Board which found that the project (1) would not require a “major variance,” and (2) that the Company will be able to comply with those elements of the Comprehensive Community Plan that are relevant to the project.
- i. **Town of Portsmouth Zoning Board** – Move that the Board reject the Advisory Opinion of the Town of Portsmouth Zoning Board which recommended that the application for a special use permit be denied. The Board finds that the Zoning Board only considered the narrow issues of impact on the surrounding community and did not take into consideration the many other factors that the Board is required to consider, such as the health, safety, and welfare of all of the residents of Aquidneck Island.
- j. **Portsmouth Town Council** – Move that the Board reject the Advisory Opinion of the Portsmouth Town Council which found that the project would not meet the Town’s noise ordinance limits and that an exemption should not be granted. The Board finds that the Town Council did not take into consideration many other factors affecting health, safety and welfare of the residents on Aquidneck Island. Additionally, noise testing occurring after the Zoning Board’s decision has revealed that the equipment the Company plans to use may meet the Town’s noise ordinance limits. Further, if the project does not meet the noise limits, the Board will reserve jurisdiction to determine whether additional mitigation steps should be required.

## 2. **Findings of the Board**

### a. **Need**

Move that the Board finds the Project is needed to ensure safe and reliable service and adequate capacity to the residents of Aquidneck Island at least over the next five years.

### b. **Cost**

Move that the Board finds that the Project is cost justified and will transmit energy at the lowest reasonable cost to Rhode Island ratepayers.

### c. **Environmental Harm**

Move that the Board finds that the Project will not result in unacceptable environmental harm.

### d. **Socioeconomic Impact**

Move that the Board finds that the Project will enhance the socioeconomic fabric of the State of Rhode Island.

### e. **Act on Climate**

Move that, based on current gas demand served by the facility, the Board finds that the Project will have no material impact on greenhouse gas emissions and, therefore, approval is consistent with the Act on Climate.

3. **Approval of 5-Year License** – Move that the Board approve a license, subject to the conditions set forth below, to operate the LNG Vaporization Facility on Old Mill Lane in Portsmouth RI for a period of five years from the date of the Board’s Open Meeting decision, subject to renewal of the license which request for renewal must be submitted to the Board at least 18 months prior to the expiration date of the license. The license also shall authorize the continued operation of the current portable LNG operations while construction of the new facility occurs. The license is subject to the following conditions:

- a. **Filing of Targeted Demand Response, Energy Efficiency, and Electric Heating Conversion Program with PUC** – That the Company file with the Public Utilities Commission a demand response/energy efficiency and electric heating conversion plan targeted specifically for Aquidneck Island with the objective of eventually eliminating the design-day peak hour capacity gap which has caused the gas capacity constraint on Aquidneck Island. Such Plan shall include various scenarios and options targeting elimination of the capacity gap over alternative

time periods. For each alternative, the Company should address consistency with least cost procurement and the Act on Climate. The Plan must be submitted to the Public Utilities Commission for review by June 1, 2025.

- b. **Noise Analysis:** The Company shall conduct a noise analysis during the winter after the new proposed equipment becomes operational to assess whether the equipment is operating in a manner that meets the Town’s noise ordinance. The Board reserves its authority to require additional noise testing if the Board determines that it is reasonably needed to determine whether noise levels are within the noise ordinance limits.
  
- c. **Reporting Requirements:** That the Company file the following reports/notifications with the Board:
  - (1) *Annual Demand Forecasts:* a report filed with the Board and the Public Utilities Commission by August 1 of each year that provides a five-year forecast of the annual peak hour demand on Aquidneck Island at the Portsmouth take station, based on the Company’s design day/hour criteria applied to Aquidneck Island. The report should also include the Company’s best estimate of the gap in dekatherms per hour between capacity available for supplying natural gas to Aquidneck Island and forecasted peak hour demand, based on design day/hour criteria.
  - (2) *Annual Peak Hour Demand Report:* a report filed with the Board and the Public Utilities Commission by May 1 of each year providing actual daily peak hour demand data at the Portsmouth take station for Aquidneck Island that occurred for the prior winter period from November 1 through March 31, including the heating degree day temperature for each day.
  - (3) *Operations Report:* an operations report filed with the Board and the Public Utilities Commission by May 1 of each year assessing the operation of the facility, including a description of any incidents or events, if any, that disrupted or affected the function and operation of the facility.
  - (4) *Noise Analyses:* a report of the results of Board-required noise analyses.
  - (5) *Notifications:*
    - (i) The Company shall notify the Board and the Public Utilities Commission of each day when the existing portable operations or the new LNG Vaporization Facility vaporized gas to supply Aquidneck Island, which notification should be provided no later than the first business day following vaporization;
    - (ii) The Company shall notify the Board and the Public Utilities Commission each time when the existing portable operations facility or the LNG Vaporization Facility is mobilized and demobilized, which notification should be provided within seven days following mobilization or demobilization.

- (6) *Construction Progress Updates*: The Company shall file quarterly status reports with the Board and the Public Utilities Commission regarding construction progress of the new LNG Vaporization Facility and the anticipated date when commercial operation of the new facility is expected to commence in place of the existing portable LNG operations.

#### 4. **Docket Remaining Open**

Move that this docket remain open to address the following:

- a. ***Consideration of Moratorium***: That the Board shall continue these proceedings to further explore whether an additional condition should be included in the license that requires some form of moratorium on (or disincentive to discourage) new natural gas connections on Aquidneck Island. The Board shall establish a procedural schedule that includes the following:
- (i) notices published to the public on Aquidneck Island;
  - (ii) allowing new motions to intervene for any parties not already parties to this docket;
  - (iii) public comment hearings scheduled on Aquidneck Island;
  - (iv) supplemental advisory opinions to be sought from Portsmouth, Middletown, and Newport town & city councils; and
  - (v) evidentiary hearings in which parties may present evidence in favor or opposed to a moratorium on new gas connections.
- b. ***Noise Issues and Potential Mitigation Measures***: That if annual noise analyses conducted after the new equipment is operational indicates that it is more probable than not that the equipment is operating in a manner that is non-compliant with the Town of Portsmouth noise ordinance levels, the Board reserves authority to require mitigation measures, including without limitation the construction of noise barriers, a requirement to make offers to purchase homes of residents that the Board determines may be unreasonably and adversely affected, or any other measures that the Board determines are reasonable to mitigate any noise effects.