

**STATE OF RHODE ISLAND ENERGY FACILITIES SITING BOARD**

**Docket No. SB-2021-04 The Narragansett Electric Company d/b/a National Grid Application for a License to Mobilize and Operate a Liquefied Natural Gas (LNG) Vaporization Facility at Old Mill Lane (Portsmouth, RI)**

**THE TOWN OF MIDDLETOWN'S MOTION TO INTERVENE**

NOW COMES the Town of Middletown ("Town"), and by and through its undersigned counsel, hereby moves to intervene in the above-captioned proceeding. In support thereof, the Town avers the following.

**I. STANDARD OF REVIEW**

Pursuant to 445-RICR-00-00-1, the Energy Facility Siting Board's ("EFSB") Rules of Practice and Procedure (the "EFSB Rules"), "[p]articipation in a proceeding as an intervenor may be initiated as follows:...2. By order of the Board upon a motion to intervene." Rule 1.10. Further, a party may intervene by "claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate..." and "[s]uch 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 petitioners may be bound by the Board's action in the proceeding.
3. Any other interest of such nature that petitioner's participation may be in the public interest." Rule 1.10.

In accordance with the EFSB'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 EFSB's Rules makes it clear that it is appropriate for Town of Middletown to intervene in this matter. Middletown'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 EFSB Rule's 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. However, the four long-term alternatives that National Grid has suggested are not sufficient because they leave Old Mill Lane as the only viable long-term solution. Even if National Grid 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. National Grid 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.

There are several other possible emergency scenarios that mandate the Town's intervention here. For example:



- Liquefied natural gas is defined as hazardous by the USDOT and the burning of natural gas will produce nitrogen oxides that will impact the air quality of the Middletown residents neighboring the project;
- Decommissioning of tanks at the end of project life,
- The sound levels resulting from the project range from 65 dB(A) to 97 dB(A) which exceed Middletown's sound limit of 55 dB(A);
- The project will affect the water quality surrounding the area because there will be an increase of turbidity of surface waters and there could also be the spillage of petroleum or other chemical products near waterways;
- The project will expose unprotected soils which could increase erosion and sedimentation rates;
- The increased risk of erosion and sedimentation rates will degrade water quality in Little Creek which is located in the Sakonnet River which is a sub watershed of the Narragansett Bay watershed;
- Some properties in the neighborhood have private well systems, and the project could negatively affect the groundwater that these residents use;
- Close proximity of the project and tanks to Silveira Kindergarten and Nursery School in Middletown;
- Increased traffic through a network of local town roads;
- Diminution in property values and subsequent impacts to tax revenues; and
- Concerns with the viability of the project location and alternatives that could end in the acquisition of adjacent properties.

The 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 National Grid 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 RIGL §42-98-3(d), the Energy Facility Siting Act (the "Act"), the Town has a statutory right to intervention in this case. As National Grid indicated in its application for a license to mobilize and operate a liquefied natural gas vaporization facility at the property located on Old Mill Lane, the Act is the applicable statute for which National Grid seeks relief. RIGL §42-98-9.1, "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.”

As the Act states, above, public input shall be part of the EFSB’s process. This project is exactly the type of project contemplated by the Act; it carries major implications for the Town’s infrastructure, its residents, and its businesses. Inquiry of National Grid 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 a temporary solution only. The alternative long-term solutions proposed by National Grid are likewise not properly considered, as all proposals are dismissed by National Grid without adequate justification. As a result, the Town seeks further oversight and review of the proposals, as alternative long-term solutions must be appropriately considered.

The Act requires that National Grid 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 National Grid'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 EFSB grant its motion.

Respectfully submitted,  
Town of Middletown  
By its Attorney



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Marisa Desautel, Esq. (Bar #7556)  
Desautel Law  
38 Bellevue Ave, Unit H  
Newport, RI 02840  
Tel: (401) 477-0023

CERTIFICATION

I hereby certify that I filed an original of the within Motion with the EFSB and sent a true copy, via electronic mail, of the within Motion to the parties listed on the distribution list for Docket SB-2021-04, on this 29<sup>th</sup> day of June, 2021.



