

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

The Narragansett Electric Company d/b/a National Grid Application for a License to Mobilize and Operate a Liquified Natural Gas (LNG) Vaporization Facility at Old Mill Lane (Portsmouth, RI)
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Docket SB-2021-04

**MOTION FOR INTERVENTION
OF CONSERVATION LAW FOUNDATION**

I. Introduction

The Conservation Law Foundation (CLF), pursuant to Energy Facility Siting Board (EFSB or Board) Rule of Practice and Procedure 1.10(B)(3), hereby moves to intervene in this Docket.

On May 19, 2021, The Narragansett Electric Company d/b/a National Grid (National Grid or Company) filed an Application for a License to Construct and Alter Major Energy Facilities. On June 18, 2021, the EFSB docketed the Application and assigned Docket Number SB-2021-04. The proposed facility would consist of portable vaporization equipment that would be mobilized in November to be ready to address the known gap on extremely cold days between peak gas demand and available gas capacity for the Aquidneck Island natural gas distribution system. In late April, any remaining stored natural gas would be vaporized into the distribution system and the equipment would be removed from the property. The facility would also be mobilized for any planned or unexpected disruptions of the Aquidneck Island gas supply.

CLF's participation in this proceeding will be in the public interest within the meaning of EFSB Rule 1.10(B)(3). Moreover, CLF will be directly affected by the outcome of this

proceeding and its interests are not adequately represented by the existing parties, within the meaning of Rule 1.10(B)(2).

II. The Intervenor

CLF is New England's leading environmental advocacy organization. Since 1966, CLF has worked to protect New England's people, natural resources, and communities. CLF is a nonprofit, member-supported organization with offices throughout New England. The Rhode Island CLF office is located at 235 Promenade Street, Suite 560, Providence.

CLF promotes clean, renewable, and efficient energy production and heating throughout New England and has an unparalleled record of advocacy on behalf of the region's environmental resources. In the course of its 55-year legacy, CLF has been a party in the landmark case where the United States Supreme Court ruled that the Environmental Protection Agency has an obligation under the Clean Air Act to consider regulating tailpipe emissions that contribute to global warming, Massachusetts v. E.P.A., 127 S. Ct. 1438 (2007); CLF has obtained an injunction to stop oil and gas drilling in the environmentally sensitive Georges Bank, Conservation Law Foundation v. Sec'y of the Interior, 790 F.2d 965 (1st Cir. 1986); CLF has litigated to ensure enforcement of an earlier settlement agreement in a case stemming from the Big Dig, which settlement agreement required twenty public transit projects in and around Boston, including the construction of additional subway and rail lines, Conservation Law Foundation v. Romney, 421 F. Supp. 2d 344 (D. Mass. 2006); and CLF has successfully advanced legal strategies to restore groundfish to the Gulf of Maine and southern New England waters, Conservation Law Foundation v. Evans, 211 F. Supp.2d 55 (D.D.C. 2002).

Additionally, CLF has a long history of participation in Rhode Island Public Utilities Commission (PUC) dockets related to energy concerns, renewable resources, distribution system

policy, and rates. These include Docket No. 4111 (the first of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project); Docket No. 4185 (the second of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project); Docket No. 4600 (concerning the development of goals for the future electric system and a benefit-cost framework for proposals before the PUC); Docket No. 4770 (the most recent gas and electricity rate case); Docket No. 4780 (the concurrent Power Sector Transformation case); Docket No. 4822 (reviewing National Grid's request for proposals for contracts for up to 400 megawatts (MW) of newly developed renewable energy resources); and Docket No. 4929 (reviewing National Grid's contract for the purchase of energy and renewable energy certificates from a proposed 400 MW offshore wind farm).

More recently and before the EFSB, CLF successfully opposed the permitting of a 1,000-megawatt fossil-fuel power plant in Burrillville, Rhode Island. In Re Application of Invenergy Thermal Development LLC's Proposal for Clear River Energy Center, SB-2015-06.

III. The Standard Governing this Motion

Intervention in EFSB proceedings is governed by EFSB Rule 1.10. CLF bases its motion on the provisions of Rule 1.10(B)(3), which states that a party may intervene where "appropriate" if the party has "any . . . interest of such nature that petitioner's participation may be in the public interest."

IV. CLF's Interest in This Proceeding

As an organization committed to using the law to protect New England's environment and combat the climate crisis, CLF has extensive experience in energy law and policy, including advocacy for responsible siting and permitting of both fossil fuel and renewable energy projects. As discussed above, CLF has participated, without objection from any party, in many previous

PUC and EFSB dockets related to energy concerns and energy resource siting. Additionally, CLF has participated in recent stakeholder processes in Rhode Island related to the siting of solar energy resources, the procurement of 100% of the state's electricity from renewable resources by 2030, and the transformation of the heating sector. Of particular relevance to this proceeding, CLF submitted comments on National Grid's petition in Docket No. SB-2020-02 (National Grid Petition for Declaratory Order Regarding Portable LNG Vaporization Equipment), and on National Grid's Aquidneck Island Long-Term Capacity Study. As a result of this history, both in Rhode Island and in the rest of New England, CLF can play a constructive and helpful role in this Docket. CLF anticipates being able to present information that will be directly relevant to this proceeding, useful to the EFSB, and in the interest of the public.

The resolution of this Docket could have implications for the State's ability to meet the statutory mandates of the Act on Climate, R.I. Gen. Laws §§ 42-6.2-1 – 12. This statute sets mandatory, enforceable carbon emissions reduction requirements for Rhode Island of 45% below 1990 levels by 2030; 80% below 1990 levels by 2040, and net-zero emissions by 2050.¹ It also could influence how the State's natural gas utility – whether National Grid or PPL – may position itself to reach net-zero emissions by 2050. It could reveal that the utility is poised to intentionally or inadvertently encourage increased gas use and gas connections. It could also help determine how the utility could be incented to drive demand growth and potential new hook-ups to non-gas alternatives such as heat pumps.

In September 2020, National Grid produced a study on potential solutions to address gas capacity constraint and vulnerability needs on Aquidneck Island. It then engaged with stakeholders, including CLF, regarding proposed solutions before announcing in January 2021

¹ Section 8 of the Act on Climate confers the power, the duty, and the obligation on the Board to consider the climate change implications of proposals that come before it. R.I. Gen. Laws § 42-6.2-8.

that it would pursue a “hybrid” approach that includes advancement of “non-infrastructure” options to offset demand growth as well as short-term, continued reliance on its portable LNG facility at Old Mill Lane. The Company contends that the portable facility is the only viable option for providing additional gas supply to the Aquidneck Island gas distribution system in the short term, and that the facility will need to be used only until it has completed its review of other infrastructure and non-infrastructure options and has selected and installed its preferred, permanent solution. Decisions in this matter, as to the design, use, and lifespan of this LNG facility, will have important impacts on the eventual solutions for Aquidneck Island.

CLF has a keen interest in ensuring that the Company’s actions on Aquidneck Island are consistent with the requirements of the Act on Climate, and it can aid the Board in its application of the provisions of the Act on Climate. CLF has extensive experience related to the creation, implementation, and interpretation of statutes mandating emissions reductions throughout New England, including successful litigation to require Massachusetts to create and implement regulations to meet its carbon emissions reduction mandates under its equivalent of the Act on Climate—the Global Warming Solutions Act. Kain v. Department of Environmental Protection, 49 N.E.3d 1124 (Mass. 2016).

Moreover, the participation in this proceeding of a public interest organization such as CLF will serve the public interest. See, generally, John E. Bonine, Public Interest Environmental Lawyers: Global Examples and Personal Reflections, 10 Widener L. Rev. 451 (2004) (emphasizing the constructive and salutary role of public interest environmental lawyers in a wide range of legislative, judicial, and regulatory fora).

V. Conclusion

WHEREFORE, for the foregoing reasons, CLF respectfully requests that its motion to intervene in this Docket be granted.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

By its attorneys,

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NOTICE OF APPEARANCE OF COUNSEL

Pursuant to Rule 1.4 of the Rhode Island Energy Facility Siting Board's Rules of Practice and Procedure, please enter my appearance on behalf of Conservation Law Foundation in the above-captioned proceeding.

Respectfully submitted,

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the original and seven copies of this Motion and attached Notices of Appearance of Counsel were filed with the Energy Facility Siting Board. In addition, a PDF version of this Motion was served electronically on the service list of this Docket, as that list was provided by the EFSB on July 23, 2021. I certify that all of the foregoing was done on July 23, 2021.

/s/ James Crowley