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*Via Hand Delivery and Electronic Mail*

July 27, 2021

Emma Rodvien, Coordinator  
Energy Facility Siting Board  
89 Jefferson Boulevard  
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Re: **The Narragansett Electric Company d/b/a National Grid  
(Portable LNG Vaporization Project Old Mill Lane, Portsmouth, RI)  
Docket No. SB-2021-04**

Dear Ms. Rodvien:

Enclosed please find an original and 7 copies of The Narragansett Electric Company d/b/a National Grid's Opposition to Motions to Intervene filed by the Acadia Center, Rhode Island Attorney General's Office, and Conservation Law Foundation in the above referenced matter.

Please do not hesitate to contact me with any questions.

Sincerely,



George W. Watson III

Enclosure

Copy to: Docket SB-2021-04 Service List (by electronic mail)

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

**Updated July 22, 2021**

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STATE OF RHODE ISLAND  
ENERGY FACILITY SITING BOARD

In re: The Narragansett Electric Company :  
d/b/a National Grid : Docket No. SB-2021-04  
(Portable LNG Vaporization Project :  
Old Mill Lane, Portsmouth, RI) :

**Opposition to Motions to Intervene  
The Narragansett Electric Company  
d/b/a National Grid**

The Narragansett Electric Company d/b/a National Grid (the “Company”) hereby objects to the motions to intervene (the “Motions”) in this proceeding, filed by Acadia Center (“Acadia”), the Rhode Island Attorney General’s Office (“Attorney General”), and Conservation Law Foundation (“CLF”) (collectively, the “Movants”), pursuant to the Rhode Island Energy Facility Siting Board (“Board”) Rules of Practice and Procedure (“Rule”), Rule 1.10 and 1.17.C. As required by Rule 1.17.C, this objection is filed within five days of service of the Motions. 445-RICR-00-00-1.17.C.

I. BACKGROUND

On May 19, 2021, the Company submitted to the Board an Application for a License (“Application”) to mobilize and operate a liquefied natural gas (“LNG”) vaporization facility at the Company-owned property located on Old Mill Lane in Portsmouth (the “Project”). Included with the Application is the Siting Report that provides a detailed analysis of the Project’s need, cost, and natural and social impacts. On June 29, 2021, the Board issued a Notice of Hearing for a Preliminary Hearing scheduled for August 12, 2021. The Notice established a deadline of July 23, 2021, for all motions to intervene in these proceedings. On July 22, 2021 Acadia Center filed a

motion to intervene and on July 23, both CLF and the Attorney General filed motions to intervene as well. The specific arguments made by the Movants in support of their Motions is summarized herein.

## II. LEGAL STANDARD

Rule 1.10.B. provides that “any person with a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Board.” 445-RICR-00-00-1.10.B. Rule 1.10.B. defines such an interest as:

- (a) A right conferred by statute;
- (b) An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants may be bound by the Board’s action in the proceeding; or
- (c) Any other interest of such a nature that movant’s participation may be in the public interest.

445-RICR-00-00-1.10.B.1.a.-c.

In addition, Rule 1.10.C provides that “[a] motion to intervene shall set out clearly and concisely facts from which the nature of the movant’s alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding.” In evaluating whether an organization has sufficiently demonstrated interests that are adversely affected by a proceeding, the R.I. Supreme Court has held that “mere interest in a problem, no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization adversely affected...” *In Re*

*Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 11227 (R.I. 2011) (Internal quotations marks and citations omitted).

### III. DISCUSSION

As noted in Section 1 of the Siting Report, this Project for which the Company seeks EFSB approval “will be needed on a recurring seasonal basis until the preferred long-term solution [to natural gas supply constraints and vulnerability] is identified and in service.” In addition, in proceedings before the Rhode Island Public Utilities and Carriers (“PUC”), including the PUC’s “Informational Session to Receive a Presentation from The Narragansett Electric Co. D/B/A National Grid Regarding the Alternatives Being Considered by the Utility to Address Gas Capacity Constraints and Reliability Issues On Aquidneck Island” held May 18, 2021, there have been lengthy discussions concerning the ongoing review and analysis for the long-term solution, and the Company will be advancing a preferred alternative this fall. In the event the preferred alternative includes the future mobilization of LNG at Old Mill Lane, the Company will have to file a subsequent EFSB application that includes an analysis of the alternatives that were considered for the long-term solution.

The Company objects to the motions to intervene filed by Acadia, Attorney General, and CLF. The Board should deny their Motions because the Movants seek to advance issues that are not relevant to the pending application. In short, the Movants seek to discuss the long-term solution which is not the issue that is before the Board. As such, the Movants have failed to state legally sufficient interests that will be directly affected by this proceeding. The impermissible basis for each Movant’s motion to intervene is addressed below.

A. The Interests Asserted by the Movants.

1. Acadia

Acadia is a non-profit research and advocacy organization that is active in Rhode Island and other northeastern states. As noted in its motion, Acadia has been involved in several proceedings before the PUC, including Docket No. 5099, the FY 2022 Gas Infrastructure, Safety, and Reliability Plan where the future planning for Aquidneck Island was discussed, and is a settling party to the implementation of the Company's 2021-2023 Three-Year Energy Efficiency (EE) and System Reliability Procurement (SRP) plans. Acadia Motion ¶ 9. Acadia notes that its "interests in those proceedings, and the efforts and money spent through our involvement to encourage and obtain National Grid commitments to develop non-pipeline alternatives to gas infrastructure expansions could be damaged by exclusion from this docket." *Id.* ¶ 11. In addition, Acadia cites its involvement in those proceedings as well as its "engagement on Aquidneck Island's energy future" and its "commitment to building environmentally-friendly and consumer friendly energy systems and ensuring the alignment of utility programs with state policy goals" as support for its contention that it may be directly impacted by the Board's decision in this docket. *Id.* ¶ 9. Moreover, Acadia views this Application as "a critical opportunity to evaluate whether viable, alternative approaches could reduce and/or ultimately eliminate the need to operate the Old Mill Lane LNG facility." *Id.* ¶ 10. Acadia maintains that its expertise in the area, and specifically as it relates to Aquidneck Island's long-term energy needs "is a valuable resource for the public interest of all Rhode Islanders." *Id.* ¶ 13. Acadia states that it "has also invested significant resources in developing and publicizing an Alternatives Analysis for Aquidneck Island's long-term energy needs that demonstrates the facility in question in this matter, as well as other new gas

infrastructure proposed by National Grid, are not in the public interest and are unnecessary to meet energy needs of the future.” *Id.* ¶ 14.

## 2. Rhode Island Attorney General

The Attorney General maintains that it has a statutory right to intervene pursuant to the Environmental Rights Act, R.I. Gen. Laws § 10-20-1, et seq., and that it has an “interest in protecting the public from environmental harms and general safety concerns, and in ensuring the State’s long-term energy and climate goals are not undermined.” Attorney General Motion at 6. The Attorney General seeks to “protect and represent the public interest.” *Id.* at 2. The Attorney General raises concerns that the Company’s assessment “does not appear to include any alternatives still being considered for long-term future use in replacement [of] the mobile use of the Project Site each winter.” *Id.* at 3. In its motion, the Attorney General stated that it is of the opinion that the Application is incomplete for not including the future alternatives. The Attorney General also raises general concerns regarding the potential sale of the Company and the Company’s continued investment in fossil fuel infrastructure in light of the State’s long-term obligation to reduce greenhouse gas emissions. *Id.* at 4.

## 3. CLF

CLF is a non-profit environmental advocacy organization with offices throughout New England, including in Rhode Island. CLF cites its experience generally, as well as its involvement in Docket No. SB-2020-02 and in the Company’s Aquidneck Island Long-Term Capacity Study as support that its participation would be useful to the EFSB and in the interest of the public. CLF Motion at 4. CLF cites, among other things, to its “extensive experience related to the creation, implementation, and interpretation of statutes mandating emission reduction throughout New



England.” *Id.* at 5. CLF is concerned that 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.” *Id.*

B. The Interests Asserted are Outside the Scope of This Proceeding.

A long-term solution for the natural gas supply constraints and vulnerability on Aquidneck Island is outside the scope of this application. As noted above and as stated in the Application, the Company is still evaluating long-term solutions, and the Company expects to present its evaluation this fall. In the event Old Mill Lane is part of the preferred long-term solution, even if that use would sunset over time, the Company will have to obtain a license from the Board so that the Board can evaluate the other alternatives that were considered. The issues raised by the Movants would be relevant to that application; however, they are not relevant to the pending application which addresses the immediate need to maintain the reliability of the natural gas distribution system while other long-term solutions are vetted and implemented. The Company needed to file the Application to maintain the current seasonal mobilizations while the long-term solution is selected, engineered, permitted, and put into service. For these reasons the Movants’ identified interest in the long-term solution and future use of LNG are not relevant here, and the Board should deny these motions to intervene for failure to identify an affected interest.

In its motion to intervene, while citing PUC Order 147 in Docket No. SB-2020-02, the Attorney General maintains that the Company is seeking to mobilize and operate the LNG equipment at Old Mill Lane indefinitely. Attorney General Motion at 2. While the Board noted that the reoccurring nature of the mobilization of the equipment removed it from the realm of emergency response and subjected it to the Board’s jurisdiction, the Company has always maintained that a new application will be necessary if Old Mill Lane is chosen as the long-term

solution to address the natural gas constraints on Aquidneck Island. The Company is still in the process of evaluating other sites and other alternatives including the use of its facility at Old Mill Lane. The Movants' concerns regarding long-term impacts and the State's ability to achieve emission reduction goals are simply not at issue in this proceeding given that the Project is needed to maintain the reliability of the existing natural gas distribution system pending evaluation of the preferred long-term solution. Once that determination is made by the Company, the Company acknowledges that some of the issues raised by the Movants may require further evaluation. However, until the long-term solution is put before the Board, dealing with those issues would be premature, confusing, distracting and potentially duplicative.

The Company strongly disagrees that its statements that “the only viable option for the peak-shaving and emergency backup of the Aquidneck Island natural gas distribution system at this time,” and that it “is in the process of completing its review of other options to meet the identified need and this Project is needed until the preferred option is identified, permitted, and placed into service” are in any way at odds with each other. Attorney General Motion at 3. It is exactly this conundrum that the Company is navigating—the Company is seeking approval for a project that is needed to address an immediate winter reliability issue while at the same time evaluating other options to resolve that problem for the long-term.<sup>1</sup> Consequently, the Movants have failed to establish that intervention is necessary or appropriate in this proceeding. *See* 445-RICR-00-00-1.10.B.1. Specifically, they have failed to show how they would be adversely affected by any decision in this docket when the decision will be narrow – i.e., the short term use of Old

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<sup>1</sup> As explained above, if continued operation at Old Mill Lane is the long-term solution selected at the conclusion of the Company's evaluation of alternatives, then the Company will file an application that contains a full alternative analysis to justify its decision.

Mill Lane as a seasonal mobile LNG facility while a permanent solution is being considered – and will not touch on long-term issues raised in their motions to intervene and summarized herein.

C. The Scope of Any Intervention by Acadia, the Attorney General, and CLF, Should be Limited to the Immediate Need to Operate LNG Pending Resolution of a Long-Term Solution.

Notwithstanding the above, if any of the Movants is permitted to intervene, their participation should be strictly limited to review of the need that is being addressed by the Project and not the much broader long-term concerns and policy questions that Acadia, the Attorney General, and CLF highlight in their motions to intervene. As parties seeking to intervene in an EFSB proceeding, the Movants have the burden to establish the nature of their alleged interest and the grounds of the proposed intervention. EFSB Rule 1.10.C. All three describe a strong interest in the long-term natural gas plans for Aquidneck Island insofar as it relates to the State's climate goals. The Company's objection to the Motions rests exclusively on the fact that the grounds articulated in the Movants' filings are beyond the narrow scope of this application.

Again, the Company is seeking approval for the use of Old Mill Lane as a temporary facility while the Company explores long-term solutions and, consequently, the review of the pending application should be limited to the relief and approval actually being sought by the Company. The Company has acknowledged that in the event the long-term solution includes any use of Old Mill Lane parcel, the Company will need to file a separate application to the EFSB. The Board should resist the invitation to turn this application into an exploration of energy efficiency, electrification, fossil fuel dependency, the achievement of climate targets, or any of the similar policy issues that the Movants seek to place at issue in this proceeding.

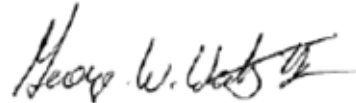
#### IV. CONCLUSION

The interests asserted by the Movants are outside the scope of the current application before the Board. The Movants seek to address long-term issues and alternative solutions and raise general policy issues that fall outside the scope of the pending application. For these reasons, the Company respectfully requests the Board deny Acadia, the Attorney General, and CLF's motions to intervene, or, alternatively, limit the scope of the Movants' intervention to align with the Board's scope of review in this proceeding.

Respectfully submitted,

THE NARRAGANSETT ELECTRIC  
COMPANY D/B/A NATIONAL GRID

By its attorney:



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**CERTIFICATE OF SERVICE**

I certify that on July 27, 2021, the within Opposition to Motions to Intervene was electronically served upon the parties on the service list (attached) for Docket SB-21-04 and that the original and seven (7) hard copies were hand delivered to the Coordinator of the Energy Facility Siting Board at 89 Jefferson Boulevard, Warwick, RI 02888.

  
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