



# SINAPI LAW ASSOCIATES, LTD.

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2017 SEP -7 AM 10:30  
PUBLIC UTILITIES COMMISSION  
Anthony E. Sinapi, Esq.\*\*  
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\*admitted in MA  
\*\*only admitted in MA

September 7, 2017

**VIA HAND DELIVERY AND ELECTRONIC MAIL**

Mr. Todd A. Bianco  
Coordinator  
State of Rhode Island Energy Facilities Siting Board  
89 Jefferson Blvd.  
Warwick, RI 02886

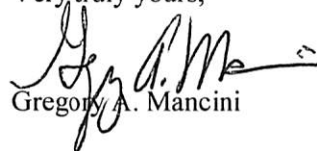
**Re: SB 2015-06, Invenergy Thermal Development LLC's Application to Construction the Clear River Energy Center Power Plant in Burrillville, RI**

Dear Mr. Bianco:

Please find enclosed the Rhode Island Building & Construction Trade Council's Response to the Conversation Law Foundation and the Town of Burrillville's Objections to the RIBCTC's submitted Rebuttal testimony. We submitted an original and three (3) copies.

Thank you for your time and attention to this matter. Please do not hesitate to contact the undersigned if you have any questions.

Very truly yours,

  
Gregory A. Mancini

cc: SB 2015-06 Invenergy CREC Service List as of 6/1/2017 via email  
Client

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ENERGY FACILITY SITING BOARD**

**RE: SB 2015-06, INVENERGY THERMAL DEVELOPMENT, LLC APPLICATION TO  
CONSTRUCT AND OPERATE THE CLEAR RIVER ENERGY CENTER IN  
BURRILLVILLE, RHODE ISLAND**

**RESPONSE TO CONSERVATION LAW FOUNDATION AND THE TOWN OF  
BURRILLVILLE'S OBJECTION TO RHODE ISLAND BUILDING AND  
CONSTRUCTION TRADES COUNCIL'S REBUTTAL TESTIMONY**

On his own initiative Rhode Island Building and Construction Trades Council ("RIBCTC") expert witness Marc Vatter, Ph.D. reviewed submitted testimony on the docket on the State Energy Facility Siting Board ("EFSB") Website and submitted to their counsel informative rebuttal testimony that the RIBCTC believes would assist the EFSB in making an informed decision on the merits. Therefore, on August 31, 2017 the RIBCTC timely submitted his rebuttal testimony to assist the Board in making an informed decision in carrying out their statutory responsibilities. Thereafter the Conservation Law Foundation and the Town of Burrillville (hereinafter "Objectors") filed an objection to the submission.

The State of Rhode Island Energy Facility Siting Board Order that granted Intervenor status to the RIBCTC states that "[s]hould the RIBCTC wish to present witnesses or evidence related to any issues other than those related to employment opportunities, it must seek Board permission to do so. Permission will be **liberally granted** when, in the opinion of the Board, such evidence will assist the Board in its decision." *Id.* [Emphasis added.] This standard was included sua sponte by the EFSB.

The Rhode Island Supreme Court has continuously held that liberally granted "amendment [to Civ. Pro. Rule 15] absent a showing of extreme prejudice." Waschberger v. Pepper, 583 A.2d 77, 78 (R.I. 1990) also see Inleasing Corp. v. Jessup, 475 A.2d 989, 992 (R.I. 1984). "The true

spirit of Rule 15 contemplates that amendments to pleadings should be liberally permitted so that disputes may be resolved on the merits of the competing issues rather than blind adherence to procedural technicalities.” James Osborn v. State of Rhode Island, the Rhode Island Turnpike and Bridge Authority et al., 1992 WL 813634 (Super. Ct. 1992( Unpublished opinion); also see 6 Wright and Miller, Federal Practice and Procedure: Civil § 1479 at 402 (1971).

In this instance, the Objectors have not shown that they meet the “extreme prejudice” standard under the State Supreme Court’s definition of “liberally granted”. In fact, the Objectors did not proffer any allegation and/or evidence that they would be prejudiced in any respect. Rather, they insinuated nefarious actions on the part of the RIBCTC in order to get Dr. Vatter’s substantive testimony removed on a procedural technicality. This logic is not only expressly counter to the State Supreme Court’s guidance, but it also clearly demonstrates that these objectors do not want the EFSB to have substantive information to make determinations on the merits.


As indicated herein, RIBCTC’s expert witness reviewed submitted testimony and developed a response for consideration on his own accord. According to the current procedural schedule the information was timely submitted, is informative, and will assist the EFSB in carrying out its statutory responsibilities. Lastly, if Invenergy’s permit application is ultimately denied it will have a dramatic effect on employment of RIBCTC members on this and numerous other projects. Accordingly, the EFSB should include the RIBCTC’s rebuttal testimony as part of the record so that it can decide this matter on the merits.

**WHEREFORE**, for all the reasons set forth above, RIBCTC respectfully prays that it include Dr. Vatter’s rebuttal testimony into the record in this matter in order to will assist the Board in its decision.

**Rhode Island Building and Construction Trades  
Council,**  
By its attorneys,

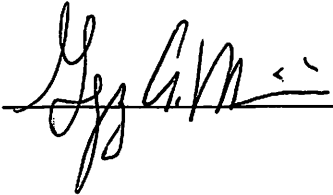
**SINAPI LAW ASSOCIATES, LTD.**

**Dated: September 7, 2017**

  
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**CERTIFICATION**

I hereby certify that on the 7<sup>th</sup> day of September, 2017 a copy of the foregoing document was caused to be served upon the individuals on the Board's service list as of this date.

  
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