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June 30, 2017

Todd Anthony Bianco Coordinator Rhode Island Energy Facility Siting Board 89 Jefferson Boulevard Warwick, RI 02888

Re:

Invenergy Thermal Development LLC - Clear River Energy Center

Docket No. SB-2015-06

Dear Dr. Bianco:

This office represents the Town of Burrillville.

Enclosed for filing are an original and 10 copies of the Town's Response to Invenergy's 1<sup>st</sup> set of data requests to the Town. This Response contains witness summaries which are preliminary and subject to revisions and changes to coordinate with the Board's procedures and its schedule on prefiled testimony.

If you have any questions, please feel free to call.

Very truly yours.

Michael R. McElroy

MRMc:tmg

cc:

Service List

Burrillville/Invenergy/EFSB/Data Response to Invenergy Set 1

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC's

APPLICATION TO CONSTRUCT THE CLEAR RIVER : DOCKET No. SB-2015-06

ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND :

## THE TOWN OF BURRILLVILLE'S RESPONSE TO CLEAR RIVER ENERGY LLC's (INVENERGY's) 1ST SET OF DATA REQUESTS

- With regard to (a) each of the expert witnesses previously disclosed by the Town of Burrillville ("Town") to the Energy Facility Siting Board ("EFSB"); (b) any additional expert witnesses that have been identified since the Town's original expert disclosure, and (c) any additional expert witnesses the Town believes it may call at the final hearings in this matter, please provide separately for each witness the following:
  - 1. Describe in detail the subject matter upon which each expert is expected to testify;
  - 2. State in detail the substance of the facts and opinions in which each expert is expected to testify;
  - 3. State in detail the grounds for each opinion to which each expert is expected to testify; and
  - 4. State whether any expert witness disclosed or identified by the Town performed any of the following activities at the Clear River Energy Center ("CREC") site that is the subject of the current proceeding and, if the answer to any of the following is in the affirmative; provide the results thereof:
    - a. A complete site-specific biodiversity inventory of the CREC site and the CREC right of way.
    - b. Auditory and visual point count surveys at established stations, including estimate of distance from station.
    - c. Nocturnal playback survey, including recording all owl calls heard.
    - d. Deploy remote field cameras at targeted locations within the project area, including along stream corridors, game trails, stone walls, and other features which may attract mammals.
    - e. Small mammal trapping study using Sherman live traps, with morphological data to be recorded for all captured individuals.
    - f. Breeding amphibian call surveys to be conducted from stations within project area, including recording of species and number of individuals.

- g. Establish pit-fall trap arrays.
- h. Walk evenly-spaced transects through the project area and visually search for reptile species. Survey to include searching under fallen logs, leaf litter, and other habitat features encountered along transects.
- i. Transect survey through project area. Observer to capture odonates, butterflies, and beetles using insect net. Observer to identify bee species observed along transects.
- j. Nocturnal moth survey using light trap.
- k. Kick net survey to be completed in Dry Arm Brook and intermittent tributary to Iron Mine Brook following the RIDEM Rapid Bioassessment Protocol.
- 1. Plots established within project area. Each plot divided into numbered 1-meter quadrat grid. Random numbers table to be used to select quadrats. All plant species within selected quadrats identified and stems counted. Estimated height recorded for trees and shrubs, and dbh also recorded for trees.

#### **RESPONSE 1-1**

In accordance with the Energy Facility Siting Board Rules of Practice and Procedure, this list is subject to revisions and changes to coordinate with the Board's procedures and its schedule on Pre-Filed Testimony. The Town of Burrillville reserves the right to revise the summaries and present additional witnesses where it deems necessary, in conformance with the Board's procedural schedule, and to rebut any presentation by other witnesses or to respond to concerns raised as the proceedings move forward.

With regard to 1-1(4), the Town of Burrillville states that its witnesses have not performed any of the activities listed in that Data Request.

With regard to Request 1-1 (1), (2), and (3), please see the Town of Burrillville's preliminary list of witnesses-summaries set forth below. All witnesses will be basing their opinions on their education, training, experience and expertise, the Invenergy application materials as supplemented by data responses, various agency advisory opinions, filings made by other parties and advisory agencies in this docket, and independent research.

The Town of Burrillville expressly reserves the right to expand and supplement its witnesses and the topics and opinions to be addressed after review of testimony filed by Invenergy in this docket.

The following is the Town of Burrillville's preliminary list of witnesses-summaries.

### GLENN C. WALKER

Glenn C. Walker, who is employed by George E. Sansoucy, P.E., LLC, will testify as set forth in the Pre-Filed Testimony of Glenn C. Walker previously filed in this docket. Moreover, it is expected that Mr. Walker will amend/supplement his testimony to incorporate recent relevant events, such as ISO reconfiguration auctions, and the recent decision by the Connecticut Energy Facility Siting Board rejecting a new proposed facility due to lack of demonstrated need. Mr. Walker will express the opinion that the proposed Clear River Energy Center is not justified by long term state and/or regional energy need forecasts, that a 1% to 2% savings is insufficient costjustification for the facility, and that there are cost effective efficiency and conservation opportunities that provide appropriate alternatives to the proposed facility.

Mr. Walker may also testify to matters surrounding the Tax Agreement, Decommissioning Agreement, and Property Value Guarantee Agreement entered into between the Town and Invenergy.

In addition to testifying as set forth above, Mr. Walker will be testifying with regard to the advisory opinion previously issued by the Town's Tax Assessor, who adopted Mr. Walker's report regarding property value impacts.

#### JOHN F. PACHECO, III

John F. Pacheco, III, President of the Burrillville Town Council, will express the opinion that the Energy Facility Siting Board should reject the application of Invenergy Thermal Development to site and construct the Clear River Energy facility in Burrillville, Rhode Island. He will express his opinion and the opinion of the residents in the Town, as well as the Town Council itself, that the proposed power plant would cause unacceptable harm to the Town, its environment, its socioeconomic fabric, and its residents, through increases in pollution; unacceptable risks to the community from the transportation, storage, and use of ammonia, hydrogen, diesel fuel, and water; unacceptable increases in noise, especially during construction; unacceptable increases in dangers associated with large truck traffic on Burrillville's small winding rural roads, especially during construction; potential harmful effects to Burrillville's water aquifer which supports Burrillville's wells; destruction of many acres of prime forest land and wildlife habitat; destruction of many acres of wetlands; devaluation of homes in the immediate vicinity of the facility and on the transportation route; potential toxic releases of ammonia; potential fire, explosion and release hazards associated with compressed hydrogen; potential spills and releases of fuel oil; and potential catastrophic events involving natural gas used at the facility.

Mr. Pacheco will testify to the results of the investigations and the advisory opinions issued by the Town's Planning Board, Zoning Board, Building Inspector, and Tax Assessor.

Mr. Pacheco will testify to the reasons for the decision reached by the Town Council to oppose the plant, together with the support the Town Council has received from many other communities in the State of Rhode Island and elsewhere in opposition to the plant.

Mr. Pacheco will testify that the potential electric rate savings of only 1% to 2% are substantially outweighed by many significant and unacceptable harms to the Town, the state, and its residents.

#### **JOSEPH RAYMOND**

Joseph Raymond is the Building Inspector for the Town of Burrillville. Mr. Raymond will testify regarding the advisory opinion he previously issued in this matter and the supplemental advisory opinion he will be issuing in this matter at the direction of the EFSB.

#### **JEFFREY PARTINGTON**

Jeffrey Partington is the Chairman of the Burrillville Planning Board. He will be testifying regarding the advisory opinion issued by the Planning Board and previously submitted to the EFSB in this matter.

#### **RAYMOND CLOUTIER**

Raymond Cloutier is the Chairman of the Burrillville Zoning Board. He will be testifying regarding the advisory opinion issued by the Zoning Board and previously submitted to the EFSB in this matter.

#### **ERIC EPNER**

Eric Epner, P.E. Vice President and Department Manager of Fuss & O'Neill, Inc., is an air emissions compliance expert and we expect he will be testifying that based on the information submitted to DEM to date, the disadvantages to air quality of the proposed Invenergy facility within the Town of Burrillville outweigh any potential benefits.

Mr. Epner will provide an evaluation of the major source air permit application for a combined cycle electric generating facility, the air dispersion modeling report, the health risk assessment report, and related documents, including data responses and report amendments and updates. He will identify inconsistencies/flaws noted in the major source permit application, the air dispersion modeling report, and the health risk assessment report. Further, he is expected to comment upon the disadvantages to the local air quality if the Invenergy facility were to be sited within Burrillville (e.g., carbon credits, vehicular emission from water trucks, decline in air quality from facility emissions, etc.).

#### DAVID M. HESSLER

David M. Hessler, P.E., Vice President and Principal Consultant of Hessler Associates, Inc. is expected to testify that based on the noise studies and analyses submitted by Invenergy, his own extensive experience with power plant acoustics, subsequent documents, correspondence, data responses, and sworn testimony from Invenergy's noise consultant, he believes that the proposed facility will meet the Town's demanding noise ordinance limit of 43 dBA or less at the nearest residences during all normal operating modes, including start up and shut down, because Invenergy has committed to this performance in writing and under oath. Mr. Hessler will strongly

recommend that the EFSB make this noise limit a strict condition of any EFSB permit with firm and substantial penalties for non-compliance. In addition, Mr. Hessler will recommend that this commitment be secured with a performance bond for any possible violations and that such bond should be an express condition of any permit.

#### JAMES A. JACKSON

James A. Jackson, Civil Engineer and Project Manager at CDR Maguire, Inc. will testify about civil engineering issues pertaining to the proposed Clear River Energy Center including site layout and storm water management issues. He will express the opinion that the proposed development will have significant adverse impacts on wetlands and that the site layout should be revised to reduce wetland impacts, including the re-use of the existing Spectra/Algonquin access road instead of the new proposed new access road. He will also recommend that any EFSB permit not be issued until a complete storm water management plan is submitted, evaluated, and approved because the proposed facility will result in a significant increase to storm water run off.

#### THOMAS HEVNER, JR.

Thomas Hevner, Jr. is Vice President of the Environmental Division of Alares, LLC. He will testify concerning the amended water plan, the use and storage of hazardous materials, and the plan for handling wastewater at the facility.

He will express an opinion that with the new conceptual plant configuration that utilizes approximately 16,000 gallons of process water per day, on-site and local water sources should be evaluated as opposed to creating another supply chain for the transport of water by truck to the facility to be used as process water from Johnston, RI.

He will address the storage of hazardous ammonia on site and issues related to such storage and will recommend that the EFSB order Invenergy to conduct a facility wide Risk Management Program hazard analysis to insure full compliance with the General Duty Clause. This assessment should include ammonia, hydrogen tubes, fuel oil storage, and delivery systems, the storage and transportation of hazardous waste generated at the facility, and the transport and use of natural gas at the facility or in the pipeline or related infrastructure.

He will testify that the risk management analysis should be a permit requirement issued by the EFSB, and in addition, that the EFSB should set forth a permit requirement requiring Invenergy to work with local emergency responders to establish emergency procedures in the event there is an accidental release of ammonia or other hazardous materials from the facility.

He will testify that there should be a permit requirement that Invenergy will establish written procedures for the periodic inspection, testing, and maintenance of all equipment, controls, and sensors relating to the storage and use of hydrogen and that all staff receive necessary training.

#### JAMES W. COOGAN

James W. Coogan, P.E., Highway and Traffic Engineer and Project Manager at CDR Maguire, Inc. will testify regarding traffic issues. He will express the opinion that the proposed development will have significant adverse construction phase impacts to the Pascoag Village area, and that the construction phase is likely to cause pavement deterioration, which will need to be restored. He will testify that a shared driveway with the Algonquin/Spectra existing driveway should be a permit condition because it will be safer and require less clearing of environmentally sensitive areas.

He will testify that the EFSB should impose as a permit condition that the CREC must restore any deteriorated pavement and any damaged structures along the primary travel routes, that the CREC must utilize the existing Spectra/Algonquin driveway and not construct a proposed new access road, and that the CREC must, at its own expense, prior to commencing operations that involve trucking materials to the facility, widen the northeast corner of the intersection of Pascoag Main Street and Church Street.

#### **ANTHONY ZEMBA**

Anthony Zemba, Certified Ecologist, Certified Soil Scientist, Certified Hazardous Materials Manager, Senior Technical Specialist, of Fitzgerald and Halliday, Inc. is expected to provide a review of the environmental permit documentation submitted regarding biodiversity impacts at the Clear River Energy Center, including expressing opinions on the information provided by Invenergy and discussing the completeness, accuracy, and usefulness of the data presented by Invenergy. He will express his professional opinions on the impact on biodiversity associated with the proposed facility.

He is expected to testify concerning adverse impacts to wetlands and wildlife. He is expected to address standards for compensatory wetland mitigation and measures to mitigate the impact on wildlife.

Prepared by: Michael R. McElroy, Esq.

### Respectfully submitted, Town of Burrillville By its attorneys

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Date: June 30, 2017

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## **CERTIFICATE OF SERVICE**

I hereby certify that on the 30<sup>th</sup> day of June, 2017, I sent a copy of the foregoing to the attached service list.

Theresa Gallo

Burrillville/Invenergy/EFSB/Data Response to Invenergy Set 1

SB-2015-06 Invenergy CREC Service List as of 06/19/2017

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