

Written Public Comment for Changes to the EFSB and its Rules/Regulations

12/18/17

I will not be able to be present at the Meeting on 12/18/17. I hope that this will be entered into the record as a written public comment. The red italicized and underlined sections are my recommended changes to Rep. Cale Keable's Proposed Amendments to the EFSB Act. The green italicized and underlined sections are my other recommendations and opinions. Thank you. Stephanie Sloman, 387 Courthouse Lane, Pascoag, RI 02859

42-98-3 Definitions

Pertaining to Rep. Cale Keable's definition of "host community":

"Host community" means any city or town in the state in which all or a portion of a proposed or existing energy facility shall be or is located" including any towns or cities where there may be a negative impact of aquifers, wetlands, wildlife; human health; and/or operational truck traffic negative impacts.

OR ADD:

"Secondary Host Community" means any city or town in the state in which the process/operation of a proposed or existing major energy facility may negatively impact any wetlands, aquifers, human health, wildlife including, but limited to, the installation/use of an existing or new groundwater well, the use of existing surface water resources, and the increased truck/tanker traffic during operations of said facility."

OTHER THOUGHTS:

- 1- It is my opinion that although "host community" only includes the physical location of the proposed power plants, there should be some way to include towns and cities within a certain mile radius of the facility concerning the air emissions. In other words, as the prevailing winds are usually from west to east or northwest to southeast, perhaps those communities within a 10 mile radius (or more) should be notified in order for them to consider being intervenors. The same should be true for those communities which will "host" operational and construction truck traffic. For example, in a past EFSB meeting, Chairman Curran stated that the towns which would be negatively impacted by increased truck traffic had had plenty of time to seek intervenor status. However, I do not believe that these towns were officially notified by the EFSB or any other agency concerning the increased truck traffic. It is my opinion that if Glocester and Smithfield had been officially notified of this, these towns would have sot intervenor status.

42-98-5 Board established

Pertaining to Rep. Cale Keable's additions: "When the board sits for any purpose related to a proposed or existing facility, the siting board shall consist of" 10 (ten) members, "as follows: the chairperson of the PUC, who shall serve as chairperson of the siting board; the Director of the DEM; the Associate Director of the Administration of Planning;" the Director of the Department of Health; the Director of Office of Energy Resources; three (3) members of the public including one person considered to be an environmental expert; "two (2) members designated by the council of the host community", one (1) of which shall be the city/town council president. "If there is more than one host community"[OR: If there is a Secondary Host Community], the Primary Host Community will designated 2 (two) members and the Secondary Host Community will designated 1 (one) member. If there is a second host community, there will be a total of 11 (eleven) members of the EFSB.

All state agency's EFSB members will be hereby protected against any and all governor/political repercussions or consequences. [In other words, no state agency EFSB member can be forced to resign or be fired by their bosses after an EFSB decision has been made.]

(3) "A detailed description and analysis of the impact of the proposed facility on its physical and social environment together with a detailed description of all environmental characteristics of the proposed site, and a summary of all studies prepared and relied upon in connection therewith." If the proposed facility will physically encompass 8 acres or more of forested land with or without the presence of any wetlands, a Biodiversity Study will be required for each season (spring, summer, fall, and winter) for at least 1 (one) year. If the proposed facility will physically be located within a "wildlife corridor" (regardless of size), two (2) years of 4-(four)-season-biodiversity studies and 1 (one) EIS will

be required prior to any EFSB hearing and/or official application submitted to the EFSB. The 4-season Biodiversity Study(ies) must incorporate at least ½ miles from the borders of the impacted forestland. In the case of a non-forested impact area, the biodiversity study(ies) must still be included as stated within.

42-98-9.1 Public notice and hearings on construction projects in cities and towns affected.

Pertaining to Rep. Cale Keable's additions:

"(a) The applicant shall notify the host community" *or host communities [or Secondary host communities]* no less than thirty (30) days prior to filing its application with the board."

(b) Upon receiving a utility company application the board shall immediately notify, in writing, the councils of the towns and cities affected by the construction. "This includes, but is not limited to, each host community." *The phrase "the towns and cities affected by the construction" shall mean all towns and cities which may be adversely/negatively impacted by increased construction truck traffic. Also, the councils of the towns and cities affected by operational increased truck traffic will be notified in writing by the EFSB.*

(c) "The board shall have at least three (3) public hearings in each host community (*or host communities*) prior to holding its own hearings and prior to taking final action on the application. All details of acceptance for filing in 42-98-8(a)(1)... shall be presented at town or city hearings for public comment. No public hearing shall occur until the application is deemed sufficient and docketed by the board as required in 42-98-8(b). *The first public hearing shall be held within six (6) months of the date the application is docketed by the board. Any time that the proposed facility changes its application via supplements to the EFSB, the EFSB will conduct a separate public hearing in the host community to hear public comment concerning the change. This change can include, but not limited to, number of days firing ULSD, number of gallons of hazardous chemicals on site, the new knowledge of a hazardous chemical on site, change of process (including water use/demands/sources).*

NOTE: I believe that the following portion of (c) should be completely deleted: "If the applicant contests the relevance of the requested study, or believes it to be redundant with studies already performed, the applicant may request a ruling from the board whether the study is necessary and reasonably shall not be the basis for an interlocutory appeal, injunction or otherwise delay the board's processing of the application."

42-98-10 Agency procedures – Advisory Opinion.

Pertaining to Rep. Cale Keable's additions:

(a).... "If sufficient details to allow agencies to consider and issue advisory opinions are unavailable for any reason, the application proceeding shall be suspended for up to 60 days to allow sufficient details to be submitted by the applicant. If, at the end of sixty (60) days, sufficient details have not been provided in writing, the application shall be denied with prejudice." *"Sufficient details" will be determined by the municipality and/or state agency and verified by the EFSB.*

42-98-11 Final hearing – Standards – Decisions.

(b)(1) Construction of the proposed facility is necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed facility. MY OPINION FOR WORDING: *Construction of the proposed facility is necessary to meet the needs of the state for energy of the type....". [Remove: "and/or region"]*

(b)(3) The proposed facility will not cause unacceptable harm to the environment and will enhance the socio-economic fabric of the state. *MY OPINION: The proposed facility will not cause unacceptable harm to the environment.*

MY OPINION:

- 1- *"UNACCEPTABLE HARM TO THE ENVIRONMENT" SHOULD BE DEFINED.*
- 2- *The "socio-economic fabric of the state" should be separate.*
- 3- *Also, I believe that there should be a price tag incorporated into the environment "VALUE" that will be negatively impacted (ie, wetlands and biodiversity which will be negatively impacted) as compared to the "socio-economic fabric of the state" price tag.*

49-98-13 Access to premises

(a)

MY OPINION: As it is possible that a facility does not own the land/property during the EFSB process, perhaps there could be an addition to this such as “belonging to, or controlled by, or will belong to”. Also, I believe that “reasonable notice of the inspection” sentence should be removed. If the facility is doing something “wrong”, giving it “reasonable notice” will give that facility time to hide something.

(b) \$500 should be **\$1000****49-98-16 Violations**

(a) Failure to comply with any provision, condition or limitation contained in a board license to site, build, or alter a major energy facility and/or failure to comply with a board cease and desist order.....” *MY OPINION IS THIS: 1- for “failure to comply with any provision, condition or limitation contained in a board license to site, build, or alter a major energy facility” should be punishable by a fine of not more than \$100,000 per day. 2- “for failure to comply with a board cease and desist order” should be punishable by a fine of \$1,000,000 per day. If the EFSB Board issues a “cease and desist order”, than by GOD, the fine MUST BE A HUGE AMOUNT OF MONEY. The EFSB would not issue a “cease and desist order” for a small failure to comply!!!*

******OTHER THOUGHTS******

I am not sure where these would “fit” in the EFSB regulations:

- 1- *All portions of the energy facility project shall NOT be segmented (i.e., transmission lines and pipeline “hookups”).*
- 2- *Any and all process water supply sources located within a wetlands area will need at least a 1-year-4-season-biodiversity study and a wetlands impact study (including the DEM’s Application to Alter Freshwater Wetlands).*
- 3- *Any and all process water supply sources located in forestland area will need at least a 1-year-4-season-biodiversity study.*
- 4- *Any and all process water supply sources located outside of Rhode Island will require the applicant to submit that State’s or states’ environmental agency’s/agencies’ approval and submit to the EFSB.*
- 5- *If the applicant, itself, or an agent of the applicant (i.e., water transporter) requires or changes any new water sources at any time during this process, the applicant will submit this information to the EFSB immediately and be made public.*
- 6- *All water sources for process water requires an EIS, regardless if located outside Rhode Island.*
- 7- *Perhaps the Water Resources Board should be included in the “membership” of the EFSB.*
- 8- *Perhaps an environmental non-profit organization member should be included in the EFSB membership.*
- 9- *No proposed energy facilities will be allowed in a “wildlife corridor” or within 10 miles of said “wildlife corridor” as designated by the RI DEM.*
- 10- *All members of the EFSB must be required to read ALL agencies’ and municipalities’ DATA REQUESTS and not depend solely on ADVISORY OPINIONS. (I know that the EFSB members’ email addresses are included in the data request/response list, but there is nothing in the EFSB regulations that states that the members are required to read them.)*
- 11- *All members of the state agencies which have anything to do with an applicant’s “project” must be required to read ALL other state agencies and municipalities’ DATA REQUESTS and not depend solely on their own DATA REQUESTS for information concerning future advisory opinions or supplemental advisory opinions.*
- 12- *All models (air emissions, noise, etc.) should include other energy facilities, compressor stations, industrial businesses, and commercial businesses to properly reflect the impact of the applicant’s proposed project.*
- 13- *All proposed energy facilities (applicants) MUST provide an evacuation plan and zone with the EFSB prior to the first public hearing and this evacuation plan and zone, whether or not the applicant believes it is necessary, must be available to the public prior to the first public hearing.*

END