

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

In Re: Invenergy Thermal Development LLC's	:	
Application to Construct the Clear River Energy	:	Docket No. SB-2015-06
Center in Burrillville, Rhode Island	:	

**TOWN OF BURRILLVILLE'S MOTION TO REJECT THE
PUBLIC UTILITIES COMMISSION'S ADVISORY OPINION**

The Town of Burrillville ("the Town"), by and through its undersigned counsel, hereby files this Motion to Reject the Public Utilities Commission's ("PUC") September 12, 2016 Advisory Opinion ("PUC Advisory Opinion") to the Rhode Island Energy Facility Siting Board ("EFSB") issued by a single PUC Commissioner and filed in this docket. In support thereof, the Town states that the PUC Advisory Opinion is legally invalid because under Rhode Island law at least two PUC commissioners are required to render an advisory opinion.

Under R.I.G.L. § 42-98-11(c), the EFSB may accept, reject, or modify an advisory opinion, in whole or in part. Therefore, the Town respectfully requests that the EFSB reject the PUC Advisory Opinion in its entirety, and instead of relying on the legally invalid PUC Advisory Opinion, the EFSB should directly hear and evaluate all evidence on the issues of need, costs, and alternatives regarding the proposed Clear River Energy Center ("CREC").

I. BACKGROUND

On January 12, 2016, the EFSB conducted a preliminary hearing and issued a preliminary order which directed the PUC to "render an advisory opinion as to (i) the need for the proposed Facility; (ii) whether it is cost-justified to the consumer consistent with the object of ensuring that the construction and operation of the Facility will be accomplished in compliance with all of the requirements of the laws, rules, and regulations; and (iii) whether cost effective efficiency and conservation opportunities provide an appropriate alternative to the proposed Facility."

EFSB Preliminary Order, at 15-16. The EFSB also directed the PUC to “expressly consider the reliability of the resulting power in determining the need for the facility, including the adequacy and dependability of the natural gas supply to the facility.” *Id.* at 9.

In March 2016, in response to the EFSB’s Notice of Designation, the PUC opened Docket 4609. Two of the three members of the PUC recused themselves from Docket 4609, leaving only Commissioner DeSimone to preside over hearings, consider evidence, and render the PUC Advisory Opinion.¹ PUC Advisory Opinion, at 3.

On July 5, 2016, the Town filed an Objection to a Single Commissioner Advisory Opinion in PUC Docket 4609. (Attached hereto as Exhibit A). The Town’s Objection was overruled by Commissioner DeSimone.² PUC Advisory Opinion, at 4.

In July 2016, the PUC held three days of evidentiary hearings in PUC Docket 4609. Commissioner DeSimone was the sole Commissioner presiding over the hearings. PUC Advisory Opinion, at 3.

On September 12, 2016, the PUC issued an Advisory Opinion to the EFSB issued by only Commissioner DeSimone. Citing to R.I.G.L. § 42-98-11, Commissioner DeSimone acknowledged that “the EFSB can accept, reject, or modify the advisory opinion.” PUC Advisory Opinion, at 4.

¹ Chairperson Curran recused herself from the PUC proceedings because she is the Chairperson of the EFSB. PUC Advisory Opinion, at 3. Commissioner Gold recused herself to avoid the appearance of impropriety that may have resulted from her participation when the agency she formerly led (Office of Energy Resources) was to appear before the PUC as a party in the matter that commenced while she was still the head of OER. PUC Advisory Opinion, at 3.

² In its Objection, the Town identified several alternatives available to the PUC in lieu of issuing a single-commissioner advisory opinion. One option would have been for Chairperson Curran to recuse herself from the EFSB proceeding and participate in PUC Docket 4609 instead. In the alternative, the PUC could have forgone its right to issue an advisory opinion to the EFSB, and instead transferred all filings made within PUC Docket 4609 to the EFSB, so that the EFSB could directly hear and evaluate all evidence on need, costs, and alternatives. This is the option the PUC exercised in Docket 4029, as discussed below.

II. ARGUMENT

A. The EFSB should reject the PUC Advisory Opinion because under Rhode Island law at least two PUC commissioners are required to legally render an advisory opinion.

Under Rhode Island law, actions carried out by the PUC fall into three general categories – transacting business, conducting hearings and rendering decisions. Under Rhode Island law, only one commissioner is necessary to conduct a hearing. However, two commissioners are required to transact business, as well as to render a decision. R.I.G.L. § 39-1-8 states, in part: “Two (2) commissioners shall constitute a quorum for the transaction of any business, except as provided in § 39-1-11.”³ R.I.G.L. § 39-1-11 states, in part: “The presence of one commissioner shall constitute a quorum at all hearings provided that the concurrence of **a majority of the commission shall be required for the rendering of a decision.**” (Emphasis added.)

In this docket, the EFSB directed the PUC “render an advisory opinion.” EFSB Preliminary Order, at 9 and 15. EFSB Rule 1.16(a) states that the “**advisory opinions of designated agencies are interlocutory decisions** for which judicial review is not available until the [EFSB] issues its Final Decision.”⁴ (Emphasis added.) Moreover, the issuing of an advisory opinion constitutes the “transaction of [...] business” by the PUC.

As noted above, two commissioners are required for the rendering of a decision and transaction of any business under R.I.G.L. § 39-1-8 and § 39-1-11. Under EFSB Rule 1.16(a), advisory opinions are decisions. Advisory opinions are also the transaction of business by the PUC. Therefore, two PUC commissioners are required to issue a valid advisory opinion.

³ In addition, PUC Rule 1.2(d) states that “Except as otherwise permitted by law, two (2) Commissioners shall constitute a quorum for the transaction of any business.”

⁴ See *Great American Nursing Centers, Inc. v. Norberg*, 567 A.2d 354, 357 (R.I. 1989) (holding that legislative rules have the force and effect of law and such rules are entitled to a presumption of validity).

The Town therefore respectfully requests that the EFSB reject the PUC Advisory Opinion in its entirety. R.I.G.L. § 42-98-11(c). In lieu of relying in any way upon the legally invalid PUC Advisory Opinion, the EFSB should directly hear and evaluate all evidence on the issues of need, costs, and alternatives.

B. The PUC previously acknowledged that a single commissioner cannot issue a valid advisory opinion to the EFSB.

A similar situation occurred in EFSB Docket SB-2008-02 (Rhode Island Reliability Project) and PUC Docket 4029 (Notice of Designation to render an Advisory Opinion to the EFSB regarding the need and cost-justification for the Narragansett Electric d/b/a National Grid's proposal to construct and alter major energy facilities, the "Rhode Island Reliability Project"). *See* docket summaries for EFSB Docket SB-2008-02 and PUC Docket 4029 (attached hereto as Exhibit B). In those related dockets, the EFSB directed the PUC to issue an advisory opinion. However, the PUC reported to the EFSB that the PUC would be unable to render an advisory opinion because it was unable to produce a quorum. Letter from PUC to EFSB, dated April 8, 2009 (attached hereto as Exhibit C).

The PUC Chair recused from PUC Docket 4029 because he was also the Chair of the EFSB. *Id.* An additional commissioner who was near the end of his term on the PUC was unavailable due to an injury. *Id.* This left only a single PUC commissioner to review the evidence and issue an advisory opinion. *Id.* Therefore, instead of issuing an invalid advisory opinion, the PUC closed its docket because it was unable to produce a quorum and legally issue an advisory opinion. *Id.* The PUC then transferred all filings made within the PUC docket to the EFSB, so that the EFSB could directly hear and evaluate all evidence on the issues of need and cost. *Id.*

The PUC failed to take the same action in PUC Docket 4609, even though the PUC was unable to produce a quorum and legally issue an advisory opinion. Instead, a single commissioner issued the PUC Advisory Opinion to the EFSB. As a matter of law, a single commissioner is insufficient under the governing rules and statutes.

The Town maintains that if an EFSB decision in Docket SB-2015-06 relies in any way on the PUC Advisory Opinion, which was issued by a single commissioner, this would be a clear error of law. The EFSB should therefore reject the PUC Advisory Opinion in its entirety and directly hear and evaluate all evidence on the issues of need, costs, and alternatives.

C. The Town properly raised this issue in PUC Docket 4609 and is obligated to raise it in EFSB Docket SB-2015-06 as well.

The Town properly raised this issue before the PUC in Docket 4609. As mentioned above, the PUC overruled the Town's objection and issued a single-commissioner advisory opinion. The Town is obligated to raise its objection to the validity of the PUC Advisory Opinion before the EFSB as well.


The Town urges the EFSB to reject the PUC Advisory Opinion in its entirety in order to prevent the EFSB's decision from containing an error of law. The EFSB is scheduled to review the PUC Advisory Opinion on October 16, 17 and 30. *See* Invenenergy Hearing Schedule, dated September 20, 2018. The Town is filing the instant motion to provide advance notice of the Town's objection to the legally invalid PUC Advisory Opinion.⁵

⁵ The issue of whether a court or administrative body has jurisdiction to sit and decide a matter may be raised at any time and cannot be waived by any party. *DeMarco v. Travelers Ins. Co.*, 102 A.3d 616, 621 (R.I. 2014) (*citing Long v. Dell, Inc.*, 984 A.2d 1074, 1078 (R.I. 2009)); *see also City of Gainesville v. Brown-Crummer Investment Co.*, 277 U.S. 54, 59 (1928) ("...a question of jurisdiction cannot be waived. Jurisdiction should affirmatively appear, and the question may be raised at any time.")).


III. CONCLUSION

WHEREFORE, for the foregoing reasons, the EFSB should reject the PUC's September 12, 2016 Advisory Opinion in its entirety.

Respectfully submitted,
Town of Burrillville
By its attorneys



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Date: September 21, 2018

CERTIFICATE OF SERVICE

I certify that the original and six (6) photocopies of this Motion were filed by U.S. Mail, postage prepared, with the Coordinator of the EFSB, 89 Jefferson Boulevard, Warwick, RI 02888. In addition, electronic copies of this Motion were served via email on the service list for this docket. I certify that all of the foregoing was done on September 21, 2018.



Michael R. McElroy, Esq.

Exhibit A

Town of Burrillville's Objection to a Single Commissioner Advisory Opinion

Filed in PUC Docket 4609

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S :
PROPOSAL FOR CLEAR RIVER ENERGY CENTER : DOCKET NO.4609

OBJECTION TO A SINGLE COMMISSIONER ADVISORY

The Town of Burrillville ("the Town"), by and through its undersigned counsel, hereby respectfully objects to a single commissioner conducting an investigation and rendering an advisory opinion to the Rhode Island Energy Facility Siting Board ("EFSB") in this docket.

I. BACKGROUND

This docket relates to a matter pending before the EFSB, in which Invenergy is proposing to build a new energy facility to be located in the Town. The purpose of this docket is for the PUC to "conduct an investigation [...] and render an advisory opinion as to the need for the proposed facility." R.I.G.L. § 42-98-9. Moreover, the EFSB Preliminary Decision and Order designates the PUC to "render an advisory opinion as to (i) the need for the proposed Facility; (ii) whether it is cost-justified to the consumer consistent with the object of ensuring that the construction and operation of the Facility will be accomplished in compliance with all of the requirements of the laws, rules, and regulations; and (iii) whether cost effective efficiency and conservation opportunities provide an appropriate alternative to the proposed Facility."

As the PUC is aware, the EFSB consists of three members, including "the chairperson of the public utilities commission, who shall serve as chairperson of the siting board..." R.I.G.L. § 42-98-5. As a result, Chairperson Curran recused herself from the PUC proceeding, because she is serving as chairperson of the EFSB.

In addition, Commissioner Gold – newly appointed to the PUC – has recused herself due to her previous role as the Commissioner of the Office of Energy Resources ("OER"). OER is a

party to the proceedings before the EFSB, and has been directed by the EFSB to participate in the related PUC proceedings pursuant to R.I.G.L. § 42-98-9(d). *See* EFSB Preliminary Decision and Order. Commissioner Gold’s recent appointment to the PUC moved her from the role of a party to the role of adjudicator on the same matter. The Town respects Commissioner Gold’s decision to recuse and understands her underlying reasoning.

The recusal of two of the three PUC commissioners seemingly leaves Commissioner DeSimone as the sole commissioner remaining to preside over this docket. However, with all due respect, the Town objects to a single commissioner advisory for the reasons set forth below.

The Town wishes to emphasize that its objection to a single commissioner acting on this docket is in no way directed toward Commissioner DeSimone. To the contrary, the Town holds Commissioner DeSimone in the highest regard. He is an experienced commissioner and attorney, and serves the ratepayers of Rhode Island with diligence and great care.

However, the Town maintains that – as a purely legal matter – a single commissioner acting in this docket would be insufficient under the governing statute and rules. Further, should the EFSB rely on an advisory opinion from a single commissioner of the PUC, the EFSB’s decision could be challenged as that decision may rest on an error of law.

II. ARGUMENT

A. Two commissioners are required to transact business.

R.I.G.L. § 39-1-8 sets forth, in part, that “[t]wo (2) commissioners shall constitute a quorum **for the transaction of business**, except as provided in § 39-1-11.” (Emphasis added.)¹ R.I.G.L. § 39-1-11 creates an exception allowing one commissioner to “constitute a quorum at

¹ In addition, Rule 1.2(d) states that “Except as otherwise permitted by law, two (2) Commissioners shall constitute a quorum for the transaction of any business.” *See Great American Nursing Centers, Inc. v. Norberg*, 567 A2d 354, 357 (R.I. 1989) (holding that legislative rules have the force and effect of law and such rules are entitled to a presumption of validity).

all hearings provided that the concurrence of a majority of the commission shall be required for the rendering of a decision.”

The statutes above set forth three categories of actions to be taken by the PUC – transacting business, conducting hearings and rendering decisions. Clearly, only one commissioner is necessary to conduct a hearing. However, two commissioners are required to “transact business,” as well as to “render a decision.”

In this docket, the PUC is directed to “conduct an investigation” and “render an advisory opinion.” *See* R.I.G.L. § 42-98-9. Neither of these tasks fall into the specific categories of “conducting a hearing” or “rendering a decision.” Therefore, by process of elimination, these tasks fall into the broader category of “transacting business.” Under R.I.G.L. § 39-1-8, two commissioners are required to transact business. Therefore, by statute, a minimum of two commissioners are required to proceed in this docket.

B. Chairperson Curran could recuse herself from the EFSB proceeding instead.

The Commission has alternatives available in this situation. One option is that Chairperson Curran could recuse herself from the EFSB proceeding, and participate in this PUC docket instead.

R.I.G.L. § 42-98-5(a) provides, in part, that “any member of the [EFSB] who recuses him or herself shall designate his or her own successor from his or her respective agency.” Therefore, if Chairperson Curran recuses herself from the EFSB, she could designate her own replacement to the EFSB from the PUC. Note that her successor need not be a commissioner.

Doing so would allow Chairperson Curran to resume her seat on the PUC, and increase the PUC to the two commissioners needed to transact business.

C. The PUC could forego its right to issue an advisory opinion to the EFSB.

A second option available in this situation is the PUC could forgo its right to issue an advisory opinion as to the need, costs and alternatives for the proposed facility. In lieu of a PUC investigation and advisory opinion on these issues, a full investigation and determination as to the need, costs and alternatives for the facility would be conducted by the EFSB itself. See R.I.G.L. § 42-98-10.

Under R.I.G.L. § 42-98-11(a), parties generally may not present evidence at the EFSB hearing if that evidence was previously introduced at a hearing before any advising agency, including the PUC. Therefore, if the PUC proceeds to an evidentiary hearing with a single commissioner, the parties will rarely, if ever, be permitted to present evidence to the EFSB on those issues to avoid repetition and cumulative evidence. The EFSB would rely on the PUC's investigation, including its review of all presented evidence at the hearing.

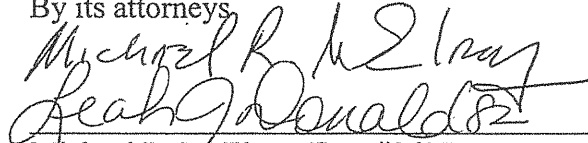
However, if the PUC refrains from conducting a hearing and investigation and issuing an advisory opinion, there would be no constraint on the parties presenting evidence on those issues directly to the EFSB. The EFSB would be free to directly hear and evaluate all evidence on the issues of need, costs and alternatives.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the Town respectfully objects to a single commissioner conducting an investigation and rendering an advisory opinion to the EFSB in this docket.

TOWN OF BURRILLVILLE

By its attorneys


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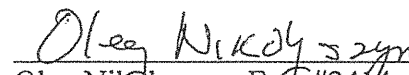
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Dated: 7/5/16


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Dated: 7/5/16

CERTIFICATE OF SERVICE

I certify that the original and four photocopies of this Motion were filed by U.S. Mail, postage prepared, with the Clerk of the Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888. In addition, electronic copies of this Motion were served via email on the service list for this Docket. I certify that all of the foregoing was done on July 5, 2016.

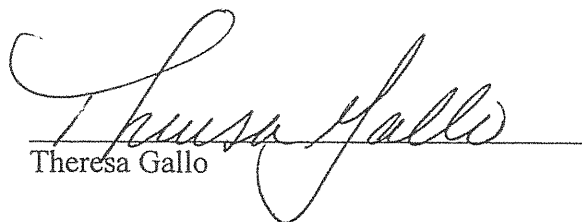


Theresa Gallo

Exhibit B

Docket Summaries for EFSB Docket SB-2008-02 and PUC Docket 4029


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SB 2008-02 - Rhode Island Reliability Project - National Grid

- Transmittal Letter
- Application (Because of the size of the files involved, the figures referenced in the application are not directly available on-line. To request an electronic version of any figure click [here](#).)
- Docketing Notice
- Notice of Preliminary Hearing (Scheduled for November 12, 2008)
- Preliminary Decision and Order (12/19/08)
 - RI Department of Health Informational Advisory Opinion issued September 15, 2009
- PUC Transfers Docket 4029 to EFSB
- EFSB Issues Notice of Public and Final Hearings
- EFSB Issues Order 63 (re: Discovery Motions)
- EFSB Issues Notice of Final Hearings (which commence Monday, October 19 at 9:30 AM)
- Notice of Final Hearing
- Notice of Final Hearing (continued on May 20, 2010)

EFSB Issues Final Decision and Order (August 12, 2010)

(Additional filings from parties in this Docket may be listed at the [Commission Docket 4029 page](#))

National Grid Filings

- Prefiled Testimony March 13, 2009- Attachment A - Attachment B
- Rebuttal Testimony Transmittal Letter and Index
 - Rebuttal Testimony of David J. Beron, P.E., P.M.P.
 - Rebuttal Testimony of Mark Stevens, P.E.
 - Rebuttal Testimony of Kenneth K. Collison
 - Supplemental Testimony and Attachments of Todd Kopoyan, P.E.
 - TK-3 Revised Figure 4-10 of the ER
 - TK-4 Revised Paragraph 4.3.7. of the ER
 - Rebuttal testimony of David Campilli, P.E.
- Filing in Accordance with RIGL §42-98--9.1(b) and EFSB Rule 1.8(h)
- Hearing Presentations
 - North Smithfield
- Prefiled Testimony (June 29, 2009) Transmittal Letter - Index
 - Testimony of David J. Beron, P.E., P.M.P.
 - Attachment (Figure 4-2)
 - Testimony of David M. Campilli, P.E.
 - Testimony of Susan Moberg
 - Attachment
 - Testimony of EDR Witnesses (John D. Hecklau, Jo Anne C. Gagliano, and Eric M. Mainzer)
 - EDR Attachment - Figures
 - EDR Attachment - Rating Forms
 - Testimony of William H. Bailey, Ph.D.
 - Attachment
 - Addendum - EMF Modeling Report

Exhibits Introduced at July 14, 2009 Hearing

- National Grid 21- Route Statistics
- National Grid 22 - State of Connecticut Siting Council Supplemental Testimony III of Dr. William H. Bailey - Concerning Magnetic Field Exposure Policy
- National Grid 23 - State of Connecticut Siting Council Supplemental Testimony V of Drs. William H. Bailey and Philip Cole
- National Grid 24-48 Hour Magnetic Field Exposure
- National Grid 25 - Magnetic Field at Average Annual Loading
- National Grid 26 - Significant Underground Transmission Outage

Exhibits Introduced at May 20, 2010 Hearing

- National Grid 35 - Project Schedule
- National Grid 36 - Cross-Section Cranston/West Warwick Boundary
- National Grid 37 - West Warwick Alternative Pole Schematic
- National Grid 38 - West Warwick Alternative Easement Schematic

Supplemental Testimony of David J. Beron, P.E., P.M.P. and attachments (9/28/09)

Testimony of Joseph M. Drouin, P.E. and attachment

Supplemental Testimony of David J. Beron, P.E., P.M.P. and attachments (4/27/10)

ISO-New England Filings

- Prefiled Testimony of Frank Mezzanotte

Responses to Data Requests - Record Requests

- National Grid - Response to Johnston's First Set of Data Requests
- National Grid - Response to Johnston's Second Set of Data Requests
- National Grid - Response to EFSB's First Set of Data Requests
- National Grid - Response to Johnston's Third Set of Data Requests
- National Grid - Response to EFSB's Record Requests (July 24,2009)
- National Grid - Response to EFSB's Second Set of Data Requests

Planning and Zoning Filings

- City of Cranston Zoning Board
- Town of West Warwick Building/Zoning Official
- Town of West Warwick Planning Board
- Town of West Warwick Zoning Board
- City of Warwick Advisory Opinion
- Statewide Planning Program Advisory Opinion
- Town of Smithfield Zoning Board
- Town of Johnston Advisory Opinion
 - Exhibits

Additional Prefiled Testimony

- Town of Johnston - Testimony of Timothy Chapman, Esq. and Makram Megali, P.E.

Advisory Opinions

- Evaluation of Evidence Presented by National Grid Related to Potential Health Effects of Rhode Island Reliability Project - Kenneth R. Foster and Associates

Post Final Hearing Briefs, Memoranda and Settlement Stipulation


- National Grid Memorandum
- Town of Johnston Post Final Hearing Brief
- Settlement Stipulation - National Grid and the Town of Johnston (June 29, 2010)
- Report of Dr. William H. Bailey, Ph.D. for National Grid (July 7, 2010)

RI Public Utilities Commission, 89 Jefferson Boulevard, Warwick, RI 02888
Voice: 401-941-4500 • Email: thomas.kogut@dpuc.ri.gov

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Link to the Corresponding EFSB Docket SB
2008-2

Docket No. 4029 - Notice of Designation to Render an Advisory Opinion to the Energy Facility Siting Board Regarding the Need and Cost-justification for the Narragansett Electric d/b/a National Grid's proposal to construct and alter major energy facilities, the "Rhode Island Reliability Project"

Status of Docket: Closed.

- Notice of Designation to PUC to Issue an Advisory Opinion to the Energy Facility Siting Board regarding National Grid's proposed "Rhode Island Reliability Project" which case is pending before the Siting Board in Docket No. SB-2008-2 (issued 12/19/08)
- PUC issues Procedural Schedule for Docket - Evidentiary hearings will commence on April 30, 2009 at PUC's office
- Notice of Public Hearing
- ISO New England - Motion to Intervene (1/26/09)
- Town of Johnston - Motion to Intervene (2/10/09)
- National Grid - Prefiled testimony of the following witnesses (filed 2/20/09)
 - David Beron
 - Mark Stevens
 - Kenneth Collison
 - Todd Kopoyan
- Division of Public Utilities -Prefiled testimony of the following witnesses (filed 4/8/09)
 - Gregory L. Booth
 - Richard S. Hahn
- Public Utilities Commission - Letter notifying the Siting Board that it cannot render an advisory opinion and therefore is closing this docket and transferring all filings contained in the docket to the Siting Board for review (4/8/09)

Responses to Data Requests

- National Grid - Response to Division's 1st set of data requests (3/6/09)
- National Grid - Response to Division's 2nd set of data requests (3/25/09)
- National Grid - Response to Statewide Planning's Data Request No. 1 (2/9/09)
- National Grid - Response to Statewide Planning's Data Request No. 2 (3/12/09)
- ISO New England - Response to Division's 1st & 2nd set of data requests (4/2/09)
-

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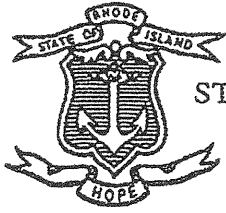


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Exhibit C

Letter from PUC to EFSB

Dated April 8, 2009



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION
89 Jefferson Blvd.
Warwick RI 02888
(401) 941-4500

Chairman Elia Germani
Commissioner Robert B. Holbrook
Commissioner Mary E. Bray

April 8, 2009

Mr. Nicholas Ucci
Coordinator RI Energy Facility Siting Board
89 Jefferson Blvd.
Warwick, RI 02888

Re: SB-2008-02

Dick
Dear Mr. ~~Ucci~~.

Please be advised that it appears the Public Utilities Commission will be unable to produce a quorum for the purposes of rendering an Advisory Opinion in the above-referenced docket as the result of the Public Utilities Commission Chairman's recusal based on the fact that he is also the Chairman of the Energy Facility Siting Board and a recent injury of Commissioner Holbrook who is in the last weeks of his service. Furthermore, there has been no transmittal from the Governor to the Senate naming a replacement for Commissioner Holbrook. As a result, the Commission is closing its Docket No. 4029 and is transferring all filings made within that docket to the Energy Facility Siting Board for its ultimate review of the need and cost considerations of the Rhode Island Reliability Project.

Please feel free to contact me with any questions at 780-2147.

Sincerely,

Cynthia G. Wilson-Frias
Senior Legal Counsel

cc: Service List Docket No. 4029