

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

In re: The Narragansett Electric :
Company d/b/a National Grid :
Petition for Waiver for Temporary LNG : **Docket No. SB-2019-04**
Vaporization Facility, Old Mill Lane, :
Portsmouth, Rhode Island :

ORDER

On October 24, 2019, The Narragansett Electric Company d/b/a National Grid (National Grid or Company) filed with the Energy Facility Siting Board (the Board) a Petition for a Waiver for Temporary LNG Vaporization Facility. The proposed facility is be located on Old Mill Lane, in Portsmouth, Rhode Island (Town). In its petition, National Grid asked the Board to waive the licensing requirement to set up and operate the temporary portable liquified natural gas (LNG) vaporization facility to provide emergency backup natural gas supply to Aquidneck Island. National Grid asserted that a waiver is appropriate because the proposed vaporization facility will be temporary and will only be mobilized when needed to back-up the supply on Aquidneck Island.

The Company described the property where vaporization would occur as a five-acre parcel located in close proximity to the connection between its Aquidneck Island distribution system and the interstate transmission system. The property is currently owned in fee by National Grid. It was used by the previous owner, until 2014, to store propane tanks. The site had remained vacant until May 2018, when the interstate natural gas pipeline was scheduled for inspection. To be prepared if the supply of gas were affected by the inspection process, the Company set up a temporary vaporization facility from May through-June 2018. The Company neither informed the Board about nor sought a license for the facility at that time. Once the aforementioned inspection

of the pipeline was finished, the equipment was removed, the property was restored, and the site remained vacant again until January 2019.

In January 2019, National Grid experienced distribution outages caused by low transmission supply from its natural gas supplier. The Company subsequently installed a temporary vaporization facility on the Old Mill Lane, Portsmouth property to provide back-up natural gas to the island during the period of low supply. The Company, again, neither informed the Board about nor sought a license before setting up and operating the facility.

In the instant petition, National Grid represented that it had been informed of certain transmission system constraints that may occur during the next four winters and that could negatively impact its ability to provide reliable service to its Aquidneck Island customers. The constraints could be caused by emergency situations or by inspections and/or repairs of the transmission pipeline. The Company stated that its use of the site would be temporary, because the equipment need only be present on the property during the winter, from December 1 through March 31. The Company contended it has initiated a plan to resolve the constraint issues within five years.

The equipment the Company would install will include a portable vaporizer; two ambient vaporizers, five portable storage tanks, and electric generators to operate the equipment. The property is surrounded by permanent and temporary eight-foot chain link fencing and will be monitored by a security guard at all times when the equipment is on-site. When the equipment is operating, there will be at least one Company employee and one employee of Prometheus, the owner of the equipment, present at all times. In April, the equipment and temporary fencing will be removed, the property will be reseeded, and it will be returned to its natural state.

Prior to using the property for vaporization in 2018, the Company had obtained a zoning certificate from the Town. The Company stated that the Town provided that the certificate need

not be renewed for any subsequent use of the property for vaporization. National Grid also represented that no other federal or local permits are required. The Company further indicated that it also intends to schedule public outreach sessions within one to two months of site mobilizations.

On November 5, 2019, National Grid supplemented its Petition for Waiver, providing additional information to support the requested waiver. The Company argued that the Energy Facility Siting Act, R.I. Gen. Laws §§ 42-98-1 to 42-98-20 (Act), is intended to apply only to permanent facilities and that to require licensing for a temporary facility “would lead to an absurd result and would not advance the Act’s policies and legislative findings.”¹ Moreover, it asserted, it would be unable to provide a timely and effective response to emergency situations if it were required to file complete applications each time situations requiring vaporization arose.

National Grid also argued that because it will be temporary and will only be operated on high-demand days, the proposed vaporization facility does not constitute an alteration of an existing major energy facility that will have a significant impact on the environment or public health, safety, or welfare. It further noted that its prior use of the property had elicited neither any interest nor objection from abutters or the Town. Finally, the Company asserted that it was not aware of any prior situation where a license was required for a temporary installation.

The Board conducted an Open Meeting on November 6, 2019. The Board noted there have been long-term widespread concerns regarding the reliability of natural gas supply on Aquidneck Island and that lives could be at risk if gas is not available when needed during cold weather. The Board also observed that while it is not bound by precedent, it needs to explain decisions that diverge from prior determinations. Addressing the Company’s reference to the treatment of prior temporary installations, the Board stated that the lack of prior licensing for temporary facilities

¹ Supplement to Petition for Waiver for Temporary LNG Vaporization Facility (Nov. 5, 2019). The document contains no page numbers; this quotation appears on the third page.

provided no substantial support for the Company's waiver argument. The Company provided no instances of the Board refusing to exercise jurisdiction over facilities for which a license had been requested.

The Board then raised its previous decision in SB-00-01, which the Company failed to cite, noting that it appears to conflict with, if not directly contravene, the Company's position in this docket.² In SB-00-01, National Grid's predecessor gas distribution utility, the Providence Gas Company, which during the proceeding became a division of Southern Union Company, filed an application with the Board for a license to construct, site, and operate an LNG transfer station on property leased from the United States Navy in Middletown, Rhode Island. The Board granted that requested license. In addressing that prior proceeding, the Board noted it was difficult to distinguish the presently proposed Portsmouth facility from the facility for which Providence Gas successfully sought a license in SB-00-01. When National Grid subsequently became the gas distribution utility, it too used the licensed facility. As the Company noted in its October 24, 2019 petition, it had used the Naval Base site in Middletown "when a temporary portable vaporization facility was needed to back-up the natural gas supply to the island." Thus the Company's own description of the now-abandoned licensed facility indicates the difficulty in distinguishing it from the present project.

Nevertheless, in order to avoid the risk of negative impacts to health and safety that could result from the lack of any emergency backup natural gas supply to Aquidnick Island, notwithstanding the ambiguities regarding the proper treatment of National Grid's present petition, the Board grants the Company a temporary waiver of the licensing requirements of the Act for the

² While the Company herein did refer specifically to the prior facility on the Naval Base (Petition at 3), it failed to mention the application, the Board proceeding, or that the Board granted a license for the construction and operation of that facility. Final Order at 17 (Sept. 18, 2001).

vaporization facility for a period of two years. Within that two-year period, National Grid shall file a new Petition for a Declaratory Order and provide a more robust legal argument on the issue of why the Act should not apply to such temporary facilities, distinguishing the Portsmouth facility from the previously-licensed facility at the Naval Base in Middletown or explaining why the Board erred in exercising licensing jurisdiction over that facility.

Therefore, it is hereby:

(142) ORDERED:

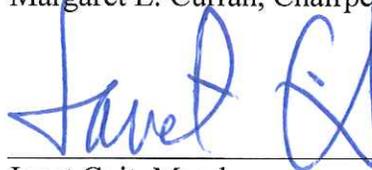
National Grid is granted a waiver of the licensing requirements of the Act in order to operate a temporary portable LNG vaporization facility in Portsmouth, Rhode Island for a period of two years.

DATED AND EFFECTIVE at Warwick, Rhode Island pursuant to an Open Meeting decision on November 6, 2019. Written order issued January 8, 2020

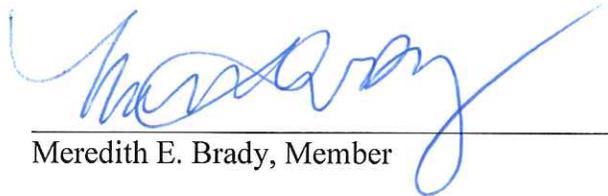
ENERGY FACILITY SITING BOARD



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