

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

<b>In re: The Narragansett Electric</b>	<b>:</b>	
<b>Company d/b/a National Grid</b>	<b>:</b>	
<b>Petition for Declaratory Order Regarding</b>	<b>:</b>	<b>Docket No. SB-2020-02</b>
<b>Portable LNG Vaporization Equipment,</b>	<b>:</b>	
<b>Old Mill Lane, Portsmouth, Rhode Island</b>	<b>:</b>	

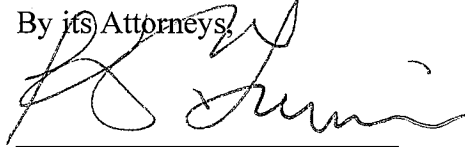
**SUPPLEMENTAL MEMORANDUM  
OF TOWN OF PORTSMOUTH**

As a supplement its memorandum dated November 2, 2020, which responded to the Petition for a Declaratory Order filed by The Narragansett Electric Company d/ba National Grid (“Petitioner” or “National Grid”), the Town of Portsmouth (“Portsmouth” or the “Town”) attaches hereto as Exhibit 1, and incorporates herein by reference, a copy of a Decision of the Portsmouth Zoning Board of Review issued on September 25, 2001 and recorded on October 3, 2001, concerning a petition by Southern Union Company, successor in interest to Providence Gas Company, for a special use permit to allow a temporary peak shaving LNG facility for at the subject property located on Old Mill Lane in Portsmouth, Rhode Island. The Portsmouth Zoning Board of Review granted a special use permit for the proposed facility, which expired one-year after the Decision and was subject to several other special conditions listed in Exhibit A to the Decision.

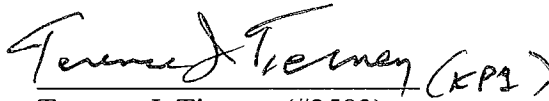
Portsmouth reiterates: (1) the present and proposed use of the subject property for an LNG vaporization facility on Old Mill Lane is not a permitted use as a matter of right under the Portsmouth Zoning Ordinance; and (2) in the event the Energy Facility Siting Board (“EFSB”) determines that the LNG vaporization is not subject to the jurisdiction of the EFSB, the facility will require an application, hearing and permitting by the Portsmouth Zoning Board of Review and any other permits and approvals that may be required from other local boards and officials of the Town of Portsmouth.

TOWN OF PORTSMOUTH

By its Attorneys,



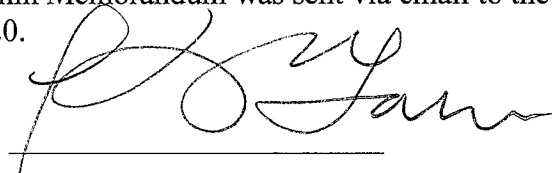
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**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the within Memorandum was sent via email to the Service List on the 18 day of November, 2020.



# Exhibit 1



## Town of Portsmouth

Post Office Box 207 / Portsmouth, Rhode Island 02871

Board of Review

(401) 683-3611

**Petition of Southern Union Company**  
**successor in interest to Providence Gas Company**  
**135 Old Mill Lane**  
**Map 68, Lots 73 & 74**  
**Zoned: R-40**

014652 Portsmouth, R.I.  
Received for record October 3, 2001  
at 10:55 o'clock A M  
and Recorded in Book No. \_\_\_\_\_  
Page \_\_\_\_\_  
\$19- Town Clerk

### DECISION

This matter came on to be heard before the Portsmouth Board of Review on June 14 and July 19, 2001, on Petitioner's application for a special use permit to allow the expansion of a nonconforming use on the subject site. Petitioner sought a special use permit pursuant to ART. VI, Sec. C of the Portsmouth Zoning Ordinance to allow modification of the existing facility for use as a temporary peak shaving facility for public utility gas supply.

Petitioner was represented by Robert M. Silva, Esq.. The Board heard the testimony of Gary Munroe, James Grasso, Charles Buckley, Nathan Godfrey, Michael Desmond and Russell Walsh in support of the petition. The Board also heard the testimony of Lawrence Sylvia, Jeffrey Houhanesian, Stephen McDonald, Mark Hatzberger, Katherine Hatzberger, E. Richard Carpender, Madeline Ray, Fidelis Sylvia, Mario DeSoto and Joseph Marshall.

Mr. Munroe testified that he is the Director of Systems Planning for Providence Gas. He stated the facility on the subject site was constructed in 1963 as a peak shaving facility. A peak shaving facility is a facility in which additional gas is pumped into the system during periods of heavy use. Initially, the gas company injected propane gas into the system at the subject site during peak periods. The present proposal calls for the injection of liquefied natural gas (LNG) at the site. He stated that the site was used continuously as a peak shaving facility from 1963 until 1991. It is also used daily as a gate station where the gas is odorized, metered, pressure adjusted, etc.. Mr. Munroe testified that the sole gas supply to Aquidneck Island is a six inch, Algonquin Gas Transmission line which runs under the Sakonnet River from Tiverton to the site. Algonquin will not provide additional capacity through that line and replacing it with a larger line would be prohibitively expensive. As a result of continued growth on the island, the company is low on capacity during the coldest days of the year. The company plans to address this capacity problem by constructing a permanent peak shaving facility

at the former Derecktor Shipyard in Middletown, however, the permitting process has delayed that project such that it cannot be constructed for use this winter. Providence Gas seeks to utilize the present site as a temporary, peak shaving facility for one year to address any potential capacity shortages this winter. Mr. Munroe explained that the existing building on the site would be removed and two temporary, portable buildings would be installed on the site. One would house boilers to heat the LNG and the other a control room. A pump and vaporizer would also have to be installed. All buildings and equipment would be portable. He explained that LNG is super cooled natural gas which is transported in insulated trucks at a temperature of minus 260 degrees Fahrenheit. If a spill were to occur on site it would be contained and because LNG is lighter than air it would dissipate. Propane gas is heavier than air and would stay on the ground where it could be trapped in enclosed spaces and constitute a greater risk of explosion. Mr. Munroe testified that LNG is not combustible in its super-cooled liquid state and one could "*throw a match*" on the liquid and it would not ignite. Combustible vapor detectors and flame detectors would be installed to provide early warning of any potentially dangerous conditions. He stated that Providence Gas operates other LNG peak shaving facilities in Providence Harbor, on Route 2 in Exeter and in Westerly, Rhode Island. In his thirty years of experience there have been no spills, explosions or harmful emissions. A certified driver and two technicians would be present whenever a delivery was made and no LNG would be stored on the site when no one is present. Mr. Munroe stated that the maximum number of days the facility would be used in a normal year was eight (8) to ten (10) and the average was five (5) to six (6). Due to the mild weather the facility would not have been used at all last year but if we experience a normal winter this year there is a "*high likelihood*" some large scale customer would be shut off. Mr. Munroe also explained the lighting plan and that the lighting was designed to shine down on the subject property. He explained that when deliveries were not in progress the lights which illuminated the controls and connections would be shut off.

James Grasso testified that he is the Vice President for Governmental Affairs for Providence Gas. He stated that LNG cannot detonate, it is too concentrated. Liquefied Propane Gas on the other hand could detonate. LNG is a much safer product. He stated that there are thirty (30) LNG sites in New England and that the proposed permanent Middletown facility already has approval from the Middletown Town Council, and Zoning Board of Review, U. S. Environmental Protection Agency, U.S. Navy and R. I. Statewide Planning.

Charles Buckley testified that he is a Senior Vice President for Transgas, the transportation provider for Providence Gas Co. and that he had familiarized himself with the routes to be used and the road conditions. He stated the product would be delivered in a double walled tank truck consisting of an aluminum inner container with an outer steel shell. Each truck could hold up to 10,000 gallons or 800,000 cubic feet of gas. He stated his company made 2,600 deliveries to Rhode Island last year without incident and

that they had hauled 200,000 loads since 1980 with only three incidents in which the truck rolled over. Only one accident in the region, experienced by another carrier, resulted in a puncture and in that incident the product was offloaded without incident. He noted that the trucks are so rugged that one skidded 300 feet at 40 miles per hour without leakage. All drivers would possess CDLs with tanker endorsements. The federal government has strict guidelines on hours per shift at the wheel for such drivers and maintenance of the trucks including special regulations for hauling hazardous materials. He stated that the site is a very easy site to access and the trucks would normally arrive around 3:00 to 3:30 a.m.. He noted that the New England Gas Association has an LNG Fire School in Stowe, Massachusetts, to train local firefighters which would be made available to the local departments.

Nathan Godfrey testified that he is a certified real estate appraiser and managing partner of Newport Appraisal Group, LLC. He had reviewed the site, the surrounding properties, the proposed project and the local ordinance and comprehensive community plan. He testified that many of the proposed physical improvements would be relatively insignificant and there was no indication that the existing facility had a detrimental impact on surrounding properties. He noted that physical improvements would be minimal, traffic increase would be slight and the operation would provide no significant noise, smoke or odor. He concluded that the proposed use would be compatible with the neighboring land uses, would not be detrimental to the surrounding area, that adequate protection was afforded other properties by use of open space and plantings and the proposal was in conformance with the purposes and intent of the comprehensive plan and zoning ordinance.

Michael Desmond testified that he is a registered professional engineer employed by Bryant Associates, Inc., and had been retained to review the traffic safety aspects of the petition. He stated that he had reviewed the site, volume and type of traffic anticipated, the proposed route and existing conditions along the route. He stated the most likely route for all delivery vehicles would be south on Route 24 to Boyds Lane, east on Boyds Lane to Chase Road and East Main Road, south on East Main Road to Sandy Point Avenue, east on Sandy Point Avenue to Wapping Road, south on Wapping Road to Old Mill Lane, east on Old Mill Lane to the site. He reviewed pavement widths intersection angles sight distances and road conditions along that route and also traveled that route as a passenger in a truck of the largest type which would be used to deliver the LNG. He reported that there were no dangerous or unsafe conditions encountered along the route and the presence of the truck along the route would not result in a reduction in safety for other travelers.

Russell Walsh testified that he has been employed by Newport Gaslight Company and Providence Gas Company since 1966. He stated that as a gas supply supervisor he operated the Old Mill Lane facility and had records of propane deliveries to the site from 1978 to 1990. He stated the facility was used a peak shaving facility until 1991 and

during winter months there were daily deliveries of propane and at times more than one delivery of per day. He stated that the propane was delivered by tractor trailers along the same route proposed to be used for the LNG and he recalled only one minor accident in which the truck slid off the roadway resulting in no spill, injury or damage.

Lawrence Sylvia testified that he has lived in the neighborhood for many years and had never seen truck as large as those which would be delivering the LNG. He stated that all neighbors are against the proposal and that the present facility is noisy and smelly and incompatible with the neighborhood.

Jeffrey Houhanesian testified that the delivery route was too narrow and hazardous for such large trucks and there was too much risk of an explosion.

Stephen McDonald stated that he would never have purchased his house if he knew the facility would be used for transfer and not just as a pumping station. He noted that the truck in which Mr. Desmond took his test drive drove over his lawn on two occasions. He cited a drainage problem in the area and expressed fear that the berms and landscape barriers would disrupt existing drainage patterns and prevent his property from shedding storm water.

Mark Hatzberger echoed the sentiments expressed by others and expressed concern regarding whether there would be sufficient security to prevent trespassing by the many neighborhood children.

Katherine Hatzberger stated that the traffic engineers study did not take into account the rolling fogbanks which envelope the roads abutting the nearby turf farms and which make early morning travel on Wapping Road very dangerous. She stated that she had to "nose out" into Wapping Road to exit Old Mill Lane and is sure the tractor trailer operator will have to also. She described the present facility as smelly and noisy.

E. Richard Carpender stressed that the neighborhood was primarily residential and early morning truck traffic was not conducive to a peaceful neighborhood. If the Board saw fit to allow the proposal he stressed that it be a for the requested one year period only.

Marlene Ray stated that there is a drainage problem in the area and that school buses have trouble exiting Old Mill Lane. She stressed that there are a number of children in the neighborhood.

Fidelis Sylvia stated that the facility does not belong in a residential area. She stated that the tanker truck needed every inch of room to make the corner at Old Mill Lane and Wapping Road and the roads are worse in the winter.

Mario DeSoto testified that he is subjected to gas smells from the present facility and has seen fires in the rear portion of the site.

Joseph Marshall stated that he does not live in the immediate area but believed the facility should be approved so that the gas company could continue to provide many residents with necessary services.

The Board determined that due to the nature and location of the project, and the character of the surrounding area, it was necessary to impose certain conditions upon any approval of the project. The purpose of the conditions was to minimize possible adverse impacts on neighboring properties and prevent certain features from becoming objectionable, hazardous or a nuisance. The Board also determined that many of the judgments which allowed a grant of the permit were based on petitioner's request that the proposed permit be effective for a period of one year only. The fact that the proposed use and its impacts were only temporary was an important factor in the Board's determinations. The temporary nature of the proposed use prevented its objectionable features from ripening into characteristics which would have a detrimental impact on neighboring properties, however any change to a permanent use may result in more adverse impacts and different findings by the Board. The Board determined that there was competent evidence on the record to support a limit on the duration of the proposed use pursuant to Article X, Section 3C of the Portsmouth Zoning Ordinance and RIGL 45-24-43(3). Those conditions were unanimously adopted by the Board, and are attached hereto as Exhibit A.

The Board considered the project as proposed with the conditions imposed by the Board and determined that the project would not be detrimental to the surrounding area and would be compatible with neighboring land uses. The Board further decided that the project would not constitute a nuisance or a hazard, that the proposal provided safe vehicular access and parking and that adequate protection was afforded surrounding properties by the use of open space and plantings. The Board noted further that solar rights of abutters were addressed, control of noise, smoke, odor, lighting and other objectionable features was provided, the project complied with the Comprehensive Community Plan and the Zoning Ordinance and that the health, safety and welfare of the community were protected. Accordingly, the Board voted unanimously to grant Petitioner a special use permit pursuant to ART. VI, Sec. C of the Portsmouth Zoning Ordinance to allow modification of the existing facility for use as a temporary peak shaving facility for public utility gas supply. The grant of this special use permit is specifically limited to one year in duration, (as more specifically set forth in Exhibit A), and conditioned upon Petitioner's compliance with the conditions set forth on Exhibit A attached hereto and made a part hereof.



**Portsmouth Board of Review**

**by:**

  
James Edwards, Secretary

Date: 9/25/01

**EXHIBIT A**  
**SPECIAL CONDITIONS**  
**PETITION OF SOUTHERN UNION COMPANY**

1. That the duration of the use allowed pursuant to this special use permit is one year and the facility shall not be allowed to operate as a peak shaving facility utilizing LNG fuel after the expiration of one year from the date of this decision.
2. Peak shaving operation, (LNG vaporization), will only be allowed to take place after December 1, 2001 and prior to March 1<sup>st</sup> 2002, during days when the outdoor air temperature is below fifteen (15) degrees Fahrenheit.
3. Petitioner shall enclose the perimeter of the property with a chain link fence no less than six (6) feet in height, topped with barbed wire.
4. All buildings shall be monitored by an intrusion alarm system equipped with remote, off site monitoring and no external, audible alarm.
5. Petitioner or its representatives shall notify the Portsmouth Fire Department at least one hour in advance of all LNG deliveries to the site and of the site being placed into operation.
6. The 150 watt high-pressure sodium lights will be operational during LNG vaporization only and shall remain off at all other times.
7. The site shall not be used for LNG storage.
8. All deliveries and/or truck traffic to the site shall be restricted to the hours between 9:00 o'clock p.m. and 6:00 o'clock a.m. on any day.
9. Prior to the arrival of any LNG delivery petitioner shall ensure that the requisite travel areas on the site are free of snow and ice.
10. Petitioner shall provide the local Fire Department with training at the LNG Fire School in Stowe, Massachusetts, at no cost to the department. Said training shall be conducted prior to commencement of operation of the facility.
11. Safety procedures and protocols shall be explained to the neighbors prior to operation of the facility.

12. Trucks will be shut down and the key removed from the vehicle prior to off-loading of LNG.