

**STATE OF RHODE ISLAND
ENERGY FACILITY SITING BOARD**

In re: Sea 3 Providence, LLC Petition for
Declaratory Order Regarding the Rail Service
Incorporation Project (Providence, RI)

Docket SB-2021-03

**MOTION FOR INTERVENTION
OF THE PEOPLE’S PORT AUTHORITY**

I. INTRODUCTION

The People’s Port Authority, pursuant to Energy Facility Siting Board (the Board) Rule of Practice and Procedure 1.10(B)(2) and 1.10(B)(3), respectfully files its Motion for Intervention in this Docket.

On March 15, 2021, Sea 3 Providence, LLC (Sea 3) filed a petition for declaratory order, requesting that the Board declares that a planned alteration to its facility located at 25 Fields Point Drive, Providence, RI (the Facility) is not subject to the jurisdiction of the Board because it isn’t an alteration as defined by the Energy Facility Siting Act (the Act). The proposed expansion project will impair the air quality, harm public health, and increase the risk of a public safety catastrophe for the Southside and Washington Park neighborhoods of Providence, Providence as a whole, and the State of Rhode Island. As stated in our previously submitted comments to the Board, the People’s Port Authority opposes the instant petition because Sea 3’s proposed project poses a significant public health and safety risk to our community, an Environmental Justice Community, which is already overburdened with industrial pollution, and

is therefore an alteration under the Act requiring the Board's review and ultimate denial of the proposed expansion.

The People's Port Authority's participation in this proceeding will be at the public interest as defined in the EFSB Rule 1.10(B)(3), and as an organization with members living in the neighborhoods directly affected by the pollution in the Port of Providence, and that focuses on Environmental Justice issues in the Port of Providence, the participation of the People's Port Authority is an interest which may be directly affected and which is not adequately represented by existing parties as defined in the EFSB Rule 1.10(B)(2).

II. THE INTERVENOR

The People's Port Authority, formerly No LNG in PVD, is a grassroots organization focused on stopping new construction and expansion of polluting facilities in the Port of Providence to improve the public health and safety of residents of the Southside and Washington Park neighborhoods, where the majority of our members live. Since 2016, The People's Port Authority has organized toxic tours along the Port of Providence to educate the community on the health and safety hazards of the various industrial polluters in the Port. We have canvassed door to door discussing with neighbors how the pollution from the Port of Providence affects our health. We opposed National Grid's liquefaction facility at 121 Terminal Road, a project that our efforts helped delay by years. We opposed Shell Oil Products' renewal of their Title V Operating Permit for their facilities at 520 Allens Avenue. In March 2020 we played a key role in the organizing efforts that blocked the proposal by Allens Providence Recycling LLC to develop a waste-transfer facility at the corner of Allens Avenue and Thurbers Avenue.

The People's Port Authority is also proactively working on legislation at the city and state level to ensure a just transition for workers in the Port of Providence, and to transform the Port of

Providence to meet the needs of the community without putting our public health and safety at risk.

III. STANDARD GOVERNING THIS MOTION

The Board Rules provide that a party may intervene in Board proceedings by “claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate[.]” Said rights and interests include “[a]n interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Board’s action in the proceeding,” and “[a]ny other interest of such nature that petitioner’s participation may be in the public interest.” EFSB Rules 1.10(B). As such, a party should be allowed to intervene in proceedings before the EFSB if any one of the aforementioned rights can be demonstrated. As explained below, both 1.10(B)(2), and 1.10(B)(3) are applicable here. The People’s Port Authority represents the interests of persons who are directly affected and who are not currently represented by parties in these proceedings, and its participation is in the public interest.

IV. GROUNDS FOR INTERVENTION

If the Board takes seriously the principles of Environmental Justice, then it must meaningfully involve the members of the public who will be most impacted by any decision regarding Sea 3’s expansion proposal. As the only grassroots organization in the state whose mission is to increase community involvement and decision making on Environmental Justice issues in the Port of Providence, the People’s Port Authority is uniquely well-positioned to represent the voices of those most affected by the outcomes of Docket SB-2021-03, many of whom are our members, and in doing so to provide the public with a more fully informed proceeding.

The U.S. Environmental Protection Agency defines Environmental Justice as the “fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or education level with respect to development, implementation, and enforcement of environmental laws, regulations, and policies.” Environmental Justice is based on the idea that, in a democracy, when everyone participates meaningfully in a process, no group should be affected unequally by a decision. By elevating the voices of our members in the neighborhoods surrounding the Port of Providence, the People’s Port Authority can do what existing parties to the Board’s proceedings are unable to do: adequately represent our membership in Washington Park and the Southside of Providence, the people who have the most at stake in the Board’s decisions regarding Sea 3’s expansion proposal.

The representation of frontline communities in these proceedings is also in the public’s interest. Meaningful public involvement can lead to better and more just environmental decision making. As the only intervening organization that regularly canvasses door-to-door in affected neighborhoods to speak with and hear from the broader community, the People’s Port Authority anticipates being able to present information – including local residents’ perspectives about the health risks of this development and its impact on their lived experience – that will be directly relevant to this proceeding, useful to the Board, and in the interest of the public.

V. THE PEOPLE’S PORT AUTHORITY’S POSITION IN THE PROCEEDING

The People’s Port Authority fully opposes this proposal. We oppose any increase in storage and handling of hazardous materials within the Port; this proposal includes an increase from 23,000,000 gallons of liquid propane gas (LPG) handled on site in 2020 to between 80,000,000 to 100,000,000 gallons. This is an increase of between 348-435%. Furthermore, while we oppose the expansion of fossil fuels anywhere, Sea 3 states that its market is outside of

Providence, yet Washington Park and Southside residents will be overburdened with pollution and an increased safety risk from the increased storage and handling of LPG, an explosive and hazardous substance. We oppose the disturbance of contaminated soil for anything other than cleaning up the entire site and an end use that does not pollute our neighborhoods. Sea 3 did not go into detail on how much additional electricity will be required to power the proposed expansion. Sea 3 states that there are “no expected impacts to climate” while increasing the supply of LPG, a fossil fuel, that is handled at the facility by approximately 400%.

Sea 3 failed to adequately analyze alternatives as required in 1.6.B.16 of the EFSB rules. They did not analyze state plans for increasing energy efficiency, weatherization, and renewable energy, or heat pumps.

Sea 3 failed to meet the application requirement as stated in 1.6.B.12. “A detailed description and analysis of the impact, including cumulative impact for facilities, of the proposed facility on the physical and social environment on and off site.” Sea 3 did not detail the amount of Propylene, a hazardous substance, that will be stored onsite, and it did not provide any details on increases in emissions from operations of the facility and the transportation of LPG on the local Environmental Justice Community. The increase of LPG that comes through the site by approximately 400% will undoubtedly have negative impacts on the community. Sea 3 disregards impacts to air quality by stating that its air permit allows for an increase in pollution, without discussing how much more pollution will be emitted from trucks, trains, and the operations onsite.

Sea 3 failed to provide any information on social impacts, which should be considered particularly unacceptable given that the adjacent neighborhoods are Environmental Justice Communities. Approximately 10,109 people live within one mile of the Project Location.

Within a 1-mile radius of the site, the Environmental Justice Demographic Index is in the 80th percentile for Rhode Island, the People of Color Population is in the 82nd percentile for Rhode Island, the Low Income Population is in the 79th percentile for Rhode Island, and the Linguistically Isolated Population is within the 79th percentile for Rhode Island. The eleven Environmental Justice Indexes range between the 77th percentile and 95th percentile for the State, and 86th and 98th percentile for the EPA region, see attached EJSCREEN Report.

EFSB Rule 1.6.2.B.15. Requires “a complete life-cycle management plan for the proposed facility, including measures for protecting the public health and safety and the environment during the facility’s operations, including plans for the handling and disposal of wastes from the facility at the end of its useful life.” Sea 3 did not provide sufficient information to demonstrate compliance with this rule. We oppose any increase in transportation by rail of hazardous material, as there have been accidents both nationally and locally, such as the ethanol train derailment on Allens Ave. in March 2017. We oppose any increase in transportation by truck of hazardous material, as there have been accidents both nationally and locally, such as when a gas tanker truck spilled more than 11,500 gallons of gasoline on Allens Ave, in October 2018, and a gas tanker truck caught on fire on I-95 in Providence in May 2021. We oppose any increase in hazardous materials on site including but not limited to propylene and LPG, as the community is overburdened with hazardous materials, and the site is in such close proximity to Univar, which has a 14 mile evacuation radius in cases of an emergency.

EFSB Rule 1.6.2.G. states, “The Board shall hold a public hearing in one or more of the cities or towns affected by an application under S 1.16(F) of this Part, upon such public notice as the Board shall determine.” The People’s Port Authority requests that all future public hearings

be held within Washington Park or Southside Providence neighborhoods, at a location that is accessible by RIPTA, and that is not located in a police station.

These are some of the concerns relating to environmental, public health, and public safety issues relating to the expansion of Sea 3's LPG energy facility. We urge the EFSB to require a full review, and ultimately deny any expansion at this site.

VI. WAIVER REQUEST

EFSB Rule 1.10.D.3. States, "For good cause shown the Board may authorize the filing of a late notice of intervention or motion to intervene." Additionally, rule 1.4.1.A. states, "All parties to a proceeding shall be represented by an attorney, unless otherwise ordered by the Board for good cause shown." As stated above, we are the local Environmental Justice organization that focuses on issues around the Port of Providence, and our members will be directly affected by the added pollution and safety risks that this application proposes. Our interests are not adequately represented by any of the existing parties (1.10.B.2), and our presence at the hearings is in the interest of the residents of Washington Park and the Southside of Providence as well as the public at large, which benefits from more fully-informed environmental decision making (1.10.B.3).

The People's Port Authority does not have an attorney as a part of our normal organization operations. We have attempted to obtain funding for an attorney to represent us on such short notice, but have been unsuccessful thus far in finding affordable representation. What's more, our time spent searching for counsel, and our initial understanding that without an attorney there was no point in attempting to attain intervenor status, led us to miss the deadline for filing a motion for intervention.

Refusing to allow a grassroots organization to obtain intervenor status because of an inability to afford legal representation and because we needed additional time to conduct legal research on our rights raises significant equity concerns. As such we are requesting that the Board waive the deadline requirement, as stated in 1.10.D.3, and the need for an attorney to represent us, as stated in 1.4.1.A.

VII. CONCLUSION

For the above mentioned reasons, the People's Port Authority respectfully requests that its motion to intervene in this Docket be granted.

THE PEOPLE'S PORT AUTHORITY
By its Executive Director,

Monica Huertas
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Providence, RI 02905

CERTIFICATE OF SERVICE

I certify that the original and seven hard copies of this Notice were filed with the Energy Facility Siting Board. In addition, this Notice was served electronically on the service list of this Docket, as the list was provided by the EFSB on the afternoon of June 29, 2021. I certify that all of the foregoing was done on June 29, 2021.

Monica Huertas