



CITY OF PROVIDENCE

Jorge O. Elorza, Mayor

October 10, 2017

Energy Facility Siting Board
89 Jefferson Boulevard
Warwick, RI 02888

Re: SB 2003-1

Dear Members of the Energy Facility Siting Board:

During the hearing of this matter on September 26, 2017, the parties were asked whether the partial underground alignment proposed by the City in its Supplementary Memorandum could be considered by the Board as a variant on the alternatives outlined in the May 25, 2004 Settlement Agreement. This threshold jurisdictional issue had been previously raised regarding the under-bridge alignment.

As an initial matter, the City of Providence asserts that the choice of route was one reached through the joint efforts of the parties to the Settlement Agreement. That document does not foreclose the parties' reevaluation of the proposed route – as indeed the joint motion by National Grid, the Attorney General, and the City of East Providence demonstrates, bypassing the “preferred” North Bridge Alignment to accommodate the change in circumstances on the East Providence side of the Seekonk River. The City disagrees with the Siting Board counsel's legal opinion that the project is immutably governed by the terms reached in May 2004.

Even if the City is erroneous in its position, the partial underground alignment is hardly a novel proposition. The Settlement Agreement itself defines it, in Section I.5. thus:

“Underground Alignment” shall mean the underground relocation of the portion of the E-183 Line between Franklin Square Substation and a new transition station in East Providence, an overhead connection from the new transition station to the Phillipsdale Tap Point or a New Phillipsdale Tap Point, and the rebuilding and reconductoring of the Phillipsdale Tap Line from the New Phillipsdale Tap Point, if any, south to the Phillipsdale Tap Point. The actual route of the Underground Alignment shall be determined as specified in Paragraph II-D.

That is, the original expectation was that two transition stations would be required, one at the Franklin Square Substation and another in in East Providence. The route between these two stations was to be determined pursuant to Section II.D.1:

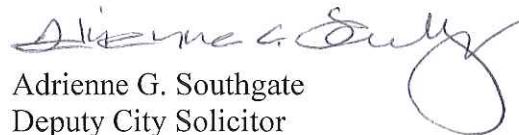
CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903
401 680 5333 ph | 401 680 5520 fax
www.providenceri.gov

Narragansett shall consult with the Parties prior to determining a route for the Underground Alignment. In making such determination, Narragansett shall consider the following factors: (i) the ability and willingness of Providence, East Providence and RIDOT to provide all rights necessary for Narragansett to construct and operate the Underground Alignment from Franklin Square to the Phillipsdale Tap Point including fee ownership of an acceptable site satisfactory to Narragansett (including, but not limited to, satisfactory title, environmental and engineering review) for the East Providence transition station and directional drilling sites and exclusive perpetual easements for the underground cable route and the route of the overhead connection from the East Providence transition station to the New Phillipsdale Tap Point, (ii) the length and constructability of the potential routes, (iii) **environmental, title, licensing, permitting and operational issues related to the proposed route and transition station site**, and (iv) such other factors as Narragansett deems appropriate. [Emphasis added.]

We are all aware that the time frames delineated in the Settlement Agreement have long since passed. Assuming that the Board does not find the delay an insuperable obstacle to consideration of the Providence proposal, what seems to be at issue is whether shrinking the dimensions of the underground alignment somehow transforms the route into a new and foreign entity which cannot be comprehended by the Settlement Agreement. The City urges the Board to refrain from exalting form over substance, and give consideration to the City's proposal on the merits. A separate motion for continuance is attached, delineating the progress the City has made in the last two weeks regarding its proposal, particularly with regard to the highlighted portion of Section II.D.1, above.

Very truly yours,


Adrienne G. Southgate
Deputy City Solicitor

Copies to: Patricia Lucarelli, Esq.
Margaret Hogan, Esq.
Kathleen Mignanelli, Esq.
Service List (via electronic mail)