

to issue data requests and retain experts to further explore the water plan and will be given the opportunity to address the details of the plan during the final hearings.

As well, the Town's contentions that the City of Providence is opposed to the siting of the proposed facility, and the possibility that the water plan may face legal challenges are not issues which warrant dismissal. These assertions are not properly before the Board, and the sufficiency of the water plan will be considered at the final hearing. After hearing argument, the Board ruled unanimously to deny the Town's motion to dismiss.

Finally, the Town also relied on several misstatements of law and procedure. In arguing on the motion to dismiss, the Town repeatedly made statements along the lines of "the way these rules work is an application does not even move forward until it's determined to be complete."² Rule 1.7 of the Board's Rules of Practice and Procedure sets forth the procedure for docketing an application and provides that a matter will be docketed if it meets the requirements of the statute and the Rules and Regulations. It further provides that a deficient application will be returned to an applicant with an explanation of deficiencies. Rule 1.7(d) allows for resubmission of an application after it has been returned for deficiencies. If the resubmitted application remains deficient, the Board, nevertheless, must docket the application, noting with specificity any continuing deficiencies.³ Therefore, an application does not have to be complete to move forward, as asserted by the Town.

The burden of proof for the issuance of a license is on the applicant to establish all of the elements set forth in the law.⁴ Absent extraordinary circumstances, an applicant is entitled to

² Hr'g Tr. at 69 (Feb. 6, 2017).

³ Rule 1.7(d).

⁴ R.I. Gen. Laws 42-98-11(b). A license shall be granted only if the applicant shows that: 1) construction of the proposed facility is necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed facility; 2) the proposed facility is cost-justified, and can be expected to produce energy at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed facility will be accomplished in compliance with all of the requirements of the laws, rules, regulations, and

present its case in support of its request for a license. If the applicant does not meet its burden, the Board will not issue a license. Regardless, the submission of a water supply plan on January 10, 2017 rendered the application complete and the Town's motion to dismiss for the lack thereof moot.

Accordingly, it is hereby

(107) ORDERED:

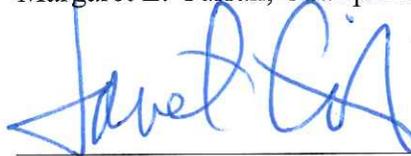
The Town of Burrillville's Motion to Dismiss is denied.

EFFECTIVE AT WARWICK, RHODE ISLAND, FEBRUARY 16, 2017. WRITTEN ORDER
ISSUED MARCH 28, 2017.

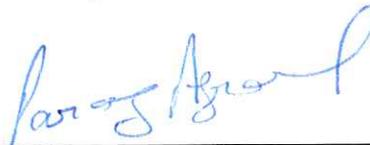
ENERGY FACILITY SITING BOARD



Margaret E. Curran, Chairperson



Janet Coit, Member



Parag Agrawal, Member



ordinances, under which, absent [the] chapter, a permit, license, variance, or assent would be required, or that consideration of the public health, safety, welfare, security and need for the proposed facility justifies a waiver of some part of the requirements when compliance cannot be assured; 3) the proposed facility will not cause unacceptable harm to the environment and will enhance the socio-economic fabric of the state.