

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

**IN RE: THE NARRAGANSETT ELECTRIC COMPANY DOCKET No. SB-2017-01
d/b/a NATIONAL GRID AND CLEAR RIVER ENERGY
LLC'S JOINT APPLICATION TO CONSTRUCT THE
BURRILLVILLE INTERCONNECTION PROJECT**

**MOTION OF CLEAR RIVER ENERGY LLC OBJECTING TO THE
FIFTH SET OF DATA REQUESTS FROM THE TOWN OF BURRILLVILLE**

Now comes Clear River Energy LLC (“CRE”) and hereby objects, pursuant to Section 1.27(b)(3) of the Rhode Island Energy Facility Siting Board (“EFSB” or “Board”) Rules of Practice and Procedure, to the Town of Burrillville’s (“Town’s”) Fifth Set of Data Requests to CRE. For the reasons specified below, CRE requests the Board grant its Motion objecting to the Town’s Fifth Set of Data Requests.

OBJECTIONS

1. CRE objects to each of the data requests as irrelevant to the proceeding.
2. CRE objects to each of the data requests as duplicative.
3. CRE objects to Data Request, Nos. 5-2, 5-3, 5-7, 5-8, 5-12 and 5-13 as they seek commercially sensitive and proprietary information, as well as work-product and attorney-client privilege information.
4. CRE objects to each of the data requests as beyond the scope of the proceeding.

ARGUMENT

CRE objects to the Town’s Fifth Set of Data Requests as they seek plainly irrelevant information. EFSB Rule 1.27(b) only permits parties to request information that is “reasonable” and “relevant to the proceeding.” The Town’s Fifth Set of Data Requests seek information related to ongoing negotiations between CRE and National Grid related to a Right of Way

Agreement (“ROW”) and certain milestones related to the posting of security and a notice to proceed, matters that are currently in business negotiations between CRE and National Grid. For the reasons explained below, and as articulated in National Grid’s objection,¹ these questions are not relevant to the issues and scope of review in this proceeding. Information regarding the status of the negotiations between the companies as to on-going ROW agreement discussions, timing of security payments or issuance of notice to proceed are entirely irrelevant to the Board’s determination as to whether this project meets the “need” and “cost” and “impact” issues before it.

CRE also objects to the Town’s Fifth Set of Data Requests because they are duplicative. The Town’s Fifth Set of Data Requests seek substantially the same information sought by the Town in its Third Set of Data Requests, No. 3-4, sub-parts a through f. Like the Town’s Fifth Set of Data Requests, Data Request, No. 3-4 sought information regarding the status of the Large Generator Interconnection Agreement (“LGIA”), milestone dates, timeline, security posting and access to and payment for the National Grid right-of-way. These matters are under continued review and negotiation at this time.

Additionally, CRE objects to the Town’s Data Request, Nos. 5-2, 5-3, 5-7, 5-8, 5-12 and 5-13 as they call for commercially sensitive and proprietary information as well as work-product and attorney-client privilege information. Specifically, these data requests seek “copies of any and all documents, including correspondence, which relate or pertain to negotiations or discussions between National Grid and [CRE]” regarding National Grid’s right-of-way, regarding when security will be posted and regarding notice to proceed. *See* Town’s Data Request, Nos. 5-2, 5-7 & 5-12. These data requests also request CRE identify “each and every

¹ CRE concurs with each of the objections articulated in National Grid’s objection, particularly since the questions posed to CRE and National Grid are identically worded.

meeting[,]" those that attended and a description of the discussions and/or any decisions made regarding National Grid's right-of-way, regarding when security will be posted and regarding notice to proceed. See Town's Data Request, Nos. 5-3, 5-8 & 5-13.

The information sought in these data requests is commercially sensitive and proprietary business information regarding CRE's negotiations strategy. If CRE is forced to provide the information requested, that production could adversely impact CRE ability to fairly negotiate and secure an agreement with National Grid. Likewise, some of the information sought in these data requests contains protected work-product and attorney-client privilege information.

Lastly, CRE objects to the Fifth Set of Data Requests as they seek information beyond the scope of this proceeding. This proceeding, EFSB Docket 2017-01, involves National Grid and CRE's joint application to construct the Burrillville Interconnection Project, a transmission line project. EFSB Docket 2015-06 involves Invenegy Thermal Development LLC's application to build the Clear River Energy Center, a generation project. Discovery is closed in EFSB Docket 2015-06. It appears that the Town is trying to circumvent the procedural schedule in Docket 2015-06 by asking questions that pertain to the generation facility in the transmission line docket.

Accordingly, CRE objects to the Town's Fifth Set of Data Requests.

CLEAR RIVER ENERGY LLC
By its Attorney,

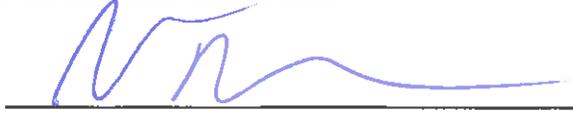


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Dated: February 23, 2018

CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2018, I delivered a true copy of the foregoing document via electronic mail to the parties on the attached service list.

A handwritten signature in blue ink is positioned above a solid horizontal line. The signature is stylized and appears to consist of several loops and a long tail.

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