

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

In re: The Narragansett Electric Company :
(E-183 115 kV Transmission Line : Docket No. SB-2003-01
Relocation Project – A/C I-195 Relocation) :

ORDER

I. Introduction

On April 9, 2003, The Narragansett Electric Company (“Narragansett” or the “Company”) filed a Notice of Intent Application for modification of the E-183 115 kV Transmission Line (the “E-183 Line”) with the Energy Facility Siting Board (the “EFSB” or “Board.”) In its Application, Narragansett sought approval for the relocation of approximately 6200 feet of the E-183 Line pursuant to R.I.G.L. §§ 42-98-1 et seq. and Rule 1.6(f) of the Board’s Rules of Practice and Procedure (“EFSB Rules.”) Following Narragansett’s filing, Patrick C. Lynch, Rhode Island Attorney General, and the cities of Providence and East Providence (collectively “Intervenors”) have intervened in this proceeding.

II. The Project

The E-183 Line extends 16.2 miles between the Franklin Square Substation in Providence and the Brayton Point Power Station in Somerset, Massachusetts. The Project proposed by Narragansett is the relocation of approximately 6200 feet of the E-183 Line from the west bank of the Providence River, across India Point, to the east bank of the Seekonk River in East Providence. The relocation of the E-183 Line between the east bank of the Providence River and the west bank of the Seekonk River is necessitated by the Rhode Island Department of Transportation’s (“RIDOT”) plans to relocate I-195. Narragansett has also proposed to

reconstruct the Providence and Seekonk River crossings because of the age, condition and configuration of the transmission structures at the river crossings.

III. EFSB Proceedings

A. The Board's review under Rule 1.6(f).

Narragansett filed its application pursuant to Rule 1.6(f), which provides for an abbreviated application followed by a public hearing "in one or more of the cities or towns affected by [the] application" and a determination within sixty (60) days of the filing as to whether the project "may result in a significant impact on the environment or the public health, safety and welfare." If the Board determines that a project may result in such an impact, it conducts a full review of the project as provided in its Rules. On the other hand, if it determines that the project will not result in a significant impact on the environment or the public health, safety and welfare, the project does not constitute an "alteration" and the project may proceed without further EFSB review.

In conformity with Rules 1.6(f) and (g), the Board convened a hearing at the Vartan Gregorian School in Providence on June 11, 2003 at 7:00 p.m. At this hearing, nineteen (19) members of the public made statements and the Board heard testimony from two company engineers (Beron and Campilii) and Edmund T. Parker Jr., P.E., Chief Engineer of RIDOT. The hearings continued at the offices of the Public Utilities Commission on July 10 and 15 with statements from additional members of the public and testimony from Messrs. Campilii and Parker and from Narragansett's environmental consultant, Susan Moberg. The Board held an evening hearing on August 5, 2003 in the East Providence City Hall to take additional statements from the public. The last hearing was held at the PUC offices on August 6, 2003. At this hearing, two Narragansett witnesses, Ms. Moberg and William H. Bailey, Ph.D., testified.

At the end of the hearing on August 6, several of the Intervenors stated their intention to file motions to convert the proceedings to a full hearing. At the same time, the Intervenors sought to reserve their right to provide witnesses and evidence if the Board denied their motions.

B. Stipulation and Consent Order

On September 30, 2003, the parties filed a Stipulation and Consent Order, a copy of which is attached hereto ("Stipulation"), which provides a framework for further proceedings in this case. The Stipulation proposes that certain specified state and local agencies be asked for written advisory opinions. According to the Stipulation, following receipt of the advisory opinions by the Board, the parties would file pre-filed testimony and the Board would conduct a final hearing on the Project.

The Board discussed the Stipulation at an open meeting on October 10, 2003 and has determined that, with several minor modifications, the Stipulation is reasonable and should be approved.

In accordance with the Stipulation, the Board designates the following agencies to provide advisory opinions regarding the expected impacts of the Project. Although we expect the designated agencies to exercise their discretion as to the subject areas of the advisory opinions, we request that the agencies address at a minimum the issues listed below. The agencies and issues are as follows:

- Rhode Island Department of Health – the potential public health effects relating to electromagnetic fields
- Rhode Island Department of Environmental Management – the potential impact on the natural environment.
- Statewide Planning Program – planning and land use issues
- Public Utilities Commission with participation of Division of Public Utilities and Carriers and State Energy Office – alternatives (which shall include Narragansett's proposal) including routes and configuration, verification of the reasonableness of the costs of constructing any of the alternatives, and safety issues related to alternatives

- Providence Planning Board – whether the proposed land use would be consistent with its comprehensive plan.
- East Providence Planning Board. – whether the proposed land use in consistent with its comprehensive plan.

Each of the agencies is requested to provide its advisory opinion within forty-five (45) days of the date of this Order (i. e., by December 12th, 2003.) In reviewing the impacts of the Project, it is important that the designated agencies understand the standards which the EFSB must apply in deciding this case.

The issues which the Board must determine in making its final decision are those specified in § 42-98-11(b) of the Siting Act which directs the Board to grant a license only after it determines:

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 ordinances, under which, absent this 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.

The Board expressed three concerns at its open meeting discussion of the Stipulation. First, section II-8 of the Stipulation provides “each designated agency shall make a witness available to sponsor and be examined on its advisory opinion.” The Board is concerned about

the burden that this will place on the designated agencies, and instead, "each designated agency may, and shall at the discretion of the EFSB Chair, make a witness available to sponsor and be examined on its advisory opinion." The Board is also concerned that although the stipulation contains a number of deadlines, it does not contain a deadline for conclusion of the final hearings. The Board finds that sixty (60) days following the commencement of the hearing is ample time for the parties to present any additional evidence related to this Project. Third, the Board accepts the stipulation with the understanding that no party will appeal the Board's decision for this project as it relates to conducting the proceeding under Rule 1.6(f).

Accordingly, it is hereby:

(Order Number 51) ORDERED:

1. The Stipulation and Consent Order of September 30, 2003 is approved with the following modification: section II-8 is amended to read "each designated agency may, and shall at the discretion of the EFSB Chair, make a witness available to sponsor and be examined on its advisory opinion."

2. The following state and local agencies are designated to render advisory opinions on the issues specified above:

- Rhode Island Department of Health
- Rhode Island Department of Environmental Management
- Statewide Planning Program
- Public Utilities Commission with participation of the Division of Public Utilities and Carriers and State Energy Office
- Providence Planning Board
- East Providence Planning Board.

3. The coordinator of the EFSB shall prepare and forward to each of the agencies designated in paragraph (2) above, a certified copy of this Order and the attached Stipulation, a separate written notice of designation and a copy of Narragansett's filing.

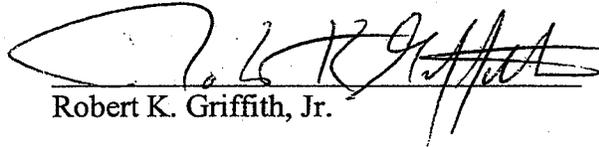
4. The Board shall conclude its final hearings within sixty (60) days of the commencement of the hearings under section II-9 of the Stipulation.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND, this the 28th day of October, 2003.

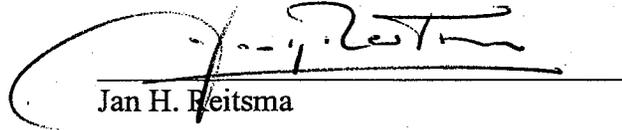
ENERGY FACILITY SITING BOARD



Elia Germani, Chairman



Robert K. Griffith, Jr.



Jan H. Reitsma

