



PATRICK LYNCH GROUP

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December 16, 2013

Margaret Curran, Chairperson
Janet Coit, Board Member
Kevin Flynn, Board Member
Rhode Island Energy Facility Siting Board
89 Jefferson Blvd.
Warwick, RI 02888

RE: Docket SB-93-1 – Undergrounding Prov-E. Prov Waterfront Power Line

Dear Chairperson Curran and Members of the Board:

Having placed considerable importance as Attorney General on burying the high-voltage power lines on the Providence- East Providence waterfront ten years ago, I am pleased that the Board has taken up this project, which has been delayed far too long. Since business-related travel prevents me from attending the Board's hearings, I would like to offer some observations which I hope will be helpful when the Board reconvenes December 17.

When this matter was first presented in 2003, it became clear to my Office that burial of the power lines presented a rare opportunity to dramatically improve the signature waterfront for the Capital City and the State for at least the next 100 years – long after you and I and even our children are gone. When I signed the Settlement Agreement in May, 2004, I was hopeful the project would proceed in a timely fashion, and of course had no way of knowing that Providence and East Providence would find themselves in the dire financial straits they now face.

Increased Public Interest Benefits of Burial

At the same time that the two cities confront major financial challenges, the public interest benefits of burying the waterfront power lines have become even more compelling than when we began this effort. The focus by many on the escalating costs of the project must be balanced against its lasting, less discussed public interest benefits, which have also escalated dramatically in the last decade. As you know, the Board is required by law to weigh cost considerations against public interest benefits, such as environmental quality, public health and safety, aesthetics, public recreation, and enhancing “the socio-economic fabric of the state” (RIGL 42-98-2, 11).

Consider that during the ten years this project has been in the works, the following developments have underscored the public interest benefits of burying the wires:



- Opening 19 acres of downtown land for development in Providence, as a result of the relocation of I-195, and making waterfront parcels in East Providence accessible for development. Many of these sites are in the visual corridor of the power lines, meaning that if the lines are buried, “property values in the area will lift substantially, enhancing development,” as a recent Providence Journal editorial stated.
- Construction of East Providence’s new residential Tockwotton Home in the shadow of the power lines and their electro-magnetic field (EMF). EMF exposure raises public health concerns recognized by state law (RIGL 39-25-2), and is of particular concern for residents. According to RIDOT’s Environmental Impact Statement on the relocation of I-195, burying the power lines would reduce EMF exposure to “virtually nil.”
- Construction (to be completed next year) of the linear park across the Seekonk River linking the highly popular East Bay Bike Path to India Point Park, which will likely exponentially increase use of the Bike Path by commuters and recreational cyclists entering the City.
- The emergence of an exciting proposal under consideration by the State for public use of the Shooters site, also overshadowed by the wires. This project could become a vibrant public destination for the capital region and the state.
- More than \$1 billion dollars in public funds spent to upgrade the area, including relocating I-195, improving India Point Park, building Waterfront Drive in East Providence, and reducing water pollution in the Upper Bay through the Combined Sewer Overflow project.
- Widespread power outages caused by storms and flooding, particularly during Irene. The waterfront power lines at the head of Narragansett Bay are located at the bull’s eye of past storm surges, which are likely to become more severe as the sea level rises over the next 100 years. Burying these wires will dramatically reduce the risk of outages.

Given the Board’s clear statutory mandate to factor public interest benefits into its decision making, I urge you to take judicial notice of these significant developments, which neither Mayor Taveras nor National Grid mentioned in their October 22 and November 4 letters, respectively, to the Board.

Statewide Benefits of and Support for Burial

Burying the waterfront wires has won broad public support not only from dozens of citizens groups, educational institutions, and municipal officials and governing bodies in Providence and East Providence, including the Presidents of Brown, RISD, and Johnson and Wales, but also substantial statewide support from state agencies, particularly DEM, DOT, EDC, and the Statewide Planning Program; numerous state office holders, including the current Governor and his predecessor; a unanimous resolution passed by the RI House of Representatives; waterfront developers with statewide impact such as the new Tockwotton Home and the RI Seafood Festival; half a dozen statewide organizations, including Save the Bay, the RI Building and Construction Trades Council, and the Conservation Law Foundation; and a petition at www.friendsofindiapointpark.org, which more than 1,000 people have signed, including residents of all 39 RI cities and towns.

Among the letters of support from organizations and more than 200 comments submitted by signers of the petition, there is a recurring emphasis on the importance of upgrading the Providence waterfront as a signature landmark of the City and the State. Ten million travelers a year pass by it on I-195 en route to and from Cape Cod. Burying these wires would greatly enhance the only water view from an interstate highway in Rhode Island, views that are a natural advertisement for the Ocean State, where tourism is our second largest industry. The benefits of increased property values, enhanced aesthetic appeal, and greater

economic development after burying the wires – which other mid-size cities like Chattanooga, Louisville, and San Antonio have experienced after burying their waterfront power lines – would be felt for generations to come.

Spreading the Cost to a Broader Base

It is illogical to place the fate of such a long term enhancement in the hands of two cities burdened by short term financial hardships. Burying the waterfront wires is a public works project, ie, one with benefits so far-reaching that they are incalculable. Multiple studies show that proximity to high-voltage power lines can depreciate property values by as much as 30%, but how do you estimate the monetary benefit of increased property values over 100-200 years due to buried power lines? The benefits are very significant but far too broad and too dependent on variables to be measurable.

When Rhode Island has undertaken other public works projects with lasting, incalculable benefits – such as relocating I-195, moving the rivers and creating riverwalks downtown, the current Combined Sewer Overflow project, and building TF Green airport – we have not placed their fate in the hands of strapped municipalities. We have spread out the financial burden over a broader base, including socializing surcharges across taxpayers or ratepayers statewide. The same approach makes sense for burying the power lines: the shortfall should not be covered only by Providence and East Providence ratepayers, as currently envisioned, but should be spread out to a broader base that will also benefit from the project.

Asking ISO-New England to Fund Burial Under the Seekonk River

The waterfront power lines play a critical role in providing electricity for Rhode Island and southeastern New England because they are part of the E-183 line that carries electricity between the Manchester Street station in Providence and the Brayton Point power plant in Somerset, MA. Power is then distributed to the East Bay from Brayton Point, and to the West Bay from Manchester Street. Recognizing the waterfront power lines' indispensable role in the region, ISO-New England, the regional grid organization, agreed in 2006 to contribute \$1.5 million to the burial project, which is equivalent to the cost, based on National Grid's 2004 estimate, of replacing the antiquated Seekonk River crossing with new overhead wires, in the event they aren't buried under the river.

But a strong case can be made that none of the three possible overhead routes across the Seekonk is feasible, and ISO's contribution to the project should instead pay for burying the wires under the Seekonk. The three possible overhead routes were added to the 2004 Settlement Agreement as a kind of afterthought, in case burial didn't happen. They have not been seriously vetted, and for various reasons are not likely to survive close scrutiny. The Army Corps of Engineers' qualms about one of these routes – the current location of the overhead Seekonk crossing – were so serious that in 2003 it withdrew its permit for lowering the wires, which National Grid had proposed, because lower wires would create a navigational hazard for sailing vessels passing under them to the marinas in East Providence. The two other possible routes, one on either side of the I-195 bridges across the Seekonk, present other serious problems that offer no clear path to resolution. The process of vetting them would further delay the project for years.

If National Grid, Providence, and East Providence were to join forces and successfully make the case for ISO to pay for burying the wires under the Seekonk, the regional grid's contribution to the project would increase from \$1.5 million to \$5-6 million, thus spreading some of the financial burden for the project to a larger entity, the regional grid, that would also benefit from it. Such additional financial support could eliminate the project's shortfall altogether, or reduce it to the point where the surcharge on ratepayers to cover the remaining shortfall would be a nominal amount, especially if spread among ratepayers statewide, as the Board has ordered for other projects, such as relocating power lines farther away from East Greenwich residences in 1994.

Updating National Grid's Cost Estimate

I commend the Board for encouraging National Grid to update its cost estimate for the project. Its last estimate in January, 2007, came to \$19.4 million, meaning that with at least \$17.2 million raised and designated for the project (see below), the shortfall would be about \$2 million, which could be covered by a surcharge of about six cents a month for the average Providence and East Providence ratepayer.

But National Grid's updated cost estimate will certainly be greater than \$19 million, though the total funds raised for the project will also increase when National Grid updates its calculation of the interest earned on the \$5.8 million that the company set aside for burial in 2004. If ISO pays for burying the wires under the Seekonk, the amount raised for burial will increase more substantially. It seems unlikely the estimate for the project will increase by the 3% escalation figure that National Grid has applied to it, given the sluggish state of the economy and the resulting stiff competition among contractors, which has led Narragansett Bay Commission's construction projects in recent years to come in an average of 36% below their estimated cost.

Regarding funding the new cost estimate, I urge the Board to reject National Grid's request to pay for its updated estimate out of interest accrued on the funds set aside for burial in 2004. The obligation to produce a legitimate construction grade cost estimate always resided with National Grid under the explicit terms of the Settlement Agreement. That financial obligation cannot be met by using burial funds without the unanimous consent of the parties to the Settlement.

National Grid's reluctance to use the operative term "construction grade" with regard to its estimates suggests that the company has been in breach of its obligation under the Settlement Agreement to provide such an estimate on November 15, 2004. National Grid's current request to use burial funds to finance its updated estimate represents another breach of contract, and the Board has neither a basis nor jurisdiction to entertain such a request. It should order National Grid to produce its upgraded construction grade cost estimate at the company's expense.

As a point of clarification, the Board should ask National Grid how it paid for estimates in the past and why it objects to paying for an updated one by the same method now. Allowing National Grid to use burial funds – many of them laboriously accumulated over many years – to meet its obligation under the Settlement Agreement is not in the best interest of completing the project. The Board should also ask National Grid for a breakdown of the \$500,000 to \$1 million it estimates spending on updating its estimate, and for a comparison of its projected budget to the cost of its earlier estimates.

Similarly, the Board should ask National Grid why it estimates a timeline of "approximately nine months" to update its estimate, when it produced its initial estimate in five and a half months in 2004. National Grid has already benefited from the onsite analysis of horizontal directional drilling done by JD Hair, a leading expert in the field, when it brought the Oklahoma company to Providence in 2004. Hopefully National Grid could also save time and money by taking advantage of the extensive borings data that the Narragansett Bay Commission has compiled on soils in the Providence River, which National Grid was provided with at the Board's October 23 hearing.

At Least \$17 Million Raised and Designated for Burial

As National Grid stated at the October Board meeting, as well as in its April 5, 2013, letter to the Board, about \$17.2 million has been raised and designated for burial, as follows:

- **\$8.1 million:** the \$5.8M refund for Providence & East Providence ratepayers set aside in 11/04, and \$2.3M in interest accrued through 12/12, meaning that more interest will be forthcoming.
- **\$2.5 million** from the federal earmark obtained by then Senator Chafee in 6/04.

- **\$2.7 million** committed by then Gov. Carcieri in 6/04, including \$200k committed by then RIDOT Dir. Capaldi.
- **\$2 million** from National Grid's Storm Fund.
- **\$1.5 million** from ISO-New England, which will increase if National Grid updates its '04 estimate, and would increase significantly if ISO agrees to pay for undergrounding the Seekonk crossing, per above.
- **\$.375million** from two Greenways Grants through RIDEM and RIDOT.

More details on these funds and their current status are available at www.friendsofindiapointpark.org. The suggestion in Mayor Taveras' October 22 letter that "essentially all of the funds" raised for burial will have to be used to address feasibility issues regarding horizontal directional drilling is inaccurate at best. Even if JD Hair had not made onsite visits to confirm the feasibility of directional drilling for the project, it defies logic to suggest that it would cost \$17 million to resolve any remaining feasibility issues.

I appreciate your considering these observations, and hope they are helpful in bringing this important project finally to completion. I look forward to attending future Board hearings as my schedule permits.

Sincerely,


Patrick C. Lynch