

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
ENERGY FACILITY SITING BOARD

IN RE: The Narragansett Electric Company Notice of  
Intent to Relocate Transmission Lines in Providence  
and East Providence (E-183 115kV Transmission Line  
Relocation Project – A/C I-195 Relocation)

Docket No. SB-2003-01

**Memorandum of City of Providence**

The City of Providence (“Providence”) gratefully acknowledges the Energy Facility Siting Board’s December 17, 2013 request for an update on the status of certain land acquisitions required for the underground alignment of the E-183 transmission line. In the decade since the parties executed the 2004 Settlement Agreement which brought litigation regarding the relocation of the power lines to a close, Providence’s understanding of its obligations has evolved and become more concrete. However, the timing of its exercise of the power of eminent domain remains problematic, for both economic and practical reasons.

The projected underground alignment at the time of the Settlement Agreement did not necessarily require the City of Providence to acquire any additional property. Depending upon National Grid’s ultimate determination of the location for the directional drilling’s “take off” and “landing” points, the Providence River crossing might have been achieved utilizing Providence’s existing streets, rights-of-way, and parklands. It was literally years later that National Grid’s research and advice from drilling consultants pinpointed the particular parcel upon which the “landing” was to be made.

That parcel, also known as Plat 18, Lot 18, with a street address of 587 South Main Street, was adjacent to Al Forno, a popular Providence restaurant. At that time, it was owned by Harbour Bluffs, LLC, a group holding it for redevelopment once the Route I-195 relocation had been completed, thereby opening up more than forty acres of prime waterfront property. The

value of the parcel was expected to rise with the development of the I-195 lots. When the Settlement Agreement was signed in 2004, the parcel was assessed at \$235,195. This rose to \$346,700 from 2007-2009, to \$422,700 from 2010-2012, and to \$504,200 in 2013. It was appraised at roughly \$1.2 million when serious discussions about eminent domain began in 2009.

Providence has not had an extra million dollars to deposit in the registry of court to enable the commencement of a condemnation action. However, the Providence Redevelopment Agency (PRA) has the capacity to provide the necessary funds, provided that the exercise of eminent domain involves a parcel which is part of a redevelopment plan. After some initial reluctance on the part of the PRA, in late 2009 the Council began to consider an amendment to the so-called Old Harbor Plan, adding “to the Official Redevelopment Plan for the East Side Renewal Project No R.I. R-4 as amended, as a parcel to be acquired for public purposes in furtherance of the objectives of said Official Redevelopment Plan, specifically the relocation and upgrade of utilities: Plat 18, Lot 18.”

While that amendment was pending in committee, in early 2010 the City’s attorneys met with the owners of Lot 18, National Grid’s attorneys, and representatives from the drilling consultant. Contemporaneous notes reflect the situation:

[The City has] serious questions about whether we could proceed to a condemnation without having any specificity about the area which must be taken. The drilling people haven’t refined the scope. In fact, the process they outline is to put the job out to bid to see what tolerances various firms are willing to commit to – and that would presumably give us more of an idea of what portion of the lot will be required. They did say the process from this point is likely to be around 3 years.”

However, although four years have passed since those notes were taken, the job has not been put out to bid and there has been no further refinement of the magnitude of the taking. Meanwhile, the Administration changed, and the new Administration was less interested in using the PRA’s resources to handle the eminent domain acquisition. It was unable, however, to locate

the requisite funds while trying to address the “Category Five” fiscal storm left by the outgoing Administration. And thus, Lot 18 remains in private hands – although new hands, as it was sold in December 2012, for \$1,050,000.

Although Providence’s focus on property acquisition has been limited to Lot 18, since it appears to be indispensable to the initial river crossing, there is some possibility that additional property rights would need to be secured on the Providence side of the second river crossing. Depending upon the route ultimately selected, Brown University’s boat house might fall within the ambit of the required easement.

While one could spend a fair amount of time mulling over what has to come first, the chicken or the egg, in a nutshell the City of Providence’s position is this: National Grid is asking that Providence acquire Lot 18, at a cost of a little over \$1,000,000, although the final cost of the project (and indeed ultimate feasibility of the project) will be unknown at that point, because of uncertainties connected with the directional drilling. Four separate tunnels, two under each river, have to be constructed. It is unknown whether or not these tunnels can successfully be constructed in those locations, and whether they can be successfully “landed” on the targeted sites on the opposite sides of both rivers. The final cost of drilling and the viability of the project will remain unknown until the drilling attempts are successful. However, our analysis is that developing the engineering, obtaining the permits, and attempting the directional drills might well exhaust the available funds without in any way guaranteeing the success of the project.

If the river crossing attempts fail, a partial solution of proceeding to bury the lines within India Point Park is not a viable option because of the cost to make the transition from an above ground wire to an underground wire. Two large parcels of land would have to be acquired to

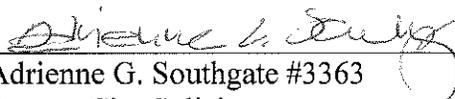
house the two transfer stations that would need to be constructed, each of which National Grid estimates to cost more than the acquisition of Lot 18.

In order for National Grid to install the underground pipes, the City of Providence will need to address the following challenges: (a) the pipes have to cross at least two entrances and exit ramps to the new I-195, requiring an engineering solution or closure of the entrances/exits for a period of time; (b) about one mile of lay-down space is required for enough pipe to be dragged through the tunnels, and the tentative location for this is Wickenden Street, for which a lengthy closure would be difficult.

Essentially, the City of Providence does not wish to explain to its taxpayers that it so conducted itself, or acquiesced in conduct, that resulted in the expenditure of substantially all the funds which had been originally earmarked for the E-183 underground alignment without the attainment of the ultimate goal. Given the immense uncertainties presented by this state of facts, and the lack of the requisite funds, the City of Providence believes it would be irresponsible to move forward with the acquisition of Lot 18 at this time. Should the additional engineering and permitting produce a more refined footprint for land acquisition, the City is willing to discuss how and when to initiate condemnation.

Respectfully submitted,

THE CITY OF PROVIDENCE

By:   
Adrienne G. Southgate #3363  
Deputy City Solicitor

**CERTIFICATION**

I hereby certify that on 13<sup>th</sup> day of January 2014, I caused a true copy of the foregoing to be served on the following by mailing a copy of same, first class, postage pre-paid and/or electronic mailing.

|  |  |
|--|--|
| Peter V. Lacouture, Esq.<br>Robinson & Cole LLP<br>One Financial Plaza<br>Suite 1430<br>Providence, RI 02903-2485  | <a href="mailto:placouture@rc.com">placouture@rc.com</a>                                       |
| National Grid  | <a href="mailto:jennifer.hutchinson@nationalgrid.com">jennifer.hutchinson@nationalgrid.com</a> |
| National Grid  | <a href="mailto:celia.obrien@nationalgrid.com">celia.obrien@nationalgrid.com</a>               |
| Department of Attorney General<br>150 South Main Street<br>Providence, RI 02903  | <a href="mailto:LWold@riag.ri.gov">LWold@riag.ri.gov</a>                                       |
|  | <a href="mailto:klyons@riag.ri.gov">klyons@riag.ri.gov</a>                                     |
|  | <a href="mailto:Jmunoz@riag.ri.gov">Jmunoz@riag.ri.gov</a>                                     |
|  | <a href="mailto:dmacrae@riag.ri.gov">dmacrae@riag.ri.gov</a>                                   |
| Division of Public Utilities & Carriers  | <a href="mailto:Thomas.kogut@ripuc.state.ri.us">Thomas.kogut@ripuc.state.ri.us</a>             |
|  | <a href="mailto:JHagopian@dpuc.ri.gov">JHagopian@dpuc.ri.gov</a>                               |
|  | <a href="mailto:Steve.scialabba@ripuc.state.ri.us">Steve.scialabba@ripuc.state.ri.us</a>       |
| Janet Coit, Director<br>Dept. of Environmental Management<br>235 Promenade Street<br>Providence, RI 02908  | <a href="mailto:janet.coit@dem.ri.gov">janet.coit@dem.ri.gov</a>                               |
|  | <a href="mailto:Rayna.maguire@dem.ri.gov">Rayna.maguire@dem.ri.gov</a>                         |
| Kevin Flynn, Associate Director for<br>Division of Planning<br>Department of Administration<br>One Capitol Hill, 3 <sup>rd</sup> Floor<br>Providence, RI 02903 | <a href="mailto:kevin.flynn@doa.ri.gov">kevin.flynn@doa.ri.gov</a>                             |
| Adrienne G. Southgate, Deputy City Solicitor<br>City of Providence<br>Department of Law<br>275 Westminster Street<br>Providence, RI 02903                      | <a href="mailto:asouthgate@providenceri.com">asouthgate@providenceri.com</a>                   |
| RI Public Utilities Commission<br>89 Jefferson Blvd.<br>Warwick, RI 02888  | <a href="mailto:Cynthia.WilsonFrias@puc.ri.gov">Cynthia.WilsonFrias@puc.ri.gov</a>             |
|  | <a href="mailto:alan.nault@puc.ri.gov">alan.nault@puc.ri.gov</a>                               |
|  | <a href="mailto:Paul.roberti@puc.ri.gov">Paul.roberti@puc.ri.gov</a>                           |
| John J. Spirito, Esq. (e-mail only)<br>Division of Public Utilities and Carriers   | <a href="mailto:jspirito@ripuc.state.ri.us">jspirito@ripuc.state.ri.us</a>                     |
| JoAnne Sutcliffe (e-mail only)   | <a href="mailto:Josut321@cox.net">Josut321@cox.net</a>   |

|   |  |
|---|--|
| Timothy J. Chapman, City Solicitor<br>City of East Providence<br>145 Taunton Avenue<br>East Providence, RI 02914-4505                                 | <a href="mailto:tchapman@cityofeastprov.com">tchapman@cityofeastprov.com</a>     |
| Mark W. Russo, Esq.<br>Ferrucci Russo P.C.<br>55 Pine Street, 4th Floor<br>Providence, RI 02903   | <a href="mailto:mrusso@frlawri.com">mrusso@frlawri.com</a>                       |
|   | <a href="mailto:wsmith@frlawri.com">wsmith@frlawri.com</a>                       |
|   | <a href="mailto:jboyle@cityofeastprov.com">jboyle@cityofeastprov.com</a>         |
| Terence Tierney (e-mail only)   | <a href="mailto:tierneylaw@yahoo.com">tierneylaw@yahoo.com</a>                   |
| <b>File an original and 7 copies w/:</b><br>Nicholas Ucci, Coordinator<br>Energy Facility Siting Board<br>89 Jefferson Boulevard<br>Warwick, RI 02888 | <a href="mailto:nicholas.ucci@puc.ri.gov">nicholas.ucci@puc.ri.gov</a>           |
|   | <a href="mailto:Margaret.curran@puc.ri.gov">Margaret.curran@puc.ri.gov</a>       |
|   | <a href="mailto:patricia.lucarelli@puc.ri.gov">patricia.lucarelli@puc.ri.gov</a> |
|   |  |

*Crystal J. Holt*