

May 16, 2016

**Via Federal Express/Electronic Mail**

Todd Anthony Bianco, EFSB Coordinator  
RI Energy Facilities Siting Board  
89 Jefferson Blvd.  
Warwick, RI 02888

***Re: Invenergy Docket No. SB-2015-06***

Dear Mr. Bianco:

On behalf of Invenergy, enclosed please find an original and ten copies of Invenergy Thermal Development LLC's Responses to The Town of Burrillville's 8<sup>th</sup> Set of Data Requests.

Please let me know if you have any questions.

Very truly yours,



ALAN M. SHOER  
[ashoer@apslaw.com](mailto:ashoer@apslaw.com)

Enclosures

cc: Service List

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

**IN RE: INVENERGY THERMAL DEVELOPMENT LLC :  
APPLICATION TO CONSTRUCT AND :  
OPERATE THE CLEAR RIVER ENERGY : SB-2015-06  
CENTER, BURRILLVILLE, RHODE ISLAND :**

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8-1 GAC Treatment following Extraction at the Pascoag Well — The proposed granular activated carbon (GAC) treatment system needs to be evaluated. In Table 6.2-2 of the October 2015 application, the proposed MTBE concentration going to the proposed plant is 55 µg/L, and following use at the plant as cooling water, the compositional projection of MTBE going to the Burrillville WWTP is 200 µg/L. Please provide a process and instrumentation diagram for the proposed GAC treatment system.

RESPONSE: 8-1 The design of the granular activated carbon (“GAC”) will be such that water supply to the plant will be below drinking water standards and we will control to reduce MTBE to 40 ppb after the first vessel and the second vessel will remove the remaining MTBE to a non-detect level, but we conservatively assumed that a max limit of 40ppb could get past the second vessel and this was the basis for the 200 ppb in the waste stream. The normal operating flow to the waste water treatment plant will not contain any MTBE.

Engineering for the water treatment system is in the early stages of design; therefore, no piping and instrument diagrams are available at this time. Attached as Exhibit 1 is a pictorial flow diagram that shows the basic process steps for the system.

RESPONDENT: Amit Nadkarni, Invenergy Thermal Development LLC

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Invenergy Thermal Development LLC's ("Invenergy") Application with the RI Energy Facility Siting Board ("EFSB") and the numerous environmental permit applications which will be filed for the CREC project fully detail the environmental impacts of the project and include all of the elements which would be required for an EIS. The USACE did not notify Invenergy in the project pre-application meeting that an EIS would be required for the project. For the USACE to require an EIS for the project, the district engineer would need to conclude that the environmental consequences of the project have not been properly considered through the EFSB and other permitting processes, such as RIDEM. If required, the scope of such an EIS would be limited to the aspects of the project for which the USACE has control and responsibility.

The other air and water permits are under the responsibility of the RIDEM, as the delegated agency from U.S. EPA for these federal air and water permits. Rhode Island (unlike Massachusetts), does not have a separate state NEPA equivalent requirement, at the state level. Nonetheless, Invenergy understands that the RI EFSB has the responsibility to evaluate all individual and cumulative environmental impacts of the application. And RIDEM will be conducting its independence evaluation of the air, water and other natural resource impacts of the project also.

RESPONDENT: Michael Feinblatt, ESS Group, Inc.

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8-4 NEPA as defined by CEQ may not have been adequately addressed in the ESS application for CERC. Specifically, it appears that the analysis of alternatives for the project have not been clearly analyzed and compared to the preferred alternative. Please explain/clarify.

RESPONSE 8-4: The CREC project's NEPA requirements will be determined by the USACE, as detailed in Response 8-3. Section 10 of the EFSB Application provided a detailed study of project alternatives. Section 3.1.6.1 of the Major Source Permit Application also provided an analysis of project alternatives. Project alternatives will be further detailed in the Wetlands Alteration Permit Application to be submitted to the Rhode Island Department of Environmental Management ("RIDEM") and the Individual Permit Application to be submitted to the USACE, as required.

RESPONDENT: Michael Feinblatt, ESS Group, Inc.

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8-5                      Should other federal agencies be listed as involved, especially FERC, as FERC is part of the Forward Capacity Market/Auction which seems to be one of the major driving forces for the construction timeline of this facility? Please explain/clarify.

RESPONSE 8-5:        The Federal Energy Regulatory Commission (“FERC”) is an independent agency that regulates by license the interstate transmission of electricity, the siting of natural gas pipelines and certain types of power generation projects (e.g. Hydro-Electric projects). However, FERC is not a permitting/licensing agency for the siting and construction of a new natural gas electric generation project such as CREC. As referenced in the application (pg 115), with FERC Orders 888 and 889 there began substantial de-regulation of the energy markets.

Under the Federal Power Act (“FPA”), CREC will be subject to FERC rate regulation with respect to its wholesale sale of energy, capacity and ancillary services, once it begins making such sales. Accordingly, prior to CREC going into commercial operation, the Project Company will need to have a rate tariff (e.g., market-based rate tariff) or rate schedule on file with, and accepted by, FERC with respect to the Project Company’s sale of energy, capacity and ancillary services from the project. This rate schedule filing would need to be made in the future before the Project Company begins generating test power. However, unlike gas-pipeline projects (e.g. Spectra’s expansion or hydro-power projects) Invenergy will not need a FERC permit or license for the siting or construction approvals for this natural gas combined cycle energy generation project.

Also, since CREC intends to sell power only at wholesale and own facilities used only for wholesale power sales, it will be considered eligible for exempt wholesale generation (“EWG”) status under the Public Utility Holding Company Act (“PUHCA”)

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Also, with regard to the gas lines to interconnect to Spectra, pursuant to the federal Natural Gas Act, the gas interconnection facilities that CREC plans to construct and own do not require FERC approval because they are not interstate (they do not cross state lines), and they are to be built and owned by the Project Company and used solely to transport natural gas for use by its generation plant.

Lastly, ISO-New England administers the Forward Capacity Market auctions. ISO-New England is an independent, not-for-profit corporation responsible for ensuring that the region has reliable, competitively priced wholesale electricity today and into the future. ISO-NE is not a FERC permitting agency for purposes of NEPA.

The other federal agencies that are identified in the application are the Federal Aviation Administration ("FAA") which will be consulted, as relates to the height of the stacks.

RESPONDENT: Michael Feinblatt, ESS Group, Inc.

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8-7 Under NEPA — Environmental Justice must be addressed. We have found no references to environmental justice in the documents. Please explain/clarify.

RESPONSE 8-7: The CREC project’s NEPA requirements will be determined by the USACE, as detailed in Response 8-3. Environmental Justice (“EJ”) is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. Environmental justice communities are commonly identified as those whose residents are predominately minorities or low income. Project proponents must demonstrate that project impacts are not disproportionately impacting EJ communities.

The State of Rhode Island classifies EJ communities as areas with percentages in the top 15% of the state for low-income residents and/or non-white populations. A figure showing the mapped EJ areas in Rhode Island can be found on the RIDEM web-site:

<http://www.dem.ri.gov/envequity/graphics/ejareas.jpg>

As shown on the attached figure, there are no EJ communities located within Burrillville, Glocester, Smithfield, or North Smithfield. The nearest RI EJ communities are located in Woonsocket, more than 10 miles away from the project site. The nearest EJ communities in Massachusetts are located in Southbridge, also more than 10 miles away from the project site. The nearest EJ communities in Connecticut are located in Thompson, more than 5 miles away from the project site.

Based on the location of the CREC facility, its projected impacts, and the relative locations of the nearest EJ communities, the proposed impacts from the CREC will not disproportionately impact any EJ communities.

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8-8 Under NEPA — Socioeconomic impacts and analysis - this section does not seem to be clearly identified. Please explain/clarify.

RESPONSE 8-8: The CREC project's NEPA requirements will be determined by the USACE, as detailed in Response 8-3. The economic benefits of the CREC project are detailed extensively in Section 5.1 of the EFSB Application.

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8-9 Cumulative impacts — under NEPA, cumulative impacts need to be addressed. This includes items like "Offsite Storage." Those areas need to be included in the full analysis of this document. Please explain/clarify.

RESPONSE 8-9: The CREC project's NEPA requirements will be determined by the USACE, as detailed in Response 8-3. The EFSB Application addressed the potential cumulative impacts associated with all aspects of the project. The Wetlands Alteration Permit Application to be submitted to RIDEM and the Individual Permit Application to be submitted to the USACE, will each address the proposed impacts and mitigation measures associated with all aspects of the project, including the generating facility, the electric transmission line, the water treatment facility, the water supply line, the sewer line, the natural gas interconnection line, and all areas designated for equipment staging during construction. Invenergy understands that EFSB approval of the project will be contingent on the receipt of all of the required permit approvals associated with all aspects of the project.

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8-15 Under the alternatives section — it appears that there is a cut and paste from another document which has nothing to do with Rhode Island nor species of concern in Rhode Island. Please explain/clarify.

RESPONSE 8-15: It is unclear which section is being referred to in 8-15.

RESPONDENT: Michael Feinblatt, ESS Group, Inc.

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INVENERGY THERMAL DEVELOPMENT LLC  
By its Attorneys,

/s/ Alan M. Shoer

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Dated: May 16, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that on May 16, 2016, I delivered a true copy of the foregoing responses to the Energy Facilities Siting Board via electronic mail to the parties on the attached service list.

/s/ Alan M. Shoer

# **EXHIBIT 1**

# Activated Carbon System Process Flow Diagram

