



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION
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Chairperson Margaret E. Curran
Commissioner Paul J. Roberti
Commissioner Herbert F. DeSimone, Jr.

MEMORANDUM

To: Patricia S. Lucarelli, Esq.
From: Cindy Wilson-Frias
Cc: Service Lists - Docket Nos. 4609 and SB-2015-06
Date: March 21, 2016
Re: PUC Docket No. 4609 – Advisory Opinion to EFSB

After conducting the pre-hearing conference in the above-referenced matter, there are two issues for which the Public Utilities Commission (PUC) seeks clarification:

1. R.I. Gen. Laws § 42-98-9(d) states that the public utilities commission shall conduct an investigation in which the division of planning of the department of administration, the [office of energy resources] and the division of public utilities and carriers shall participate and render an advisory opinion as to the need for the proposed facility. R.I. Gen. Laws § 42-98-9(b) states that the board shall consider as issues in every proceeding the ability of the proposed facility to meet the requirements of the laws, rules, regulations, and ordinances under which, absent this chapter, the applicant would be required to obtain a permit, license, variance, or assent. The agency of state government or of a political subdivision of the state which, absent this chapter, would have statutory authority to grant or deny the permit, license, variance, or assent, shall function at the direction of the board for hearing the issue and rendering an advisory opinion thereon. The PUC does not possess jurisdiction over the granting of licenses.

In EFSB Order No. 88, referencing Issue 1, the PUC has been designated to render an advisory opinion on the need for the Project and whether the Project is cost-justified consistent with the objective of ensuring that the construction and operation of the facility will be in compliance with all applicable law, rules and regulations. As part of this, the PUC has been directed to consider the need for the Project based on projected cost, as also discussed in Issue 2A. Issue 2B is whether the proposed facility is capable of remaining consistent with the objective of ensuring that its construction and operation will comply with all applicable laws, rules, regulations, and ordinances which, absent the Act, a permit, license, variance, or assent would be required.

Please clarify what the PUC should be considering in light of the fact that the PUC does not have statutory authority to grant or deny the permits, licenses, or variances required for the Applicant to move forward.

Absent any such clarification, the PUC will require the Applicant to provide an update on the status of permits, licenses, or variances at the end of the PUC process and just prior to issuing the Advisory Opinion.

2. In EFSB Order No. 88, referencing Issue 2A, the PUC has been designated to render an advisory opinion on whether the proposed project will produce energy at the lowest reasonable cost to the consumer. “In rendering its opinion, the PUC must specifically analyze the projected cost impact of the Facility upon Rhode Island retail electric customers under a wide range of reasonable factual assumptions involving the types and costs of fuel to be used.” This charge from the EFSB has the potential to be far too broad and speculative. The PUC seeks clarification on what “a wide range of reasonable factual assumptions involving the types and costs of fuel to be used” would entail.

The PUC further seeks clarification of the level of granularity sought by the EFSB in light of the fact that the proposed Facility will be operating in a regional market. The PUC suggests that a more appropriate question for PUC consideration may be the following: “The PUC must specifically analyze the projected wholesale market cost impact of the Facility on RI retail ratepayers based on the information provided in the Application.” It is unclear whether this changes the EFSB’s intent, but absent any such clarification, the PUC will be limiting its review to the revised question.