

**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 :

PRELIMINARY DECISION AND ORDER

I. INTRODUCTION

On October 29, 2015, Invenergy Thermal Development LLC¹ (Invenergy or Applicant) filed with the Energy Facility Siting Board (EFSB or Board) an application² to construct and operate the Clear River Energy Center (Facility), a combined-cycle electric generating facility to be located on Wallum Lake Road in Burrillville, Rhode Island. The proposed facility will have a nominal power output at base load of approximately 850-1,000 megawatts (MW) while firing natural gas. The electric power generated from the proposed facility would be transmitted through a new 345kV transmission line to be installed from the facility along an existing National Grid right-of-way to the Sherman Road Substation in Burrillville. The Facility qualifies as a major energy facility, defined by R.I. Gen. Laws § 42-98-4, as it would be used for the generation of electricity, designed or capable of operating at a gross capacity of 40 MW or more.

¹ Invenergy Thermal Development LLC is a Delaware Limited Liability Company authorized to do business in Arizona, Florida, and Texas. It is an independently owned company that develops and operates power generation and energy storage facilities in North America and Europe. Clear River Energy LLC is a Delaware Limited Liability Company that is the project company for the Clear River Energy Center project and is authorized to do business in Rhode Island. Both Invenergy Thermal Development LLC and Clear River Energy LLC are subsidiaries of Invenergy Thermal Global LLC, a Delaware LLC.

² The application and all documents filed are available at available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or at <http://www.ripuc.org/efsb/index.html>, organized by docket number.

II. THE FACILITY

Invenergy proposes to construct a combined-cycle electric generating facility to be located adjacent to the Spectra Energy Algonquin Compressor Station site on Wallum Lake Road in Burrillville, Rhode Island. The proposed Facility would be configured as a two-unit one-on-one duct-fired, combined-cycle configuration with a heat recovery steam generator equipped with natural fired duct burners and one steam turbine. The combustion turbine, steam turbine, and generator of each unit are proposed to be connected via a common shaft. Each gas turbine is to fire natural gas as a primary fuel. When natural gas is unavailable, the turbines can fire ultra-low sulphur diesel fuel as a backup fuel from two one-million gallon on-site storage tanks for limited periods. The ultra-low sulphur diesel would be delivered to the proposed Facility by truck. Natural gas would be supplied by a pipeline from the adjacent Spectra Energy Algonquin Compressor Station.

While firing natural gas, the Applicant reports that the proposed Facility will have a nominal power output at base load of approximately 850-1,000 MW (with supplementary heat recovery steam generator duct firing). The nominal power output at base load while firing ultra-low sulphur diesel would be approximately 650-850 MW. The power generated by the facility is proposed to be transmitted through a new 345 kV line to the Sherman Road Substation. Each of the units would utilize air-cooled condensers. The Applicant states that this will significantly reduce the amount of water used and the amount of wastewater generated as compared to traditional condensers. A dedicated pipeline from the Pascoag Utility District (PUD) water supply well field is proposed to supply water to the Facility, and its wastewater is proposed to be discharged to the Burrillville Wastewater Treatment Facility through a dedicated sewer line. Invenergy has represented that its continued use and cleaning of the groundwater from this particular PUD well

will facilitate the remediation of this previously contaminated supply. The Facility is proposed to include state-of-the-art air emissions controls and sound abatement systems.

The identified purpose and function of the Facility is to help the New England Independent System Operator (ISO-NE) meet its capacity, reliability, and operational requirements and needs for the electric transmission network. Invenergy also listed the various benefits it believes that the Facility will provide to the region, including providing new, highly advanced generating technology, reducing air emissions on a regional basis, modernizing the electric generating infrastructure, and utilizing the previously unusable PUD water supply. Specifically noted by the Applicant were a number of economic benefits including new jobs created by both the construction of the facility and the operation of the facility, new property taxes, and the power market cost savings to Rhode Island ratepayers. Invenergy anticipates these benefits will total approximately \$100 million for the 2017-2018 year for Rhode Islanders as well as providing about 350 new long-term jobs per year.

Invenergy states that because the proposed Facility will have lower generation costs, end-use consumers will pay less for the energy generated. Invenergy anticipates cumulative savings to Rhode Island ratepayers of approximately \$70 million annually for the 2019-2022 period. In determining these savings as well as its fuel supply needs, Invenergy took into account an incremental pipeline expansion. The Applicant also contends that because of its ability to be dispatchable on demand, this facility will provide balance to supporting the rapid and desirable increase of renewable energy resources, which have limited ability to serve peak load because of their intermittent and variable nature.

III. TRAVEL OF THE CASE

The application was docketed on November 17, 2015. Subsequently and pursuant to the Rule 1.10(a)(1)³ of the EFSB Rules of Practice and Procedure (Rules), the Town of Burrillville filed a Notice of Intervention. National Grid, Kathryn and Dennis Sherman (the Shermans), Paul and Mary Bolduc (the Bolducs), the Progressive Democrats of Rhode Island (Progressive Democrats)⁴, and the Rhode Island Building and Construction Trades Council filed Motions to Intervene pursuant to Rule 1.10(b)(2).⁵ The Conservation Law Foundation (CLF), the Rhode Island Office of Energy Resources (OER), the Burrillville Land Trust, Fossil Free Rhode Island (Fossil Free RI), Sister Mary Pendergast, Occupy Providence, Fighting Against Natural Gas (FANG), Burrillville Against Spectra Expansion (BASE), and Sally Mendzela filed Motions to Intervene pursuant to EFSB Rule 1.10(b)(3).⁶

After public notice, a preliminary hearing was convened on January 12, 2016.⁷ The purpose of the preliminary hearing was “to determine the issues to be considered by the Board in evaluating the application, and to designate those agencies of state government and of political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions on these issues, and to determine petitions for intervention.”⁸

³ Rule 1.10(a)(1) provides that “[p]articipation in a proceeding as an intervenor may be initiated as follows: 1. By the filing of a notice of intervention by CRMC, DEM, *the city or town in which the proposed facility is to be located* or designated agencies.” (emphasis added).

⁴ The Progressive Democrats also cited Rule 1.10(b)(3) and asserted that it had an interest of such a nature that its participation was in the public interest.

⁵ Rule 1.10(b)(2) allows intervention to a person with “an interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Board’s action in the proceeding.”

⁶ Rule 1.10(b)(3) allows intervention if a person claims “[a]ny interest of such nature that petitioner’s participation may be in the public interest.”

⁷ Notice of the preliminary hearing was published in the Providence Journal, the Woonsocket Call, and the Bargain Buyer; sent directly to the service list; and posted on the Public Utilities Commission and Secretary of State websites.

⁸ R.I. Gen. Laws § 42-98-9(a).

At the preliminary hearing, the Motions to Intervene filed by National Grid, OER, CLF, and the Rhode Island Building and Construction Trades Council were granted. Invenergy presented John Niland, Director of Business Development for Invenergy, to describe the Company and the project, and Michael Feinblatt, an environmental consultant from the ESS Group, to describe some of the environmental impacts. Admitted as full exhibits, subject to cross-examination at the final hearing, were Invenergy's application, supplemental application information, the original and supplemental drawing package, and a copy of the presentation slides used to describe the project at the preliminary hearing.

At the conclusion of the preliminary hearing, the Board denied CLF's Motion to Close the Docket.⁹ The Board also invited parties to submit in writing issues that they believe the Board should address.

On January 29, 2016, the Board conducted an open meeting.¹⁰ At that meeting the Board ruled on the remaining Motions to Intervene and identified the issues and advisory opinions to be requested from various state and municipal agencies. The Motions to Intervene filed by the Shermans and Bolducs were granted. The remaining Motions to Intervene were denied.¹¹ The Burrillville Land Trust's Motion to Close the Docket, as well as FANG and BASE's Motion for Extension of the Intervention Period and Postponement of Initial Hearing were not considered after their motions to intervene were denied.

IV. THE ENERGY FACILITY SITING ACT

The Energy Facility Siting Act (Siting Act), R.I. Gen. Laws §§ 42-98-1 to 42-98-20, consolidates in the Board, with two exceptions, all state and local governmental regulatory

⁹ The basis of the denial of that motion is set forth in a separate order within this docket.

¹⁰ Notice of the open meeting was posted on the Public Utilities Commission and Secretary of State websites and in the Public Utilities Commission and the Attorney General office buildings.

¹¹ The bases of the denials of these motions are set forth in a separate order within this docket.

authority for the siting, construction, operation, and alteration of energy facilities “designed or capable of operating at a gross capacity of 40 megawatts or more” of electricity.¹² Thus, the Board is the “licensing and permitting authority for all licenses, permits, assents or variances which, under any statute of the state or ordinance of any political subdivision of the state, would be required for siting, construction or alteration of a major energy facility in the State of Rhode Island.”¹³ A Board decision in favor of an application to site a major energy facility in Rhode Island “shall constitute a granting of all permits, licenses, variances, or assents, which under any law, rule, regulation or ordinance of the state or of a political subdivision thereof which would, absent this chapter, be required for the proposed facility.”¹⁴

Although the Board does consider and act upon each of such permits, licenses, variances, and assents, the Board does so in a comprehensive manner that is distinct in nature from the review that would be performed by the several agencies absent the Siting Act. Whereas each such agency would review its respective permitting, licensing, variance, or assent issues according to its own particular mandates and concerns, the Board will evaluate all of such issues in a single and comprehensive decision based upon the “overall impact of the facilit[y] upon the public health and safety, the environment, and the economy of the state.”¹⁵

While the Siting Act makes the Board the final licensing authority, an applicant for a Board license must still apply to all state and local governmental bodies for permits and license that would, absent the Siting Act, be required. Instead of issuing a permit or license, however, the state or local governmental body must act at the direction of the Board and issue an advisory opinion to the Board regarding such permit or license. The Board has authority to designate “those agencies

¹² R.I. Gen. Laws § 42-98-3(d).

¹³ *Id.* § 7(a)(1).

¹⁴ *Id.* § 11(c).

¹⁵ *Id.* § 1(a).

of state government and political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions.”¹⁶ Each agency must follow its statutory procedures for determining “the license, assent, or variance [and] shall forward its findings from the proceeding, together with the record supporting the findings and a recommendation for final action, to the siting board”.¹⁷ Such advisory opinions must be submitted to the Board not more than six months following designation by the Board of the agency that will render the advisory opinion. Such advisory opinions will be considered by the Board before it renders its final decision. A state or local governmental body that renders an advisory opinion to the Board as a designated agency may also intervene as a matter of right and participate in Board hearings.¹⁸

In addition to those advisory opinions specifically authorized under the Siting Act from agencies that in the absence of the Siting Act would have permit, license, assent, or variance authority, the Board may require further advice from other or additional state and local agencies to assist it in assessing the overall impact of a facility. Due to the comprehensive nature of the ultimate issues facing the Board, the Board will often require expertise beyond the scope of those issues raised in the particular permit and license reviews at the agency level. The Siting Act provides broad discretion in this regard for the Board to summon further information and advice deemed necessary for the discharge of its duty,¹⁹ and also provides that its provisions shall be construed liberally to effectuate its purposes.²⁰ Further, the Siting Act clearly envisions that the Board shall have the benefit of the full range of technical expertise available within other existing agencies in making its decisions.²¹ Accordingly, the Board may request the opinion of various

¹⁶ *Id.* § 9(a).

¹⁷ *Id.* § 7(a)(2).

¹⁸ Rule 1.10(a)(1).

¹⁹ R.I. Gen. Laws § 42-98-7(b).

²⁰ *Id.* § 18.

²¹ *Id.* § 1(d).

agencies on matters in addition to those issues covered by the specific permits, licenses, assents, or variances that would be required in the absence of the Siting Act.

The primary discussion of issues to be considered in the review of a major energy facility alteration application, and the designation of agencies to act at the Board's discretion, occur at the Board's preliminary hearing. Following the preliminary hearing, the Board issues a preliminary order establishing the agenda of issues for the Board's final hearing, and designating agencies to act at the Board's discretion. Such agenda may be modified and additional agencies and issues may be designated and determined as needed at any time before the final hearing.²² The advisory opinions directed by the preliminary order must be submitted to the Board within six months of this Order, i.e., by October 25, 2016. Final Board hearings must begin not later than forty-five days after the date for submission of advisory opinions, whether or not such opinions are submitted. Final hearings regarding the instant application have not yet been scheduled, but should begin no later than September 10, 2016.

The purpose of the final hearing is not to rehear evidence presented in hearings before designated agencies providing advisory opinions, but rather to provide the parties the opportunity to address -- in a single forum and from a consolidated, statewide perspective -- the issues reviewed and the recommendations made by such agencies.²³ The final hearing must be concluded not more than sixty days after its initiation, and the Board must issue its final decision within sixty days after conclusion of the final hearing. A final decision that favors the applicant shall constitute a granting of all required and jurisdictional permits, licenses, variances, and assents; and such final decision may be issued on any condition or conditions the Board deems warranted by the record.²⁴

²² Rule 1.9(f).

²³ R.I. Gen. Laws § 42-98-11(a).

²⁴ *Id.* §§ 11(b), 11(c).

V. **ISSUES TO BE CONSIDERED AT FINAL HEARING**

The statutory standards by which the application must be judged are found in the Siting Act.²⁵

ISSUE 1: Is the proposed facility necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed Facility?²⁶

The Public Utilities Commission (PUC), with participation of the Division of Public Utilities and Carriers (Division), OER, and the Division of Planning of the Department of Administration must render a single advisory opinion on the need for the Project²⁷ 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 laws, rules, and regulations. The PUC's opinion must specifically consider the need for the Project based upon projected cost, as also discussed in Issue 2A below. Additionally, the PUC should also expressly consider the reliability of the resulting power in determining the need for the facility, including the adequacy and dependability of the natural gas supply to the facility.

ISSUE 2: Is the proposed facility (A) cost-justified and can it be expected to produce energy at the lowest reasonable cost to the consumer; (B) capable of remaining consistent with the objective of ensuring that its construction and operation will comply with all applicable laws, rules, regulations, and ordinances under which, absent the Act, a permit, license, variance, or assent would be required; or (C) does consideration of public health, safety, welfare, security, and the need for the proposed alteration justify a waiver of some requirement where compliance therewith cannot otherwise be assured?²⁸

²⁵ *Id.* §§ 11(b), 9(e).

²⁶ *Id.* § 11(b)(1).

²⁷ *Id.* § 9(d).

²⁸ *Id.* § 11(b)(2).

The foregoing broad and far-reaching statement may be broken down into the component issues of cost-justification; compliance with all applicable legal requirements; and if such total compliance is not possible, whether some aspect of the applicable requirements should be waived.

Issue 2A: Is it cost-justified?

The issue of whether the proposed project will produce energy at the lowest reasonable cost to the consumer is included in the advisory opinion required of the PUC. The evaluation of the need for the project will expressly include whether the power from the Facility is needed at its projected cost. 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. The PUC and the Board must also specifically consider the respective costs to retail customers of power derived from reasonable alternative sources.

Issue 2B: Will the Facility comply with all legal requirements applicable absent the Siting Act?

The Board must consider whether the Facility as proposed will meet all those requirements that absent the Act, the Applicant would have to satisfy in obtaining necessary permits, licenses, variances, and assents.²⁹ In furtherance of those considerations, the Board should receive advisory opinions from each of the entities that would have had the authority to determine whether the facility, in fact, does meet that entity's requirements. The specific advisory opinions in this regard are set forth below.

²⁹ *Id.* § 9(b).

Issue 2C: Would a waiver from certain laws be justified?

In the event the Board decides that the construction and/or operation of the Facility would fail to comply with some aspect of otherwise governing legal requisites (or conditions), the Board must determine whether the overall benefits of the Facility justify a waiver from that provision subject to the Board’s jurisdiction.

ISSUE 3: Will the proposed Facility cause unacceptable harm to the environment?³⁰

In the Board’s consideration of this issue, it construes the term “environment” broadly, including individual and cumulative environmental impacts such as, but not limited to, the Facility’s impacts on public health, air quality, water quality, water supply, groundwater, wetlands, ambient noise, traffic, wastewater disposal, fish, wildlife, and soil.

ISSUE 4: Will the proposed facility enhance the socio-economic fabric of the state?³¹

The Statewide Planning Program, within the Department of Administration must conduct an investigation and render for the Board’s consideration an opinion as to the impact of the Facility’s operation and construction on the socio-economic fabric of the state. In addressing this issue consideration must be given to economic and reliability benefits, including employment and tax benefits to the Town of Burrillville and/or to the State.

ISSUE 5: Is the construction and operation of the Facility consistent with the State Guide Plan?³²

The Board must specifically consider whether the construction and operation of the Facility proposed is consistent with the Statewide Planning Program’s State Guide Plan, including the State

³⁰ *Id.* § 11(b)(3).

³¹ *Id.*

³² *Id.* § 9(e).

Energy Plan. In support of this issue, the Statewide Planning Program must render an advisory opinion to the Board.

VI. EXEMPT LICENSES

The Board finds the following permits and licenses to be exempt from its jurisdiction pursuant to R.I. Gen. Laws § 42-98-7(3):

- Freshwater wetland alteration permits issued pursuant to the Freshwater Wetlands Act, R.I. Gen. Laws § 2-1-21.
- Air pollution prevention of significant deterioration permit for construction of a facility that will discharge air pollutants from the combustion of natural gas and fuel oil issued pursuant to authority delegated to DEM by the Environmental Protection Agency (EPA) pursuant to the Clean Air Act, 42 U.S.C. Sec. §§ 7401 to 7661, R.I. Gen. Laws § 23-23-1 to 23-23-31.
- Water quality certification pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 to 1387, R.I. Gen. Laws §§ 46-12-1 to 46-12-41.
- Rhode Island Pollution Discharge Elimination System permit for point source discharge, issued pursuant to authority delegated to DEM by EPA pursuant to the Clean Water Act, 33 U.S.C. Sec. §§ 1251 to 1387.
- Coastal Resources Management Council permit issued pursuant to R.I. Gen. Laws §§ 46-23-1 to 46-23-25.

VII. ADVISORY OPINIONS³³

A. Jurisdictional Agencies

The following agencies and subdivisions of state and local government that, absent the Siting Act, would have the authority to act upon permits, licenses, assents, or variances required for the proposed Facility are required by the Act to issue advisory opinions as directed by the Board and shall act at the direction of the Board in issuing the advisory opinions designated below. An agency so designated should, to the extent possible, render its advisory opinion pursuant to procedures that would be followed absent the Siting Act, and such advisory opinion should conform to the provisions of the Rhode Island Administrative Procedures Act (APA), R.I. Gen. Laws §§ 42-35-1 to 42-35-18, regarding Decisions and Orders.³⁴ The agency must, however, render an advisory opinion to the Board regarding the issuance of the license or permit, rather than a final decision. Unless otherwise provided, if the agency does not issue its advisory opinion within six months after its designation by the Board (i.e., September 10, 2016), its right to render an opinion shall be forfeited.³⁵

The agencies and the respective advisory opinions they are directed to render are as follows:

1. **The Burrillville Zoning Board of Review** is directed to render an advisory opinion as to (i) whether the Facility would meet the requirements of its respective zoning ordinances, and whether any variance should be granted; (ii) whether a special use permit should be granted to exempt the Facility from construction hour restrictions; and (iii) whether Invenergy will be

³³ The designation letters are attached to this Order as Appendix A.

³⁴ Rule 1.11(a).

³⁵ R.I. Gen. Laws § 42-98-10(a).

able to be compliant with the Burrillville Noise Ordinance during construction and operation and, if not, whether a variance should be granted.

2. **The Burrillville Building Inspector** is directed to render an advisory opinion as to (i) whether the work proposed in the municipality as part of the Facility's construction and operation is subject to the municipality's Erosion and Sediment Control Ordinance and, if so, whether Invenergy's Erosion and Sediment Control Plan would conform to the Ordinance, and (ii) whether the Facility would meet the requirements of other municipal ordinances.
3. **The Rhode Island Historical Preservation & Heritage Commission** is directed to render an advisory opinion as to (i) whether the Facility would be subject to its jurisdiction and, if so, whether the Facility would conform with requirements relevant thereto, and (ii) whether any required approval or exception should be granted.
4. **The Rhode Island Department of Transportation** is directed to render an advisory opinion as to whether a Utility Permit, R.I. Gen. Laws § 24-8-1 and § 24-10-1; Physical Alteration Permit, R.I. Gen. Laws § 24-8-1; or any other Department of Transportation permits are required and should be issued for the Facility, including the construction of transmission lines across state roads or highways. Such advisory opinion should specifically consider the potential impacts upon traffic and road conditions associated with the Facility during construction and operation.
5. **The Rhode Island Department of Environmental Management** is directed to render an advisory opinion as to (i) whether the proposed fuel oil storage facilities would conform to its Oil Pollution Control Regulations, and if not, whether a waiver is justified; (ii) the impact of the Facility's withdrawal of groundwater on the remediation of the Pascoag well; (iii) the impact on fish and wildlife that will be caused by disruption of the habitat; (iv) how the Facility

will affect compliance with the Regional Greenhouse Gas Initiative annual emission cap and the Federal Clean Power Plan; and (v) whether the Facility will present an unacceptable harm to the environment;

B. Non-Jurisdictional Agencies

The Board has both the obligation and authority to request further advisory opinions from agencies other than those that, absent the Siting Act, would have some specific authority over the proposed Facility. In addition to the mandatory opinions required from the Jurisdictional Agencies by the Siting Act, the Board in its discretion may and hereby does request informational advisory opinions from the agencies listed below for which there are no applicable license, permit, assent, or variance proceedings required for the Facility.

In the absence of a proceeding conducted in accordance with the APA, the Board requests that each such agency named below prepare to have a representative appear at the final hearing of the Board to sponsor the informational advisory opinion, as well as to sponsor and enter into evidence any information outside of the record of this docket that is relied upon in the advisory opinion. At such time, the Applicant, the Board, and other parties will have the opportunity to cross-examine the sponsoring agency representative.

For each non-jurisdictional advisory opinion, the subject agency may request, and the Applicant shall provide, any information or evidence deemed necessary to support the subject opinion. The Applicant shall provide information in a timely manner. The Applicant shall remain responsible for ensuring that the information provided to the Board and the various agencies remains consistent and up-to-date.

1. **The Rhode Island Public Utilities Commission** shall render an advisory opinion as to (i) the need for the proposed Facility; (ii) whether it is cost-justified to the consumer consistent with

the object of ensuring that the construction and operation of the Facility will be accomplished in compliance with all of the requirements of the laws, rules, and regulations; and (iii) whether cost effective efficiency and conservation opportunities provide an appropriate alternative to the proposed Facility. The Division of Planning, the Office of Energy Resources, and the Division of Public Utilities and Carriers shall participate in the PUC proceeding pursuant to R.I. Gen. Laws § 42-98-9(d).

2. **The Statewide Planning Program** within the Division of Planning shall render an advisory opinion as to (i) the socio-economic impact of the proposed Facility, including its construction and operation; (ii) the Facility's consistency and compliance with the State Guide Plan; and (iii) in coordination with the Rhode Island Office of Energy Resources, a particular examination of the Facility's consistency and compliance with the State Energy Plan.
3. **The Rhode Island Department of Health** shall render an informational advisory opinion on (i) the potential public health concerns relating to the Facility, including but not limited to biological responses to power frequency, electric, and magnetic fields associated with the operation of the Facility and (ii) the potential impacts on the quality of drinking water associated with the construction and operation of the Facility. In particular, the Department of Health should review and comment on Section 6.11 and Appendix F of the application.
4. **The Burrillville Planning Board** shall render an advisory opinion as to (i) whether the Facility would be a land use consistent with its respective comprehensive plan pursuant to the Comprehensive Planning and Land Use Act, R.I. Gen. Laws §45-22.2-1; and (ii) whether Invenergy will be able to comply with the Burrillville Noise Ordinance during construction and operation.

5. **The Rhode Island Office of Energy Resources**, in collaboration with the Rhode Island Executive Climate Change Coordinating Council and with assistance from DEM, shall render an advisory opinion as to: (i) the impacts of the Facility on anticipated greenhouse gas emissions that would result from the proposed Facility and the cumulative impact over the life of the project and (ii) whether the Facility will conform to the requirements and provisions of the Resilient Rhode Island Act, R.I. Gen. Laws §§ 42-6.2-1 to 42-6.2-8, and state energy policies.
6. **The Burrillville Tax Assessor** shall render an advisory opinion as to the Facility's impact on property values in the Town and on the abutters.
7. **The Pascoag Utility District** shall render an advisory opinion on the impacts of the facility on the water supply and use in the District as well as an explanation about how the water in the well proposed for use will be remediated as stated by the Applicant. In particular, the Pascoag Utility District should review and comment on Sections 3.10, 6.2, and Appendix C of the application.

Accordingly, it is hereby

(86) ORDERED

1. The following State of Rhode Island and local agencies and political subdivisions of the state shall act at the direction of the Energy Facility Siting Board for the purpose of rendering advisory opinions on the issues determined by the Preliminary Decision of the Energy Facility Siting Board:
 - a. The Public Utilities Commission
 - b. The Statewide Planning Program

- c. The Office of Energy Resources
 - d. The Department of Health
 - e. The Burrillville Planning Board
 - f. The Department of Environmental Management
 - g. The Burrillville Zoning Board of Review
 - h. The Burrillville Building Inspector
 - i. The Historical Preservation & Heritage Commission
 - j. The Department of Transportation
 - k. The Burrillville Tax Assessor
 - l. The Pascoag Utility District
2. The Coordinator of the Energy Facility Siting Board shall prepare and forward to all agencies designated above a certified copy of this Preliminary Decision and Order and a separate written notice of designation.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND THIS 10th DAY OF MARCH, 2016.

ENERGY FACILITY SITING BOARD





Margaret E. Curran, Chairperson



Janet Coit, Member

APPENDIX A

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

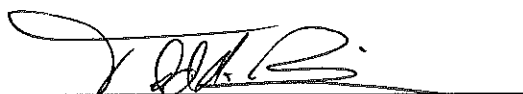
NOTICE OF DESIGNATION TO THE RHODE ISLAND PUBLIC UTILITIES
COMMISSION TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Public Utilities Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2106, or by email at todd.bianco@puc.ri.gov.



Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

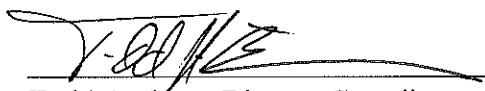
NOTICE OF DESIGNATION TO THE RHODE ISLAND STATEWIDE PLANNING PROGRAM TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Statewide Planning Program has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2106, or by email at todd.bianco@puc.ri.gov.



Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT
THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET
NO. SB-2015-06

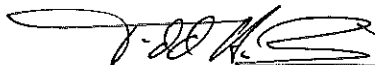
**NOTICE OF DESIGNATION TO THE RHODE ISLAND OFFICE OF ENERGY
RESOURCES TO RENDER AN ADVISORY OPINION**

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Office of energy Resources has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT
THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET
NO. SB-2015-06

**NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF HEALTH
TO RENDER AN ADVISORY OPINION**

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Health has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

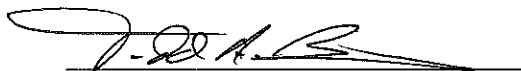
NOTICE OF DESIGNATION TO THE TOWN OF BURRILLVILLE PLANNING BOARD TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Burrillville Planning Board has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

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

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

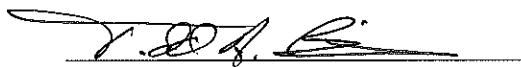
NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Environmental Management has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

NOTICE OF DESIGNATION TO THE TOWN OF BURRILLVILLE ZONING BOARD OF REVIEW TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Burrillville Zoning Board of Review has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2106, or by email at todd.bianco@puc.ri.gov.



Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

NOTICE OF DESIGNATION TO THE TOWN OF BURRILLVILLE BUILDING
INSPECTOR TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Burrillville Building Inspector has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

NOTICE OF DESIGNATION TO THE RHODE ISLAND HISTORICAL PRESERVATION AND HERITAGE COMMISSION TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Historical Preservation and Heritage Commission has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

NOTICE OF DESIGNATION TO THE RHODE ISLAND DEPARTMENT OF TRANSPORTATION TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Rhode Island Department of Transportation has been designated as an agency of state government that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

If you have any questions or require any assistance from Board staff, please contact me by phone at 401-780-2106, or by email at todd.bianco@puc.ri.gov.



Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

**NOTICE OF DESIGNATION TO THE TOWN OF BURRILLVILLE TAX ASSESSOR
TO RENDER AN ADVISORY OPINION**

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Town of Burrillville Tax Assessor has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

IN RE: INVENERGY THERMAL DEVELOPMENT LLC'S APPLICATION TO CONSTRUCT THE CLEAR RIVER ENERGY CENTER IN BURRILLVILLE, RHODE ISLAND – DOCKET NO. SB-2015-06

NOTICE OF DESIGNATION TO THE PASCOAG UTILITY DISTRICT TO RENDER AN ADVISORY OPINION

By Order 86 of the Energy Facility Siting Board, pursuant to the Energy Facility Siting Act R.I. Gen. Laws § 42-98 (Act), in particular § 42-98-9, the Pascoag Utility District has been designated as a political subdivision of the state that shall act at the direction of the Rhode Island Energy Facility Siting Board (Board) for the purpose of rendering an advisory opinion on certain issues to be considered in evaluating Invenergy Thermal Development LLC's (Invenergy) application to construct the Clear River Energy Center in Burrillville, Rhode Island filed in Docket No. SB-2015-06. A description of the required advisory opinion is set forth in the enclosed Preliminary Decision and Order.

Pursuant to R.I. Gen. Laws § 42-98-10, a designated agency shall proceed to consider the issue or issues consigned to it for review. By Order 86 of the Board, the designated agency shall conclude its consideration and issue its advisory opinion on or before September 10, 2016, or the right to exercise the function shall be forfeited to the Board. Advisory opinions should be submitted to the Coordinator of the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island 02888.

In accordance with Rule 1.11(a) of the Board's Rules of Practice and Procedure (Rules), the designated agency shall render its advisory opinion, to the extent possible, pursuant to the procedures that would be followed absent Board designation of the agency. Where necessary, an agency shall modify its procedures to conform to the requirements of the Act, the Rules, and the Preliminary Decision. In accordance with Rule 1.11(c) the advisory opinion shall conform with the Rhode Island Administrative Procedures Act R.I. Gen. Laws § 42-35 requirements regarding Decisions and Orders and shall be clearly identified as an advisory opinion issued to the Board for consideration at the Board's final hearing. A designated agency lacking a process compliant with the Administrative Procedures Act may, and shall at the direction of the Board's Chairperson, make a witness available to sponsor and be examined on its advisory opinion at the final hearing to be scheduled and held following the advisory opinion deadline.

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Todd Anthony Bianco, Coordinator
Energy Facility Siting Board
March 10, 2016