

2010 MAR 19 PM 12: 19

PUBLIC UTILITIES COMMISSION

One Citizens Plaza, 8th floor
Providence, RI 02903-1345
Telephone 401-274-7200
Fax 401-751-0604 / 351-4607

175 Federal Street
Boston, MA 02110-2210
Telephone 617-482-0600
Fax 617-482-0604

www.apslaw.com

March 19, 2010

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, Rhode Island 02888

RE: Rhode Island LFG Genco ("Ridgewood")
Notice of Intent to Construct Power Line, Docket No. EFSB 2009-1

Dear Mr. Ucci:

On behalf of Rhode Island LFG Genco, an affiliate of Ridgewood Renewable Power, LLC ("Ridgewood"), and in accordance with the May 14, 2009 Decision and Order ("Order") of the Rhode Island Energy Facilities Siting Board ("EFSB") in this matter, we are filing for the EFSB review and consideration the required System Impact Study prepared by National Grid for this transmission project, and the Interconnection Agreement that National Grid, Ridgewood and the ISO all agree to be submitted to the Federal Energy Regulatory Commission (FERC).¹ Ridgewood also requests expedited review and approval of its proposed transmission project by the EFSB, in order to facilitate several important financing transactions that are contingent on the requisite authorizations from the EFSB, to allow Ridgewood to proceed towards implementing its designs, plans and construction.²

Introduction

This Ridgewood project is facing a number of time sensitive hurdles. First and foremost, the generation facility that is the driver of this transmission interconnection notification project must be in operation so that Ridgewood can decommission its existing landfill gas to energy plant, which is directly in the path of the critical expansion needs of the Central Landfill operated by Rhode Island Resource Recovery ("RIRRC"). In order to commence construction on the

¹ These documents are being filed as Exhibits to the Pre-Filed Testimony of Greg Klabor.

² As discussed further in this letter and the Pre - Filed Testimony, Ridgewood seeks authorizations to proceed on the agreed upon terms of the Interconnection Agreement and suggests that, to the extent the EFSB wishes to see the FERC approved final version of the Interconnection Agreement, the EFSB condition its authorization upon receipt of the final FERC document, as allowed by its Rule 1.6(h) and as contemplated even for full scale licenses (which this project does not require) as permitted by Rule 1.113(e).

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 2 of 2

project Ridgewood must necessarily complete the required financial transactions that are critical to the funding of the project, and that are contingent upon the EFSB authorization to proceed with the transmission aspects of the project. The financing will allow Ridgewood to meet its commitments for the this project, as well as to allow Ridgewood to qualify for an additional required 15 million dollars in ARRA grants and the tens of millions of dollars of additional U.S. Treasury grants, that are discussed in more detail below. These federal grants are predicated on the project commencing construction within certain tight timeframes. If these federal grants are lost, it would likely prove fatal to the project. Accordingly, we are requesting that the EFSB schedule its required hearing within thirty (30) days of this filing, for the limited purposes of reviewing and confirming the issues of reliability and the interconnection with National Grid's transmission line, as described in the Order.

In addition to these two required documents, we are also filing the following documents with the EFSB, to assist in the EFSB review of these limited reliability and interconnection issues:

1. Pre – Filed Testimony of Greg Klabon, who describes the System Impact Study and Interconnection Agreement, and explains the documents that are attached to the responses to the EFSB Data Requests; and
2. Pre – Filed Testimony of Stephen Galowitz, who describes the status of the generation project, summarizes the public benefits of the project, and updates the current state of financing for the project.

Background

On February 10, 2009 Ridgewood filed a Notice of Intent Application with the EFSB, pursuant to Rule 1.6(f), with accompanying documents (“Notice”). The Notice concerned Ridgewood’s proposal to construct a power line of more than 1000 feet but less than 6000 feet on Rhode Island Resource Recovery property in the Town of Johnston to interconnect Ridgewood’s proposed new waste-to-energy generation facility with the National Grid transmission network. Following the Notice, the EFSB held a public hearing, on April 1, 2009, in the Town of Johnston. Ridgewood presented Mr. Klabon and Mr. Galowitz as witnesses at the hearing, and several documents were introduced as exhibits for EFSB consideration.

The Notice, and the testimony of Ridgewood’s witnesses at the April 1, 2009 hearing, described Ridgewood’s facilities that are currently in operation at the RIRRC location, the critical need for the de-commissioning of the existing generation facility due to proximity to the area where the RIRRC plans to expand the operations of the State’s Central Landfill, and the

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 3 of 3

establishment of a brand new 41 MW facility and related construction of a 115 kV loop into the National Grid transmission system. The Notice also described the other environmental, economic development and public policy interests and benefits that are served by Ridgewood's project (which are outlined further below).

The Notice also pointed out that the construction of its new waste-to-energy facility is a type of facility exempt from EFSB review, in accordance with R.I. Gen. Laws. § 42-98-3(d), which excludes a waste to energy facility from the definition of a "major energy facility."

In an open meeting dated April 20, 2009 and its Order dated May 14, 2009, the EFSB determined that a transmission line of 115 kV constituted a "major energy facility" under the definition of transmission lines more than 69 kV, as described in R.I. Gen. Laws § 42-98-3(d).³ The EFSB further determined that the System Impact Study and the Interconnection Agreement documents with National Grid would be required in order to evaluate whether the proposed 115kV transmission line project will, or will not, constitute a significant impact on the public health, safety and welfare, as required by the EFSB Rule 1.6(h). Accordingly, the EFSB ordered Ridgewood to file these documents when they were completed, for a hearing within thirty (30) days "limited to the issue of reliability and the interconnection with National Grid's transmission line. . ." Order at pg. 6, and ordering clause at pg. 7.

The System Impact Study

After many months of hard work with Ridgewood's consultants and National Grid staff the System Impact Study has been completed and is ready for the EFSB review.⁴ As described in more detail in the testimony of Greg Klabon, the Interconnection System Impact Study is a document, prepared by National Grid, to evaluate the impact of the proposed 115 kV interconnection on the reliability of the National Grid transmission system. The System Impact Study evaluated the proposed Ridgewood new-waste-to energy facility and interconnection

³ The EFSB Order took no position with regard to the statutory exemption of the proposed 41 MW generation facility, which Ridgewood continues to believe is a statutorily exempt facility from any further EFSB jurisdiction.

⁴ The System Impact Study documents are contained in the exhibits to the Pre-Filed Testimony of Greg Klabon and are entitled: FINAL - ISO-NE Queue # 262 Project System Impact Study – Transient Stability Analysis" (September 2009) and "FINAL - ISO-NE Queue # 262 Project System Impact Study –Steady State Analysis" (October 2009). These documents represent the Final System Impact Study documents prepared by representatives of National Grid for submission to the ISO – New England in accordance with FERC requirements. In addition, the plans, drawings, easement language and other documents requested by the EFSB in data requests are also attached to Mr. Klabon's Pre-Filed Testimony.

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 4 of 4

under certain assumptions and different NEPOOL load conditions. These load assumptions were tested under a series of sensitivity analysis with other transmission and generation projects that are also being proposed in the region.

Notably, the National Grid System Impact Study concluded: "There are no thermal, voltage or short circuit concerns with the proposed interconnection" of the proposed Ridgewood generation facility to the transmission grid. See page 22 of the Report.

The Large Generator Interconnection Agreement

Similarly, and after many months of determined efforts by Ridgewood and National Grid, the Interconnection Agreement is ready for EFSB review. As described in more detail in the pre-filed testimony of Greg Klabon, the proposed Interconnection Agreement was submitted to ISO-NE to be forwarded to FERC for required arbitration and/or resolution of certain financial issues that are not tied to technical interconnection and reliability concerns that the EFSB seeks to review.

Under applicable law, while the Interconnection Agreement has not been executed by all the parties at this time (awaiting FERC resolution of certain financial responsibility issues), the Interconnection Agreement's provisions about reliability and interconnection, and that are of concern to the EFSB, are in force. Under well-established FERC and ISO-New England rules and procedures, the Parties to an unexecuted Interconnection Agreement submitted to ISO-NE and FERC are bound to implement these agreed upon terms. *See* Order No. 2003, *Standardization of Generator Interconnection Agreements and Procedures*, 104 FERC ¶ 61,103 at par. 240 (July 24, 2003). And, in accordance with well established FERC procedures, the filing of an unexecuted large generator interconnection agreement with the FERC allows the parties to the agreement to proceed with design, procurement, and construction of facilities and upgrades under the agreed upon terms of the unexecuted agreement, pending Commission action. Pending FERC action, the parties to the unexecuted agreement are required to comply with the unexecuted agreement "to the extent they can proceed under the agreed upon terms." *Id.* at par. 296.

Similarly, ISO New England's Large Generator Interconnection Procedures provide that "Upon submission of an unexecuted LGIA, the System Operator, Interconnection Customer and Interconnection Transmission Owner shall promptly comply with the unexecuted LGIA, subject to modification by the Commission." ISO New England, FERC Electric Tariff No. 3, Open Access Transmission Tariff, 1st Rev. Sheet No. 5187, Schedule 22, Section 11.4.

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 5 of 5

Thus, given the limited open financial responsibility issue among the parties, the parties (in this case National Grid and Ridgewood) are required by FERC rules and ISO – New England procedures to go forward with the design, procurement, and construction of the facilities and upgrades while the open item is resolved with the FERC.⁵ For these reasons the Interconnection Agreement is complete for purposes of EFSB review on the limited items of reliability and interconnection with the transmission system of National Grid.

Moreover, the EFSB Rules allow for its authorization to a transmission project, conditioned upon the need for the developer to obtain other required federal approvals or to provide final FERC approved documentation when completed. See Rule 1.6(j) (“The Board may at any time require the applicant, or the party responsible for filing a notice of intent . . . to file additional information”); See also – (by way of example even for full EFSB Licenses) -- Rule 1.113(e) (“A Board license may be issued conditionally upon the receipt of federal licenses.”). While this Notice of Intent is not seeking a generation project license review, but rather seeks only expedited authorizations in response to a “Notice,” Ridgewood points out the options available in its Rules to allow the EFSB to condition its authorizations upon receipt of other federal permits or final FERC determinations, on the open issues in the Interconnection Agreement. Ridgewood suggests that the EFSB should, if it deems necessary, allow this project to proceed under the terms of the agreed upon portions of the Interconnection Agreement, particularly given the need to allow Ridgewood to meet its financial commitments with its investors and with the ARRA Grant monies that are available to Ridgewood for this project.

The Benefits of the Project to Rhode Island’s Economy and Environment

As described in more detail in the Pre-Filed Testimony of Stephen Galowitz, and as described in the Notice of Intent filed earlier in these proceedings, this transmission project is an important component to the success of the overall efforts of RIRRC and Ridgewood to accommodate the expansion of the Central Landfill. The main impetus for this project is that Ridgewood’s existing 21 MW facility is in the precise area where RIRRC requires for the next phase of the landfill. As a reminder to the EFSB, RIRRC and Ridgewood entered into a long term agreement whereby Ridgewood would give up its existing rights to the facility in the path

⁵ As described in the Pre-Filed Testimony of Greg Klabon, the open item concerns whether or not Ridgewood’s facilities should be treated as Network Upgrades subject to cost recovery, a point that ISO-NE is not in agreement with at this time. There is also a financial issue related to the financial security required to be posted for potential future tax liabilities. These open items are not related to the technical interconnection design and structure of the interconnection, the core concern of the EFSB. For example, when the FERC ultimately takes action on the open issue, the parties will be required to make any refunds to one another as are necessary to reflect the FERC’s holdings on this question of cost recovery.

ADLER POLLOCK & SHEEHAN P.C.

Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 6 of 6

of landfill expansion, and would lease two sites on either side of Shun Pike on land which is not necessary for landfill operations.

The new generation project will involve up-grades to the existing gas collection system which Ridgewood will take over from RIRRC. There will also be a gas treatment plant on RIRRC property to clean and purify the gas, principally removing sulfur from the gas supplied from the landfill. The new combustion turbine combined cycle electric plant will power turbines that will produce as a by-product excess heat to feed steam-driven electric generators. Lastly, and the subject of the Rule 1.6(h) EFSB review, the electricity produced will be conveyed to the transmission grid via a 115 kV interconnection loop on poles located within an easement entirely on RIRRC land.

The entire Ridgewood project has significant economic benefits to the State of Rhode Island and the Town of Johnston. It will result in the investment in Rhode Island of nearly 100 million dollars at a time of recession. It will save the RIRRC substantial costs. The Town of Johnston will benefit by significant payments in lieu of taxes. Notably, there are no taxpayer subsidies from either the State of Rhode Island or the Town of Johnston. As for jobs, Ridgewood estimates that the project will produce 65 construction jobs and 18 to 20 permanent jobs from local labor.

As for the type of energy produced, the new facility will bring significant benefits and alternative supply to the energy needs of consumers. The project will be the second largest landfill gas to energy plant in the country and will expand significantly the State's renewable energy infrastructure.

The project will further bring substantial health and environmental benefits by capturing the landfill gases and turning them into electricity. This will reduce greenhouse gases, because the alternatives to this project would require burning the methane gas in flares at the landfill site. Creating renewable energy also reduces the need to use fossil fuels for electricity production. In addition, the new gas clean-up system will remove impurities, such as sulfur, from the gas which are currently being emitted into the atmosphere.

The Ridgewood project has received tremendous support from the State and its Congressional delegation. For example, as described in the Public Notice attached to Mr. Galowitz' testimony, on November 3, 2009, Rhode Island's Congressional delegation announced that the U.S. Department of Energy is awarding a \$15 million Recovery Act grant to Ridgewood, specifically to support the expansion of Ridgewood's landfill methane-capture electricity generation plant in Johnston. The statements Senators Reed and Whitehouse, and Congressmen

ADLER POLLOCK & SHEEHAN P.C.

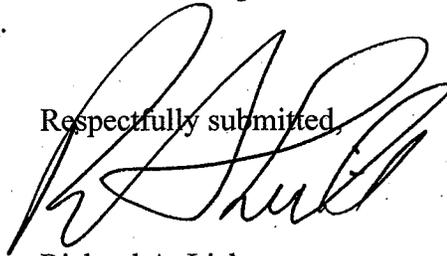
Nicholas S. Ucci - Coordinator
Principal Policy Associate
Rhode Island Energy Facilities Siting Board
c/o Rhode Island Public Utilities Commission
March 19, 2010
Page 7 of 7

Langevin and Kennedy, reveal the importance of this project and further support the conclusion that the project will benefit the public safety, health, welfare and environment.

For all these reasons, as more fully explained in the testimony and documents provided to the EFSB, Ridgewood requests that the EFSB grant its authorization to allow this project to proceed expeditiously.

Thank you for your assistance in docketing and processing this Notice with the EFSB. If we can provide any further information or assistance with regard to this Notice please contact me at 401-274-7200 or at rlicht@apslaw.com.

Respectfully submitted,



Richard A. Licht

cc: Service List