

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

In re the Application of :
The Narragansett Electric Company :
d/b/a National Grid (Rhode Island : **Docket No. SB-2008-02**
Reliability Project) :

**NOTICE OF DESIGNATION TO
PUBLIC UTILITIES COMMISSION
TO RENDER AN ADVISORY OPINION**

In the enclosed order, the Public Utilities Commission has been designated as an agency or a political subdivision of the State of Rhode Island which shall act at the direction of the Energy Facility Siting Board in reviewing an application of The Narragansett Electric Company d/b/a National Grid (Narragansett or the Applicant) to construct and alter transmission lines and facilities in the municipalities of Cranston, Johnston, North Smithfield, Smithfield, Warwick and West Warwick.

As a "Designated Agency", your department is required to render an advisory opinion to the Energy Facility Siting Board as described in the enclosed Preliminary Order in Docket No. SB-2008-02, dated December 19, 2008, pursuant to authority granted by the Energy Facility Siting Act, Rhode Island General Laws 42-98-1 et seq., specifically, Sections 9(a) and 10 of that Act.

The Board requests that your agency review Narragansett's application which Narragansett will deliver to you, review any information that may be provided by other interested parties, and provide a written advisory opinion as requested in the enclosed preliminary order to the Board by the date listed below. Each Designated Agency may, and shall at the direction of the Board's Chair, make a witness available to sponsor and be examined on its advisory opinion at the hearing to be scheduled and held following the due date. The advisory opinion is to be rendered, to the extent possible, using procedures that the agency would follow absent designation by the Siting Board.

Advisory Opinions must be submitted to the Energy Facility Siting Board, 89 Jefferson Boulevard, Warwick, Rhode Island on or before June 15, 2009. If an advisory opinion is not submitted by that date, the Energy Facility Siting Act provides that the agency's right to exercise this function is forfeited to the Board.

A certified copy of the Siting Board's Preliminary Order is enclosed. Should you have any questions, or if I may help you in any way, please call me at 401-780-2106.

Energy Facility Siting Board



Nick Ucci
Coordinator

December 30, 2008

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

In re The Narragansett Electric Company :
d/b/a National Grid (Rhode Island : Docket No. SB-2008-02
Reliability Project) :

PRELIMINARY DECISION AND ORDER

I. INTRODUCTION

On September 8, 2008, The Narragansett Electric Company d/b/a National Grid, a Rhode Island corporation and franchised public utility (“Narragansett” or the “Company”), filed with the Energy Facility Siting Board (“EFSB” or the “Board”) an application to construct and alter major energy facilities. Narragansett proposes to construct a new 345 kilovolt (kV) transmission line, relocate, reconstruct, and, in some cases, reconductor existing 115 kV transmission lines, and add equipment to two existing substations (collectively the “Project.”) The application was docketed on September 19, 2008 and, after public notice, a preliminary hearing was held on November 12, 2008.

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 state and local agencies that will act at the direction of the Board for the purpose of rendering advisory opinions on such issues, to consider petitions for intervention and to determine other matters relevant to the issuance of a preliminary decision in this proceeding. The following counsel entered appearances at the preliminary hearing:

For Narragansett:

Peter V. Lacouture, Esq.
Jillian Folger-Hartwell, Esq.
Nixon Peabody LLP

For the Division: Paul J. Roberti, Esq.
Office of Rhode Island Attorney General
Patrick C. Lynch

For ISO-NE: Erica P. Bigelow, Esq.
Rich May

For the Board: Patricia S. Lucarelli, Esq.

II. TESTIMONY AT PRELIMINARY HEARING

Narragansett presented one witness at the preliminary hearing, David J. Beron, Narragansett Project Manager, who introduced the Project to the Board, sponsored Narragansett's application and supporting information (Narragansett Exhs. 1-5) and presented a general, non-technical overview of the Project. Mr. Beron responded to Project-related questions from Board members and other counsel.

III. THE FACILITY

Narragansett proposes to construct and alter 345 kV and 115 kV transmission lines which, under § 42-98-3(d) of the Energy Facility Siting Act, constitute major energy facilities. In the past, the Board has interpreted the definition of "major energy facility" in a case involving a power plant "to include not only actual generating facilities but also ancillary facilities integral and dedicated to the energy generating process." In re The Narragansett Electric Company and New England Power Company (Manchester Street Station Repowering Project), Docket No. SB-89-1, Final Report and Order, p. 14 (Order No. 12, December 17, 1990). In this case, the upgrades to the existing West Farnum and Kent County Substations constitute "ancillary facilities integral and dedicated" to the transmission of electricity at 345 kV and 115 kV. As a result, the entire project is subject to the Board's jurisdiction under § 42-98-4.

The proposed transmission system improvements are listed in Table 4-1 and described in Section 4 of Narragansett's Environmental Report for the Project (the "ER") which was admitted as Narragansett Exhibits 2 through 5 at the Preliminary Hearing. The Project components, lengths and affected municipalities are summarized below.

A. Construct a New 345 kV Transmission Line from West Farnum Substation to Kent County Substation.

Narragansett proposes to construct a new 345 kV transmission line (the "345 kV line") from its existing West Farnum Substation in North Smithfield, to the Kent County Substation in Warwick, a distance of approximately 21.4 miles. The 345 kV line will be constructed within an existing Narragansett ROW. It will pass through North Smithfield, Smithfield, Johnston, Cranston, West Warwick, and Warwick. (See ER, Figure 4-1.) The existing ROW is generally 250 feet wide and presently contains the 332 345 kV transmission line, the S-171 and T-172 115 kV transmission lines, and, in places, 23 kV sub-transmission lines.

The 345 kV line will be constructed east of and adjacent to the existing 332 345 kV line on the ROW as illustrated in ER, Figure 4-2, Sheets 1 to 5.

B. Relocate and Reconstruct Existing S-171 and T-172 115 kV Transmission Lines from Vicinity of the West Farnum Substation to Vicinity of the Kent County Substation.

Narragansett proposes to relocate and reconstruct its existing S-171 and T-172 115 kV transmission lines from the vicinity of the West Farnum Substation to the vicinity of the Kent County Substation, a distance of approximately 20.0 miles. This reconfiguration is being done in order to create an open "slot" on the ROW in which to construct the 345 kV line described above. Cross-section drawings showing the configuration of transmission lines and structures following the completion of the Project are presented in ER, Figure 4-2, Sheets 1 through 5.

The S-171 and T-172 lines are tapped into the following substations: Farnum Pike, Wolf Hill, Putnam Pike, Hartford Avenue, Johnston, FPL Generating Plant and West Cranston. As part of the project to reconstruct the S-171 and T-172 lines, the taps will be rebuilt or reconfigured as necessary. See ER, Figure 4-1.

C. Relocate Existing H-17 115 kV Transmission Line in the Vicinity of the West Farnum Substation.

Narragansett proposes to relocate its existing H-17 115 kV transmission line between the West Farnum Substation and a point approximately 0.15 miles south of Greenville Road, a total distance of approximately 0.3 miles. This will create an open slot on the ROW in which to construct the 345 kV line. The H-17 115 kV transmission line will be relocated approximately 30 feet to the east in this area.

D. Relocate B-23 115 kV Transmission Line at West Farnum Substation.

In order to facilitate the equipment additions and modifications at West Farnum Substation, Narragansett proposes to relocate several spans of the B-23 115 kV transmission line to provide adequate clearance from the proposed substation equipment. The existing B-23 line exits the substation to the north and runs around the perimeter of the substation, eventually heading northwest along the existing ROW toward the Sherman Road Substation. The relocation will eliminate one existing structure within the substation to make room for other equipment modifications within the substation. See ER, Figure 2-2, Sheet 1 of 40.

E. Reconductor G-185N 115 kV Transmission Line from Drumrock Substation to Kent County Substation.

Narragansett proposes to reconductor its existing G-185N 115 kV transmission line from the Drumrock Substation to the Kent County Substation, a distance of approximately 1.0 mile

along existing ROW in Warwick. The route of the G-185N line is shown on ER, Figure 4-7 and a typical cross-section of the ROW is shown on ER, Figure 4-8.

F. Modifications at the Kent County Substation including 115 kV Transmission Line Relocations.

To accommodate the 345 kV line within the Kent County Substation, the substation must be modified with various equipment upgrades and additions, including:

- Install a new 345 kV bay to include three new 345 kV circuit breakers,
- Install a third 345/115 kV 269/358/448 MVA autotransformer (the second transformer will be added in 2009 as part of a separate project),
- Install a new 115 kV bay to include two new 115 kV circuit breakers, and
- Relocate several spans of the existing G-185S and L-190 115 kV transmission lines south of the substation to accommodate the new and relocated equipment.

The existing conditions and the proposed layout of the Kent County Substation are shown in ER, Figure 4-9. The segments of the G-185S and L-190 lines which will be relocated are shown in ER, Figure 2-2, Sheet 38 of 40.

G. Equipment Additions and 345 kV Transmission Line Relocations at the West Farnum Substation.

To accommodate the 345 kV line within the West Farnum Substation, the substation must be modified with various equipment upgrades and additions, including:

- Install a new 345 kV Gas Insulated Switchgear (GIS) bay to include three new 345 kV circuit breakers, associated disconnect switches and buswork,
- Install a new control house for 345 kV relay and control equipment,
- Install a new GIS equipment building,
- Install a new line termination structure for the new 345 kV line, and

- Relocate several spans of the existing 315 and 332 345 kV transmission lines in the vicinity of the substation to accommodate the new 345 kV line and eliminate transmission line cross-overs.

The existing conditions and the proposed layout at the West Farnum Substation are shown in ER, Figure 4-10. The segments of the 315 and 332 lines which will be relocated are shown in ER, Figure 2-2, Sheet 1 of 40.

IV. THE ENERGY FACILITY SITING ACT (The "Act")

The Act consolidates in the Board, with two exceptions,¹ all state and local governmental regulatory authority for the siting, construction or alteration of major energy facilities, including transmission lines of 69 kV or over. 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.” § 42-98-7(a)(1). 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 would, absent [the Act], be required for the proposed facility.” R.I.Gen. Laws § 47-98-11(c).

Although the Board does consider and act upon each of such permits, licenses, variances and assents, the Board does so in a comprehensive manner which is distinct in nature from the review that would be performed by the several agencies absent the Act. Whereas each such agency would review its respective permitting, licensing, variance or assent issues according to

¹ Certain licenses and permits issued by the Department of Environmental Management and the Coastal Resources Management Council are exempt from Board authority. R.I. Gen. Laws § 42-98-7(a)(3).

its own particular mandates and concerns, the Board will evaluate all of such issues in a single and comprehensive decision that considers “the need for [the] facilities in relation to the overall impact of the facilities upon public health and safety, the environment and the economy of the state.” R.I.Gen. Laws § 42-98-1(a). Thus, the role of the Board is substantially distinct from, and more expansive than, a mere aggregation of the various agency processes that would occur absent the Act.

While the 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 licenses that would, absent the Act, be required. Instead of issuing a permit or license, however, the state or local agency 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 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 on these issues. . . .” R.I.Gen. Laws § 42-98-9(a).

Each such agency must follow “the procedures established by statute, ordinance, and/or regulation provided for determining the permit, 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.” R.I.Gen. Laws § 42-98-7(a)(2). Such advisory opinions must be submitted to the Board not later than six months following designation by the Board of the agency that will render the advisory opinion or within such lesser time as the Board specifies. R.I.Gen. Laws § 42-98-10(a). Such advisory opinions will be considered by the Board before it renders its final decision.

A state or local governmental body which renders an advisory opinion to the Board as a designated agency may also intervene as a matter of right and participate in Board hearings. EFSB Rules of Practice and Procedure (“EFSB Rule”) 1.10(a)(1). In addition to those advisory opinions specifically authorized under R.I. Gen. Laws § 42-98-9 from agencies that, in the absence of the Act, would have permitting authority, the Board may require further advice from state and local agencies in order to assist it in assessing the overall impact of a facility. In particular, §§ 42-98-9(d) and (e) provide for advisory opinions from the Public Utilities Commission (“PUC”) and the statewide planning program.² Due to the comprehensive nature of the ultimate issue 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 Act envisions that the Board shall have the benefit of the full range of technical expertise available within other existing agencies in making its decisions. Accordingly, the Board may request the opinion of various 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 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 direction, occur as the result of the Board's preliminary hearing. Following such preliminary hearing, the Board issues a Preliminary Order establishing the agenda of issues for the Board's final hearings, and designating agencies to act at the Board's direction.

² R.I.Gen. Laws §§42-98-9(d) refers to the division of planning and the governor’s office of energy assistance which are now the statewide planning program and the state energy office, respectively. The latter names will be used in this Order.

A maximum of six months is provided in § 42-98-10 (a) for filing advisory opinions. Thus, advisory opinions shall be filed by June 15, 2009. Final Board hearings must begin not later than forty-five (45) 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 July 30, 2009.

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 and the public the opportunity to address in a single forum, and from a consolidated, statewide perspective, the issues reviewed and the recommendations made by such agencies. R.I. Gen. Laws § 42-98-11(a). The Act requires that the final hearing be concluded not more than sixty (60) days after its initiation, and that the Board issue its final decision within sixty (60) days after the conclusion of such final hearing. A final decision favoring the application shall constitute a granting of all required and jurisdictional permits, licenses, variances and assents, and such final decision may be issued on any condition the Board deems warranted by the record. R.I. Gen. Laws §§ 42-98-11(b) and (c).

V. ISSUES TO BE CONSIDERED AT FINAL HEARING

The issues that will be decided by the Board in evaluating Narragansett's application were initially considered at the preliminary hearing. This Preliminary Order sets forth the Board's initial decision on such issues, and also directs certain agencies to act thereon at the direction of the Board. R.I. Gen. Laws § 42-98-9(a). The Board may, however, at a later time determine additional issues to be considered as the need arises. EFSB Rule 1.9(f). In determining the following issues to be decided during final hearings, the Board has considered the mandatory

issues established by the Act, the licenses, permits, assents or variances that would be required absent the Act, the statutory standards for granting a Board license, the filing by Narragansett and the comments of interested parties.

ISSUE 1: Is the proposed Alteration necessary to meet the needs of the state and/or region for energy? R.I. Gen. Laws § 42-98-11(b)(1).

The PUC, with participation of the Division of Public Utilities and Carriers, the State Energy Office and the Statewide Planning Program, shall render a single advisory opinion as to the need for the Project, as required by § 42-98-9(d). Such opinion shall specifically consider the need for the Project based upon the projected cost of the Project, as also discussed in Issue 2A, below. The Board shall also expressly consider the reliability of the transmission system in the area and region to be served in determining the need for the Project.

ISSUE 2: Is the proposed Project cost-justified, and can it be expected to produce energy at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed facility will be accomplished in compliance with all the requirements of the laws, rules, regulations, and ordinances, under which, absent [the Act,] a permit, license, variance, or assent will be required, or that consideration of the public health, safety, welfare, security and need for the proposed Project justifies a waiver of some requirements when compliance therewith cannot be assured? R.I.Gen. Laws § 42-98-11(b)(2).

The foregoing is a broad and far-reaching issue focused more on generation than transmission. It can, however, be adapted to transmission lines and ancillary facilities and is broken down into subsidiary issues regarding cost-justification, compliance with law and waiver of certain requirements.

ISSUE 2A: Is the Project cost-justified?

The issue of whether the Project will allow the transmission of energy at the lowest reasonable cost to the consumer is one which shall be included within the advisory opinion of the

PUC referenced above in Issue 1. The evaluation of the need for the Project will expressly include a determination of the reasonableness of the cost of the Project.

Such opinion of the PUC shall specifically analyze the cost impact of the Project and shall examine the economics of reasonable alternatives to the various components of the Project, including those proposed by Narragansett.

ISSUE 2B: Will the Project comply with laws applicable absent the Act? R.I. Gen. Laws § 42-98-11(b)(2).

The Board will consider whether the Project is able “to meet the requirements of the laws, rules, regulations and ordinances under which, absent [the Act], Narragansett would be required to obtain a permit, license, variance or assent.” R.I.Gen. Laws § 42-98-9(b).

Narragansett has offered its position as to which permits, licenses, variances, or assents would be so required. The Board shall require an advisory opinion as to this Issue from each of those agencies that, absent the Act, would have authority to decide whether the Project would in fact meet the requirements of such applicable laws, rules, regulations, and ordinances. The specific advisory opinions in this regard are set forth below in Section VII(A).

ISSUE 2C: Would a waiver from certain laws be justified? R.I. Gen. Laws § 42-98-11(b)(2).

In the event that the Board decides that the construction and operation of the Project could not be accomplished in compliance with the laws, rules, regulations, and ordinances under which, absent the Act, a permit, license, variance or assent would be required, the Board will decide whether the overall benefits of the Project justify a waiver from any such requirements subject to the Board's jurisdiction.

ISSUE 3: Will the proposed Project cause unacceptable harm to the environment?
R.I. Gen. Laws § 42-98-11(b)(3).

This issue goes to the heart of the Board's analysis of the overall impact of the Project, and involves many specific and subsidiary environmental issues. (Narr. Elec., EFSB 93-1, Preliminary Order, p. 14). The Board will address potential environmental impacts of the Project in a complete and comprehensive analysis, and will involve the comments and input of all parties to this proceeding as well as the participating public.

The Board interprets the phrase "harm to the environment" broadly, to include individual and cumulative environmental impacts including, but not limited to, impacts upon air quality, water quality, aquatic life, groundwater quality, wetlands, noise impacts, visual and cultural impacts, solid waste disposal impacts, and wastewater disposal caused by the construction and operation of the Project, including land and water transportation, traffic, and fuel and materials handling. (Narr. Elec., EFSB 93-1, Preliminary Order, p. 14). The Board will address all of these concerns within Issue 3.

As was the case for Issue 2A concerning cost justification, the Board shall consider all reasonable alternatives to the various components of the Project, including those proposed by Narragansett, in evaluating whether the Project would cause unacceptable harm to the environment. R.I.Gen. Laws §§ 42-98-11(b)(3) and 42-98-8(a)(7). The Board shall review the rationale of Narragansett in selecting the particular facility type and location. Although the Board has in the past held that "in contrast to a planning body, the Board would consider applications and approve or disapprove licenses for specific energy facilities" (Ocean State Power, EFSB 87-1, Final Order, p. 9), the Board's statutory duty to determine that the Project

will not cause unacceptable harm to the environment includes analysis of the reasonable alternatives. See, AES Order, p. 19.

ISSUE 4: Will the proposed facility enhance the socio-economic fabric of the state?
R.I.Gen. Laws § 42-98-11(b)(3).

The Board shall consider, and the Statewide Planning Program and the State Planning Council shall conduct an investigation and render an opinion as to the impact of the construction and operation of the Project upon the socio-economic fabric of the State. R.I.Gen. Laws §§ 42-98-9(e) and 42-98-11(b)(3). This Issue shall include economic and reliability benefits to the local population and economy, employment benefits, and tax benefits to the towns and the State.

ISSUE 5: Is the construction and operation of the Project consistent with the State Guide Plan? R.I. Gen. Laws § 42-98-9(e).

The Board shall consider whether the construction and operation of the Project is consistent with the state guide plan and the Statewide Planning Program and State Planning Council shall render an advisory opinion on this issue.

VI. EXEMPT LICENSES

The Board finds the following Department of Environmental Management (“DEM”) permits and licenses to be exempt from its jurisdiction (Act at § 42-98-7(a)):

- Freshwater wetlands alteration permit issued pursuant to the Freshwater Wetlands Act. R.I. Gen. Laws § 2-1-18, et seq.
- Water quality certification authority delegated to DEM by the Environmental Protection Agency pursuant to the Clean Water Act. R.I. Gen. Laws § 46-12-1, et seq.
- Stormwater Construction Discharges. Rhode Island Pollution Discharge Elimination System permit for point source discharge is issued by authority delegated to DEM by the Environmental Protection Agency pursuant to the Clean Water Act. 33 U.S.C. § 1251, et seq.

VII. ADVISORY OPINIONS

A. Jurisdictional Agencies

The following agencies and subdivisions of state and local governments which, absent the Act, would have authority to act upon permits, licenses, assents or variances required for the Project (the "Designated Agencies"), shall act at the direction of the Board in issuing the advisory opinions designated below. A Designated Agency shall, to the extent possible, render its advisory opinion pursuant to procedures that would be followed absent the Act and such advisory opinion shall conform to the extent possible to the provisions of the Rhode Island Administrative Procedure Act, R.I. Gen. Laws, Title 42, Chapter 35 (the "APA"), regarding decisions and orders. EFSB Rule 1.11(a). The Designated Agency shall, 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 Designated Agency does not issue its advisory opinion within six (6) months after its designation by the Board (i.e., by June 15, 2009), the right to render an opinion shall be forfeited. R.I. Gen. Laws § 42-98-10(a). While all of the Advisory Opinions are due at the same time, we urge local agencies to act promptly so that the Statewide Planning Program and State Planning Council may have the benefit of their input in formulating their Advisory Opinion.

The Designated Agencies and their respective Advisory Opinions are as follows:

i. North Smithfield, Smithfield, Johnston, Cranston and West Warwick Zoning Boards of Review

The North Smithfield, Smithfield, Johnston, Cranston and West Warwick Zoning Boards of Review shall each render an advisory opinion as to whether the Project would meet the requirements of the respective zoning ordinances, and whether any required special use permit or variance should be granted (Issue 2B.) Narragansett indicated at the preliminary hearing that it had or shortly would file applications for special use permits and dimensional variances in North Smithfield, Smithfield, Johnston and West Warwick, and for a dimensional variance in Cranston.

ii. North Smithfield, Smithfield, Johnston, Cranston, West Warwick and Warwick Building Inspectors

The North Smithfield, Smithfield, Johnston, Cranston, West Warwick and Warwick Building Inspectors shall each render an advisory opinion as to (i) whether the work proposed in the municipality as part of the Project is subject to the municipality's Erosion and Sediment Control Ordinance, (ii) if so, whether Narragansett's Erosion and Sediment Control Plan would conform to the Ordinance, and (iii) whether the Project would meet the requirements of other applicable municipal ordinances (Issue 2B.)

iii. Rhode Island Historical Preservation & Heritage Commission

The Rhode Island Historical Preservation & Heritage Commission shall render an advisory opinion as to whether the Project would be subject to its jurisdiction and, if so, whether the Project would conform with requirements relevant thereto, and whether any required approval or exception should be granted (Issue 2B.)

iv. Rhode Island Department of Transportation ("RIDOT")

Pursuant to Issue 3, RIDOT shall render an advisory opinion as to whether a Utility Permit (see R.I. Gen. Laws § 24-8-1 and § 24-10-1), Physical Alteration Permit (see R.I. Gen. Laws § 24-8-1) or any other RIDOT permits are required and should be issued for the Project, including the construction of transmission lines across state roads or highways. Such advisory opinion should specifically consider the potential impacts upon traffic associated with the Project during construction (Issues 2B and 3.)

B. Non-Jurisdictional Agencies

As discussed above, the Board has both the obligation and authority to request further advisory opinions from agencies other than those that, absent the Act, would have some specific authority over the Project. In addition to the mandatory opinions required by the Act, the Board in its discretion is also requesting informational advisory opinions from several of the agencies listed below for which there are no applicable permit proceedings required for the Project.

In the absence of a proceeding conducted in accordance with the APA, the Board requests that each such agency 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, Narragansett, the Board, and other interested parties would have the opportunity to cross examine such sponsor on the advisory opinion.

For each such non-jurisdictional advisory opinion, the subject agency shall request, and Narragansett shall provide, any information or evidence deemed necessary to prepare the advisory opinion. Narragansett shall provide information in a timely manner, and shall remain

responsible for seeing that the information provided to the Board and the various agencies remains up to date.

i. Public Utilities Commission

The PUC is requested to render an advisory opinion on Issues 1 and 2A as discussed above.

ii. The Statewide Planning Program and State Planning Council

As discussed above, the Statewide Planning Program and State Planning Council shall conduct an investigation and render an advisory opinion regarding Issues 4 and 5, as required by § 42-98-9(e). These agencies should also address any state and local tax benefits that would result from the Project.

iii. Department of Health ("DOH")

The DOH is requested to render an informational advisory opinion on the potential public health concerns relating to biological responses to power frequency electric and magnetic fields associated with the operation of the Project. In particular, it should review and comment on the report from Exponent (Appendix B to the ER).

iv. Planning Boards of North Smithfield, Smithfield, Johnston, Cranston, West Warwick and Warwick

The Planning Boards are each requested to render an advisory opinion as to whether the Project would be a land use consistent with each municipality's respective comprehensive plan pursuant to the Comprehensive Planning and Land Use Act, R.I. Gen. Laws § 45-22.2-1.

Accordingly, it is hereby

(Order No. 61) ORDERED:

(1) The following state 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 this Preliminary Decision and Order of the Energy Facility Siting Board:

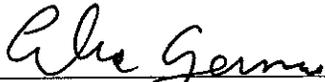
- (i) North Smithfield Zoning Board of Review;
- (ii) Smithfield Zoning Board of Review;
- (iii) Johnston Zoning Board of Review;
- (iv) Cranston Zoning Board of Review;
- (v) West Warwick Zoning Board of Review;
- (vi) North Smithfield Building Inspector;
- (vii) Smithfield Building Inspector;
- (viii) Johnston Building Inspector;
- (ix) Cranston Building Inspector;
- (x) West Warwick Building Inspector;
- (xi) Warwick Building Inspector;
- (xii) Rhode Island Historical Preservation & Heritage Commission;
- (xiii) Rhode Island Department of Transportation;
- (xiv) Public Utilities Commission;
- (xv) The Statewide Planning Program and State Planning Council;
- (xvi) Rhode Island Department of Health;
- (xvii) North Smithfield Planning Board;

- (xviii) Smithfield Planning Board;
- (xix) Johnston Planning Board;
- (xx) Cranston Planning Board;
- (xxi) West Warwick Planning Board; and
- (xxii) Warwick Planning Board.

(2) The Coordinator of the Energy Facility Siting Board shall prepare and forward to all agencies designated in paragraph (1) above a certified copy of this Preliminary Decision and Order and a separate written notice of Designation.

DATED AND EFFECTIVE AT PROVIDENCE, RHODE ISLAND THIS 19th DAY
OF DECEMBER, 2008.

ENERGY FACILITY SITING BOARD



Elia Germani, Esq.
Chairman



Kevin M. Flynn



W. Michael Sullivan

