

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF PROPOSED
TOWN OF NEW SHOREHAM PROJECT
PURSUANT TO R.I. GEN.
LAWS § 39-26.1-7

Docket No. 4185

**CONSERVATION LAW FOUNDATION'S SUPPLEMENTAL
MEMORANDUM OF LAW IN SUPPORT OF CLF'S MOTION FOR A STAY**

The 45-day time limit on this Docket, written into the 2010 amendments to R. I. Gen. Laws § 39-26.1-7, is no obstacle to the PUC granting CLF's July 6, 2010 Motion For A Stay. There is a strong and unbroken line of Rhode Island Supreme Court cases that hold that where, as here, a statute imposes a deadline on an administrative agency but the statute imposes no clear and specific penalty for violation of the deadline, the deadline is not mandatory. New England Dev., LLC v. Berg, 913 A.2d 363, 371 (R.I. 2007) (collecting cases for the proposition that "statutes imposing apparently mandatory time restrictions on public officials" are not mandatory where they "provide no sanction for failing to perform that duty." [Emphasis supplied]); Washington Highway Dev., Inc. v. Bendick, 576 A.2d 115 (R.I. 1990) (statute requiring DEM to issue decision within six weeks was not mandatory where "the Legislature did not provide a sanction for failure to meet this requirement."); Beauchesne v. London, 118 R.I. 651, 660, 375 A.2d 920, 924-925 (1977) (statutory requirement that Workers Compensation Court issue a decision within 10 days was not mandatory); Providence Teachers Union v. McGovern, 113 R.I.

169, 319 A.2d 358 (1974) (statutory requirement that arbitration hearing begin within 10 days of the appointment of arbitration panel was not mandatory).

As the Rhode Island Supreme Court explained in Beauchesne, supra, statutory deadline provisions (like the 45-day time limit in the 2010 statutory amendments) “are designed to expedite justice, not straightjacket commissioners.” 118 R.I. at 660, 375 A.2d at 924.

The short of it is that there are strong reasons of administrative economy to grant CLF’s Motion For a Stay while the PUC takes sufficient time to properly consider CLF’s Motion To Dismiss – and the 45-day time limit on this Docket imposed by the recent statutory amendments is no bar to granting the requested stay.

CONSERVATION LAW FOUNDATION,
by its Attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to PUC Rules, an original and 12 copies of the within Supplemental Memorandum were hand-delivered to the PUC Clerk, Public Utilities Commission, 99 Jefferson Blvd., Warwick, RI 02888. In addition, electronic copies were transmitted via e-mail to all the persons on the PUC's Service List for this Docket, which list was transmitted by PUC Staff Attorney Cynthia Wilson-Frias on Thursday morning, July 8, 2010. I hereby certify that all of the foregoing was done on the 8th day of July 2010.



A handwritten signature in black ink, appearing to read 'Cynthia Wilson-Frias', is written over a horizontal line. The signature is cursive and extends to the right of the line.