

RHODE ISLAND PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF AMENDED POWER :  
PURCHASE AGREEMENT BETWEEN : DOCKET NO. 4185  
NARRAGANSETT ELECTRIC COMPANY :  
D/B/A NATIONAL GRID AND DEEPWATER :  
WIND BLOCK ISLAND, LLC PURSUANT TO :  
R.I. GEN. LAWS § 39-26.1-7 :

MOTION TO INTERVENE OF PATRICK C. LYNCH  
ATTORNEY GENERAL

Now comes Patrick C. Lynch, Attorney General of the State of Rhode Island, pursuant to Rule 1.13 of the Rhode Island Public Utilities Commission's ("PUC") Rules of Practice and Procedure, respectfully filing his Motion to Intervene in the above-captioned matter. The Attorney General seeks full-party status, and in support of such motion, provides its Memorandum in Support of Motion to Intervene, enclosed.

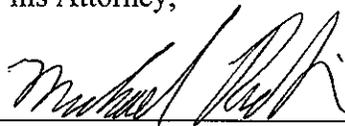
The Attorney General expects to call one or more witnesses.

Pursuant to Rule 1.15(b) of the PUC Rules of Practice and Procedure, the Attorney General has made a good-faith effort to determine whether this motion will be opposed. Responses were received by the Conservation Law Foundation, the Rhode Island Builders Association, and Toray Plastics (America), Inc., not opposing the motion. The other parties to this docket have been contacted, but have not yet stated their positions with regard to this motion.

RESPECTFULLY SUBMITTED  
INTERVENOR,

PATRICK C. LYNCH  
ATTORNEY GENERAL

By his Attorney,



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Mike Rubin, Esquire (#3656)  
RI Department of Attorney General  
150 South Main Street  
Providence, RI 02903-2907  
Tel: (401) 274-4400, x 2116  
Fax: (401) 222-3016  
MRUBIN@RIAG.RI.GOV

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that, pursuant to PUC Rules, an original and 12 copies of the within Motion 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 Wednesday, June 30, 2010. I hereby certify that all of the foregoing was done on the 6th day of July 2010.



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MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE OF  
PATRICK C. LYNCH ATTORNEY GENERAL

Pursuant to the Motion to Intervene of Patrick C. Lynch Attorney General, the following is provided in support of such motion.

Introduction

The Public Utilities Commission’s (“PUC”) Rule of Practice and Procedure 1.13 governs the standard for allowing intervention in a PUC proceeding. The relevant portion of Rule 1.13 states that “any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the [PUC],” including that “interest of such a nature that movant’s participation may be in the public interest.” Furthermore, if one looks to the new legislation for guidance, in this particular proceeding “[t]he [PUC] shall allow [ ] interventions on an expedited basis, provided they comply with the [PUC] standards for intervention.” 2010 R.I. Pub. L. ch. 31 & 32.

Of course, the Attorney General asserts that such new legislation is unconstitutional. Thus, the motion is akin to a “special appearance” to challenge *in personam* jurisdiction without waiving the argument. Thus, nothing herein should be misconstrued as a waiver of the Attorney General Patrick Lynch’s “under protest” position.

The Attorney General has such an interest in the above-captioned matter, wherein intervention is necessary and appropriate. The Attorney General represents the interests of the public, including those of consumers who will be served by the applicant. In support thereof, the Attorney General, sets forth below facts from which its interest can be determined and the grounds for its requested intervention.

### Facts in Support of Intervention

#### *A. Background*

On June 15, 2010, an amendment to R.I. Gen. Laws § 39-26.1 (2009), entitled “Long-Term Contracting Standard for Renewable Energy,” was enacted. This amendment (the “new legislation”) authorized the Narragansett Electric Company (D/B/A National Grid) (“National Grid”) to enter into an amended power purchase agreement (“PPA”) with Deepwater Wind Block Island, LLC (“Deepwater”). 2010 R.I. Pub. L. ch. 31 & 32. Upon filing such PPA with the PUC, the PUC was to open a new docket, allowing, on an expedited basis, interventions that complied with PUC standards. *Id.*; *see also* Rule 1.13.

The proceeding to take place pursuant to opening the new docket requires the PUC to review and approve the PPA if certain criteria are met. 2010 R.I. Pub. L. ch. 31 & 32. The criteria the PUC is required to consider include the commercial reasonableness of the project, and the likelihood of economic and environmental benefits realized from the project. 2010 R.I. Pub. L. ch. 31 & 32. These criteria are to be considered in light of the “state’s policy intention to facilitate the development of a small offshore wind project in Rhode Island waters, while at the same time interconnecting Block Island to the mainland.” 2010 R.I. Pub. L. ch. 31 & 32.

Additionally, the new legislation specifies that the PPA shall provide for terms fixing the prices of the costs of the project, and shall require that these costs be verified upon completion of

the project, wherein any reduction in project costs shall reduce the expense to ratepayers. 2010 R.I. Pub. L. ch. 31 & 32. The project, if approved by the PUC, “shall include a transmission cable between the Town of New Shoreham and the mainland of the state.” 2010 R.I. Pub. L. ch. 31 & 32. The costs associated with the purchase of the transmission cable (including related facilities, annual operation, and maintenance costs), may be recovered by charging “transmission rates in a manner that socializes the costs throughout Rhode Island.” 2010 R.I. Pub. L. ch. 31 & 32.

On June 30, 2010, Deepwater and National Grid submitted said PPA to the PUC, whereupon the above-captioned docket was opened.

*B. The Attorney General’s power and duty to represent the public interest supports the finding that his intervention is “necessary” and “appropriate.”*

It is the responsibility of the Attorney General to “exercise the powers and duties prescribed in and [to] enforce the . . . provisions of the general laws and public laws insofar as they relate to the powers and duties of the attorney general.” R.I. Gen. Laws § 42-9-2(a) (2007). Furthermore, the Rhode Island Constitution states that “[t]he duties and powers of the [ ] attorney general . . . shall be the same under this Constitution as are now established, or as from time to time may be prescribed by law.” R.I. Const. art. 9, § 12. Under common law, the Attorney General is the representative of the public, empowered to bring actions to redress grievances suffered by the public as a whole. The Attorney General has, on a number of previous occasions, been granted full-party status in proceedings before both the PUC and the Division of Public Utilities and Carriers.

The Attorney General submits that his involvement in this proceeding will be helpful in determining whether the approval of the PPA, in its entirety or in part, is consistent with the public interest. On behalf of the public, the Attorney General will evaluate the necessity and

appropriateness of the request for approval of the PPA submitted by National Grid and Deepwater. The Attorney General's participation in this matter will provide the PUC with input insofar as it relates to the issues impacting the public as rate-payers, including concerns about the PPA and the transmission cable now mandated by the new legislation.

The Attorney General is an independent voice of the rate-paying public, whose rates will be directly affected by the PPA sought to be approved in this proceeding. As such, the rate-payers, as energy consumers in Rhode Island, are appropriately represented by the Attorney General. The rate-payers' interests in the proceeding may be affected by not only the PPA itself, but also by the transmission cable, for which the rate-payers may be charged additional transmission rates and other related cable costs. These interests are inherently public interests, properly represented by the Attorney General.

Furthermore, in light of the State of Rhode Island's strained economic environment, the Attorney General's attention and active participation in this proceeding is indisputably warranted, and essential to serving and protecting the public interest. A criterion by which the PUC will consider the PPA is the economic development benefit, including that which may affect the Rhode Island workforce. 2010 R.I. Pub. L. ch. 31 & 32. The Attorney General's participation in this proceeding assures that the economic interests, indeed public interests, are attended to.

As well, in light of the State of Rhode Island's environmental concerns, the Attorney General's attention and active participation in this proceeding is warranted. The environmental benefits, as another criterion by which the PUC will consider the PPA, affect the Rhode Island public and, as such, the participation of the Attorney General in this proceeding assures that the environmental interests are attended to.

Thus, in taking full account of the public interest – the rate-payers’ rates and fees, the economic considerations, and the environmental considerations – the Attorney General asserts that his intervention is necessary and appropriate under Rule 1.13 of the Rules of Practice and Procedure of the Commission.

C. *The statute addressing the relationship between the Attorney General and the Public Utilities and Carriers division and the PUC impliedly recognizes that the Attorney General may intervene on behalf of the citizens of the state, customers of a public utility.*

Section 39-1-19 of the Rhode Island General Laws recognizes that the Attorney General may, when requested by the administrator of the Public Utilities and Carriers “intervene in any action or proceeding in which is involved any question arising under this title.” R.I. Gen. Laws § 39-1-19(b) (1997). Further, the Attorney General is not limited to intervening only on behalf of the Public Utilities and Carriers division, but may also intervene “on behalf of the state as a customer of a public utility, or on behalf of the citizens of the state, as customers of a public utility . . .” R.I. Gen. Laws § 39-1-19(b) (1997).

Implicit in this language is the recognition that the Attorney General’s intervention in proceedings before the Public Utilities and Carriers division and the PUC, “on behalf of the citizens . . . as customers of a public utility,” is not an exceptional occurrence. Rather, it is so unexceptional that its occurrence is specifically cited as an example of when the division may employ alternative legal counsel.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Attorney General respectfully requests that the PUC grant his motion to intervene in this proceeding, with all rights associated therewith.

RESPECTFULLY SUBMITTED  
INTERVENOR,

PATRICK C. LYNCH  
ATTORNEY GENERAL

By his Attorney,



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Mike Rubin, Esquire (#3656)  
RI Department of Attorney General  
150 South Main Street  
Providence, RI 02903-2907  
Tel: (401) 274-4400, x 2116  
Fax: (401) 222-3016  
MRUBIN@RIAG.RI.GOV