

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

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

**DEEPWATER WIND BLOCK ISLAND, LLC’S OBJECTION TO MOTION OF
THOMAS DOYLE, PATRICIA DOYLE, JAMES E. O’NEIL, ROSEMARY IVES,
JONATHAN IVES, MICHAEL BEAUREGARD AND LAURENCE EHRHARDT
TO INTERVENE**

I. INTRODUCTION

Now comes Deepwater Wind Block Island, LLC (“Deepwater Wind”) and hereby objects to the Motion to Intervene of Thomas Doyle, Patricia Doyle, James E. O’Neil, Rosemary Ives, Jonathan Ives, Michael Beauregard and Laurence Ehrhardt (“Citizen Intervenors”).

II. BACKGROUND

On June 30, 2010, The Narragansett Electric Company, d/b/a National Grid (hereinafter “NGrid”) filed a power purchase agreement entered into with Deepwater Wind (“PPA”) in accordance with Rhode Island General Laws §39-26.1-7, as amended by 2010 Senate Bill 2819 Sub A as amended, and 2010 House Bill 8083 Sub A as amended (“Statute”). The Statute directs NGrid and Deepwater Wind to obtain approval of the PPA from the Rhode Island Public Utilities Commission (“Commission”). As

such, and according to the Statute, the Commission opened this docket to examine the PPA.

The Statute provides that the Commission shall review the PPA to determine whether:

- (i) The PPA contains terms and conditions that are commercially reasonable;
- (ii) The PPA contains provisions that provide for a decrease in pricing if savings can be achieved in the actual cost of the project pursuant to subsection 39-26.1-7(e);
- (iii) The PPA is likely to provide economic development benefits, including: facilitating new and existing business expansion and the creation of new renewable energy jobs; the further development of Quonset Business Park; and, increasing the training and preparedness of the Rhode Island workforce to support renewable energy projects; and
- (iv) The PPA is likely to provide environmental benefits, including the reduction of carbon emissions.

The Statute also provides that the parties to Docket 4111 shall be allowed to become parties in Docket 4185.¹ In addition, the Commission may allow other interventions on an expedited basis “provided they comply with the commission standards for intervention.”

III. LEGAL STANDARD

Pursuant to Rule 1.13(b) of the Rhode Island Public Utilities Commission’s Rules of Practice and Procedure (“Commission Rules”), a party claiming a right to intervene, or an interest of such a nature that intervention is necessary or appropriate, may intervene in any proceeding before the Commission. Such interest may be:

- (1) a right conferred by statute;

¹ In Docket 4111, the Commission examined a prior PPA entered into between NGrid and Deepwater Wind under a previous version of the Statute, which has since been amended.

- (2) an interest which may be directly affected and which is not adequately represented by existing parties and is to which movants may be bound by the Commission's action in the proceeding;
- (3) any other interest of such a nature that movants' participation may be in the public interest.

IV. ARGUMENT

It is Deepwater Wind's position that the Citizen Intervenors do not have a sufficient factual and legal basis to support their intervention request. The Citizen Intervenors' motion merely contains conclusory statements, which mirror the intervention language in Commission Rule 1.13(b). The Citizen Intervenors failed to demonstrate how and why their interests are not adequately represented by existing parties, nor did they provide any concrete support for their belief that their intervention is in the public interest.

Pursuant to R.I.G.L. §39-1-1 et seq., the Rhode Island Legislature has conceived a system whereby the Division of Public Utilities and Carriers ("Division"), in addition to its broad regulatory powers, appears on behalf of the public to present evidence and make arguments before the Commission. *Narragansett Electric Co. v. Harsch*, 368 A.2d 1194 (RI 1977). In most cases, the Rhode Island Attorney General serves as legal counsel to the Division in hearings, investigations, actions, and proceedings before the Commission. *Id.* However, R.I.G.L. §39-1-19 allows the Division to employ alternative legal counsel when the Attorney General intervenes on behalf of the citizens of the State of Rhode Island as customers of a public utility.

The Division has filed notice that it will participate as a party in the litigation of this Docket. In addition, Attorney General Patrick C. Lynch has taken the extraordinary

step of filing a Motion to Intervene in this Docket.² The Attorney General's memorandum supporting his Motion To Intervene states:

"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 ratepayers, as energy consumers in Rhode Island, are appropriately represented by the Attorney General.³

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."⁴

As such, the ratepayers, including the seven Citizen Intervnors, are being represented in this case by both the Division and the Rhode Island Attorney General's Office. The Citizen Intervnors have provided no support for their allegation that they are inadequately protected by the Division and the Attorney General. Furthermore, the Citizen Intervnors have not contradicted the Attorney General's statement that that the ratepayer's interests will be protected through his intervention. Thus, the Citizen Intervnors cannot credibly claim that their interests are inadequately protected.

Furthermore, allowing individual customers to intervene as full parties in proceedings before the Commission, absent a compelling factual and legal basis, could

² Deepwater Wind will not oppose the Attorney General's Motion To Intervene.

³ See Memorandum In Support Of Motion To Intervene Of Patrick C. Lynch Attorney General, pp. 3-4.

⁴ See Memorandum In Support Of Motion To Intervene Of Patrick C. Lynch Attorney General, p. 5.

set a problematic precedent. This is especially true where both the Division and the Attorney General are representing customers of the utility.

Each utility that appears before the Commission services thousands of customers – many of which have specific, individual, and conflicting self-interests. Thus, proceedings before the Commission could be reduced to a collection of individual customers arguing on behalf of their own specific interests. If each of these customers were allowed full intervenor status, the regulatory process which has statutory timeframes for completion, could grind to a halt.⁵

By contrast, if the Commission denies the Citizen Intervenors' request, it will not be denying them, or any other individuals, a voice in this proceeding. Pursuant to Commission Rule 1.14, any person other than a party who objects to the approval of an application, petition, motion, or other matter which is, or will be, under consideration by the Commission may file a protest. In addition, members of the public are allowed to speak directly to the Commission at public hearings established in each Docket.⁶ Therefore, a balancing of interests is achieved. Individual customers have a voice in the process, but the process is not bogged down by an infinite number of parties.

V. CONCLUSION

For the reasons set forth hereinabove, Deepwater Wind Block Island, LLC hereby prays that the Commission deny the Motion to Intervene of Thomas Doyle, Patricia Doyle, James E. O'Neil, Rosemary Ives, Jonathan Ives, Michael Beauregard and Laurence Ehrhardt.

⁵ In the instant Docket, the timeframe is even further compressed as the Statute mandates that a decision must be rendered within forty-five days from the date of the PPA filing, which was on June 30, 2010.

⁶ There are currently two public hearings scheduled for July 22, 2010 one on Block Island and one in Warwick.

DEEPWATER WIND BLOCK ISLAND, LLC

By its attorney,

A handwritten signature in black ink, appearing to read "J. Keough", is written over a horizontal line.

Joseph A. Keough, Jr. (#4925)

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CERTIFICATION

I hereby certify that on July 8, 2010, a copy of the within was sent to all parties set forth on the attached Service List by electronic mail and copies were sent to Luly Massaro, Commission Clerk, by electronic mail and hand delivery.

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