

#4360

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

In re The Narragansett Electric Company :
d/b/a National Grid (Interstate : Docket No. SB-2012-01
Reliability Project) :

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

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 (National Grid or the Applicant) to construct and alter transmission lines and facilities in the municipalities of Burrillville and North Smithfield.

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 Decision and Order in Docket No. SB-2012-01, dated October 10, 2012, 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 National Grid's application which National Grid 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 02888, on or before April 10, 2013. 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 copy of the Siting Board's Preliminary Decision and 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

October 12, 2012



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Energy Facility Siting Board
89 Jefferson Boulevard
Warwick, Rhode Island 02888
(401) 941-4500

CERTIFICATION OF RECORDS

I hereby certify that the attached documents identified below are true and accurate copies of the original on file at the office of the Energy Facility Siting Board.

- Order No. 66 – SB-2012-1 Preliminary Decision and Order re: Interstate Reliability Project, dated and effective October 10, 2012.

A handwritten signature in blue ink, appearing to read "NSU".

Nicholas S. Ucci, Coordinator
Energy Facility Siting Board
October 11, 2012

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

In re The Narragansett Electric Company :
d/b/a National Grid : **Docket No. SB-2012-01**
(Interstate Reliability Project) :

PRELIMINARY DECISION AND ORDER

I. INTRODUCTION

On July 19, 2012, The Narragansett Electric Company d/b/a National Grid, a Rhode Island corporation and franchised public utility (“National Grid” or the “Company”), filed with the Energy Facility Siting Board (“EFSB” or the “Board”) an application to construct and alter major energy facilities. In its application, which covers the Rhode Island components of the Interstate Reliability Project (the “Project”)¹, National Grid proposes to construct two new 345 kilovolt (kV) transmission lines; relocate, reconstruct, and, in some cases, reconductor existing 345 kV and 115 kV transmission lines; and reconstruct an existing switching station. The application was docketed on August 1, 2012 and, after public notice, a preliminary hearing was held on September 25, 2012.

The purpose of the preliminary hearing was to determine the issues to be considered by the Board in evaluating the application, 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

¹ The Interstate Reliability Project is a joint project proposed by National Grid and Northeast Utilities (“NU”) to resolve multiple electric reliability issues within southern New England and involves (i) the construction of new 345 kV transmission lines totaling approximately 75 miles in length in Massachusetts, Rhode Island, and Connecticut, (ii) the reconstruction of the existing Sherman Road Switching Station in Burrillville, Rhode Island, and (iii) the reconstruction and modification of other transmission lines and facilities in the three states. The IRP facilities in Rhode Island will be constructed, owned, and operated by The Narragansett Electric Company d/b/a National Grid, those in Massachusetts by New England Power Company d/b/a National Grid, and those in Connecticut by The Connecticut Light & Power Company (“CL&P”) a wholly-owned subsidiary of NU.

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 National Grid:	Peter V. Lacouture, Esq. Robinson & Cole LLP
	Bess Gorman, Esq. National Grid USA
For the Division:	Christy L. Hetherington, Esq. Office of Rhode Island Attorney General
For ISO-NE:	Erica P. Bigelow, Esq.
For the Board:	Patricia S. Lucarelli, Esq.

II. TESTIMONY AT PRELIMINARY HEARING

National Grid presented one witness at the preliminary hearing, David J. Beron, National Grid Lead Project Manager, who introduced the Project to the Board, sponsored National Grid's application and Environmental Report ("ER")² and presented a general overview of the Project. Mr. Beron's PowerPoint slides were admitted as National Grid Exhibit 6. Mr. Beron also responded to Project-related questions from Board members, staff and other counsel.

III. THE FACILITY

National Grid proposes to construct two new 345 kV transmission lines and alter existing 345 kV and 115 kV transmission lines, which, under § 42-98-3(d) of the Energy Facility Siting

² The application and ER were marked as full exhibits, NGrid-1-NGrid-4, at the preliminary hearing.

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. In the instant case, the reconstruction of the existing Sherman Road Switching Station constitutes an “ancillary facility integral and dedicated” to the transmission of electricity at 345 kV. As a result, all of the Rhode Island components of the Project are subject to the Board's jurisdiction under §42-98-4.

The proposed transmission system improvements are listed in Table 4-1 and described in National Grid Exhibit 2, Section 4 of the ER. These improvements are also shown in Figure 2-2 of the ER.³ The Project components, lengths, and affected municipalities are summarized below.

A. Construct a New 345 kV Transmission Line from the Rhode Island/Massachusetts Border to the West Farnum Substation.

National Grid proposes to construct a new 345 kV transmission line (the “366 Line”) from the existing Millbury No. 3 Switching Station in Millbury, Massachusetts to the West Farnum Substation on Greenville Road in North Smithfield, a total distance of approximately 20.2 miles, of which approximately 4.8 miles are in Rhode Island. The 366 Line will be constructed within an existing National Grid ROW in North Smithfield. See National Grid Exhibit 4, ER, Figure 4-1. The width of the existing ROW varies, but it is generally 250 to 270 feet wide. Presently the ROW is occupied in places by the S-171 and T-172 115 kV

³ The figures referenced herein are contained in Volume 2 of the ER (“IRP Mapping”) which was admitted as a full exhibit, National Grid Exhibit 4.

transmission lines, the Q145 and R144 115 kV transmission lines, and the 315 345 kV transmission line (the “315 Line”).

The proposed location of the 366 Line on the ROW and the resulting configuration of the lines on the ROW is shown in Exhibit NGrid-4, ER, Figure 2-2, Sheets 33-41 and Figure 4-1, Map Sheets: RI – 366 – 1 to RI – 366 – 6.

B. Construct a New 345 kV Transmission Line from the West Farnum Substation to the Rhode Island/Connecticut Border.

National Grid and NU propose to construct a new 345 kV transmission line (the “341 Line”) between the West Farnum Substation and the Lake Road Switching Station in Killingly, Connecticut, a total distance of approximately 25.3 miles, of which approximately 17.7 miles are in Rhode Island and are subject to this application.⁴ The 341 Line will be constructed within an existing National Grid ROW that extends through North Smithfield and Burrillville. See ER, Figure 4-1. The width of the existing ROW typically varies between 300 and 700 feet wide. Presently, portions of the ROW are occupied by the 328 345 kV transmission line (the “328 Line”), the 347 345 kV transmission line (the “347 Line”), and the B-23 115 kV transmission line (the “B-23 Line”).

The proposed location of the 341 Line on the ROW and the resulting configuration of the lines on the ROW is shown in Exhibit NGrid-4, ER, Figure 2-2, Sheets 1-32 and Figure 4-1, Map Sheets: RI – 341 – 1 to RI – 341 - 5.

C. Reconstruct and Reconductor the Existing 328 Line from the West Farnum Substation to the Sherman Road Switching Station.

⁴ A third 345 kV line (the “3271 Line”) will be constructed by NU between the Lake Road Switching Station and the Card Street Substation in Lebanon, Connecticut.

National Grid proposes to reconstruct and reconductor the existing 328 Line from the West Farnum Substation to the Sherman Road Switching Station, a distance of approximately 9.2 miles. This will involve the removal of existing structures, overhead conductors, and shield wires, and the installation of new structures, conductors, and shield wires. Cross-section drawings showing the existing and rebuilt configuration of transmission lines and structures are presented in Exhibit NGrid-4, ER, Figure 4-1, Map Sheets: RI – 341 – 2 to RI – 341 – 5 of 5.

D. Reconstruct the Sherman Road Switching Station.

National Grid proposes to reconstruct the Sherman Road Switching Station and retire the existing switching station. The switching station is located at 1573 Sherman Farm Road, Burrillville, Rhode Island on a portion of approximately 40.7 acres of property owned in fee by National Grid. The reconstruction of the Sherman Road Switching Station is required to address thermal capacity issues, short-circuit duty related issues, asset conditions in the station, and to meet NPCC requirements.

The reconstruction entails building a completely new 345 kV switching station with Air Insulated Switchgear in a breaker-and-a-half configuration. The existing switching station will be expanded to the northwest by an area approximately 180 feet in width and 540 feet in length. In connection with this work, segments of the existing 333, 3361, and 347 345 kV transmission lines will need to be realigned on National Grid property in the vicinity of the switching station in order to tie into the rebuilt station.

The existing conditions and the proposed layout of the Sherman Road Switching Station are shown in Exhibit NGrid-4, ER, Figure 4-5.

E. Relocate Existing 3361 345 kV Transmission Line in the Vicinity of the Sherman Road Switching Station.

National Grid proposes to relocate approximately 0.25 miles of its existing 3361 345 kV transmission line outside of the Sherman Road Switching Station to realign with the reconstructed Sherman Road Switching Station. See Exhibit NGrid-4, ER, Figure 2-2, Sheets 16 and 16A.

F. Relocate Existing 333 345 kV Transmission Line in the Vicinity of the Sherman Road Switching Station.

National Grid proposes to relocate approximately 0.25 miles of its existing 333 345 kV transmission line outside of the Sherman Road Switching Station to realign with the reconstructed Sherman Road Switching Station. See Exhibit NGrid-4, ER, Figure 2-2, Sheets 16, 16A, and 17.

G. Relocate Existing 347 345 kV Transmission Line in the Vicinity of the Sherman Road Switching Station.

National Grid proposes to relocate approximately 0.25 miles of its existing 347 345 kV transmission line outside of the Sherman Road Switching Station to realign with the reconstructed Sherman Road Switching Station. See Exhibit NGrid-4, ER, Figure 2-2, Sheet 16.

H. Modifications to B-23 115 kV Transmission Line near the 341 Line and 328 Line.

National Grid proposes to modify the existing B-23 Line in North Smithfield to accommodate the construction of the 341 Line and the reconstruction of the 328 Line. The route of the B-23 Line is shown in Exhibit NGrid-4, ER, Figure 2-2, Sheets 26-32 and a typical cross-section of the ROW is shown in Exhibit NGrid-4, ER, Figure 4-1, Map Sheet: RI-341-5.

I. Modifications to T172N 115 kV Transmission Line near the 366 Line.

National Grid proposes to modify the existing T172N 115 kV transmission line in North Smithfield to accommodate the construction of the 366 Line. The route of the T172N Line is shown on Exhibit NGrid-4 ER, Figure 2-2, Sheets 39-41 and a typical cross-section of the ROW is shown in Exhibit NGrid-4, ER, Figure 4-1, Map Sheet: RI-366-5.

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

The Act consolidates in the Board, with two exceptions,⁵ 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." R.I. Gen. Laws §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

⁵Certain 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).

agency would review its respective permitting, licensing, variance, or assent issues according to 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.⁶ 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 an application to construct a major energy facility, 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.

⁶ 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 *April 10, 2013*. 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 *May 25, 2013*.

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 National Grid'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 National Grid and the comments of interested parties.

ISSUE 1: Is the proposed Project 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 the 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 be 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 National Grid.

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], [National Grid] would be required to obtain a permit, license, variance or assent.” R.I. Gen. Laws § 42-98-9(b). National Grid 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. Narragansett Electric, EFSB 93-1, Preliminary Order, p. 14. The Board will address the 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. Narragansett Electric, 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 National Grid, 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 National Grid 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 reasonable alternatives. In re: Narragansett Electric Company d/b/a National Grid, SB-2008-02, Preliminary Order, p. 13.

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 Rhode Island Department of Environmental Management (“RIDEM”) permits and licenses to be exempt from its jurisdiction. R.I. Gen. Laws § 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 RIDEM 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 RIDEM

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 *April 10, 2013*), 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 and Burrillville Zoning Boards of Review

The North Smithfield and Burrillville 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 the required dimensional variance should be granted (Issue 2B). The Burrillville Zoning Board of Review shall also render an advisory opinion as to the whether a special use permit should be granted to exempt the Project from construction hour restrictions (Issue 2C). National Grid indicated at the preliminary hearing that it has recently filed an application for a special use permit and a dimensional variance in Burrillville, and an application for a dimensional variance in North Smithfield.

ii. North Smithfield Town Council

The North Smithfield Town Council shall render an advisory opinion as to the whether an exemption from the North Smithfield Noise Ordinance should be granted (Issue 2C). National Grid indicated at the preliminary hearing that it has filed an application for exemption from the Noise Ordinance in North Smithfield.

iii. North Smithfield and Burrillville Building Inspectors

The North Smithfield and Burrillville 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 National Grid'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, R.I. Gen. Laws §24-8-1 and §24-10-1, Physical Alteration Permit, 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 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 be prepared 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, National Grid, 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 National Grid shall provide, any information or evidence deemed necessary to prepare the advisory opinion. National Grid 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 R.I. Gen. Laws §42-98-9(e). These agencies should also address any state and local tax benefits that would result from the Project.

iii. Rhode Island 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 J to the ER).

iv. Planning Boards of North Smithfield and Burrillville

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. 66) ORDERED:

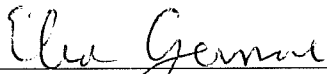
(1) The following state and local agencies and political subdivisions of the state shall act at the direction of the Energy Facility Siting Board for the purpose of rendering advisory opinions on the issues determined by this Preliminary Decision and Order of the Energy Facility Siting Board:

- (i) North Smithfield Zoning Board of Review;
- (ii) Burrillville Zoning Board of Review;
- (iii) North Smithfield Town Council;
- (iv) North Smithfield Building Inspector;
- (v) Burrillville Building Inspector;
- (vi) Rhode Island Historical Preservation & Heritage Commission;
- (vii) Rhode Island Department of Transportation;
- (viii) Public Utilities Commission;
- (ix) The Statewide Planning Program and State Planning Council;
- (x) Rhode Island Department of Health;
- (xi) North Smithfield Planning Board; and
- (xii) Burrillville Planning Board.

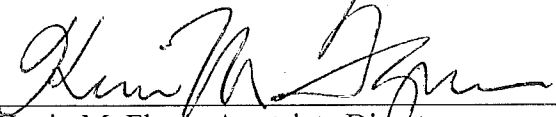
(2) The Coordinator of the Energy Facility Siting Board shall prepare and forward to all agencies designated in paragraph (1) above a certified copy of this Preliminary Decision and Order and a separate written notice of Designation.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND THIS 10th DAY OF OCTOBER, 2012.

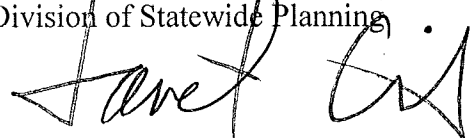
ENERGY FACILITY SITING BOARD



Elia Germani, Esq., Chairman
Energy Facility Siting Board



Kevin M. Flynn, Associate Director
Division of Statewide Planning



Janet L. Coit, Director
RI Department of Environmental Management

