

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PETITION FOR DECLARATORY JUDGMENT :
OF THE RHODE ISLAND TURNPIKE AND BRIDGE : DOCKET NO. 4557
AUTHORITY :

ORDER

On February 27, 2015, the Rhode Island Turnpike and Bridge Authority (RITBA) filed with the Public Utilities Commission (PUC) a Petition for Declaratory Judgment (petition) seeking a declaration that it falls within the definition of public entity set forth in R.I. Gen. Laws § 39-26.4-2(12) (Net Metering Act). Designation as a public entity for purposes of the Net Metering Act allows that entity to enter into financial arrangements with developers to develop a renewable energy project. In this case, RITBA seeks to develop a solar energy system adjacent to the Newport Bridge for the purpose of lighting the bridge.

In support of the petition, RITBA cited its enabling legislation which refers to RITBA as “a body corporate and politic.”¹ RITBA noted that public entity in the Net Metering Act includes transit authorities, one of which is the Rhode Island Public Transit Authority, also a “body corporate and politic.”² Further, RITBA argued, all board members are appointed by the Governor. RITBA is required to follow all state purchasing, financial reporting, and open meetings laws. It is a “component unit of the State of Rhode Island for financial reporting purposes” and its audited financial statements are made part of the state’s annual financial report.³ RITBA exercises quasi-governmental functions such as setting rates, acquiring property, and changing the location of public ways.⁴ Additionally, RITBA’s exercise of its powers must be “for the benefit of the people of the state” and “constitute the performance of essential

¹ Pet. at 2, citing R.I. Gen. Laws § 24-12-2.

² Pet. at 2, citing R.I. Gen. Laws § 39-18-2(a).

³ Pet. at 2.

⁴ *Id.* at 2-3.

government functions.”⁵ Finally, other Rhode Island statutes refer to RITBA as a public agency or public corporation.⁶

On March 10, 2015, the PUC caused a Notice of Filing and Deadline for Comments to be published in the Providence Journal. The deadline for filing written objections with a memorandum of law or comments in support of the petition was March 18, 2015. No comments or objections were received in response to the notice. On March 23, 2015, in accordance with a procedural schedule set in this matter, the Division of Public Utilities and Carriers (Division) submitted a letter from Leo J. Wold, Assistant Attorney General, recommending the PUC grant RITBA’s petition opining that construing RITBA as a public entity for purposes of the Net Metering Act is reasonable. Attorney Wold also noted that the Division consulted with The Narragansett Electric Company d/b/a National Grid and determined that National Grid was not opposed to the interpretation.⁷

At an open meeting held on March 31, 2015, the PUC considered the filings and found that RITBA is a public entity within the meaning of the Net Metering Act.⁸ R.I. Gen. Laws § 39-26.4-2(12) defines a public entity as including the state of Rhode Island. While not a department of the State of Rhode Island, RITBA performs government-like functions and has to comply with certain requirements with which state agencies and public bodies must comply. The definition also specifies “public transit agencies.” While not a public transit agency, per se, RITBA has authority over certain bridges and turnpikes used for public transit.

R.I. Gen. Laws § 39-26.4-4 requires that the chapter be construed liberally in aid of its purpose. The purpose of the Net Metering Act is, in part, “to facilitate and promote installation

⁵ Pet. at 3, citing R.I. Gen. Laws §§ 24-12-31.

⁶ *Id.* (citations omitted).

⁷ Letter from Leo J. Wold to Luly Massaro, Clerk (Mar. 23, 2015).

⁸ The PUC has the authority to make this determination under R.I. Gen. Laws § 42-35-8.

of customer-sited, grid-connected generation of renewable energy [and] to support and encourage customer development of renewable generation systems.” Finding that the RITBA falls within the definition of a public entity for purposes of the Net Metering Act will facilitate and promote the installation of distributed generation of renewable energy at the site of the Newport Bridge by making it clear that RITBA is eligible to enter into a public entity net metering financing arrangement.

It is hereby:

(21867) ORDERED:

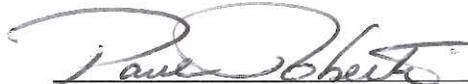
Rhode Island Turnpike and Bridge Authority is a public entity under R.I. Gen. Laws § 39-26.4-2(12).

EFFECTIVE AT WARWICK, RHODE ISLAND ON MARCH 31, 2015 PURSUANT TO AN OPEN MEETING DECISION ON MARCH 31, 2015. WRITTEN ORDER ISSUED APRIL 1, 2015.

PUBLIC UTILITIES COMMISSION




Margaret E. Curran, Chairperson


Paul J. Roberti, Commissioner


Herbert F. DeSimone, Jr., Commissioner

Notice of Right of Appeal: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within 7 days from the date of the Order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or Order.