

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DIVISION OF PUBLIC UTILITIES AND CARRIERS  
89 JEFFERSON BOULEVARD  
WARWICK, RHODE ISLAND 02888**

IN RE: Joint Petition for Purchase and Sale of :  
Assets By The Narragansett Electric : Docket No. D-06-13  
Company and the Southern Union :  
Company :

**ORDER**

Decision In Response To The City Of East Providence's May 30, 2006  
*"Motion To Stay And Request For An Emergency Hearing Thereon"*

Whereas: On March 16, 2006, the Narragansett Electric Company ("Narragansett") and the Southern Union Company ("Southern Union") (together, the "Petitioners") filed a joint petition with the Rhode Island Division of Public Utilities and Carriers ("Division") seeking approval of the Division for the purchase by Narragansett of the assets associated with the regulated gas distribution business owned and operated by Southern Union Company in Rhode Island as the New England Gas Company. In anticipation of an August 25, 2006 closing date, and based upon a legally established 30-day deadline for appeal, the Petitioners requested a ruling by the Division by June 30, 2006.

Whereas: In furtherance of starting the process of adjudicating the petition request, the Division established and published a filing deadline of April 10, 2006 for all motions to intervene in the docket. In response to the published notice of deadline to intervene, the Division received timely motions to intervene from a number of entities, including the City of East Providence ("East Providence").

Whereas: In part, in response to the objections raised by Narragansett and Southern Union against East Providence's motion to intervene, the Division conducted a duly noticed public hearing on April 25, 2006, for the limited purpose of hearing oral arguments on the disputed intervention.

In support of its request for intervention, East Providence expressed concerns regarding the possibility of an expansion at an LNG facility in Providence if the Division approves the proposed asset purchase agreement. East Providence observed that the LNG site is less than one mile from the East Providence "Waterfront Development District". East Providence also indicated that it has "environmental" concerns and redevelopment interests regarding another parcel of land that Southern Union owns within the City's Waterfront Development District.

In response to East Providence's motion to intervene, Southern Union objected, arguing that East Providence's concerns are "far beyond what we are here for in this proceeding". Narragansett argued that East Providence's motion to intervene must be denied because the LNG facility issue is a federal matter, beyond the jurisdiction of the Division and the State. Narragansett argued that to the extent East Providence has "objections to the LNG proposal, their remedies currently reside at the Federal [Energy] Regulatory Commission ("FERC"), who has exclusive jurisdiction over the matter." Narragansett added that all other issues regarding East Providence's waterfront must be addressed in other forums.

Whereas: After carefully considering the arguments proffered by East Providence and the Petitioners, the Division issued Order No. 18591 on May 4, 2006, denying East Providence's motion to intervene, based on findings that East

Providence's rationale for intervention, although arguably in the public interest, was unreasonably vague and/or beyond the scope of this proceeding. The Division held that East Providence's concerns over the future of the KeySpan LNG facilities in Providence, was neither a matter directly related to the instant proceeding, nor within the Division's purview to exert any influence over the future of that facility. The Division agreed with Narragansett, that due to the interstate nature of that LNG facility, the Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over any issues related to its future expansion and development.

The Division also rejected East Providence's argument that environmental concerns and redevelopment interests regarding a parcel of land that Southern Union owns within the City's Waterfront Development District constituted cause for intervention in the instant proceeding. The Division concluded that if East Providence is seeking to purchase this property from Southern Union (or Narragansett) or have the property redeveloped, those negotiations should take place outside the Division's hearing room. The Division found that pursuing this issue in the instant docket would unduly delay and prejudice the adjudication of the rights of the Petitioners<sup>1</sup> and unreasonably broaden the issues in this case.<sup>2</sup>

Whereas: On May 30, 2006, East Providence filed a "*Motion To Stay And Request For An Emergency Hearing Thereon.*" In its motion, East Providence argues that the Division ought to stay any action on the Petitioners' joint petition

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<sup>1</sup> See Chariho School Committee v. Broadwell, 703 A.2d 622 (R.I. 1997).

<sup>2</sup> See Town of Smithfield v. Fanning, 602 A.2d 939 (R.I. 1992).

pending the outcome of an appeal that East Providence has taken from the Division's May 4, 2006 decision denying its request to intervene in this docket.

Whereas: The Division has examined and considered East Providence's motion for a stay (and request for a hearing thereon) and finds the request(s) unreasonable and not in the public interest. The Division predicates its decision on a belief that: (1) East Providence does not have a reasonable likelihood of success on the merits, with respect to its appeal now before the Superior Court; (2) East Providence will not suffer irreparable harm without the requested stay; (3) the stay, if granted, would create an undue hardship for the Petitioners; and (4) the requested stay is not needed to preserve the status quo.<sup>3</sup>

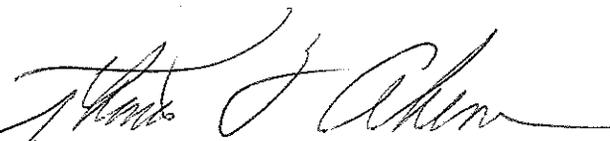
Now, therefore, it is

(18626) ORDERED:

That East Providence's May 30, 2006 "*Motion To Stay And Request For An Emergency Hearing Thereon,*" is hereby denied.

Dated and Effective at Warwick, Rhode Island on June 1, 2006.

  
John Spirito, Jr., Esq.  
Hearing Officer

APPROVED:   
Thomas F. Ahern  
Administrator

<sup>3</sup> See Iggy's Doughboys, Inc. v. Giroux, 729 A. 2d 701, 705 (R.I. 1999).