



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903
(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

March 31, 2011

Via First Class Mail And Electronically

Luly Massaro
Clerk
Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

**Re: Complaint of Benjamin Riggs Relating to
Town of Portsmouth Generating Facility-
Net Metering**

Dear Ms. Massaro:

Enclosed for filing please find an original and nine (9) copies of the Objection to the Motion's to Intervene of the Town's of Charlestown and Westerly of the Advocacy Section of the Division of Public Utilities & Carriers for filing in the above-referenced proceeding.

Thank you for your attention to this matter.

Sincerely,

Jon G. Hagopian (# 4123)
Special Assistant Attorney General
Tel. (401) 274-4400 ext. 2231
Fax (401) 222-3016

Encl.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES & CARRIERS

IN RE: COMPLAINT OF BENJAMIN RIGGS)
RELATING TO TOWN OF) **Docket No. D-10-126**
PORTSMOUTH GENERATING)
FACILITY- NET METERING)

OBJECTION OF THE ADVOCACY SECTION
OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS
TO THE MOTION TO INTERVENE OF THE TOWN'S OF
WESTERLY AND CHARLESTOWN

Now comes the Advocacy Section of the Division of Public Utilities and Carriers (the “Advocacy Section” and “Division”) respectively and hereby objects to the Motion’s to Intervene of the Town’s of Westerly and Charlestown (the “Towns”) respectively. The Towns have failed to set forth adequate justification according to the Division’s Rules explaining why the Advocacy Section, as well as the Washington County Planning Council (of which both towns are members)¹ cannot adequately represent their interests. Furthermore, the Motions to Intervene are vague , factually unparticularized or lack legal support for the contention that their intervention is in the public interest. For the foregoing reasons the Advocacy Section respectfully requests that the hearing officer deny such motions.

The Town of Charlestown’s Motion to Intervene

On March 21, 2011 the Town of Charlestown filed a joint Motion to Intervene with the Town of Jamestown in this action². Charlestown’s stated reasons for intervention were that they

¹ See web printout of Washington County Regional Planning Council, Board of Directors attached hereto and also available at <http://www.wcrpc.org/board/>

² The Division has no objection to the Town of Jamestown’s portion of the joint Motion to Intervene as Jamestown is not represented by and does not have a member on the board of the Washington County Planning Council.

have “an interest in this matter which will be directly affected and which is not represented by any existing party in this proceeding.” In addition they state that they “have a direct interest in this matter, the outcome of which will have an affect [sic] on local property tax revenues and tax rates.” As the Advocacy Section will show, this is not the case.

The Town of Westerly’s Motion to Intervene

On March 22, 2011 the Town of Westerly filed a similar Motion to Intervene with the Division. In its motion Westerly alleges that it has an interest in the present proceedings that is not adequately represented by the existing parties. In addition, Westerly also alleges that their intervention would be in the public interest. The Advocacy Section disagrees with these assertions.

Standard of Review

In ruling upon a motion to intervene the Division’s Rules of Practice and Procedure, Rule 17(b), requires that the moving party demonstrate that they either have one of the following: (1) a right [to intervene] conferred by statute, (2) an interest which may be directly affected and which is not adequately represented by existing parties and as to which...[the movant] may be bound by the Division’s action in the proceeding. The following may have such an interest: consumers served by the applicant, defendant, or respondent and holders of securities of the applicant, defendant or respondent, or (3) any other interest of such nature that the movant’s participation may be in the public interest.³

Similarly, the Division’s Rules of Practice and Procedure, Rule 17(c) requires that the motion to intervene shall set out clearly and concisely facts from which the nature of the

³ Division of Public Utilities and Carriers Rules of Practice & Procedure 17(b).

movant's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding.⁴

Argument

It is the Advocacy Section's position that the Towns have no right to intervene conferred by statute and have not articulated any such statutory right, are currently already represented by a party to this proceeding and have offered no evidence to support their contention that their intervention is in the public interest.

On March 4, 2011 the Town of Portsmouth and the Washington County Regional Planning Council (the "Planning Council") filed a joint Motion to Intervene. No objection was filed within the requisite ten (10) day period. The Town of Charlestown as well as Westerly both have members of their town councils on the board of the Planning Council. Further, on the Planning Council's own website, under their mission statement, they specifically thank a number of town's (including Charlestown and Westerly) for their support and their "shared vision for Washington County⁵." This clearly demonstrates shared interests, which are being represented already. The Towns will be adequately represented by the Washington County Planning Council through whom their town council members will have input as board members. It is not necessary for the Towns therefore to have separate intervenor status as well.

In addition, the Advocacy Section is already a party to this proceeding and represents the public interest. "The [d]ivision, which is represented by the Department of the Attorney General in all administrative and legal proceedings, is statutorily charged with representing the interests of the public, as its advocate, in rate proceedings before the [PUC]." In re: Kent County Water

⁴ Division of Public Utilities and Carriers Rules of Practice & Procedure 17(c).

⁵ See web printout of Washington County Regional Planning Council, About Us, attached hereto and also available at <http://www.wcrpc.org/about-us>

Authority Change Rate Schedules, 996 A.2d 123, 126 (R.I.,2010) *quoting* In re: Island Hi-Speed Ferry, LLC, 746 A.2d 1240, 1244 n. 6 (R.I. 2000). Neither party has provided any evidence as to how or why the interests of the public will not be satisfactorily represented by the Advocacy Section. If the Town's would like to object to any matter before the Division they may file public comment.

In determining whether an intervention is in the public interest the Division must find that their

individual interest warrant recognition and protection in furtherance of the general welfare of the public...the Division must also balance several related factors, specifically, whether the Division ultimately has the authority to grant the relief requested, whether the Movants may more effectively pursue their respective interest in other forums and whether the intervention(s) would unduly delay or prejudice the adjudication of the rights of the Petitioners and other parties.

City of East Providence v. Narragansett Electric Co., 2006 WL 1660761, *4 (R.I. Super. 2006).

The Town's have failed to articulate any specific interest that would be directly affected by the Division's decision. A mere statement that the outcome of this proceeding will have an effect on property taxes is insufficient. This is a generalized assertion which is unsubstantiated. The matter before the Division is a limited question relating to the transaction between National Grid and the Town of Portsmouth and should be limited in scope thereto. Finally, The Towns will be adequately represented by the Washington County Planning Council through whom their town council members will have input as board members.

Respectfully submitted,

ADVOCACY SECTION,
STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES
AND CARRIERS

By its Attorney,



Jon G. Hagopian (# 4123)
Special Assistant Attorney General
150 South Main Street
Providence, RI 02903
Tel. (401) 274-4400 ext. 2231
Fax (401) 222-3016

March 31, 2011

CERTIFICATE OF SERVICE

I certify that a copy of the within motion was served by regular mail, postage prepaid, as well as electronically, to all persons listed this date on the service list for Docket No. D-10-126 on the 31st day of March, 2011.



EXHIBIT 1



Washington County Regional Planning Council

Copyright © 2010, Washington County Regional Planning Council. All rights reserved.

- **Mission**
- **Staff**
- **Board**
- **Minutes**

Board

2010-2011

Council President – Chris Duhamel

Westerly Town Council

Council Vice President – Henry Oppenheimer

Richmond Town Council

Council Secretary – Raymond Torrey

New Shoreham Town Council

Council Treasurer – Cal Ellis

Exeter Town Council

Council Member – Elizabeth Dolan

North Kingstown Town Council

Council Member – Scott Bill Hirst

Hopkinton Town Council

Council Member – Ela Whaley

South Kingstown Town Council

Council Member – Chris Wilkens

Narragansett Town Council

Council Member – Tom Gentz

Charlestown Town Council

EXHIBIT 2



Washington County Regional Planning Council

Copyright © 2010, Washington County Regional Planning Council. All rights reserved.

- **Misson**
.....
- **Staff**
.....
- **Board**
.....
- **Minutes**
.....

Mission Statement

The purpose of the Washington County Regional Planning Council is to:

- Identify effective solutions to regional challenges.
- Encourage their implementation.
- Realize the shared vision of the nine Washington County municipalities.

Vision

Our vision for Washington County is a region defined by its rural character, with vibrant village centers, a strong economy, permanently preserved natural areas and farmland, scenic coastline, clean and plentiful water, affordable housing and protected cultural resources, such that the quality of life is maintained for all residents of Washington County, present and future.

Washington County

Washington County, Rhode Island (also locally referred to as "South County") has 124,000 residents distributed throughout nine towns: **North Kingstown, South Kingstown, Exeter, Narragansett, Charlestown, Hopkinton, Richmond, Westerly, and New Shoreham**. It is a largely undeveloped region with communities ranging from rural farming enclaves to destination beach communities, punctuated by classic New England village centers. The past twenty years have witnessed a dramatic growth spurt for Washington County -- growth in this county, in fact, has steadily remained three times that of the state's growth rate for over two decades -- and rapid development has begun to change the face of this predominantly rural landscape.

Washington County Regional Planning Council

Faced with growing impacts from rapid growth and sprawl in Washington County, the Washington County Regional Planning Council (WCRPC) was founded in 1992, with the intent of employing a coordinated approach to more effectively address those issues that transcend municipal boundaries.

The WCRPC is the only organization in Rhode Island that works specifically with a municipal government partnership to address regional challenges collectively. The WCRPC is comprised of one town council member from each of the nine towns within the county, and serves as a unique forum for inter-municipal communication, coordination and cost-sharing. The Council's overall goal is to integrate local economic development with preservation of unique and valuable natural and cultural resources, such that the quality of life for Washington County residents is maintained, for present and future generations.

The Council also strives to prevent and, in some cases, reverse the negative impacts of unplanned rapid development that have characterized this region's growth in recent years. To do this, we have identified five key issues on which to focus our work:

- Land preservation
- Economic development
- Transportation
- Water quality
- Affordable housing

Since its establishment, the WCRPC has met regularly to exchange information and collaborate on joint projects, with technical assistance and generous in-kind support from the University of Rhode Island Coastal Resources Center/Rhode Island Sea Grant Program and The Washington Trust Company. The WCRPC is also supported by contributions from its nine member municipalities, and the Rhode Island Foundation.

Strategy

Our region-wide strategy deals with those issues that transcend municipal and political boundaries and are most effectively approached on a regional scale. We approach preservation, infrastructure development, and economic growth as interrelated issues. Our strategy prioritizes the need for communication and cooperation among all nine Washington County municipalities.

Supporters

We wish to thank our generous supporters for their encouragement, appreciation and shared vision for Washington County.

- Town of Charlestown

- Town of Exeter
- Toen of Hopkinton
- Town of Narragansett
- Town of New Shoreham
- Town of North Kingstown
- Town of Richmond
- Town of South Kingstown
- Town of Westerly
- The Rhode Island Foundation
- Washington Trust Company
- University of Rhode Island
- Grow Smart Rhode Island