

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

IN RE: COMPLAINT OF BENJAMIN RIGGS
RELATING TO PORTSMOUTH
GENERATING FACILITY

Docket No. D-10-126

UNOPPOSED MOTION FOR INTERVENTION
OF CONSERVATION LAW FOUNDATION

I. Introduction

The Conservation Law Foundation (CLF), pursuant to Department of Public Utilities and Carriers (DPUC) Rules of Practice and Procedure 17, respectfully files its Motion for Intervention in this proceeding.

This proceeding arises out of a complaint dated May 19, 2010 from Benjamin C. Riggs, Jr., concerning a wind turbine in the Town of Portsmouth (Portsmouth), and the net metering of the electricity output from that turbine. The gravamen of the complaint is that Rhode Island's dominant electricity utility, National Grid (Grid), pays an inappropriately high rate for the electricity output from this turbine. As the Memorandum of the Advocacy Section of the Division (filed and served February 2, 2011) makes clear, this proceeding also implicates issues arising at the intersection of federal and Rhode Island state law, including the possibility of federal pre-emption of state law and the respective roles of the Federal Energy Regulatory Commission (FERC) and the Rhode Island Public Utilities Commission (PUC).

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Pursuant to DPUC Rule of Practice and Procedure 19(b), CLF has contacted the parties already in this case, specifically the Division, Mr. Riggs, Grid, Portsmouth, and the Washington County Regional Planning Council (WCRPC). CLF has been advised that no party intends to object or oppose CLF's Motion To Intervene.

II. The Intervenor

CLF is New England's leading environmental advocacy organization. Since 1966, CLF has worked to protect New England's people, natural resources and communities. CLF is a nonprofit, member-supported organization with offices throughout New England. The Rhode Island CLF office is located at 55 Dorrance Street, Providence.

CLF promotes clean, renewable and efficient energy production throughout New England and has an unparalleled record of advocacy on behalf of the region's environmental resources. As part of its 40-year legacy, CLF was a party in the landmark case in which the U.S. Supreme Court ruled that the U.S. Environmental Protection Agency has an obligation under the Clean Air Act to consider regulating tailpipe emissions that contribute to global warming, Massachusetts v. E.P.A., 127 S. Ct. 1438 (2007); CLF obtained an injunction to stop drilling for oil and gas on the environmentally sensitive Georges Bank, Conservation Law Foundation v. Sec'y of the Interior, 790 F.2d 965 (1st Cir. 1986); litigated to ensure enforcement of an earlier settlement agreement in a case stemming from the Big Dig, which settlement agreement required 20 public transit projects in and around Boston including construction of additional subway and rail lines, Conservation Law Foundation v. Romney, 421 F. Supp.2d 344 (D. Mass. 2006); and

successfully advanced legal strategies to restore groundfish to the Gulf of Maine and southern New England waters. Conservation Law Foundation v. Evans, 211 F. Supp.2d 55 (D.D.C. 2002).

III. The Standard Governing this Motion

Intervention in DPUC proceedings is governed by DPUC Rule of Practice and Procedure 17.

PUC Rule of Practice and Procedure 17(b)(3) states, in relevant part, that intervention is proper where the moving party has an “interest of such a nature that the movant’s participation may be in the public interest.”

DPUC Rule of Practice and Procedure 1.7(e) states, in relevant part, that “all timely motions to intervene not objected to by any party within ten (10) days of service of the motion for leave to intervene shall be deemed allowed”

The Division, Mr. Riggs, Portsmouth, Grid, and WCRPC have all informed CLF that they have no objection to CLF’s Motion To Intervene.

IV. CLF’s Interest in This Proceeding

CLF is a membership organization, and CLF members have their own renewable energy distributed generation facilities that would be directly affected by the outcome of this proceeding with regard to how net metering law is applied in Rhode Island arising, as it does, at the intersection of Rhode Island state and federal laws. These CLF members would have a direct financial interest in rulings made in this proceeding.

In addition, CLF is New England's leading environmental organization, and has a long and widely respected history of working on issues related to both renewable energy and net metering. CLF has worked on issues related to net metering in Massachusetts, Vermont, and Maine. Here in Rhode Island, CLF was involved, together with other stakeholders, in crafting language that became the state's net metering law.

CLF has participated, without objection from any party, in many PUC Dockets. These include Docket # 3659 (setting Rules pursuant to R. I. Gen. Laws § 39-26-1, et seq., the state's first Renewable Energy Standard, or RES); Docket # 3765 (considering Grid's 2007 RES compliance procurement); Docket # 3901 (considering Grid's 2008 RES procurement); Docket # 4012 (considering Grid's 2009 RES procurement); Docket # 3932 (Grid's Least Cost Procurement Plan pursuant to R. I. Gen. Laws § 39-1-27.7); Docket # 3943 (gas distribution rate case); Docket # 4065 (electricity distribution rate case); Docket # 4111 (first of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project); and Docket # 4085 (second of two dockets concerning Deepwater Wind's proposed Block Island demonstration wind project).

The present DPUC proceeding concerns net metering. CLF members are affected by net metering, and CLF has extensive experience with implementation of net metering throughout New England, and was involved in crafting the language in Rhode Island's net metering law.

As a result of this history, both in Rhode Island and in the rest of New England, CLF can play a constructive and helpful role in this DPUC Docket.

Moreover, the participation in this proceeding of a public interest organization such as CLF will serve the public interest. See, generally, John E. Bonine, Public Interest Environmental Lawyers: Global Examples and Personal Reflections, 10 Widener L. Rev. 451 (2004) (emphasizing the constructive and salutary role of public-interest environmental lawyers in a wide range of legislative, judicial, and regulatory fora).

V. Conclusion

WHEREFORE, for the foregoing reasons, CLF respectfully requests that its unopposed motion to intervene in this proceeding be granted.

CONSERVATION LAW FOUNDATION,
by its Attorney,



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CERTIFICATE OF SERVICE

I certify that the original of this Motion, together with four photocopies, was filed in person with the Clerk of the Division of Public Utilities and Carriers, 99 Jefferson Blvd., Warwick, RI 02888. In addition, electronic copies of this Motion were served via e-mail on the Division, Mr. Benjamin C. Riggs, Jr., National Grid, the Town of Portsmouth, and the Washington County Regional Planning Council. All of the foregoing was done on the 23rd day of March 2011.

