

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02883

IN RE: Complaint by Benjamin Riggs related to :
Net Metering at the Town of Portsmouth : Docket No. D-10-126
Wind Generator Facility and National :
Grid-Electric :

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

Now comes the Town of Charlestown, Rhode Island ("Charlestown"), by and through its Town Solicitor, and hereby replies to the objection of Advocacy Section of the Division of Public Utilities ("Advocacy Section") regarding Charlestown's motion to intervene in the above-captioned matter. The Advocacy Section objects to Charlestown's motion to intervene on the grounds that the Washington County Regional Planning Council ("Planning Council") has already intervened and a member of the board of the Planning Council is also a member of Charlestown's Town Council. From this fact, the Advocacy Section infers—incorrectly, as will be shown—that Charlestown's rights and interests are adequately represented by the Planning Council.

First, the Planning Council has no ability to bind the Town of Charlestown or its taxpayers—only the Town Council can. Likewise, a single town councilmember, such as the member sitting on the Planning Council, cannot legally bind the entire Town Council. Consequently, the Advocacy Section's assertion that Charlestown's interests are represented because a member of Charlestown's Town Council sits on the Planning Council is without merit.

Second, the Advocacy Section argues that because the Planning Council "thanks" Charlestown for its "shared vision for Washington County" then Charlestown's rights and

interests are adequately represented by the Planning Council. This is probably the first time that giving thanks for agreeing on a general direction for the progress and development of a given geographic area has even been made equivalent to representation. The unreasonableness of this line of thinking can be demonstrated by looking at the entire list of supporters in Exhibit 2 of the Advocacy Section's objection. Among the supporters the Planning Council thanks are the University of Rhode Island, the Rhode Island Foundation, The Washington Trust Company, and Grow Smart Rhode Island. It cannot reasonably be argued that because these entities may agree on a "shared vision for Washington County" that the entities' rights and interests are adequately represented by the Planning Council since the Planning Council cannot legally bind those entities in any way, shape or form.

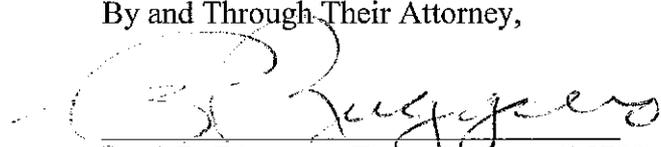
Third, the Advocacy Section argues that since it is already a party to the proceeding, it adequately represents interests of the citizens of Charlestown. For this proposition, the Advocacy Section quotes from In re: Kent County Water Authority Change Rate Schedules, 996 A.2d 123, 126 (R.I. 2010) (quoting In re: Island Hi-Speed Ferry, LLC, 746 A.2d 1240, 1244 n. 6 (R.I. 2000)) (hereinafter Kent County Water Authority). However, a closer look at the case and the quote cited by the Advocacy Section shows that it is used out of context—the quote is being used to describe the different roles of the Division of Public Utilities and Carriers (the "Division") and the Rhode Island Public Utilities Commission ("PUC"). In other words, the fact that the Division is statutorily charged with representing the interests of the general public in rate proceedings before the PUC is in no way dispositive of whether a city or town may intervene in a PUC matter to protect the interests of the municipality and its citizens. In fact, in Kent County Water Authority, the City of Warwick was an intervenor separately represented by its City Solicitor, even though the Division was also a party. Consequently, such an assertion by the

Advocacy Section borders on disingenuous, especially in light of the fact that the same argument would apply to other municipalities that are seeking to intervene in which the Advocacy Section has not objected.

Similarly unavailing is the Advocacy Section's contention that any effect on Charlestown's property tax from a potential decision in this matter is beyond the scope. Charlestown first argues that the position of National Grid and the Advocacy Section would significantly affect plans for a wind generator in Charlestown, most importantly in terms of a higher cost to Charlestown. Thus, a higher cost would obviously affect the property taxes of the citizens of Charlestown. Further, the scope of the matter that the Advocacy Section has asserted is not as limited as it argues, especially in terms of potential precedent for other municipalities and developers of wind generators.

For these reasons—as well as those articulated in its original motion—and pursuant to PUC Rule 1.13, Charlestown hereby requests the PUC to grant its Motion to Intervene.

Respectfully submitted,
TOWNS OF CHARLESTOWN AND
JAMESTOWN, RHODE ISLAND
By and Through Their Attorney,



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Dated: April 4, 2011

CERTIFICATION

I, the undersigned, do hereby certify that I did forward a copy of the within Motion to Intervene via e-mail to all on the following service list on the 4th day of April, 2011. Paper copies will not be sent unless requested.

Mayblen Leonardo

**Complaint Relating to the Town of Portsmouth Generator Facility – NetMetering
Docket No. D-10-126 Updated 3/28/11**

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