

BEFORE THE
STATE OF RHODE ISLAND
DIVISION OF PUBLIC UTILITIES AND CARRIERS

IN RE: Petition of PPL Corporation, PPL Rhode Island Holdings, LLC, National Grid USA, and The Narragansett Electric Company for Authority to Transfer Ownership of The Narragansett Electric Company to PPL Rhode Island Holdings, LLC and Related Approvals

Docket No. D-21-09

**ADVOCACY SECTION'S POSITION REGARDING
MOTIONS FOR INTERVENTION**

I. Introduction

On May 4, 2021 The Narragansett Electric Company, d/b/a National Grid (“Narragansett”), National Grid USA (“NGrid”), PPL Corporation (“PPL”) and PPL Rhode Island Holdings, LLC (“PPL Rhode Island”) (collectively “Applicants”) filed a joint Petition with the Division of Public Utilities and Carriers (“Division”) pursuant to Rhode Island General Laws § 39-3-24 and § 39-3-25 seeking approval to transfer ownership of Narragansett to PPL Rhode Island. The Division docketed the matter as Docket No. D-21-09, thereafter setting forth a deadline of June 25th for Motions to Intervene and July 9th for responsive pleadings to those Motions. All told, ten (10) Motions to Intervene were timely filed¹ pursuant to the Division’s Rule of Practice and Procedure 815-RICR-00-00-1.17(B)(1) (“Rule 17”), which provides as follows:

Subject to the provisions of these rules, any person with a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Division. Such right or interest may be:

- a. A right conferred by statute.

¹ The New England Cable & Telecommunications Association, Inc. subsequently filed a Voluntary Withdrawal of Motion to Intervene on July 8, 2021; Nine (9) Motions to Intervene remain.

- b. An interest which may be directly affected and which is not adequately represented by existing parties and as to which movants 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.
- c. Any other interest of such a nature that movant's participation may be in the public interest.

The Advocacy Section ("Advocacy Section") of the Division, as ratepayer advocate and indispensable party to this matter, has carefully reviewed the ten (10) Motions to Intervene. In response, the Advocacy Section asserts the following concerns that particularly relate to two motions.

II. Position

By statutory dictate, Applicants must establish in the Docket D-21-09 proceeding that the proposed transaction will not diminish the facilities for furnishing services to the public and that it is consistent with the public interest. *See* R.I. Gen. Laws § 39-3-25. Although this standard is succinct and seemingly straightforward, the process will not be. The administrative proceedings, by necessity, will be complex and consequential given that the outcome stands to impact the safety, reliability and affordability of the entire Rhode Island gas and electric distribution system presently owned and operated by Narragansett. This is a filing of enormous magnitude with myriad moving parts and copious interests at play. The scope of the proceeding must remain focused and on point, otherwise its purpose will be frustrated, and excess resources will be needlessly expended. From the Advocacy Section's vantage point, this purpose is to thoroughly vet the proposed transaction to ensure that ALL ratepayers are protected. For these reasons, the Advocacy Section urges the Division to ensure that particular intervenors, if granted party status, are limited in participation scope if necessary to avoid undue delay or prejudice to the process.

In particular, the Advocacy Section asks the Division’s Hearing Officer to clearly define the scope of engagement for the India Point Park et al. movants (“Providence Intervenors”)² and Energy Development Partners, LLC (“EDP”), if indeed their motions are granted. Past Division practice, and controlling precedent, support this position.

The Rhode Island Supreme Court has recognized that allowing particular party interventions is not harmless error as it may negatively impact proceedings through time delays, undue burden on other parties, etc. *See In Re: Island Hi-Speed Ferry, LLC*, 746 A.2d 1240, 1246 (R.I. 2000) (noting that the “wisdom and appropriateness of the interventions in this case was questionable”). The Division has taken into consideration these same factors when weighing motions to intervene. *See In Re: Application by Rhode Island Fast Ferry, Inc. for Water Carrier Authority*, Docket No. D-13-51, Order 21170 (September 24, 2013). In the *Rhode Island Fast Ferry* case, the Hearing Officer found that, absent a statutory right or a directly affected interest that is not adequately represented by the Advocacy Section, movant’s participation must be found to be in the public interest. *Id.* at 16-17. The public interest analysis requires balancing “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 Applicant and other parties. *Id.* at 17. Ultimately, the Hearing Officer denied intervention status to two Movants, (and granted only limited intervention status to another) based in part on the fact that their asserted interests fell outside the jurisdiction, authority and expertise of the Division. *Id.*

² The “Providence Intervenors” include the Friends of India Point Park, Fox Point Neighborhood Association, Jewelry District Association, Residential Properties, Narragansett Brewing Company, Grand Festivals and David Riley. *See Protest and Motion to Intervene of Friends of India Point Park, et al.*, filed June 25, 2021.

at 18 (opining that harbor congestion and dock adequacy were determined by the Coastal Resources Management Agency and the New Shoreham Harbormaster, not the Division).

Also informative is the matter of *In Re Joint Petition for Purchase and Sale of Assets by the Narragansett Electric Company and the Southern Union Company*, Docket D-06-13, in which the City of East Providence was denied full intervention status based on a finding that “pursuing this issue [related to environmental concerns and redevelopment interest of a parcel of land owned by Southern Union along the City’s waterfront] in the instant docket would unduly delay and prejudice the adjudication of the rights of the Petitioners and unreasonably broaden the issues in this case.” Order 18591 (May 4, 2006) (footnoted citations omitted). The Superior Court affirmed this decision upon appeal by the City of East Providence. *See City of East Providence v. The Narragansett Electric Company*, 2006 WL 16607661 (RI Superior Court, 2006) (unpublished opinion). Judge Silverstein agreed that the City’s asserted interests were inconsistent with the proper scope of proceedings before the Division and that matters, such as the City’s concerns over the future of the KeySpan LNG facilities in Providence, were squarely subject to the jurisdiction of the Federal Energy Regulatory Commission (and for which a related federal court appeal was pending). *Id.* at 5.

The Providence Intervenors and EDP each assert particularized interests in this case for which proceedings are already pending in alternative forums. First, Providence Intervenors assert that they are uniquely situated to protect the interests of customers, communities, businesses and park users along the waterfront in Providence relative to National Grid’s practices of placement/burial of electric power line infrastructure. However, in doing so, they also seek “assurances from the PPL Corporation that the transgressions in agency proceedings before the Siting Board will be remedied immediately” and that “[t]hese existing and future injuries should

be addressed and resolved within this proceeding[.]” *Protest and Motion to Intervene of Friends of India Point Park, et al.*, filed June 25, 2021, at 9-10. Notably, these references directly relate to a pending Supreme Court appeal of an Energy Facility Siting Board decision relative to the burial of electric power lines along the India Point Park waterfront in which certain members of the Providence Intervenors are appellants. *See The City of Providence, et al. v. The Energy Facility Siting Board*, SU-2008-0040-MP (appealing unfavorable decision from EFSB Docket No. SB-2003-01). It would be improper, inappropriate and ill-advised to fully vet in the instant docket the particularized alleged injuries and issues currently pending under the jurisdiction of the Rhode Island Supreme Court and/or the Energy Facility Siting Board. The Division is without authority to remedy that case and attempts to do so would unnecessarily broaden the scope of the proceedings and cause undue delay.

Second, EDP seeks to intervene based on particularized interests relative to its experience and insight about utility obligations, process and practices for distributed generation projects and interconnection. *See Motion to Intervene of Energy Development Partners, LLC*, filed June 25, 2021. However, many of the facts and circumstances provided in EDP’s motion are also the subject of pending³ and/or potential future disputed matters presently before the Rhode Island Public Utilities Commission (“Commission”), which has jurisdiction. *Id.* at 3-6. The Advocacy Section cautions against EDP’s participation in this docket relative to matters subject to Commission authority which may likewise cause undo delay to the proceedings.

Finally, it is important to highlight that the Advocacy Section will represent the interests of all ratepayers in this matter. To the extent a Movant’s participation is duplicative of this

³ *See, e.g.*, Rhode Island Public Utilities Commission Dockets 5149 and 5090.

representation, the Advocacy Section recommends limitation or denial of their motion. All Movants may submit public comment to the Hearing Officer for consideration.

III. Conclusion

The Advocacy Section supports careful review of all Motions to Intervene to determine the appropriateness of each entity's asserted interests and intentions specific to Docket D-21-09. In particular, the Advocacy Section recommends limiting the scope of intervention for the Providence Intervenors and EDP given the above cited conflicts of jurisdiction on pending matters. These limitations are necessary to avoid unreasonable delay and diversion throughout the pendency of these complex and important proceedings.

ADVOCACY SECTION of the
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/s/ Christy Hetherington

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CERTIFICATE OF SERVICE

I certify that the within pleading was forwarded by e-mail to the Service List in the above-entitled docket on the 9th of July, 2021.

/s/ Christy Hetherington

Docket No. D-21-09 PPL Corp., PPL RI Holdings, LLC, National Grid USA and The Narragansett Electric Co. (collectively, Applicants) – Petition to Transfer Ownership and Related Approvals

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