

December 28, 2015

Via Hand Delivery/Electronic Mail

Todd Anthony Bianco, EFSB Coordinator
RI Energy Facilities Siting Board
89 Jefferson Blvd
Warwick, RI 02888

RE: Invenergy Thermal Development LLC'S Application to Construct the Clear River Energy
Center in Burrillville, Rhode Island - Docket No. SB-2015-06

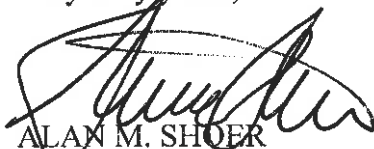
Dear Mr. Bianco:

On behalf of Invenergy Thermal Development LLC and the Clean River Energy Center Project, I
enclose an original and (10) copies for filing with the Board the following:

1. Objection of Invenergy Thermal Development LLC to Motions for Intervention;
and
2. Objection of Invenergy Thermal Development LLC to Motion to Extend
Intervention Period and to Postpone the Preliminary Hearing.

Please let me know if you have any questions.

Very truly yours,



ALAN M. SHOER
ashoer@apslaw.com

Enclosures

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD**

In Re: INVENERGY THERMAL DEVELOPMENT)	
LLC'S APPLICATION TO CONSTRUCT THE)	Docket No. SB-2015-06
CLEAR RIVER ENERGY CENTER IN)	
BURRILLVILLE, RHODE ISLAND)	

**OBJECTION OF INVENERGY THERMAL DEVELOPMENT LLC
TO MOTIONS FOR INTERVENTION**

INTRODUCTION

Now comes, Invenergy Thermal Development LLC ("Invenergy") and hereby objects to the Motions For Intervention of the following entities and individuals: Occupy Providence, Fossil Free RI, Sister Mary Pendergast, the Progressive Democrats of Rhode Island, Fighting Against Natural Gas ("FANG"), Burrillville Against Spectra Expansion ("BASE"), Dennis and Kathryn Sherman, and Paul and Mary Bolduc.¹

A. BACKGROUND

Pursuant to the Energy Facilities Siting Act, Chapter 42-98 of the General Laws of Rhode Island, as amended ("Act"), and the Rules of Practice and Procedure ("Rules") of the Rhode Island Energy Facilities Siting Board ("RI EFSB" or "Board"), Invenergy filed an application to seek the approval of the RI EFSB to site and construct the Clear River Energy Center, an approximately 850-1000 MW combined cycle electric generating facility on Wallum Lake Road in Burrillville, R.I. ("CREC" or "Project").

In accordance with the Act and the Rules, the RI EFSB has scheduled a date for a Preliminary Hearing to consider the application and the required elements as set forth in the Act

¹ Invenergy does not have specific objections to the intervention, or limited intervention requests, of the Town of Burrillville, the State of R.I. Office of Energy Resources, National Grid, the Burrillville Land Trust, and the Conservation Law Foundation. Invenergy respectfully defers to the Board in its determinations on these requests for intervention of these organizations as it reviews this application.

and the Rules. In accordance with the Notice of Hearing issued in this proceeding (dated November 17, 2015), the RI EFSB will not be taking public comment at this preliminary hearing; however, it is anticipated that there will be ample opportunity for public comment, as the application moves forward, particularly in the separate open forum before the Town of Burrillville, and at the full evidentiary hearings later in the process, as scheduled by the RI EFSB. The Act (R.I. Gen. Laws 42-98-9) and the Rules (Rule 1.9) are quite specific with regard to the issues that RI EFSB will evaluate in this proceeding, as set forth in the Act and the Rules, and as will be established by the RI EFSB after the Preliminary Hearing.

B. LEGAL STANDARD FOR INTERVENTION

The legal standard for intervention as a Party is well established. Pursuant to Rule 1.10(b) “any person claiming a right to intervene or an interest of such a nature that intervention is necessary or appropriate may intervene in any proceeding” where such a “right or interest” may be: (1) a right conferred by statute; (2) an interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Board’s action in the proceeding; (3) any other interest of such a nature that petitioner’s participation may be in the public interest.

Thus, while this Rule is intended to “ensure that the interests of interested parties are met through the adversarial process,”² the Board’s Rule 1.10(b) on necessary and appropriate interventions should not allow persons or entities to intervene whose interests are only indirectly affected or where their interests are adequately represented by other Parties or where there is insufficient compelling public interest to warrant intervention as a full party. *See, e.g., In Re: Island Hi Speed Form of Regulation and Review of Rates*, PUC Docket 3495 (Order issued May 9, 2003), citing *In re Island Hi-Speed Ferry, LLC*, 746 A.2d at 1245-46 (questioning the wisdom

² *In re Island Hi-Speed Ferry, LLC*, 746 A.2d 1240,1245 (2000)

of the Commission's decision allowing intervention to Parties with indirect interests in the outcome). Similarly, in evaluating whether an organization has sufficiently demonstrated interests that are adversely affected by a proceeding, the R.I. Supreme Court has held that “mere interest in a problem, no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization adversely affected . . .” *In Re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227 (internal quotes and citations omitted).

In short, intervention as full Parties should be limited to Parties that have either statutory rights to intervene, directly affected interests that will not be adequately represented by other Parties, or special public interests that compel intervention as a Party. *See, e.g., In Re: Application of R.I. Fast Ferry, Inc. for Water Carrier Authority*, Docket D-13-51, Order No. 21170 (9/24/2013), at pp 15-20. *See also Public Service Co. of New Hampshire v. Patch*, 136 F.3d 233, 207-208 (R.I. 1975) (“It is well settled beyond peradventure, however, that an undifferentiated, generalized interest in the outcome of an ongoing action is too porous a foundation on which to premise intervention as of right . . .”).

Finally, Rule 1.4(a) requires that “[a]ll parties to a proceeding shall be represented by an attorney, unless otherwise ordered by the Board for good cause shown” and that “[p]articipants, other than parties, may appear in any proceeding in person or by an attorney.”

C. OBJECTIONS TO INTERVENTION REQUESTS

1. Occupy Providence

A Motion for Intervention was filed on behalf of an entity called “Occupy Providence” and received via e-mail, on December 23, 2015, and filed on behalf of the entity by Patricia J. Fontes, member. This individual member of the entity does not appear to be a licensed attorney in Rhode

Island, contrary to the requirement in Rule 1.4(a).³ The entity asserts an interest in this proceeding that is based on general socio economic and environmental interests of its members and a general opposition to any projects that (allegedly) increase any levels of greenhouse gas emissions.

Invenergy respectfully suggests that the interests of Occupy Providence do not constitute sufficient interests to justify intervention as a necessary or appropriate party in this licensing proceeding. Occupy Providence does not assert a statutory right to intervene. They will not be “directly affected” by the Project in a manner that will not be represented by other parties. At most they have a general interest in the issues facing the Board. A purely general interest in the issue facing the Board is insufficient to warrant full Party status. *See, e.g., In Re Review of Proposed Town of New Shoreham Project*, 19 A.3d 1226, 1227; *In Re: Island Hi Speed Form of Regulation and Review of Rates* PUC Docket 3495 (Order issued May 9, 2003), citing *In re Island Hi-Speed Ferry, LLC*, 746 A.2d at 1245-46. And, concerns related to the expansion of the Spectra/Algonquin gas transmission line are not properly before the RI EFSB. The U.S. FERC has jurisdiction over the expansion of the Spectra gas transmission capacity, and issues related to methane gas emissions or expansion of the gas transmission line are, therefore, not issues that will be decided by this siting Board.

Moreover, interests related to carbon emissions and the state’s overall energy policy will be more than adequately represented by other Parties, including the Conservation Law Foundation, the Governor’s Office of Energy Resources, in the Advisory opinions from the R.I. Department of Environmental Management and other agencies, the R.I. Division of Public Utilities and Carriers,⁴

³ The Board, similar to the R.I. Public Utilities Commission has no jurisdiction to grant a waiver from the requirement that a Rhode Island entity be represented by legal counsel licensed to practice law in Rhode Island, as only the Supreme Court can determine who may practice law and the representation of a client before administrative agencies does constitute the practice of law under the R.I. Supreme Court rules. *See In Re: Steven E. Ferry*, 774 A.2d 62 (R.I. 2001).

⁴ In most contexts, R.I.G.L. §39-1-1 et seq., authorizes the Division, in addition to its broad regulatory powers, to appear on behalf of the public to present evidence and make arguments. *Narragansett Electric Co. v. Harsch*, 368 A.2d 1194 (RI 1977).

the R.I. Attorney General (if they intervene separately) and National Grid, to name a few other intervening parties. At most there is an indirect interest in that this entity is opposed to this Project on socio-economic and political concerns. That is insufficient as a matter of law to warrant intervention as a full party in this proceeding.

Finally, the public interest is not served by allowing groups and organizations with general economic and political considerations to be treated as full parties. In Re Review of Proposed Town of New Shoreham Project, 19 A.3d 1226, 1227 The Board should consider that this entity has other forums available where their general opposition interests may be more adequately pursued, and whether this intervention will unduly delay or prejudice the adjudication of the rights of the Applicant and other parties. See, e.g., In Re: Application of R.I. Fast Ferry, Inc. for Water Carrier Authority, Docket D-13-51, Order No. 21170 (9/24/2013) at pp 15-20. See also Public Service Co. of New Hampshire v. Patch, 136 F.3d 233, 207-208 (R.I. 1975) (“It is well settled beyond peradventure, however, that an undifferentiated, generalized interest in the outcome of an ongoing action is too porous a foundation on which to premise intervention as of right . . .”).

Also, when the government is an existing party to the proceeding, there is a rebuttable presumption that the public is adequately represented. See, e.g., Daggett v. Commission on Governmental Ethics & Election Practices, 172 F.3d 104, 111 (C.A. 1 1999); see, also, United States v. City of Los Angeles, 288 F.3d 391, 401-402 (C.A. 9 2001). The burden of proving inadequacy of representation is particularly high where a state agency, and its proceedings, are structured in such a way that the public interest is always represented, as it is here. See, e.g., Public Service Co. of New Hampshire v. Patch, 136 F.3d 197, 207-208 (C.A. 1 1998) (“...the adequacy of interest requirement is more than a paper tiger...the burden of persuasion is ratcheted upward in this case because the [New Hampshire PUC] commissioners are [acting] in

their capacity as a representative governmental body...rebuttal requires a ‘strong affirmative showing’ that the agency (or its members) is not fairly representing the applicants’ interests”).

In previous proceedings the Board has never allowed a vast array of general public interest groups to intervene separately, especially where the risk is great that the process will quickly become unmanageable if groups seek to use intervention as a means to advance their more general political agenda. Allowing intervention in this Board proceeding to each and every individual or group with generalized concerns about global warming raises the serious potential to disable this proceeding entirely and hinder the Board from fulfilling its statutory mandate in the expeditious time frame required. Frankly, this siting Board process is not designed as an appropriate forum to develop a stakeholder-based general debate about the climate change issue globally, in the context of a single electric generation project land use licensing process in Rhode Island.

Finally, there will be ample opportunity for this group, and the other concerned entities and individuals, to provide comments, views, oppositions and data, in the form of public comment, in writing or in public testimony, at the appropriate time, on whether the Project is consistent with Rhode Island law, so that the Board may hear of the concerns and position of this entity with regard to the Project. The Board will surely ensure that these opportunities for general public comments are made available, at the appropriate time.

2. Fossil Free Rhode Island

A Motion for Intervention was filed on behalf of an entity called “Fossil Free RI ” and received via e-mail, on December 23, 2015, and filed on behalf of the entity by Peter Nightingale, member. This individual member of the entity does not appear to be a licensed attorney in Rhode Island, contrary to the requirement in Rule 1.4(a). This organization asserts an interest in this proceeding that is based on general socio economic and environmental interests, opposing the “expansion of the fossil fuel infrastructure in general.” The grounds for the intervention are exactly

the same as stated in the Motion of Occupy Providence (word for word). Accordingly, Invenergy opposes this intervention request for the same reasons explained above and incorporates this argument herein by reference.

3. Sister Mary Pendergast, RSM

A Motion for Intervention was filed Sister Mary Pendergast, RSM and received via e-mail, on December 23, 2015. Sister Mary Pendergast also does not appear to be a licensed attorney in Rhode Island, contrary to the requirement in Rule 1.4(a). Sister Mary Pendergast, as a Sister of Mercy, raises concerns about the impact of “fracking” and fossil fuels in general on the public health and environment. The grounds for the intervention are exactly the same as stated in the Motion of Occupy Providence and Fossil Free Rhode Island. Accordingly, Invenergy opposes this intervention request for the same reasons explained above and incorporates this argument herein by reference. Also, the Board has never allowed individuals to be a full party to any other siting board determination to our knowledge, and the Board should be cautious about opening up this precedent to allow individuals to participate as full Party intervenors who have, however well intentioned, general views on energy and environmental policies where they cannot show a sufficient “direct interest” that is affected by the Project.

4. Rhode Island Progressive Democrats of America

A Motion for Intervention was filed by the Rhode Island Progressive Democrats of America (“RIPDA”) via email on December 22, 2015. RIPDA describes itself as a Rhode Island based “political action committee” with general interests in social issues, including general policy issues in energy, environment and electricity markets. RIPDA does not explain how it has a particular level of expertise in electricity markets. RIPDA does claim to have been an advocate in other social issues, such as election issues and other non-electricity related agenda. RIPDA does not assert a statutory right to intervene, and it has no interests that are “directly affected” by this proceeding that will not be adequately represented by other parties. The claim for intervention is merely a general public

interest assertion for intervention, and for the reasons explained above, these general public interest interests in social policies alone are insufficient to suffice. Invenenergy also opposes this request for Intervention for the same reasons as explained in the previous oppositions.

5. FANG and BASE

A Motion for Intervention as a full party to this proceeding was filed on December 22, 2015 by counsel representing two other organizations generally opposed to fossil fuel projects and natural gas expansion projects, FANG (Fighting Against Natural Gas) and BASE (Burrillville Against Spectra Expansion). These organizations are described as “grassroots organizations” with members including some residents of Burrillville and from other states. Again, these organizations raise general concerns about the expansion of natural gas capacity in the region and a general opposition to any fossil fuel based generation project. For the reasons explained above with the other anti-fossil fuel organizations these concerns do not identify sufficient “direct interests” in this organization to warrant intervention where these general energy and environmental concerns will be capably represented by other participants, such as CLF, the Town, the DPUC and the R.I. Department of Environmental Management. Invenenergy opposes this intervention for the same reasons articulated above.

6. Dennis and Kathryn Sherman

A Motion for Intervention as a full party to this proceeding was filed by Dennis and Kathryn Sherman via email on December 22, 2015. These individuals do not appear to be represented by counsel as required by the requirement in Rule 1.4(a). These individuals are residents who reside on property they assert is in the vicinity of the CREC Project. There is no statutory right to intervene cited, and while these residents may have a property interest that may be directly affected by the Project, the Town of Burrillville, as a party, will be representing the interests of its property owners in the Town that may be impacted by the Project and will, therefore, adequately protect these property interests in the Project. Several other parties to this proceeding will be representing the

overall economic and environmental impacts (and benefits) associated with the CREC Project, including the issues of concern to these Movants, namely the impact of the property on the environment and economics of the area locally, as well as statewide.

Also, it is not in the public interest to allow each and every property owner or resident who lives within the vicinity of the Project to intervene as a full party to this proceeding, particularly where the responsible government agencies will be active participants to the proceeding. Allowing each individual property owner to intervene as a Party will establish a precedent that will likely open the doors to many other property owners seeking full intervention as parties, and will quickly lead to the disabling of this proceeding and the inability to manage this review within the required statutory time frames. Finally, these residential property owners will be allowed ample opportunity to submit comments and testimony in the public comment phase of these proceedings. For these reasons Invenergy opposes individual property owner participation as parties to this proceeding.

7. Paul and Mary Bolduc

A Motion for Intervention as a full party to this proceeding was filed by Paul and Mary Bolduc via email on December 22, 2015. These individuals do not appear to be represented by counsel as required by the requirement in Rule 1.4(a). These individuals are also residents who reside on property that they assert is in the vicinity of the CREC Project. For the same reasons explained above concerning property owners in the vicinity of the proposed Project these individuals should not be granted intervention as a full party and should, instead be encouraged to submit comments and public testimony at the appropriate time scheduled in this proceeding.

D. CONCLUSION

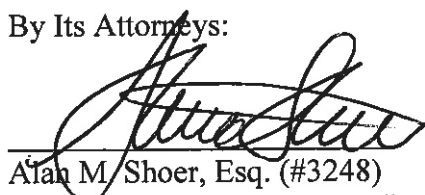
For the reasons set forth herein, Invenergy hereby requests that the RI EFSB deny the Motions for Intervention filed by Occupy Providence, Fossil Free RI, Sister Mary Pendergast,

Rhode Island Progressive Democrats of America, FANG, BASE, Dennis and Kathryn Sherman,
Paul and Mary Bolduc.

Respectfully submitted,

INVENERGY THERMAL DEVELOPMENT, LLC

By Its Attorneys:

A handwritten signature in black ink, appearing to read "Alan Shoer", written over a horizontal line.

Alan M. Shoer, Esq. (#3248)

Richard R. Beretta, Jr. Esq. (#4313)

ADLER POLLOCK & SHEEHAN, P.C.

One Citizens Plaza, 8th Floor

Providence, RI 02903-1345

Tel: 401-274-7200

Fax: 401-751-0604

Dated: Dec. 28, 2015

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2015, I delivered a true copy of the foregoing document via first-class mail and electronic mail to the parties on the attached service list.



A handwritten signature in black ink, written over a horizontal line. The signature is stylized and cursive, appearing to read 'J. Smith'.

SB-2015-06 Invenenergy CREC Service List as of 12/24/2015

Name/Address	E-mail	Phone/FAX
File an original and 10 copies with EFSB: Todd Bianco, Coordinator Energy Facility Siting Board 89 Jefferson Boulevard Warwick, RI 02888 Margaret Curran, Chairperson Janet Coit, Board Member Assoc. Dir., Div. of Planning c/o Kim Crabill Patti Lucarelli Esq., Board Counsel Susan Forcier Esq., Counsel Rayna Maguire, Asst. to the Director DEM	Todd.Bianco@puc.ri.gov ;	401-780-2106
	Patricia.lucarelli@puc.ri.gov ;	
	Margaret.Curran@puc.ri.gov ;	
	janet.coit@dem.ri.gov ;	
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	rayna.maguire@dem.ri.gov ;	
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	Nikolyszyn@gmail.com ;	401-474-4370
Parties with pending motions to intervene		
Conservation Law Foundation Jerry Elmer, Esq. Max Greene, Esq. 55 Dorrance Street Providence RI, 02903	Jelmer@clf.org ;	401-351-1102
	Mgreene@clf.org ;	
Ms. Bess B. Gorman, Esq. Assistant General Counsel and Director Legal Department, National Grid 40 Sylvan Road Waltham, MA 02451	Bess.Gorman@nationalgrid.com ;	781-907-1843

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Sister Mary Pendergast, RSM 99 Fillmore Street Pawtucket, RI 02860	mpendergast@mercyne.org ;	401-724-2237
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	proseli@cox.net ;	401-447-1560
Rhode Island Progressive Democrats of America Andrew Aleman, Esq. 168 Elmgrove Avenue Providence, RI 02906	andrew@andrewaleman.com ;	401-429-6779
Residents of Wallum Lake Road, Pascoag, RI Dennis Sherman and Kathryn Sherman 1035 Wallum Lake Road Pascoag, RI 02859	kags8943@gmail.com ;	401-316-7708
Residents of Wallum Lake Road, Pascoag, RI Paul Bolduc and Mary Bolduc 915 Wallum Lake Road Pascoag, RI 02859	oatyss1@verizon.net ;	401-529-0367
Fighting Against Natural Gas and Burrillville Against Spectra Expansion Jillian Dubois, Esq. The Law Office of Jillian Dubois 91 Friendship Street, 4 th Floor Providence, RI 02903	jillian.dubois.esq@gmail.com ;	401-274-4591

Interested Persons		
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Michael C. Wood, Town Manager Town of Burrillville 105 Harrisville Main Street Harrisville, RI 02830	mcwood@burrillville.org ;	401-568-4300 ext. 115
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	Alan.nault@puc.ri.gov ;	
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Hon. Cale Keable, Esq., Representative of Burrillville and Glocester	Cale.keable@gmail.com ;	401-222-2258
Nick Katkevich	nkatkevich@gmail.com ;	
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Jared Rhodes, Chief Statewide Planning Program	jared.rhodes@doa.ri.gov ;	
Doug Gablinske, Executive Director TEC-RI	doug@tec.ri.org ;	
Tim Faulkner ecoRI News 111 Hope Street Providence, RI 02906	tim@ecori.org ;	401-330-6276

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD**

In Re: INVENERGY THERMAL DEVELOPMENT)	
LLC’S APPLICATION TO CONSTRUCT THE)	Docket No. SB-2015-06
CLEAR RIVER ENERGY CENTER IN)	
BURRILLVILLE, RHODE ISLAND)	

**OBJECTION OF INVENERGY THERMAL DEVELOPMENT LLC
TO MOTION TO EXTEND INTERVENTION PERIOD AND TO
POSTPONE THE PRELIMINARY HEARING**

A. INTRODUCTION

Now comes Invenergy Thermal Development LLC (“Invenergy”) and hereby objects to the Motion to extend the intervention period and to postpone the Preliminary Hearing, filed on behalf of the groups Fighting Against Natural Gas (“FANG”) and Burrillville Against Spectra Expansion (“BASE”). As explained below the Motion should not be granted. The Rhode Island Energy Facility Siting Board (“RI EFSB” or “Board”) lacks the authority to grant the extension request due to the strict statutory timelines imposed by the General Assembly in the governing statute and the EFSB Rules. And, even if there were no required statutory timeframes, the Board should deny the Motion for the reason that the Board will not be accepting public comments at the Preliminary Hearing, and because there is an opportunity for late filed interventions, if authorized, in order to participate in the evidentiary hearings in this licensing matter. Finally the equities do not warrant postponing these proceedings into the future where expeditious review of energy generation projects (as required by the EFSB Act) is important so as to allow Invenergy the ability to meet the requirements of the wholesale market process, and the strict deadlines set by ISO/NE for the up-coming Forward Capacity Market auctions and obligations.

B. BACKGROUND

Pursuant to the Energy Facilities Siting Act, Chapter 42-98 of the General Laws of Rhode Island, as amended (“Act”), and the Rules of Practice and Procedure of the RI EFSB, Invenenergy filed an application to seek the approval of the Board to site and construct the Clear River Energy Center, an approximately 850-1000 MW combined cycle electric generating facility on Wallum Lake Road in Burrillville, R.I. (“CREC” or “Project”).

In accordance with the mandatory time frames required by Act and the EFSB’s Rules, the RI EFSB has scheduled a date for a Preliminary Hearing to consider the required matters for a Preliminary Hearing, as set forth in the Act and the Rules. The Board’s Notice was duly issued on November 17, 2015. As further requested by the Board, Invenenergy followed up this Notice with individual letters containing the Board’s Notice, sent via certified mail, to abutting landowners, mailed a month before the date of the scheduled Preliminary Hearing.

In accordance with the Board’s Notice of Hearing (dated November 17, 2015), the RI EFSB will not be taking public comment at this Preliminary Hearing. However, it is anticipated that there will be ample opportunity for public comment from any of the groups identified by the Movants, either at the Board’s meeting at the Town of Burrillville, or at the full evidentiary hearings later in the process, as scheduled by the RI EFSB. In any event, the Board should proceed with the statutorily mandated schedule and deny the Motion.

C. ARGUMENT

The Motion was filed by two organizations that are generally opposed to the development of fossil fuel based projects and natural gas expansion.¹ The request is essentially a motion to amend the legislation and to alter a strict statutory mandated timeframe. The Act (R.I. Gen. Laws §42-98-9) and the Rules (Rule 1.9), which have the force of law, contain mandatory time frames that must be strictly adhered to and cannot be altered at the discretion of the Board. For example, “[w]ithin 60 days following the docketing of an application the board shall . . . convene a preliminary hearing on the application” to consider the items listed in the statute. R.I. Gen. Laws §42-98-9. A decision by the Board on the preliminary hearing is further required “within thirty (30) days following the conclusion of the preliminary hearing and in any event within forty five (45) days of the commencement of the hearing.” *Id.* The application was docketed as of November 16, 2015.

This extremely tight time schedule is therefore controlled by the Act and Board Rules and is therefore a statutory requirement; these time frames cannot be altered simply because the Movants would like more time to seek out other groups that may have an interest in stopping the Project. The Board is respectfully without authority to amend legislation to change the time requirements in the manner suggested by the Motion. The Board is bound to comply with the statutory timelines. See *Bristol County Water Co. v. PUC*, 363 A.2d 444, 449 (1976) (Similar to the Commission’s role at issue there, the Board “is a creature of statute and , as such, it possesses only those powers, duties and responsibilities and jurisdiction conferred upon it by the General Assembly.”) The Board has allowed for the required time as set forth in the statute and Rules

¹ For the reasons explained in Invenergy’s Opposition to Motions to Intervention neither FANG nor BASE should be granted full party status in this siting board licensing proceeding.

for notification and intervention requests and for the Preliminary Hearing. For this reason alone the Board should deny the Motion.

Moreover, the RI EFSB will be setting up dates and times for all members of the public, and any interested entity, to appear and provide comments to the Board, both at meetings held in the Town and at the Board's final hearings. There will therefore be ample opportunity for "greater public input from all communities, parties and individuals" that are sought by the suggestions in the Motion. Again, the Board's Notice indicates it will not be taking public comment at the Preliminary Hearing.

Also, given that the Board has a process for late-filed intervention requests that meet the standards for a necessary and appropriate party (Rule 1.10(d)(3)), and the fact that the final evidentiary hearings in this matter are several months away, there is no valid reason to extend the date for the Preliminary Hearing in this matter, even if the Board had the authority to extend the preliminary hearing date (which we assert the Board cannot adjust).

Finally, the Project was announced months ago, in August of 2015, via the Providence Journal and on several local media. Notifications for the Preliminary Hearing were posted in November 2015. Invenergy attended an "open house" in the Town of Burrillville in early December 2015 to provide further information about the Project, and individual notices were sent to residents a month before the Preliminary Hearing. It is difficult to take seriously the assertion by FANG and BASE that they and the other groups they affiliate with were unaware of this Project or unable to seek to intervene within the time limits set by the Board.²

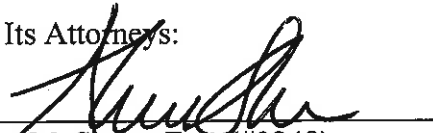
² The fact that intervention requests were filed by numerous individuals and organizations is strong evidence that the public notifications more than sufficiently provided adequate advance public notice of the Preliminary Hearing.

For all these reasons Invernergy requests that the Board deny the Motion to Extend the time for interventions and for the Preliminary Hearing.

Respectfully submitted,

INVENERGY THERMAL DEVELOPMENT

By Its Attorneys:

A handwritten signature in black ink, appearing to read "Alan M. Shoer", is written over a horizontal line.

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Dated: Dec 28, 2015

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2015, I delivered a true copy of the foregoing document via first-class mail and electronic mail to the parties on the attached service list.



A handwritten signature in black ink, appearing to read "H. J. [unclear]", is written over a horizontal line.

SB-2015-06 Invenenergy CREC Service List as of 12/24/2015

Name/Address	E-mail	Phone/FAX
File an original and 10 copies with EFSB: Todd Bianco, Coordinator Energy Facility Siting Board 89 Jefferson Boulevard Warwick, RI 02888 Margaret Curran, Chairperson Janet Coit, Board Member Assoc. Dir., Div. of Planning c/o Kim Crabill Patti Lucarelli Esq., Board Counsel Susan Forcier Esq., Counsel Rayna Maguire, Asst. to the Director DEM	Todd.Bianco@puc.ri.gov ;	401-780-2106
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