STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITING BOARD

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

OBJECTION OF INVENERGY THERMAL DEVELOPMENT LLC
TO THE TOWN OF CHARLESTOWN'S NOVEMBER 22, 2017 MOTION

Now comes Invenergy Thermal Development LLC ("Invenergy") and hereby objects to the Town of Charlestown's ("Charlestown's") November 22, 2017 Motion for "funding as an affected community." *See* Charlestown's Nov. 22, 2017 Motion ("the Motion").

The Motion essentially requests that the Energy Facility Siting Board ("EFSB" or "Board") agree that being an "affected community" under Section 9.1 of the Energy Facility Siting Act ("the Act"), equates to being "the town or city where the proposed facility would be located[.]" Therefore, according to Charlestown, Invenergy should be required to pay for Charlestown "to perform studies of the local environmental effects of the proposed facility." *See id*. at 1; R.I. Gen. Laws § 42-98-9.1(b).

Charlestown's request is completely contrary to the specific language in the Act. The Act requires an applicant to pay for the *host community* to "perform studies of the local environmental effects of the proposed facility." *See* R.I. Gen. Laws § 42-98-9.1(b). The Town of Burrillville is the host community for the proposed Clear River Energy Center ("CREC"), not Charlestown. Charlestown's involvement in this matter is limited to the fact that it shares an aquifer with the Narragansett Indian Tribe ("the NIT") that may (or may not) be used as an *additional* contingent/redundant water supply source for CREC. Because Charlestown cannot maintain host community status for a major energy facility under the Act and because the Act does not provide that an applicant must pay for all environmental impact studies performed by

adjacent communities, and certainly not for those that share an aquifer with an *additional* contingent/redundant support facility for a proposed energy generation facility, Charlestown's Motion must be denied.

Charlestown relies on section 9.1 of the Act to support its request that Invenergy pay for environmental studies. *Id*. Such reliance is misplaced. R.I. Gen. Laws § 42-98-9.1 states that "[w]hen the subject of the application is a facility for the generation of electricity, or new facilities for the transmission of electricity, *th*e town or city *where the proposed facility would be located* may request funding from the applicant to perform studies of the local environmental effects of the proposed facility." R.I. Gen. Laws § 42-98-9.1(b) (emphasis added).[1]

The language in R.I. Gen. Laws § 42-98-9.1 provides in plain terms that only "the town or city where *the* [singular] proposed facility would be located"—the host community for the siting of the electric generation facility (not the town adjacent to a potential source of water supply) —may request funding from an applicant "to perform studies of the local environmental effects of the proposed facility." *See* R.I. Gen. Laws § 42-98-9.1(b) (emphasis added). Aside from the host community, the statute *does not* provide for funding to any community for any other reason including a claimed interest in the project due to proximity to a contingent water supply source.

Charlestown grasps at straws by asserting that it is somehow "a town which is hosting a 'facility for the generation of electricity' since water for the operation of the facility is proposed by the applicant to be sourced, stored, transferred and transported in the Town of Charlestown."

[1] The Act also defines a "major energy facility" to mean "facilities for the generation of electricity . . . at a gross capacity of forty (40) megawatts or more . . .." R.I. Gen. Laws § 42-98-3(d). The definition does not include source wells or other infrastructure that may be used to supply one of the inputs that will be utilized by the major energy facility (with the exception of transmission lines or facilities for the transfer of oil, gas and coal via pipeline). *Id.*

Motion, at 1. Charlestown asserts that "[a]lthough the actual generating facility is located outside the Town of Charlestown, the water supply is inseparable from the operation of the facility[.]" *Id*. Charlestown incorrectly characterizes where CREC proposes to obtain its water and ignores the specific language in the Act.

Charlestown's assertion that water for CREC is proposed to be "sourced, stored, transferred and transported in the Town of Charlestown" is inaccurate. Contrary to this assertion, water for CREC will not be "sourced, stored, transferred and transported in the Town of Charlestown." *See id*. Charlestown's statement fails to recognize that the Town of Johnston is, and remains, CREC's primary water supply source. *See* Revised Water Supply Plan, filed with the Board on Jan. 11, 2017. CREC's contingent/redundant water source supplier is Benn Water and Heavy Transport Corp. ("Benn Water"), and Benn Water can obtain water for CREC from the City of Fall River, as well as additional water sources in the region. *See* Supplement to Water Supply Plan, filed with the Board on Sept. 28, 2017. The NIT is Invenergy's *additional* contingent/redundant water supply source ("back-up to the back-up"). This *additional* contingent/redundant water supply source is also located on a large aquifer where the NIT and Charlestown draws its water. *See id*.

Regardless of whether CREC obtains water (or not) from the NIT as its *additional* contingent/redundant water supply source, obtaining water from the NIT does not mean that the major energy facility of CREC is "located" within Charlestown, as is required by the Act in order for Invenergy to be required to pay for Charlestown's environmental studies. Again, the Act provides that only the city or town "where *the* proposed facility would be located may request funding." *See* R.I. Gen. Laws § 42-98-9.1(b)(emphasis added). The Act *does not* state that any community where an *additional* contingent/redundant support facility is located equates to being the community where a proposed energy facility is located. Likewise, the Act *does not*

allow for funding to any community that claims an interest in a nearby source of an *additional* contingent/redundant groundwater well that may be transported for an energy generation project.

In conclusion, CREC is proposed to be located in Burrillville, Rhode Island. Charlestown is not the host community for CREC. Charlestown is not CREC's primary water supply source. Charlestown shares an aquifer with the NIT, CREC's *additional* contingent/redundant water supply source. While this Board determined that Charlestown has an interest in the proceeding sufficient to warrant limited intervention status, the fact remains that CREC (and the site of the major energy facility) is not located in Charlestown.

Accordingly, because Charlestown is *not* the host community for CREC, and because R.I. Gen. Laws § 42-98-9.1 does *not* require that an applicant must pay for all studies by any community claiming an interest, and in particular communities where an *additional* contingent/redundant support facility for a proposed energy generation facility may be located, Charlestown's Motion should be denied.

Respectfully submitted,
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Dated: November 27, 2017

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2017, I delivered a true copy of the foregoing document to the Energy Facilities Siting Board via electronic mail to the parties on the attached service list.

/s/ Alan M. Shoer