

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

IN RE:	INVENERGY THERMAL DEVELOPMENT LLC	:	
	APPLICATION TO CONSTRUCT AND	:	
	OPERATE THE CLEAR RIVER ENERGY	:	SB-2015-06
	CENTER, BURRILLVILLE, RHODE ISLAND	:	
	CONSERVATION LAW FOUNDATION'S	:	
	MOTION FOR SUPPLEMENTAL ADVISORY	:	
	OPINIONS AND FOR LEAVE TO TAKE	:	
	ADDITIONAL DISCOVERY AND FILE	:	
	SUPPLEMENTAL EXPERT TESTIMONY	:	

ORDER

This matter came before the Energy Facility Siting Board (Board or EFSB) on a Motion for Supplemental Advisory Opinions and for Leave to Take Discovery and File Supplemental Expert Testimony filed by the Conservation Law Foundation (CLF). CLF asserts that ISO-NE's disqualification of Invenergy Thermal Developments LLC's (Invenergy) Turbine Two from participation in the Forward Capacity Auction #12 (FCA-12) affects the analysis Invenergy previously provided to the Board and Advisory Agencies. Because of this, CLF argues, the Board should direct the Division of Planning (Planning) and the Office of Energy Resources (OER) to file supplemental advisory opinions that take into account the disqualification. CLF also requests that the Board allow for leave to take additional discovery regarding the disqualification. Finally, CLF requests the Board allow it to present additional expert testimony regarding the disqualification. The Town of Burrillville filed a response joining and supporting CLF's motion.

Invenergy objected to CLF's motion, asserting that through a letter written by John Niland, Invenergy had notified the Board that ISO-NE had disqualified it from participation in FCA-12 due to delays in permitting and scheduling. Attached to that letter, Invenergy argued, was a

memorandum prepared by its consultant, PA Consulting Group (PA), which indicated that the impact on prior assumptions was “relatively minor” and did not “significantly alter the analysis and related findings.”¹ Because no material facts have changed as attested to by its consultant, Invenergy argues that supplemental advisory opinions are not necessary. Invenergy also objected to CLF’s request for additional discovery as unnecessary because Invenergy asserted it had provided all of the parties with the relevant data and PA’s analysis. Invenergy also objected to CLF’s request for supplemental advisory opinions, arguing that none of the material facts have changed since Planning and OER issued their original advisory opinions and that projected ratepayer savings, emissions reductions, and economic output are only insignificantly altered by Invenergy’s disqualification from FCA-12. Invenergy did not object to opposing parties supplementing their expert testimony concerning the FCA-12 disqualification. In its Reply to Invenergy’s Objection, CLF requested the Board hire its own independent energy market financial analyst to advise the Board on the consequences of the disqualification of Turbine Two from FCA-12 and on Invenergy’s ability to obtain project financing for Turbine One.

After consideration, the Board found that due process dictates that opposing parties have the opportunity to review and address the disqualification of Turbine Two. Therefore, the Board granted CLF’s motion for additional discovery, supplemental expert testimony, and supplemental advisory opinions. The Board granted opposing parties an additional ninety days to conduct discovery on the disqualification issue and to supplement their expert testimony. The Board requested Planning and OER to supplement their advisory opinions within ninety days to address the impact if any of the disqualification of Turbine Two as it relates to the need for Invenergy’s proposed project.

¹ Invenergy Informational Filing (Nov. 1, 2017).

Accordingly, it is hereby

(125) ORDERED:

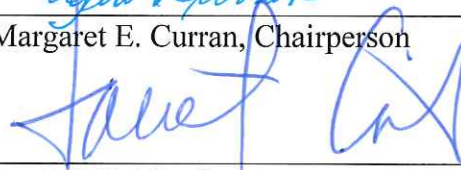
1. The Conservation Law Foundation's Motion for Supplemental Advisory Opinions and for Leave to Take Additional Discovery and File Supplemental Expert Testimony is granted. The parties shall have an additional ninety days for discovery and to provide supplemental expert testimony limited to the disqualification of Turbine Two.
2. The Statewide Division of Planning and the Office of Energy Resources shall have ninety days within which to supplement their advisory opinions to address the impacts of the disqualification of Turbine Two as it relates to the need for Invenenergy's proposed project.

EFFECTIVE AT WARWICK, RHODE ISLAND, NOVEMBER 27, 2017. WRITTEN ORDER
ISSUED FEBRUARY 1, 2018.

ENERGY FACILITY SITING BOARD



Margaret E. Curran, Chairperson



Janet Coit, Member

Parag Agrawal, Member*

*Member Agrawal did not participate in this decision.

