

**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	:	
	TOWN OF BURRILLVILLE'S MOTION SEEKING	:	
	AN ORDER OF THE EFSB REQUIRING AN	:	
	INDEPENDENT ENVIRONMENTAL IMPACT	:	
	DOCUMENT AND APPOINTING AN	:	
	INDEPENDENT ENVIRONMENTAL EXPERT	:	
	TO EVALUATE THE ADVERSE	:	
	ENVIRONMENTAL IMPACTS OF INVENERGY'S	:	
	PROPOSED POWER PLANT	:	

ORDER

This matter came before the Energy Facility Siting Board (Board or EFSB) on the Town of Burrillville's (Town) Motion Seeing an Order of the EFSB Requiring an Independent Environmental Impact Document (EID) and Appointing an Independent Environmental Expert to Evaluate the Adverse Environmental Impacts of Invenergy's Proposed Power Plant. In support of its motion, the Town argues that because Invenergy's submissions on environmental issues have been inadequate, an environmental impact document is necessary. It further argues that its motion is not untimely. The Board, it claims, has the authority to hire its own experts and has done so in the past. Finally, it contends that the Department of Environmental Management (DEM) and the Army Corps of Engineers (Corps) will not consider the most severe adverse impacts in the course of their permitting review for this project.

The Town asserts that its and the Conservation Law Foundation's (CLF) experts concluded that there will be unacceptable harm if Invenergy is granted a license to construct its facility. It states that Invenergy's experts have concluded that there will be no unacceptable environmental

harm. During oral argument, the Town stated that it believes its experts are competent to address the issues.

Invenergy objected to the motion, asserting that its submissions of material have been more than adequate, an EID and/or environmental expert is not required or necessary, and the motion is untimely. It argues that all of the major parties to this proceeding have retained numerous experts to address the issues at the final hearing and, because of this, it is unnecessary for the Board to hire its own expert.

In voting to deny the Town’s motion, the Board noted that motions from the parties are not necessary to raise this request as, under the Energy Facility Siting Act §42-98-5(c), the Board “may engage any consultants or expert witnesses that it deems necessary to implement its statutory responsibilities.” The Board found that the cases cited by the Town were distinguishable from the instant matter. In those cases, there was insufficient expert testimony on both sides of the issue. The Board found that the experts retained by the parties will be able to provide considerable information regarding the impacts that the proposed project will have on the environment. Further, under the Energy Facility Siting Act §42-98-11, the burden is on the applicant to show that “the proposed facility will not cause unacceptable harm to the environment.”

Accordingly, it is hereby

(130) ORDERED:

The Town of Burrillville’s Motion Seeking an Order of the EFSB Requiring an Independent Environmental Impact Document and Appointing an Independent Environmental Expert to Evaluate the Adverse Environmental Impact of Invenergy’s Proposed Power Plan is denied.

EFFECTIVE AT WARWICK, RHODE ISLAND, DECEMBER 12, 2017. WRITTEN ORDER
ISSUED FEBRUARY 1, 2018.


ENERGY FACILITY SITING BOARD



Margaret E. Curran, Chairperson



Janet Coit, Member



Parag Agrawal, Member

