

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
ENERGY FACILITY SITTING BOARD

INVENERGY THERMAL DEVELOPMENT LLC
CLEAR RIVER ENERGY CENTER

DOCKET NO. SB-2015-06

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF THE MOTION FOR LATE
INTERVENTION OF LYKE AND ERIN WALKER**

Lyle and Erin Walker have already filed a Motion for Late Intervention, and this memorandum is intended only to supplement what the Walkers have filed and augment the legal arguments made in their previous filing.

It is undisputed in this matter that the Walkers live directly across Wallum Lake Road from the proposed location of the Invenergy Thermal Development Project, also known as Clear River Energy Center (hereinafter referred to as "CREC").

All traffic to and from the facility, including all construction, supplies, maintenance, and future needs of the facility will pass directly in front of their home.

The Walker family will thus be affected in a significant and material sense by the CREC project each and every day that they live in their home, for the rest of their lives. Even if the project has no economic impact on the area, no impact on property values, no impact on the Town of Burrillville, or any other participant in this process, it will have a profoundly significant and different effect upon Lyle and Erin Walker and their three minor children: they will be neighbors every single day, they will see, hear, smell, and in many cases, feel the impact of the many vehicles and machines entering, exiting and operating within and upon the CREC Project. In such circumstances, the Rhode Island Supreme Court has determined intervention is a matter of right:

Intervention will be allowed if an applicant establishes “some tangible basis to support a claim of purported inadequacy” of representation by the current contestants. *Credit Union Central Falls v. Groff*, 871 A.2d 364, 368 (R.I.2005) (quoting *Public Service Co. of New Hampshire v. Patch*, 136 F.3d 197, 207 (1st Cir.1998)). In construing the similar federal rule, the United States Supreme Court has stated that this burden should be considered minimal; “[t]he requirement of the [r]ule is satisfied if the applicant shows that representation of his interest ‘may be’ inadequate.” *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 n. 10, 92 S.Ct. 630, 30 L.Ed.2d 686 (1972).

Town of Coventry v. Baird Properties, LLC., 13 A.3d 614, 620 (R.I. 2011)

The Walkers would be pleased to present testimony at a hearing to be scheduled by the Board or by such other means as may be required.

Lyle and Erin Walker
By their attorney,

/s/Nicholas Gorham
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May 4, 2016

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of May, 2016, I served this document to the parties specified on the “service list” as set forth and maintained on the ESFB website by email.

/s/Nicholas Gorham