

2017 -- S 0441

LC001769

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY SITING

Introduced By: Senators Calkin, Goodwin, Coyne, and Quezada

Date Introduced: March 02, 2017

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-98-8 and 42-98-11 of the General Laws in Chapter 42-98
2 entitled "Energy Facility Siting Act" are hereby amended to read as follows:

3 **42-98-8. Applications -- Contents -- Acceptance for filing.**

4 (a) The rules and regulations promulgated by the board pursuant to § 42-98-7(c) shall
5 prescribe the form and contents of applications under this chapter. The applications shall contain
6 at least the following, where applicable:

7 (1) Identification of the proposed owner(s) of the facility, including identification of all
8 affiliates of the proposed owners, as the term is defined in § 39-3-27.

9 (2) Detailed description of the proposed facility, including its function and operating
10 characteristics, and complete plans as to all structures, including underground construction and
11 transmission facilities, underground or aerial, associated with the proposed facility.

12 The complete plans shall be the basis for determining jurisdiction under the energy
13 facility siting act and shall be the plans submitted to all agencies whose permit is required under
14 the law.

15 (3) A detailed description and analysis of the impact of the proposed facility on its
16 physical and social environment together with a detailed description of all environmental
17 characteristics of the proposed site, and a summary of all studies prepared and relied upon in
18 connection therewith.

19 Where applicable these descriptions and analysis shall include a review of current

1 independent, scientific research pertaining to electric and magnetic fields (EMF). The review
2 shall provide data assessing potential health risks associated with EMF exposure. For the
3 purposes of this chapter "prudent avoidance" shall refer to measures to be implemented in order
4 to protect the public from EMF exposure.

5 (4) All studies and forecasts, complete with the information, data, methodology, and
6 assumptions on which they are based, on which the applicant intends to rely in showing the need
7 for the proposed facility under the statewide master construction plan submitted annually.

8 (5) Complete detail as to the estimated construction cost of the proposed facility, the
9 projected maintenance and operation costs, estimated costs to the community such as safety and
10 public health issues, storm damage and power outages, estimated costs to businesses and
11 homeowners due to power outages, the estimated unit cost of energy to be produced by the
12 proposed facility, and expected methods of financing the facility.

13 (6) A complete life-cycle management plan for the proposed facility, including measures
14 for protecting the public health and safety and the environment during the facility's operations,
15 including plans for the handling and disposal of wastes from the facility, and plans for the
16 decommissioning of the facility at the end of its useful life.

17 (7) A study of alternatives to the proposed facility, including alternatives as to energy
18 sources, methods of energy production, and sites for the facility, together with reasons for the
19 applicant's rejection of these alternatives. The study shall include estimates of facility cost and
20 unit energy costs of alternatives considered.

21 (8) A detailed and specific statement as to the effects the proposed facility would have on
22 the ability of the state to meet the carbon-emissions-reduction goals set forth in §42-6.2-2(a)(2).

23 (b) Within thirty (30) days of the filing of an applicant under this chapter, the board shall
24 notify the applicant whether the application is in the form and addresses the matters that are
25 required by this section and the rules and regulations as are promulgated pursuant to § 42-98-7.
26 An application meeting these requirements shall then be docketed. Any application deemed to be
27 deficient shall be returned to the applicant, together with a concise and explicit statement of the
28 application's deficiencies. Within fifteen (15) days of the resubmission of an application
29 following a rejection for deficiency, the board shall docket the application together with
30 specification of continuing deficiencies noted by the board, if any.

31 **42-98-11. Final hearing -- Standards -- Decisions.**

32 (a) Within forty-five (45) days after the final date for submission of advisory opinions
33 pursuant to § 42-98-10, the board shall convene the final hearing on the application. The purpose
34 of this hearing shall not be to rehear the evidence which was presented previously in hearings

1 before agencies designated under § 42-98-9, but rather to provide the applicant, intervenors, the
2 public, and all other parties in the proceeding, the opportunity to address in a single forum, and
3 from a consolidated, statewide prospective, the issues reviewed, and the recommendations made
4 in the proceedings before the agencies designated under § 42-98-9. The board at this hearing may,
5 at its discretion, allow the presentation of new evidence by any party as to the issues considered
6 by the agencies designated under § 42-98-9. The board may limit the presentation of repetitive or
7 cumulative evidence. The hearing shall proceed on not less than thirty (30) days' notice to the
8 parties and the public, shall be concluded not more than sixty (60) days following its initiation,
9 and shall be conducted expeditiously.

10 (b) The board shall issue a decision granting a license only upon finding that the
11 applicant has shown that:

12 (1) Construction of the proposed facility is necessary to meet the needs of the state and/or
13 region for energy of the type to be produced by the proposed facility.

14 (2) The proposed facility is cost-justified, and can be expected to produce energy at the
15 lowest reasonable cost to the consumer consistent with the objective of ensuring that the
16 construction and operation of the proposed facility will be accomplished in compliance with all of
17 the requirements of the laws, rules, regulations, and ordinances, under which, absent this chapter,
18 a permit, license, variance, or assent would be required, or that consideration of the public health,
19 safety, welfare, security and need for the proposed facility justifies a waiver of some part of the
20 requirements when compliance cannot be assured.

21 (3) The proposed facility will not cause unacceptable harm to the environment and will
22 enhance the socio-economic fabric of the state.

23 (c) The board shall not issue a decision granting a license to any applicant unless the
24 board makes an affirmative determination that construction of the proposed facility will not
25 adversely impact the ability of the state to achieve the carbon-emissions-reduction goals set forth
26 in §42-6.2-2(a)(2).

27 ~~(e)~~(d) Within sixty (60) days of the conclusion of the final hearing the board shall issue
28 its final decision on the application. A decision in favor of the application shall constitute a
29 granting of all permits, licenses, variances, or assents, which under any law, rule, regulation, or
30 ordinance of the state or of a political subdivision thereof which would, absent this chapter, be
31 required for the proposed facility. The decision may be issued requiring any modification or
32 alteration of the proposed facility, and may be issued on any condition the board deems warranted
33 by the record, and may be issued conditional upon the applicant's receipt of permits required by
34 federal law. The board's decision shall explicitly address each of the advisory opinions received

1 from agencies, and the board's reasons for accepting, rejecting, or modifying, in whole or in part,
2 any of those advisory opinions. The board shall, within ten (10) days of granting a license, with or
3 without conditions, deliver the decision to the speaker of the Rhode Island house of
4 representatives, and the president of the Rhode Island senate.

5 SECTION 2. This act shall take effect upon passage and shall apply to applications made
6 to the energy facility siting board on or after the effective date of this act.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY SITING

1 This act would require environmental impacts be considered in energy plant siting
2 proceedings.

3 This act would take effect upon passage and would apply to applications made to the
4 energy facility siting board on or after the effective date of this act.

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