

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PETITION FOR DECLARATORY JUDGMENT :
OF THE RHODE ISLAND CONVENTION CENTER : DOCKET NO. 4681
AUTHORITY :

ORDER

On December 14, 2016, the Rhode Island Convention Center Authority (RICCA) filed with the Public Utilities Commission (PUC) a Petition for Declaratory Judgment (petition) seeking a declaration that it falls within the definition of public entity set forth in R.I. Gen. Laws § 39-26.4-2(12) (Net Metering Act). Designation as a public entity for purposes of the Net Metering Act allows that entity to enter into financial arrangements with developers to develop a renewable energy project that will constitute an Eligible Net Metering System. In this case, RICCA seeks to obtain a majority of its electric energy from a third party renewable energy supplier offsite. RICCA represented that it is also considering on-site renewable energy supply but, due to space constraints, is unlikely to thereby be able to significantly reduce its total electrical energy costs.¹ In order to enter into a public entity net metering financing arrangement, RICCA seeks confirmation that it is, indeed, a public entity under the Net Metering Act.

In its petition, RICCA noted that a public entity includes the State of Rhode Island and municipalities along with public transit agencies and water distribution systems. A review of RICCA's enabling legislation shows that, while it has a distinct legal existence from the State of Rhode Island, it is "a public instrumentality exercising public and essential governmental

¹ Pet. at 1. http://www.ripuc.org/eventsactions/docket/4681-%20RICCA-DJPetition_12-14-16.pdf.

Contemporaneously with the filing of the Petition, RICCA's attorney, Bruce A. Leach, sought and on December 20, 2016, was granted permission to appear pursuant to the Public Utilities Commission's Rule of Practice and Procedure 1.4(d)(2). Prior to being appointed as a Commissioner, Herbert F. DeSimone, Jr. engaged in the practice of law with Attorney Leach. Commissioner DeSimone has recused himself from participation in all aspects of the petition under consideration in this docket.

functions, and the exercise by the corporation of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state.”² RICCA’s eleven commissioners are appointed by the Governor with the advice and consent of the Senate.³ RICCA is subject to many of the same requirements as a “state agency” for the purpose of certain of Rhode Island’s General Laws and must comply with the Access to Public Records Act, the Open Meetings Act, and laws related to State Purchases.⁴ RICCA specifically indicated that that in the Public Corporation Financial Integrity and Accountability Act, it is referred to as a public agency.⁵

On December 22, 2016, the PUC caused a Notice of Filing and Deadline for Comments regarding RICCA’s petition to be published in the Providence Journal. The deadline for filing written objections to or comments on the petition was January 5, 2017. No comments or objections were received in response to the notice.

At an Open Meeting held on January 9, 2017, the PUC considered the filings and found that RICCA is a public entity within the meaning of the Net Metering Act.⁶ R.I. Gen. Laws § 39-26.4-2(12) defines a public entity as including the state of Rhode Island. While not a department of the State of Rhode Island, RICCA exercises functions that are typically considered to be state activity, such as the power of condemnation. Additionally, if dissolved, all property held by RICCA descends to the State of Rhode Island.⁷

R.I. Gen. Laws § 39-26.4-4 requires that the chapter be construed liberally in aid of its purpose. The purpose of the Net Metering Act is, in part, “to facilitate and promote installation of

² Pet. at 3, quoting R.I. Gen. Laws § 42-99-4(a).

³ Pet. at 3.

⁴ Pet. at 3, citing R.I. Gen. Laws § 42-99-4(a). *See* R.I. Gen. Laws § 38-2-2(2); R.I. Gen. Laws § 42-46-2(3); R.I. Gen. Laws § 37-2-7-1; R.I. Gen. Laws § 36-14-4(3).

⁵ Pet. at 3.

⁶ The PUC has the authority to make this determination under R.I. Gen. Laws § 42-35-8.

⁷ Pet. at 3-4.

customer-sited, grid-connected generation of renewable energy [and] to support and encourage customer development of renewable generation systems.”⁸ Finding that the RICCA falls within the definition of a public entity for purposes of the Net Metering Act will facilitate and promote the purpose of the statute.

It is hereby:

(22644) DECLARED:

Rhode Island Convention Center Authority is a public entity under R.I. Gen. Laws § 39-26.4-2(12).

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 10, 2017 PURSUANT TO AN OPEN MEETING DECISION ON JANUARY 9, 2017. WRITTEN ORDER FILED WITH THE SECRETARY OF STATE’S OFFICE ON JANUARY 10, 2017

PUBLIC UTILITIES COMMISSION



Margaret E. Curran, Chairperson

*Herbert F. DeSimone, Jr., Commissioner

Marion S. Gold, Commissioner

*Commissioner DeSimone recused himself from participation in this matter.

⁸ R.I. Gen. Laws § 39-26.4-1.



Notice of Right of Appeal: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within 7 days from the date of the Order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or Order.