

3225 MAIN STREET • P.O. BOX 226  
BARNSTABLE, MASSACHUSETTS 02630



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(508) 362-3828 • Fax (508) 362-3136 • [www.capecodcommission.org](http://www.capecodcommission.org)

CAPE COD  
COMMISSION

**Minutes**  
**Development of Regional Impact Review Hearing**  
**Canal Unit 3 (CCC No. 15016)**  
**November 2, 2016**  
**Cape Cod Commission**  
**3225 Main Street, Route 6A, Barnstable, MA 02630**

Hearing Officer Present: Jonathon Idman (Cape Cod Commission Chief Regulatory Officer)

Commission Staff Present: Jeffrey Ribeiro (Regulatory Officer), Michele White (Regulatory Officer), Cally Harper (Planner/Coastal Resiliency Specialist), Monica Mejia (Hydrologist)

**Minutes Summary**

The Cape Cod Commission (Commission), through a Hearing Officer, held a public hearing to review a Development of Regional Impact (DRI) application on the proposed construction of a new high-efficiency, fast-starting electric generating unit at the existing Canal Generating Station site in Sandwich, MA. The Applicant, and its representatives, presented a description of the project and the Hearing Officer heard public comments.

**Minutes**

Jonathon Idman opened the hearing at 5:30pm, introduced Commission staff present, read the public hearing notice, and outlined the order of the public hearing.

Michael D. Ford, Esq., counsel for the Applicant, NRG Canal 3 Development, LLC, provided a brief introduction.

Tom Atkins, Vice President of NRG Energy, Inc., presented an overview of the project using a Power Point presentation, attached. Mr. Atkins provided an introduction to the NRG company, gave a general description of the site where the proposed project is located, and provided an update on the previously approved on-site solar generating facility (Canal Community Solar) currently under construction.

Mr. Atkins gave an overview of the project, which proposes to construct a new, high-efficiency, fast-starting, 350± MW peak electric generating unit (Unit 3) at the existing Canal Generating Station site on Freezer Road in Sandwich, MA. This project would provide backup power to the electric grid using state-of-the-art technology, and improve system reliability. Much of the infrastructure needed for this proposed project is already part of the existing facility or adjacent to the site.

He stated that the project has many benefits to the regional electric system. In 2015, ISO New England's energy auction showed a lack of energy capacity in southeastern Massachusetts as the Brayton Point facility in Somerset, MA retired. By filling the need of this decreased amount of electric energy, the project will decrease the cost of electric to rate payers by providing an additional electric supply to the power grid.

Second, the project will also provide increased electric reliability as Unit 3 will operate as a system backup, helping to supply electric during times of peak energy usage and providing energy during outages of other units. The system will operate using natural gas or Ultra-Low Sulfur Distillate (ULSD), which can reserve natural gas usage for residents of the Cape when demand for natural gas is high.

Third, Unit 3 will have the ability to support renewable energy generation by providing power when solar or wind power is not available. Mr. Atkins showed a Future Typical Daily Load Curve to exemplify the ability of Unit 3 to support renewable energy.

Mr. Atkins showed renderings of the addition of Unit 3 to the existing facility to demonstrate what Unit 3 will look like visually from various view sheds adjacent to the existing Generating Station.

Mr. Atkins introduced Fred Sellers of Tetra Tech, consultant to the Applicant. Mr. Sellers provided a summary of environmental impacts and permitting of the project. Mr. Sellers stated that while the project will alter land the total amount of impervious area on-site will decrease. Locations within this project area of the site will be elevated approximately 6-feet, to become approximately 2.3-feet above the current 100-year floodplain and therefore out of the flood zone.

Mr. Sellers stated that the generating equipment will be equipped with the Best Available Control Technology (BACT) related to air quality, and that the Applicant has filed its air quality permit application with the Massachusetts Department of Environmental Protection (MassDEP). The application showed that the project will obtain the Lowest Achievable Emission Rate (LAER). A comprehensive air quality impact analysis demonstrated compliance with National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments from existing air quality. The project will comply with state greenhouse gas regulations.

The Applicant did perform a Noise Impact Analysis, and the project as proposed does meet MassDEP Noise Policy and the town noise bylaw, and will include Best Available Noise Control Technology (BANCT).

The project will require a maximum average demand of water of 78,000 gallons per day (gpd), which is within the limit of the existing facility water withdrawal permit(s) and can be withdrawn using existing on-site wells. The project will not generate additional wastewater.

The project site is located in Land Subject to Coastal Storm Flowage (LSCSF) and will be required to file a Notice of Intent application with the town of Sandwich Conservation Commission. Overhead utility poles used to connect the energy generated from the new facility to the existing adjacent electric transmission system will be within the 100-foot buffer zone to a Bordering Vegetated Wetland (BVW) off-site, which will also be subject to Conservation Commission review. No direct impacts to BVW are proposed on-site. A minor modification to the existing Chapter 91 License will be required for the installation of an additional fuel unloading line, for the ULSD fuel, at the existing dock.

The Applicant filed a Project Notification Form (PNF) with the Massachusetts Historical Commission (MHC). Mr. Sellers stated that the project site is previously disturbed, and the generating facility itself is a 'historic site' for its role in economic development of the area. MHC determined that the proposed project is unlikely to affect significant historic or archaeological resources. A Certificate of Appropriateness will be sought from the Sandwich Old King's Highway Historic District Committee.

The new facility will be equipped with enclosed, secondary spill containment, and spill prevention measures will be incorporated into the existing facility Spill Prevention Plan. Unit 3 will use the same types of chemicals that are currently used on-site, so no new chemicals will be stored on-site.

The project will maintain the existing railroad spur on the property. The operation of Unit 3 will not require new full-time employees; as such the number of vehicle trips per day to the site will not increase.

Mr. Sellers stated that the project has been designed to be consistent with the Sandwich Local Comprehensive Plan and the Cape Cod Commission Regional Policy Plan (RPP).

The project does include climate change preparedness and portions of the project site will be elevated 6-feet to rise above the existing 100-year floodplain and accounts for future sea level rise, based on U.S. Army Corps of Engineers and National Oceanic and Atmospheric Administration (NOAA) projections for sea level rise in 2060.

Richard Tabaczynski, P.E., of Atlantic Design Engineers, presented information on the proposed stormwater management system. He stated that elements of the system have been re-designed based on comments from Commission water resources staff. Low Impact Development (LID) techniques and Best Management Practices (BMPs) will be used to improve the existing stormwater management system on-site. Three (3) vegetated stormwater basins are proposed, each with a type of pretreatment, such as vegetated swales, vegetated filter strips, and/or sediment forebays, prior to infiltration to groundwater or discharge to the existing stormwater management system on the property.

Mr. Tabaczynski described the location and function of the three basins. The north and center basins will infiltrate stormwater, and the southern basin has been redesigned from an infiltration basin to a detention basin to achieve the required separation from the basin bottom to adjusted high groundwater elevations in the area.

Mr. Atkins provided information on local benefits to the town, and stated that an economic analysis has been done to help determine direct and indirect project benefits. With a Host Community Agreement (HCA) and a Payment in Lieu of Taxes (PILOT) agreement, the town will receive annual payments for 21 years totaling \$57 million. Money will also go towards the Sandwich School District Innovative Curriculum Fund and to establish an Emergency Preparedness Fund. The project will also create up to 160 new jobs during construction.

Attorney Ford concluded the Applicant's presentation by stating that the proposed project complies with and meets the standards of the RPP, that the benefits of the project are greater than the detriments, and that the project is compliant with applicable municipal development bylaws.

Mr. Idman called for a presentation by Jeffrey Ribeiro, who discussed a brief history of the project relative to Massachusetts Environmental Policy Act (MEPA) review, and, Commission jurisdiction and review. Mr. Ribeiro stated that the project is a redevelopment project and described the site layout as proposed. Mr. Ribeiro then discussed the project relative to issue areas and sub-issue areas of the RPP using a Power Point presentation, attached.

The project site is within a mapped Economic Center on the Land Use Vision Map, and is redevelopment of an industrial site. The Applicant has demonstrated project need.

There is no mapped groundwater or drinking water protection areas on-site and the project meets the 5-ppm (parts per million) standard for General Aquifer Protection. As Mr. Tabaczynski stated, the stormwater management system has undergone a design change and will be reviewed when the final design is submitted to the Commission.

Relative to Coastal Resources, while the project will construct private infrastructure in a flood zone, the Applicant will raise the topography of portions of the project site as such to elevate those areas above the existing 100-year Base Flood Elevation. There are no significant impacts to public access, maritime aesthetics or industries, and the project is likely to improve existing stormwater conditions. Mr. Ribeiro showed a figure titled Proposed Topographic Adjustments, which depicts design elevations for the project area.

Where relevant, impacts have been minimized to open space, wildlife and plant habitat, and wetland resource areas. No significant vegetation clearing is proposed as part of the project, so no open space mitigation is required. The Massachusetts Natural Heritage and Endangered Species Program (NHESP) reviewed the project and there are no rare or endangered species mapped on-site. There are some invasive species on-site and an Invasive Species Management Plan will be required. Some tree-topping along the transmission line is proposed within a wetland buffer, which is allowed under the RPP for maintenance of utilities in areas where there is no feasible alternative.

Regarding Heritage Preservation and Community Character, as stated previously, the project has gone through MHC review, and the project is unlikely to affect historical or archaeological resources.

Mr. Ribeiro showed architectural renderings and photographic simulations of Unit 3 once constructed, and stated that the visual impact will continue to be defined by the existing Generating Station. Unit 3 will not be visible from any area where the existing facility is not already visible. He discussed the paint colors chosen for Unit 3's elements and their consistency with the RPP.

No new vehicle trips to the site are associated with Unit 3 once operational, and a Transportation Management Plan has been reviewed by Commission staff.

Regarding Waste Management, the site is not located within a Wellhead Protection Area or Potential Public Water Supply Area, and the existing Canal plant is registered with MassDEP as a Small Quantity Generator of hazardous waste.

The RPP sub-issue area of Energy mostly deals with energy efficiency measures in new buildings. There are no new buildings associated with this project, but an existing training building will be updated.

As there are no new full-time jobs associated with the project there is no required Affordable Housing mitigation.

Mr. Ribeiro stated that the project will undergo further review with the Department of Public Utilities, the Sandwich Old King's Highway Historic District Committee, the Sandwich Conservation Commission, and for consistency with the Sandwich Local Comprehensive Plan. Mr. Ribeiro concluded his presentation, stating that the Commission will consider and determine benefits and detriments of the project.

Mr. Idman called for any further Commission staff comment. Hearing none, Mr. Idman called for public comment by Federal, State, or Local Officials.

State Representative Randy Hunt, 5<sup>th</sup> Barnstable District, stated that Unit 3 is part of a regional strategy for energy for renewable energy, much cooperation has taken place between NRG, the town, and the state, and that he supports the project. He discussed his special familiarity with energy related projects as he serves on legislative and local committees dealing with the same.

Lance Lambros, from Senator deMacedo's office, expressed the office's support for the project.

Bud Dunham, Town Manager for the town of Sandwich, spoke on behalf of the town in support of the project. Mr. Dunham stated that the HCA addresses multiple project impacts. As types of energy generation evolve the town hopes for future investment at this site, and is looking to explore additional opportunities adjacent to the area. A Special Town Meeting is scheduled for November 21, 2016 to potentially adopt the PILOT agreement.

Mr. Idman asked for additional comment by Federal, State, or Local Officials. Hearing none, Mr. Idman called for public comments.

Don Keeran, Assistant Director of the Association to Preserve Cape Cod (APCC), stated that as a Cape Cod environmental advocacy group, APCC looks to protect coastal resources and adjacent wetlands as the project goes forward. Mr. Keeran expressed interest in the redesign of the stormwater management system to protect coastal resources. Mr. Keeran expressed concern over storing an additional amount of hazardous materials on-site, and questioned if the delivery of fuel oil to the site is adequate to protect coastal resources. Mr. Keeran asked the Applicant to consider reducing the amount of turf on-site in favor of a more natural ground cover.

Frances Kienzle, an abutter, asked questions about the proposed project. Ms. Kienzle asked if noise and air emissions would be lower; if the existing facility components are current; what is meant by tree topping; what kind of emergencies are possible with the project; and, how will payments to the town be distributed.

Mr. Idman suggested a five-minute recess to allow the Applicant and their representatives time to discuss these questions and formulate responses. The Applicant agreed.

Following a five-minute recess, the public hearing resumed.

Mr. Sellers briefly described the noise study that was performed, and that Unit 3 cannot exceed current noise levels. As the new Unit 3 will at times replace the operation of the existing generators, he expects an improvement over the existing unit operation for noise and air emissions. Mr. Sellers stated that maintenance would be ongoing to limit the height of trees along the overhead circuit from Unit 3 to the existing, adjacent switchyard and transmission lines.

Mr. Atkins replied that while the Applicant doesn't anticipate any emergencies on-site, there is new machinery and equipment associated with the project, so fire is a concern, but the Applicant provides special equipment and training and coordination with the town. Mr. Atkins stated that the existing systems are not included in this application, coordination for painting the existing fuel storage tanks is ongoing, and deferred to the town regarding the distribution of funds from the project.

Mr. Idman called for final comments from the public, Commission staff, and the Applicant. Hearing none, Mr. Idman continued the public hearing to the full Cape Cod Commission meeting of December 1, 2016, 3 PM, at the Assembly of Delegates Chamber in the First District Courthouse. Mr. Idman directed staff to draft a decision on the project, following satisfactory review of the modified stormwater management plan, for the Commission's consideration at the December 1 hearing.

Mr. Idman closed the hearing at 7:07 PM.

Respectfully submitted,



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Jonathon Idman, Chief Regulatory Officer, Hearing Officer

11/9/16  
Date

