

3. For the reasons discussed in more detail in the accompanying Memorandum of Law in Support of the Petition for a Jurisdictional Determination (the “Memorandum”), which is provided herewith as Exhibit 1, the Company maintains that the Project as proposed is not a jurisdictional “facility” as defined in G.L. c. 164, § 69G and the Siting Board’s regulations, 980 C.M.R. §§ 1.00 et seq., because the Project stores, and does not generate, electricity as defined by Chapter 164 of the General Laws. As such, the Project is not a “generating facility” within the ambit of Siting Board precedent, standards and statutory authority.¹

4. As set forth in the Memorandum, G.L. c. 164, § 69G and the Siting Board’s implementing regulations define a jurisdictional facility to include “any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities.” However, the term “generating unit” is not a defined term in G.L. c. 164, §§ 69G, 69J¼ or the Siting Board’s regulations. Nonetheless, for purposes of Chapter 164, “generation” is defined as: “the act or process of transforming other forms of energy into electric energy or the amount of electric energy so produced.” G.L. c. 164, § 1 (emphasis added). By its very nature, an ESS does not “transform” one form of energy into electric energy; rather, it directly takes electric energy already produced by other generating facilities, stores it in a battery system and then dispatches the stored electricity into the grid when needed or economical to do so. To that end, Section 1 of Chapter 164 of the General Laws provides that, an ESS such as is being proposed by the Company, is: “a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy.” Id. Simply stated, an ESS is not “generation” under Chapter 164. Because an ESS does

¹ Similarly, the Project does not consist of transmission, fuel storage facilities or natural gas pipelines that would otherwise be subject to the Siting Board’s jurisdiction. See G.L. c. 164, §§ 69G, 69J.

not represent “generation,” an ESS does not constitute a generating unit for purposes of the Siting Board’s jurisdiction under G.L. c. 164, §§ 69G and 69J¼.

5. The details of the Project, including a description, project benefits, environmental impacts and required permitting, are more specifically described in the Memorandum. Also provided herewith is Exhibit 2, which is an Affidavit of Giovanni Bertolino, Vice President Business Development for the Company, attesting to the facts contained in this Petition and the Memorandum.

6. The Company has conducted a comprehensive environmental permitting and safety analysis of the Project and it will obtain all required permits from agencies with jurisdiction over the Project. The Project will achieve an appropriate balance among environmental impacts, reliability and cost.

7. For the reasons that are more fully presented in the Memorandum, the Company requests a determination by the Siting Board that the Project is not subject to the jurisdiction of the Siting Board. In particular, the Company submits that the Project is not jurisdictional to the Siting Board because an ESS, even one greater than 100 MW in size, is not a “generating facility” under G.L. c. 164, §§ 69G and 69J¼.

WHEREFORE, the Company respectfully requests that the Siting Board, pursuant to 980 C.M.R. § 2.09, determine that the Siting Board does not have jurisdiction over the Project.

Respectfully Submitted,

**CRANBERRY POINT ENERGY STORAGE,
LLC**

By its attorneys,



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