



May 17, 2016

Mr. Gerard H. Sweeney, Chairman
Philadelphia Regional Port Authority
3460 North Delaware Avenue, 2nd Floor
Philadelphia, PA 19134

Re: Southport Development

Dear Chairman Sweeney and Members of the PRPA Board,

PRPA should immediately disqualify with prejudice Philadelphia Energy Solutions (PES) as a Proposer for Southport development.

The United States Environmental Protection Agency (EPA) ECHO Facility Report for the 1st Quarter 2016 cites Philadelphia Energy Solutions in violation of each of the environmental laws tracked. Specifically, PES is currently in “Noncompliance” with the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA); although current compliance with the Clean Air Act (CAA) has not yet been reported, PES has repeatedly been in “Serious Violation” for previous quarters.

The Southport RFP requires “strict adherence to environmental laws and regulations” [Section 4.1.7.c] as well as “commitment and capability for complying with all applicable Environmental Law” [Section 4.1.7.d]. PES fails to meet these requirements for a RFP Proposer. Pursuant to the Scoring Criteria [Section 2.1], the consequence of “a Fail rating with respect to any of the listed criteria” - which includes “demonstrating high standards for environmental stewardship for the protection of air, land, and water” - is that a Proposal “will not proceed further in the evaluation process.”

Moreover, the 1st Quarter of 2016 includes the time since the Southport RFP was issued on February 28, 2016. Consequently, within the period when it has been a participant in the RFP process and subject to its provisions, PES has already failed to meet the criteria required to continue as a Proposer for Southport development. Since it is clear now that PES fails to meet the standards set by the RFP, it would be unfair to the other Proposers, and a violation of the public trust, for PRPA to delay disqualification of PES as a Proposer until a later time, such as September, after the Proposals have been submitted.

Current noncompliance with environmental laws by PES is not surprising. PES is a habitual environmental scofflaw. PES has not been in compliance with any of the laws tracked by ECHO in any quarter reported by the EPA, except for two yet-to-be-reported quarters under the Clean Air Act (<https://echo.epa.gov/detailed-facility-report?redirect=page&fid=110000336994>). In fact, except for the noted omission, PES

has never been in compliance with any of these laws since the company was formed in 2012 (<https://echo.epa.gov/detailed-facility-report?redirect=page&fid=110000336994>).

Environmental laws exist to establish a ceiling on how much harm the public interest will allow a private interest to inflict, not a floor from which PES can negotiate a perverse cost-benefit tradeoff – the health costs vulnerable populations are forced to bear so that the corporation can benefit financially. PES has chosen not to invest in capital improvements necessary to safeguard the health and safety of its own workers and its near neighbors. Instead of cleaning up its operations, PES has paid over \$2.5 million in fines for numerous violations of environmental permits. From all appearances, paying to pollute the air and water of Philadelphia is just a cost of doing business for PES.

PES is a major polluter; 67% of the total air toxics released by the 27 major stationary sources in Philadelphia are attributable to the PES refinery. Philadelphia suffers many ozone action days, days on which the air is unhealthy to breathe because it does not meet EPA health-based air quality standards. PES is a stationary source of emissions that contributes to the Philadelphia area failing to meet the national ambient air quality standards (NAAQS) for ground-level ozone. Asthma afflicts 26% of Philadelphia’s children, more than 2½ times the national average; and approximately 80% of families living in neighborhoods closest to the PES refineries suffer from serious respiratory disease. Furthermore, high rates of cancer and cardiac disease are reported for communities in proximity to the PES refineries; and the refineries locally release known carcinogens.

Also, PES operations impose a persistent “clear and present danger” to the citizens and property of Philadelphia. During the 3½ years of its existence, two fires have occurred at PES crude distillation unit No. 137 (January and May 2015). PES is one of the largest purchasers of Bakken crude, requiring dangerous oil trains to travel through the city. Two trains carrying Bakken crude oil have derailed (January 2014 on the Schuylkill Arsenal Railroad Bridge and February 2015 in the CSX/NS South Philadelphia rail yard near the sports complex).

The policy of PRPA, as stated in the Green Ports Initiative MOU (dated May 5, 2008) and elsewhere is “reducing or neutralizing the impacts of port operations and expansion upon the environment and the surrounding community.” PES operations and business practices are clearly inconsistent with PRPA policies.

Through the Southport “public private partnership,” the PRPA will commit the Commonwealth of Pennsylvania to a long-term, collaborative, business relationship with its developer/operator(s). Partners bear inseparable moral responsibility for each other’s actions, in addition to conjoined legal and financial liabilities. So, if PRPA were to partner with PES, you would be partnering with a company that is harming people by the conduct of its business and degrading the environment.

Accordingly, we respectfully urge the PRPA board to announce that Philadelphia Energy Solutions is no longer under consideration as a Proposer for Southport development.

Sincerely,

Green Justice Philly Steering Committee:

Action United, Arielle Klagsbrun, aklagsbrun@actionunited.org

Clean Air Council, Matt Walker, mwalker@cleanair.org

Delaware Riverkeeper Network, Tracy Carluccio, tracy@delawareriverkeeper.org

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Interfaith Power and Light, Mordechai Liebling, Lieblingm@gmail.com