

**G. S. Peter Bergen
Attorney At Law
27 Pine Street
Port Washington, NY 11050**

March 8, 2006

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Broadwater Energy LLC – Docket No. CP06-54-000
Broadwater Pipeline LLC – Docket Nos. CP06-55-000
and CP06-56-000

Dear Ms. Salas:

Enclosed for filing in the above-captioned dockets is the Motion to Intervene of the Town of Riverhead, NY. I am simultaneously serving counsel for the applicant by e-mail as indicated on the attached certificate of service. Please contact me by e-mail or phone if your office has any questions about this filing. Thank you for your assistance.

Sincerely yours,

s/ "G. S. Peter Bergen"
G. S. Peter Bergen,
Attorney for the Town of Riverhead

Encl.

Phone: 516-767-3449
Fax: 516-944-6640

Email : pbergen@optonline.net

BW003065

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Broadwater Energy LLC)	Docket No. CP06-54-000
Broadwater Pipeline LLC)	Docket No. CP06-55-000
)	Docket No. CP06-56-000

MOTION TO INTERVENE
OF THE
TOWN OF RIVERHEAD, NEW YORK

Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure (18 CFR § 385.214), the Town of Riverhead, New York, by its attorney G. S. Peter Bergen, hereby moves the Federal Energy Regulatory Commission (“FERC”) for an order granting it party status in the above-captioned proceedings.

The person to whom communications regarding this motion should be addressed and upon whom service of all pleadings or other documents in these proceedings should be addressed is:

G. S. Peter Bergen, Attorney for the Town of Riverhead
G. S. Peter Bergen, Attorney at Law
27 Pine Street
Port Washington, NY 11050

Tel: 516-767-3449
Fax: 516-944-6640

E-mail: pbergen@optonline.net

The Town of Riverhead respectfully submits that this motion should be granted, and that an order allowing the Town to intervene as a party should be issued, for the following reasons:

1. The Town of Riverhead (“Town”), having been originally organized in 1792, is a municipal corporation duly established and existing under the laws of the State of New York. The Town, one of ten Towns within Suffolk County, abuts the Town of Southold on the East, the Town of Brookhaven on the West, and the Town of Southampton on the South. The Town’s northerly boundary extends to the center of Long Island Sound, where it abuts the border between New York State and the State of Connecticut. (See NY Laws, 1881, Chapter 695).

2. The LNG facility proposed by Broadwater Energy LLC in this proceeding would be moored in Long Island Sound wholly within the jurisdiction of the Town, and the underwater pipelines proposed to be placed beneath Long Island Sound by Broadwater Pipeline LLC would in part lie within the Town.

3. The Town is approximately 78 square miles in land area, and has a population of about 33,000 persons. The safety, health, security, and general welfare of the Town, its population, and the aesthetics and use of its private and public lands, including lands beneath Long Island Sound, are of paramount concern to the Town’s citizens and to those entrusted with governing the Town, especially the Town Board and the Town Supervisor. As Broadwater admits in its application to FERC:

[The Town of] “Riverhead is a local host government whose municipal service delivery and public infrastructure has the potential to be impacted during construction and operation [of the project]”. See Resource Report 5 at p. 5-16, January 2006.

4. The Town submits on information and belief that construction and operation of the Broadwater project would impose severe and unacceptable adverse safety, security, aesthetic, environmental and other impacts on the Town, its people, and on the lands and waters within its jurisdiction. These include:

a. Safety – The Town has grave concerns as to whether the floating LNG facility (FSRU) could or would be safely designed and constructed, and as to the consequences of a “worst case” accident, such as an event in which the FSRU broke loose and was dashed against the shoreline in the Town, or elsewhere. Similar safety concerns apply to the foreign LNG tankers that would continuously supply the FSRU. Important engineering and design information needed to evaluate the safety of the FSRU is not allowed to be made available to the public, and apparently some important design information not yet even been supplied to FERC.¹ Such design information on the FSRU as has been supplied has been declared to be “critical energy infrastructure” (“CEII”), and could theoretically be made available only *in camera*. The Town and its people do not accept FERC’s determination in FERC Orders 630 and 630-A that all engineering and design information on the FSRU must be classified as CEII as a *per se* matter. They dispute and object to FERC’s *per se* rule because, as a practical matter, it requires the Town to accept on faith that the FSRU will be safe. But the Town has a duty to inquire and publicly review all the facts on safety, because the public health consequences in event of a fire or explosion would severely impact public safety in the Town.

As Suffolk County’s December 8, 2005 supplemental comments filed during the pre-filing phase have already noted, because the Broadwater application may not be fully scrutinized in public, the application is un-approvable and it should be dismissed.² The Town fully joins in those comments.

b. Security- FERC has determined that the engineering and design information about proposed new LNG terminals, such as Broadwater, would be useful to terrorists or

1 . See FERC’s Notice of Application of the Broadwater project: “...certain information regarding design standards for the FSRU that was requested ... has not been provided in the application ...” 71 Fed Reg 9807-8, Feb 27, 2006).

2 . Supplemental Comments of Suffolk County filed in FERC Docket No. PF05-4-000 (December, 8, 2005)

saboteurs because incapacity or destruction of an LNG terminal would “negatively” impact public health and safety.³ This fact alone shows that the Broadwater project can not be found to be safe or in the public interest. At best, the only presumption that can be drawn from FERC’s above determination, and from other the publicly available information, is that Broadwater is inherently unsafe and vulnerable to terrorism, thereby imposing unacceptable risks to the public safety and welfare. Therefore, the Town submits that Broadwater should not be approved. Moreover, the Town and neighboring municipalities do not have emergency facilities sufficient to cope with a catastrophe attributable to a fire or comparable disaster involving LNG facilities.

c. Aesthetics – The FSRU will impose an unacceptable aesthetic eyesore, both from the Town’s shoreline and from recreational boats using the Sound within the Town’s jurisdiction.

d. Environmental degradation- If constructed and put into service, Broadwater would add pollutants to the waters of Long Island Sound within the Town and to the ambient air in the Town, the County of Suffolk and Connecticut. Fisheries will be adversely impacted because of dredging, and they will be perpetually threatened by potential spills from the FSRU and the tankers that will supply it.

e. Industrialization of Long Island Sound – Long Island Sound, including the area that the FSRU would occupy, is heavily used by recreational boaters, as well as commercial shippers and fishermen. The security zone proposed to be placed around the FSRU (and around incoming and outgoing supply tankers) will deny substantial areas of the Sound to these boaters and commercial interests, a matter of grave concern to the Town. Broadwater would diminish

3. FERC Order 630, 102 FERC ¶61,190 (Feb 21, 2003) at pp. 22 and 26, as amended by FERC Order 630-A, 104 FERC ¶ 61,106 (July 23, 2003) at pp. 13-14.

opportunities for recreational use of the Sound, and set an unwelcome precedent for further industrial occupation of the Sound.

f. Inconsistency with the Coastal Zone Management plan for Long Island Sound –
Construction and operation of Broadwater would be inconsistent with the Coastal Management Plan for Long Island Sound because recreational uses and the environment will be impaired. Moreover, the Plan flatly states that only LNG facilities that can be “safely sited and operated” would be “consistent” with the Long Island Sound Coastal Management Plan.⁴ The Town submits that NYS DOS can not determine that the project would be safe. To the extent engineering and design information required to make such a determination has even been supplied to FERC, such information is classified as CEII, and is therefore not available to be presented on a public record. And yet NYS DOS would be required to publicly disclose such information under New York’s Freedom of Information Law (FOIL)⁵ if FERC or the Applicant was to supply it, but doing so would violate the Natural Gas Act as amended by the Energy Policy Act of 2005.⁶ Accordingly, the Town submits that DOS would be unable to determine rationally and lawfully whether the LNG facility could be safely sited and operated, and therefore the project can not be determined to be consistent with the Coastal Zone Management plan for Long Island Sound. In the absence of such a consistency determination, FERC is unable to authorize the project under the Natural Gas Act.

5. Granting Riverhead’s motion to intervene will be in the public interest.

4 LIS CZM at Policy 13.4 (Available on the New York State Department of State’s Coastal Management web site).

5 New York’s Freedom of information Law, NY Pub. Officers Law, Article 6, § 84, declares that: “The people’s right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society.” Pub. Off Law § 87 requires agencies, such as NYS DOS, to disclose all records.

6 Draconian criminal and civil penalties for violations of FERC rules, including disclosure of CEII, were added by § 314 of the Energy Policy Act of 2005.

6. This motion is timely filed, and granting Riverhead's motion to intervene will not disrupt these proceedings.

7. The Town of Riverhead's interests can not be adequately represented by other parties.

8. The Town's participation as an intervenor in these proceedings will not prejudice any other party.

WHEREFORE, The Town of Riverhead respectfully requests that the Commission grant this motion to participate as a party in these proceedings.

Respectfully submitted,

s/ "G. S. Peter Bergen"

G.S. Peter Bergen

G. S. Peter Bergen, Attorney at Law

27 Pine Street

Port Washington, NY 11050

516-767-3449

pbergen@optonline.net

March 8, 2006
Port Washington NY

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Broadwater Energy LLC)	Docket No. CP06-54-000
Broadwater Pipeline LLC)	Docket No. CP06-55-000
		Docket No. CP06-56-000

Certificate of Service

I hereby certify that I have this day served the Motion to Intervene of the Town of Riverhead, NY on the following attorneys who have appeared as counsel to Broadwater Energy LLC and Broadwater Pipeline LLC in this proceeding, via electronic mail, pursuant to instructions of the Secretary, as authorized by FERC Rule 2003(c), 385 CFR.2003(c), and that no formal service list has yet been issued:

Bruce W. Neely (bwneely@llgm.com)
Brian D. O'Neill (boneill@llgm.com)
Rebecca J. Michael (rmichael@llgm.com)

Dated: Port Washington, NY
March 8, 2006

“S/G. S. Peter Bergen”

G. S. Peter Bergen
G. S. Peter Bergen, Attorney at Law
Attorney for the Town of Riverhead
27 Pine Street
Port Washington, NY 11050
(516) 767-3449
pbergen@optonline.net

Submission Contents

Transmittal Letter to Secretary Salas of Motion to Intervene of the Town of Riverhead, NY TransmittalSalas.doc.....	1-1
Motion to Intervene of the Town of Riverhead, NY RiverheadMottoInterv.doc.....	2-8