

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**Civil Action No. 12-11047-JLT**

**BROCKTON POWER, LLC and  
BROCKTON POWER COMPANY, LLC,  
Plaintiffs,**

**v.**

**CITY OF BROCKTON, MA, PLANNING BOARD  
OF THE CITY OF BROCKTON, BROCKTON  
CITY COUNCIL; MAYOR LINDA BALZOTTI,  
CITY COUNCILOR THOMAS BROPHY, CITY  
COUNCILOR MICHELLE DEBOIS, CITY  
COUNCILOR JASS STEWART, FORMER  
MAYOR JAMES HARRINGTON, PLANNING  
BOARD CHAIRPERSON WAYNE MCALLISTER,  
And PLANNING BOARD MEMBER SUSAN  
NICASTRO, Individually and As Current and  
Former Officials of the CITY OF BROCKTON  
Defendant .**

**ANSWER AND JURY CLAIM OF THE DEFENDANT  
CITY OF BROCKTON**

The defendant, City of Brockton, hereby responds to the allegations set forth in the Plaintiff's Complaint as follows:

The defendant neither admits nor denies the allegations contained in the first twelve unnumbered paragraphs of the Complaint as same are a statement of introduction. To the extent factual allegations are asserted therein, the defendant denies same.

Further answering, the defendant states that the named "Planning Board of the City of Brockton" is not a distinct legal entity for the purpose of suit, but is rather a sub-agency of the City of Brockton. As such, the within answer for the defendant City of Brockton addresses and responds to all alleged claims purportedly asserted against the named "Planning Board."

### **JURISDICTION AND VENUE**

1. The defendant neither admits nor denies the allegations contained in the paragraph 1 as it is a statement of jurisdiction. To the extent factual allegations are asserted therein, the defendant denies same.
2. The defendant neither admits nor denies the allegations contained in the paragraph 2 as it is a statement of venue. To the extent factual allegations are asserted therein, the defendant denies same.
3. The defendant has insufficient information to either admit or deny the allegations contained in paragraph 3.
4. The defendant has insufficient information to either admit or deny the allegations contained in paragraph 4.
5. The defendant admits the allegations contained in paragraph 5.
6. The defendant admits that the Planning Board is a duly constituted board of the City of Brockton. Further answering, the defendant states that the Planning Board, as a sub-agency of the City, is not a distinct legal entity for purposes of this suit.
7. The defendant neither admits nor denies the allegations contained in paragraph 7 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits same.
8. The defendant neither admits nor denies the allegations contained in paragraph 8 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Linda M. Balzotti is the Mayor of Brockton and that she formerly served as a member of the City Council. All remaining allegations are denied.
9. The defendant neither admits nor denies the allegations contained in paragraph 9 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Thomas Brophy is a member of the City Council. All remaining allegations are denied.
10. The defendant neither admits nor denies the allegations contained in paragraph 10 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Michelle DuBois is a member of the City Council. All remaining allegations are denied.

11. The defendant neither admits nor denies the allegations contained in paragraph 11 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Jass Stewart is a member of the City Council. All remaining allegations are denied.
12. The defendant neither admits nor denies the allegations contained in paragraph 12 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that James Harrington is a former Mayor of the City. All remaining allegations are denied.
13. The defendant neither admits nor denies the allegations contained in paragraph 13 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Wayne McAllister was Chairman of the Planning Board at times relevant to the Complaint. All remaining allegations are denied.
14. The defendant neither admits nor denies the allegations contained in paragraph 14 as same are not directed to it. To the extent factual allegations are asserted against it, the defendant admits that Susan Nicastro is a member of the Planning Board. All remaining allegations are denied..
15. The defendant neither admits nor denies paragraph 15 as said paragraph contains no factual allegations. To the extent factual allegations are asserted against it, the defendant denies same.

#### **FACTUAL ALLEGATIONS**

16. The defendant has insufficient information to either admit or deny the allegations contained in paragraph 16.
17. The defendant admits that the Generator Site is located in the I-3 heavy industrial zone, but denies the remaining allegations contained in paragraph 17.
18. The defendant denies the allegations contained in paragraph 18.
19. The defendant denies the allegations contained in paragraph 19.
20. The defendant denies the allegations contained in paragraph 20.
21. The defendant denies the allegations contained in paragraph 21.