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CAPE COD
COMMISSION

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Modification of DRI Decision

Date: October 1, 2013

To: Michael Koehler, Esq.
Keegan Werlin LLP
265 Franklin Street, 6th Floor
Boston, MA 02110

From: Cape Cod Commission

Applicant/Owner: NSTAR Electric & Gas Corp.

Project: NSTAR Lower SEMA 345 kV Transmission Project

Project Location: Bourne, Sandwich and Barnstable

Project Number: TR-11014

Book/Page #: 9271/280

DECISION OF THE CAPE COD COMMISSION

Background

In a Development of Regional Impact (DRI) decision dated January 19, 2012 (Decision), recorded with the Barnstable Registry of Deeds in Book 26301 Page 245, the Cape Cod Commission (Commission) approved, with conditions, the construction and upgrade of an electric transmission line, and construction of a new substation. The project was issued a Preliminary Certificate of Compliance dated August 23, 2012.

Jurisdiction and Modification Types

Section 13(a)(i) of the Commission's *DRI Enabling Regulations* (as amended March 2013, with Revised Fee Schedule Effective July 1, 2013) provides that an Applicant "*who has obtained a favorable decision from the Commission, or a successor in interest to a favorable and transferable Commission decision, may apply for a decision modification.*"

Section 13(c) of the *Enabling Regulations* sets out the types of DRI modifications. A Minor Modification Type #1 is defined as "*revisions that are a result of more restrictive conditions*

imposed by a local board or technical corrections or changes that the Executive Director or his/her designee determine are de minimus changes to the project.”

The *Enabling Regulations* also state that Minor Modifications #1 “shall be approved by the Executive Director or his/her designee and reported to the Regulatory Committee and do not require further review by the Commission.” A Minor Modification Type #1 is governed by the Regional Policy Plan in effect at the time of the original Commission approval.

Project Description

Pursuant to the Decision, the approved improvements became operational and the Applicant forthwith requested a Final Certificate of Compliance from the Commission in approximately August 2013. However, the landscaping required under the Decision has not yet been completed.

Given that the Applicant cannot undertake completion of the required landscaping during Winter 2013 (outside the growing season, which is coming to an end), it is Commission staff’s opinion that the interests and concerns of the Act can be equally met, and the matter more efficiently addressed, by revising the timetable for issuance of the Final Certificate of Compliance in the Decision, rather than by issuing a Final Certificate of Compliance and executing an escrow agreement now to secure the anticipated completion of the required landscaping in Spring 2014.

Modification to DRI Decision

The Executive Director of the Cape Cod Commission hereby determines that the Applicant’s proposal, discussed above, constitutes a *de minimus* change to the Decision, and is approved as a Type 1 Minor Modification according to Section 13 of the Commission’s *DRI Enabling Regulations*, as amended.

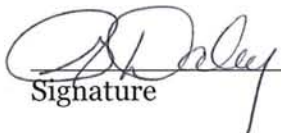
Based on the Executive Director’s determination, Condition GC10 of the Decision is hereby revised as follows (new or revised text is shown in **bold**; deleted text is in ~~strike-out~~). All conditions attached to the Decision continue to apply except as modified herein:

GC10. The Applicant shall seek a Final Certificate of Compliance in or before June 2014, which is when the required landscaping work is expected to be completed. ~~The Applicant intends to seek a Final Certificate of Compliance within seven days after the energization of the transmission line portion of the project. If all required building, landscaping and site work is not complete at the time a Final Certificate of Compliance is sought by the Applicant from the Commission, any work that is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of the cost of that portion of the incomplete work, including labor and materials. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. Funds to secure the escrow agreement shall be payable to the Barnstable County Treasurer with the work approved by Commission staff per the escrow agreement prior to release of the escrow funds. Unexpended escrow funds shall be returned to the Applicant, with interest, upon completion of the required work. All site work secured by this Condition and the escrow agreement, if necessary, shall be completed within six (6) months of issuance of a Final Certificate of Compliance from the Commission.~~

See Signatures on Next Page

SIGNATURES

Executed this 1 day of October 2013.


Signature

Patty Daley, Deputy Director
Print Name and Title

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

October 1, 2013

Before me, the undersigned notary public, personally appeared Patty Daley,
in his/her capacity as Deputy Director of the Cape Cod Commission,
whose name is signed on the preceding document, and such person acknowledged to me that
he/she signed such document voluntarily for its stated purpose. The identity of such person was
proved to me through satisfactory evidence of identification, which was [] photographic
identification with signature issued by a federal or state governmental agency, [] oath or
affirmation of a credible witness, or [] personal knowledge of the undersigned.


Notary Public
My Commission Expires:
9-28-18

