

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Champlain VT, LLC d/b/a TDI New England)
for a Certificate of Public Good, pursuant to 30 V.S.A. §248,)
authorizing the installation and operation of a high voltage)
direct current (HVDC) underwater and underground electric)
transmission line with a capacity of 1,000 MW, a converter)
station, and other associated facilities, to be located in Lake)
Champlain and in the Counties of Grand Isle, Chittenden,)
Addison, Rutland, and Windsor, Vermont, and to be known)
as the New England Clean Power Link Project (“NECPL”))

Docket No. 8400

Stipulation between Champlain VT, LLC, the Vermont Public Service Department, the Vermont Agency of Natural Resources, and the Vermont Division for Historic Preservation

This Stipulation (the “Stipulation”), dated the 17th day of July, 2015, sets forth Stipulations reached by the Vermont Public Service Department (“PSD” or “Department”), the Vermont Agency of Natural Resources (“ANR” or “Agency”), the Vermont Division for Historic Preservation (“DHP”), and Champlain VT, LLC d/b/a TDI New England (“TDI-NE” or Petitioner), a Delaware limited liability company with its principal office at 600 Broadway, Albany, NY 12207, collectively, the “Parties,” in connection with the above-captioned Vermont Public Service Board (“Board”) docket.

WHEREAS, TDI-NE filed a Petition in December 2014 with the Board requesting permission to develop, construct, and operate the New England Clean Power Link (“NECPL” or “Project”), a proposed electric transmission line; and

WHEREAS, TDI-NE asserts that the electricity shipped through NECPL will be generated by renewable energy sources in Canada and will be delivered to Vermont and the New England electric grid. The transmission line will utilize high voltage direct current (HVDC) technology, capable of transmitting 1,000 megawatts (MW) of electricity; and

WHEREAS, the Department believes that in order to meet Vermont and New England energy and environmental policy goals, the NECPL should only ship renewable energy; and

WHEREAS, the transmission line will begin at a converter station in the Province of Québec, Canada and transmit electricity from Alburgh, Vermont to Ludlow, Vermont, where it will tie into a new converter station. The Ludlow converter station will convert the electrical power from direct current (“DC”) to alternating current (“AC”) and then connect to the 345 kV Coolidge Substation in Cavendish, Vermont that is owned by the Vermont Electric Power Company (“VELCO”);

WHEREAS, the underwater portions of the transmission line, approximately 97 miles in length, will be buried in the bed of Lake Champlain, except at water depths of greater than 150 feet where the cables will be placed on the bottom. The terrestrial portions of the transmission line, approximately 57 miles in length, will be buried underground within existing public rights-of-way (“ROWS”);

WHEREAS, the Vermont Department of Taxes has determined that the portion of the Project in Lake Champlain is not subject to the statewide education property tax and is not generally subject to municipal property tax; and it is TDI-NE’s, the Department’s, and ANR’s understanding that the portion of the Project in Lake Champlain is not subject to any other impact fee, surcharge, tax, or other similar assessment imposed by the State of Vermont for the placement of the transmission line in Lake Champlain; and TDI-NE, ANR, and the Department recognize that these determinations affect project economics and have resulted in an increase to public benefit payments under this Stipulation; and TDI-NE, the Department, and ANR agree to explain to the Vermont General Assembly the mutual understanding related to project economics, the necessity in the public benefit payments in reaching this Stipulation, and the Board’s order should a legislative matter arise that affects the Parties understandings in reaching the terms of this Stipulation.

WHEREAS, the Parties have engaged in discussions concerning the Project and, subject to the terms of this Stipulation, agree that the Project will promote the general good and otherwise meet the criteria of section 248, and consequently that the Board should approve TDI-NE’s petition to construct and operate the NECPL.

STIPULATIONS

THEREFORE, in consideration of the foregoing and, provided that the PSB approves the Project consistent with TDI-NE’s Petition and this Stipulation, and TDI-NE chooses in its sole discretion to construct and operate the Project, the Parties agree as follows:

1. The Parties agree that provided TDI-NE fulfills the terms of this Stipulation, the Project will promote the general good and otherwise meet the criteria of section 248, and consequently the Board should approve the Project and issue an Order and Certificate of Public Good (“CPG”) in this matter in accordance: (i) with the plans and specifications submitted with TDI-NE’s petition; and (ii) and with the terms and conditions of this Stipulation and any supplemental prefiled testimony and exhibits to be submitted by TDI-NE in connection herewith.
2. TDI-NE shall file supplemental testimony and exhibits that memorialize, as necessary, the conditions of this Stipulation.

3. Public Good Benefits.

- a. TDI-NE agrees to revise the public benefits plan contained in its section 248 filing as follows and as provided in more detail in Attachment I hereto:
 - i. VT Electric Ratepayer Benefit (through VELCO) – remains the same as in the section 248 Petition, i.e., an average of \$3.4 million/year for 40 years.
 - ii. VT Renewables Programs (through the CEDF) – a total of approximately \$109 million over a forty year period. The payments shall be \$5 million per year for the first 20 years and the balance payable evenly for the remaining 20 years. TDI-NE agrees to make payments to the Clean Energy Development Fund as reflected in Attachment I hereto, beginning on July 1 of the initial year of commercial operations of the Project and continuing annually thereafter for the subsequent 39 years.
 - iii. Lake Champlain Pollution Abatement and Restoration Fund.
 - I. TDI-NE agrees to deposit: (i) \$1 million on the fiscal close of the Project; (ii) \$6 million on July 1 of the initial year of commercial operations of the Project; and (iii) \$5 million on July 1 of each year thereafter for 39 years.
 - II. Funds shall be deposited into a dedicated account of the Clean Water Fund established pursuant to 10 V.S.A. § 1388. Funds deposited into this account shall be managed in accordance with and used for the purposes established in 10 V.S.A. Chapter 47, Subchapter 7 except that the use of the funds shall be limited to the Lake Champlain watershed.
 - III. ANR and TDI-NE may enter an agreement to accelerate payments to the Fund.
 - IV. If monies required by this Section 3.a.iii. are used for any purpose other than the purposes established by 10 V.S.A. Chapter 47, Subchapter 7 or as otherwise agreed to in writing by the Parties, TDI-NE shall not be required to make additional payments under this Section 3.a.iii.

iv. Lake Champlain Enhancement and Restoration Trust Fund

- I. There shall be established a Fund to be known as the Lake Champlain Enhancement and Restoration Trust Fund (“Fund”), established for the following purposes: (i) to promote recreational access to Lake Champlain; (ii) for acquisition and development of lands and facilities associated with municipal, state, and non-profit public recreation opportunities and habitat conservation within the Lake Champlain watershed; (iii) for recreational, cultural, historical, environmental, and educational activities, programs and opportunities associated with the Lake Champlain watershed; and (iv) to promote research and development and habitat restoration programs and projects related to the Lake Champlain watershed.
- II. The Fund shall be governed by an advisory entity called the Lake Champlain Enhancement and Restoration Trust Fund Advisory Board (the “Advisory Board”) to approve the expenditure of funds consistent with the purposes of the Fund. The Advisory Board shall consist of TDI-NE, the Conservation Law Foundation, the Commissioner of Forests, Parks, and Recreation, the Commissioner of Fish and Wildlife, one “at-large” representative chosen by the Governor, and two “at-large” representatives chosen by TDI-NE. When selecting its representatives, TDI-NE shall take into consideration regional diversity of members from the Lake Champlain Basin. With respect to the three “at-large” members, they shall serve staggered terms of three years with the Governor’s appointee serving an initial three year term and the TDI-NE appointees serving an initial one and two year term and then three year terms thereafter. The purpose of the Advisory Board is to establish policies, priorities, procedures, and guidelines for the use of the Fund, select the Administrative Agent, review funding proposals and consider and approve projects for funding, and direct the Administrative Agent (defined below) in the administration of the Fund consistent with its purposes.
- III. The Fund shall be administered by a not-for-profit entity selected by the Advisory Board (“the Administrative Agent”). The Administrative Agent shall manage the day to day functions of the Fund, provide administrative support to the Advisory Board, and make recommendations on the proper administration of the Fund for the

approval of the Advisory Board.

- IV. TDI-NE agrees to deposit to the Fund: (i) \$1 million on the closing of the construction financing of the Project; and (ii) \$1.5 million annually beginning on July 1 of the initial year of commercial operations and continuing annually thereafter for the subsequent 39 years. Monies deposited into the Fund shall be used for the purposes established in Section 3.b.iv.I. This section does not preclude loan structuring opportunities where the payments would be made to service any debt borrowed up front against the collateral of guaranteed ongoing payments. Further TDI-NE agrees to provide information to a TDI-NE qualified third party as may be necessary to borrow against the collateral of future payments.
- V. The Advisory Board may enter into an agreement with TDI-NE to accelerate payments to the Fund.
- VI. The administrative costs paid to the Administrative Agent and the Advisory Board shall be allocated from the Fund in an amount not to exceed a total of five (5) percent of the annual payment made to the Fund unless otherwise agreed to by the Advisory Board in writing. The Advisory Board shall consider existing organizations with experience in administering similar funds to assist in the administration of the Fund.
- VII. TDI-NE shall, in consultation with the State, prepare an implementation plan for the Fund which, among other things, identifies the members of the Advisory Board and the Administrative Agent. The plan shall be submitted as a post-CPG compliance filing for PSB review and approval.
- b. The Department, ANR, and TDI-NE agree that these public good benefits, in conjunction with the other direct and indirect economic benefits enumerated in the section 248 Petition, demonstrate that the Project provides an economic benefit to the State and its residents under section 248(b)(4) and will promote the general good of the State under section 248(a)(2)(A).
- c. TDI-NE and ANR acknowledge that the Stipulation between the Vermont Department of Fish and Wildlife (“DFW”) and TDI-NE allowing the use of the Korean Veterans Access Area in Alburgh to construct a portion of the Project

facilities will provide other public good benefits, including TDI-NE providing \$350,000 for a new boat ramp at the Access Area. TDI-NE agrees to abide by the terms and conditions of the license for the use of the Korean War Veterans Access Area.

- d. The Parties acknowledge that the Project may operate beyond the 40 year period that TDI-NE has estimated based upon the manufacturer's warranty, understanding that the CPG will not have an expiration date. The Parties further acknowledge that these benefit payments are being or may be used in several regulatory obligations of TDI-NE which are necessary for the completion of this Project. The Parties further acknowledge that the benefit fund payments due under this Stipulation are for a term of forty years, after which the Parties agree to negotiate in good faith regarding whether any additional payments are appropriate and if so in what amount and amendments to this Stipulation, subject to PSB review and approval.

4. Electrical System.

- a. TDI-NE and the Department acknowledge that ISO-New England's review process for the NECPL -- an Elective Transmission Upgrade -- is ongoing, and that the final System Impact Study (SIS) and I.3.9 approval is controlled by ISO-NE.¹
- b. TDI-NE and the Department agree that TDI-NE shall submit the final SIS and I.3.9 approval as soon as they are individually available. If the final SIS and I.3.9 approval are first available prior to the Board issuing a CPG for this project, then they shall be reviewed by the Board and Parties as part of this proceeding. If the final SIS and I.3.9 approval are not available at such time, TDI-NE and the Department agree that the CPG should be conditioned upon the Board review of each as a post-CPG compliance filing, subject to review and comment by the Department, VELCO, Green Mountain Power, and Burlington Electric Department regarding: (i) any issue germane to ongoing section 248(b)(3) compliance; or (ii) whether any identified subtransmission or transmission system upgrades require further review and/or approval by the PSB.
- c. The Parties agree that TDI-NE and/or the affected transmission system owners will initiate separate proceeding(s) under section 248, or section 248(j) as appropriate, for the transmission or subtransmission upgrades to be required in Vermont as a result

¹ TDI-NE will, after consulting with the DPS, file supplemental testimony from witness Larry Eng or another qualified witness that adequately addresses the issues raised in Bill Jordan's June 12, 2015 testimony, consistent with the schedule in this docket.

of the NECPL. The Parties further agree that TDI-NE's pending Petition can be acted upon by the Board, subject to the condition that construction cannot commence until those collateral section 248 approvals for the transmission and subtransmission upgrades are obtained. All collateral transmission or subtransmission upgrades shall be reviewed independently under the applicable section 248 criteria and no party to this Stipulation waives any of its rights to participate in, or raise issues in connection with, those separate proceedings. The Parties recognize that in order for the Project to proceed to construction and for the benefit payments to commence, any collateral section 248 proceedings for transmission or subtransmission upgrades will need to be conducted as expeditiously as possible. The Parties agree to use their best efforts to facilitate an appropriate, efficient, and time-sensitive review process.

- d. TDI-NE agrees that it will be obligated to pay for all transmission system and subtransmission system upgrades that are necessitated due to the Project, (i) as determined by ISO-NE pursuant to the interconnection process administered by ISO-NE; and (ii) those additional subtransmission upgrades as determined by Vermont Utilities and TDI-NE and approved by the Board. To the extent that Vermont Utilities and TDI-NE disagree that the subtransmission upgrades are necessary as a result of the NECPL, the Vermont utilities and TDI-NE will bring the dispute to the PSB. The Parties recognize that these upgrades may be different than the preliminary list provided by TDI-NE to the Department, and may require further review of the NECPL under PSB rules regarding amendments to a section 248 Petition if the upgrades materially change any finding or conclusion reached by the Board. TDI-NE cannot commercially operate the Project until the subtransmission mitigation measures are in service.
5. Environmental. TDI-NE and the Agency acknowledge that the review process for each of the underlying Agency permits is ongoing. However, based upon the currently available information in the Petition and in the Agency permit applications, the Agency agrees that the NECPL will not have an undue adverse effect under section 248(b)(5), subject to the following:
- a. TDI-NE shall submit all Agency permits that have not been issued at the time the Board issues a CPG as post-CPG compliance filings prior to commencement of construction. Submission of such permits shall be for notice purposes only and shall not give rise to further review or proceedings by the Board provided that such permit or permits do not require any material or substantial changes to the Project that have not yet undergone Board review.

- b. TDI-NE agrees to the Project changes and CPG conditions specified in Attachment II.
6. Historic and Archaeological Resources. DHP has been involved with TDI-NE's consultation and outreach efforts beginning with the initial inter-agency scoping meeting in December 2013. DHP has reviewed the following documents from TDI-NE's Consultants: Phase I Archaeological Assessment in Support of the New England Clean Power Link Project-Lake Portion (November 2014); Phase IA Archaeological Reconnaissance Survey New England Clean Power Link Project-Overland Portion (November 2014); and Historic Architectural Reconnaissance Survey, New England Clean Power Link Project – Overland Portion, Grand Isle, Rutland-Windsor Counties, Vermont (November 2014). These documents and the prefiled direct testimony of Scott Dillon, James Duggan, Kristen Heitert, Stephen Olausen, and Christopher Sabick, provide baseline documentation of historic site concerns within the Project corridor. TDI-NE and DHP agree that provided that if all of the conditions in Attachment III regarding historic resources are met, the Project will not have an undue adverse effect on historic or archeological sites.
 7. Proposed CPG Conditions

The Parties agree that the section 248 CPG should be conditioned as follows:

- a. Submission of final design plans for review/approval prior to construction.
- b. Compliance with all material representations made in the testimony and exhibits submitted to the PSB.
- c. Submission, for notice purposes only, of all other applicable state and federal permits that are required for construction of the Project. If any other permit reflects material changes to the Project as submitted prior to issuance of the CPG, such permit(s) shall be subject to Board review after comment by the Parties.
- d. If the final SIS and I.3.9 approval were not reviewed by the Board and the Department prior to issuance of the CPG, TDI-NE shall submit the final SIS and I.3.9 approval to the Board and Department for review prior to commencement of construction. TDI-NE shall be responsible for the costs of the transmission system and subtransmission system upgrades in Vermont that are necessary in order to address adverse impacts to system stability and reliability due to the Project, as

determined by ISO-NE pursuant to the interconnection process administered by ISO-NE.

- e. Construction schedule. Construction hours will be from 7:00 A.M. to 7:00 P.M. Monday through Friday and from 8:00 A.M. to 6:00 P.M. Saturdays. All construction activities and related deliveries shall cease on Sundays and state and federal holidays. TDI-NE may extend its construction hours as follows: (i) 24 hours per day seven days per week on the Lake during the construction window as identified in Attachment II (ANR Conditions); (ii) extenuating circumstances, beyond TDI-NE's reasonable control, that necessitate after-hours work to protect public safety, worker safety, and/or the convenience of the travelling public; (iii) certain horizontal directional drilling ("HDD") operations that may require extended hours in order to complete the operation; (iv) other extensions to the schedule for good cause, provided the Board approves them in advance.
- f. Noise limits. Consistent with recent Board precedent, sound levels due to operation of the converter station will be measured at the exterior of the nearest surrounding residence and shall not exceed 45 dBA Leq(1-hour) (day or night). Prior to operation of the Project, TDI-NE shall submit for Board approval, after review and comment by the Department, a noise monitoring plan to confirm the Project complies with the noise limits. The plan shall be prepared and implemented under the direction of a qualified noise control engineer. If noise levels exceed 45 dBA Leq (1-hour)(day or night), TDI-NE shall install mitigation measures to ensure compliance with the limit.
- g. Blasting Plan. Prior to commencement of construction of the Project, TDI-NE shall submit its final blasting plan for review and approval by the Board after comment of the parties. Any subsequent material changes to the plan will require further Board review and approval.
- h. Decommissioning. Prior to the commencement of construction, TDI-NE shall file for Board review and approval a decommissioning plan that provides for the off-site removal of the converter station building and all structural steel components and the restoration of the converter station site to a stabilized condition allowing for natural revegetation. TDI-NE shall also provide a cost estimate for the decommissioning activities as part of the plan. For the duration of the project, TDI-NE agrees to file each contract with the Public Service Board for the use of the transmission line within 30 days of execution (redacted or under seal as necessary to protect confidential business information) as evidence that the facility is in use, and therefore

that a decommissioning fund is not required. TDI-NE agrees to regularly monitor the contracts for use of the transmission line. If at any time TDI-NE's review of those contracts reveals that within two years, contracts for use of the transmission line will fall below 50% of total line capacity, TDI-NE will notify the Board and parties and the Board will initiate a proceeding to investigate the appropriateness of establishing a decommissioning fund. Should the Board determine that a decommissioning fund should be established, the decommissioning plan and cost figures shall be updated and TDI-NE shall be obligated to fully fund the decommissioning fund, either through a letter of credit or other financial mechanism acceptable to the Board, on a schedule established by the Board during that proceeding. Failure to use the converter station, other than during planned or unplanned outages or repairs, for a period of eighteen consecutive months, shall trigger Board review of whether the converter station should be decommissioned.

- i. Other special conditions concerning specific environmental or historic resources.
- j. This Stipulation, including all Attachments, shall be enforceable under the CPG.
- k. All host town agreements entered into by TDI-NE shall be enforceable under the CPG.
- l. Prior to operation of the Project, TDI-NE will become a member of Dig Safe System, Inc. and for the life of the project shall comply with the requirements of 30 V.S.A. Chapter 86 and PSB Rule 3.800.
- m. Prior to operation of the project, TDI-NE will file an underground damage prevention plan with the Department.
- n. Six months prior to the termination of the initial supply contracts for the Project, TDI-NE shall negotiate in good faith with the Vermont electric distribution utilities for up to 200 MW of transmission service on the NECPL for a term of up to 20 years. The price of such transmission service shall be determined at that time and shall be generally consistent with market prices; however, the price offered to Vermont utilities shall not exceed the price of transmission service for a contract of similar size and scope executed in the prior three years.
- o. Confirmation of Renewable Energy. Prior to commencement of construction, TDI-NE shall file all contracts with energy suppliers who will utilize the NECPL. The purpose of the filing shall be solely to confirm TDI-NE's representations in the

Petition that energy to be shipped on the NECPL will be from hydro, wind, or other “renewable energy” sources, as defined under Vermont law. TDI-NE may submit redacted versions of such contracts to protect pricing and other business confidential and trade secret information.

- p. Aesthetics conditions:
- i. TDI-NE shall minimize tree removal along the entire route to the greatest extent practicable.
 - ii. TDI-NE shall take reasonable precautions during construction to limit impact to nearby trees and shrubs on private property. If trees or shrubs on private property are damaged due to construction, TDI-NE shall be responsible for replacements for a three year period after construction.
 - iii. At Shunpike Road, Shrewsbury, Vermont TDI-NE shall coordinate the tree planting plan with the property owner immediately adjacent to the Project, to the extent they agree to become involved, as well as with the local planning commission and/or conservation commission. If neither the landowner nor the local planning commission and or conservation commission elect to become involved in the tree planting plan for this location, TDI-NE will confer with the aesthetics consultant for the PSD to reach agreement on an appropriate aesthetic landscape mitigation plan for this location
 - iv. The converter station building shall be dark brown or dark gray in color. Other ancillary structures at the converter station site that are fabricated from galvanized steel (similar to the equipment and structures at the Coolidge Substation) are not required to be painted.
 - v. TDI-NE will conduct a post-construction site visit, in conjunction with the Department, to determine if additional mitigation in the form of vegetative screening is necessary at the converter station.
- q. No later than January 1st of the 37th year of commercial operation of the Project, TDI-NE shall enter into discussions with ANR and the DPS, and shall negotiate in good faith, regarding continued payment of public good benefits and/or other amendments to the Stipulation (dated July 17, 2015) in the event commercial operation of the Project extends beyond the 40th year. No later than January 1 of the 39th year of commercial operation of the Project, TDI-NE shall file with the Board for review and approval a plan regarding the extension of benefit fund payments

beyond the 40th year of commercial operations. In the event this plan does not reflect an agreement reached with ANR and DPS, TDI-NE shall provide an explanation of the efforts it made to engage in good faith negotiations, and the Board shall open a docket and establish a schedule to determine: (i) whether continued public good benefits are appropriate; and (ii) a plan for the continued payment of public good benefits if determined appropriate. TDI-NE, ANR and DPS shall automatically be parties to the docket. TDI-NE shall be authorized to continue to operate the Project beyond the 40th year during and after the proceedings concerning the public good benefits, provided that if payment of public good benefits ultimately are approved by the Board they shall be applied retroactively beginning in the 41st year of operation of the Project.

8. Other Provisions

- a. The Parties agree that the Board should accept into evidence the prefiled direct and supplemental testimony and exhibits of the Parties. The Parties so move.
- b. The Parties agree that any action, whether formal or informal, that each may elect to take before any other federal, state, or municipal regulatory entity concerning the Project shall be consistent with this Stipulation.
- c. The Parties acknowledge that this Stipulation does not concern regulatory decisions on any applications filed by TDI-NE for environmental permit programs administered by ANR or any of its departments.
- d. This Stipulation represents the entire Stipulation between the Parties with respect to the Project. It may be modified only upon mutual written Stipulation by the Parties and is subject to any necessary Board approvals.
- e. Other than as may be specifically provided herein, this Stipulation shall not constitute an admission of any fact or law by any Party concerning the Project or any impacts related to the Project. This Stipulation shall not be construed as having precedential impact in any future section 248 proceeding concerning the Project, except as necessary to implement this Stipulation or to enforce an order of the Board resulting from this Stipulation.
- f. This Stipulation should not be construed by any party or tribunal as having precedential or any other impact on any other proceeding involving a different project, different subject matter, or other parties. With respect to such proceedings,

the Parties reserve the right to advocate positions that differ from those set forth in this Stipulation.

- g. This Stipulation pertains only to the Project as it is presently proposed at the time the Agreement is executed. Prior to CPG approval, if TDI-NE makes any changes to the Project that could materially impact any of the agreements contained in this Stipulation, the Parties shall negotiate in good faith to amend the Stipulation as necessary. The Parties acknowledge that should they fail to reach agreement to amend the Stipulation, any Party may present its position to the Board concerning such Project changes, provided such Party otherwise act in conformance with this Stipulation consistent with its statutory duties.
- h. In the event of any disagreement over the interpretation of this Stipulation or the implementation of any provision of this Stipulation that cannot be resolved informally amongst the Parties, the disagreement shall be resolved in the following manner:
 - i. The Parties shall meet and make a good faith effort to resolve any dispute. The Parties shall consider the use of alternative dispute resolution to resolve any dispute.
 - ii. If the dispute cannot be resolved by the Parties, any Party can petition the Board for the resolution of the matter.
- i. TDI-NE agrees to submit a section 231 Petition to the Board within 30 days of receiving section 248 approval of the Project.
- j. This Stipulation is expressly conditioned upon the Board's acceptance of all of its provisions, without material change or condition. If the Board does not accept the Stipulation in all material respects, the Stipulation shall, at the option of any party, be deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose. In the event the Board makes such material modification or change and as a result a party exercises its option to void the Stipulation, each Party shall be placed in the position that it enjoyed in this proceeding before entering into the Stipulation. Exercise of the option to terminate this Stipulation shall be by written notice delivered to the Board and the Department no later than ten days after issuance of a Board Order triggering the option.

- k. Any disputes arising under this Stipulation shall be resolved by the Board under Vermont Law.
- l. Each of the state agency parties to this Stipulation will support issuance of a CPG by the Board, and will not take actions during the section 248 proceeding to oppose the Project or otherwise undermine this Stipulation, subject to each such Party's obligations under any applicable state law including without limitation the Department's obligations under Title 30 of the Vermont Statutes Annotated.
- m. This CPG shall not be transferred without prior notice to all docket parties and approval of the Board.

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DATED this 17th day of July, 2015

By: 
Andrew N. Raubvogel
DUNKIEL SAUNDERS ELLIOTT RAUBVOGEL & HAND, PLLC
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DATED this 17th day of July, 2015

By: _____

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PSB Docket No. 8400 – Stipulation Between TDI-NE, DPS, ANR, and DHP
Attachment I – Payment Schedule for Vermont Renewables Programs
(Section 3.a.ii. of Stipulation)

VT Renewables Programs	
Ops Year	Payment
1	\$5,000,000
2	\$5,000,000
3	\$5,000,000
4	\$5,000,000
5	\$5,000,000

6	\$5,000,000
7	\$5,000,000
8	\$5,000,000
9	\$5,000,000
10	\$5,000,000

11	\$5,000,000
12	\$5,000,000
13	\$5,000,000
14	\$5,000,000
15	\$5,000,000
16	\$5,000,000
17	\$5,000,000
18	\$5,000,000
19	\$5,000,000
20	\$5,000,000

21	\$443,125
22	\$443,125
23	\$443,125
24	\$443,125
25	\$443,125
26	\$443,125
27	\$443,125
28	\$443,125
29	\$443,125
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39	\$443,125
40	\$443,125

Docket No. 8400 – Stipulation Between TDI-NE, DPS, ANR and DHP

Attachment II – Environmental Conditions

I. Conditions Related to Section 248(b)(5) Natural Resources Criteria

RTE Wildlife Species

1. TDI-NE shall revise the avoidance and minimization plan (included in Exhibit TDI-GGM-2) for RTE species of special concern including the Timber Rattlesnake, Eastern Ratsnake, Eastern Ribbonsnake, Musk Turtle and Wood Turtle, which are potentially present within specific segments of the Project alignment. These revisions shall include provisions to address: (1) a step by step methodology to address any potential encounter with these species; (2) a general requirement for daily inspections at the beginning of the work day, at midday, and at the end of the workday, by a trained herpetologist (subject to the Agency’s approval) when an open trench exists; (3) inspection reports that are submitted weekly to the Vermont Department of Fish and Wildlife (“DFW”); (4) in the segment of the overland route between MP 103 and MP 110, a requirement for a trained herpetologist (subject to the Agency’s approval) to be on-site continuously during the work day as well as any time workers are present or machinery is being operated; and (5) identification of target areas for species other than the timber rattlesnake.

The revised avoidance and minimization plan may also provide for alternative measures should TDI-NE adopt the approach of seasonal avoidance of certain areas for site preparation and construction activities.

TDI-NE shall provide the Agency with proof of appropriate education, training and experience of the proposed herpetologist(s) and obtain the Agency’s approval of the individual(s) to be utilized prior to any site preparation or construction activities.

2. TDI shall provide the revised RTE avoidance and minimization plan (“RTE Plan”) to the Agency within 90 days of the execution of this MOU by all parties for the Agency’s review and approval subject to the procedures specified in Section III of this Attachment. This plan shall apply to the section of the overland project route from the point it exits Lake Champlain to the common boundary line between the towns of Mount Holly and Ludlow in discrete sections of the route as identified in the RTE Plan. Per the RTE Plan TDI-NE shall obtain, prior to site preparation or construction activities in discrete sections of the route identified in the RTE plan, a Vermont Endangered and Threatened Species Takings Permit.

Bats

3. TDI-NE shall flag the 116 previously-identified potential Indiana Bat roost trees within the Towns of Benson, West Haven and Fair Haven prior to construction. These flags will indicate that these trees are not to be cut by TDI-NE or its contractors.

4. As part of environmental training during construction orientation, TDI-NE shall advise construction workers of the flag color for the previously identified potential Indiana Bat roosting trees and that such trees may not be cut by TDI-NE or its contractors.
5. If Project changes are proposed that would impact potential Indiana Bat roost trees, then TDI-NE shall conduct bat exit surveys of the impacted trees prior to construction within 100 feet of such trees, utilizing the following exit survey protocol:
 - a. The surveys shall be performed during the months of June and July in order to determine the presence of, or likely absence of use by, roosting Indiana bats.
 - b. For each potential roost tree proposed to be impacted, there shall be five detector nights of acoustic surveys aimed at the tree.
 - c. A minimum of one acoustic detector shall be placed so that the detection cone covers the bole of the tree from 10 feet high to canopy height. Typically this requires placing the detector 50-60 feet from the base of the tree with the microphone pointed at the proper angle.
 - d. At least four of the detector nights must consist of temperatures above 50 degrees Fahrenheit, winds less than 9 mph, and no sustained rainfall.
 - e. Acoustic survey results must be presented upon completion of each tree surveyed to the Vermont Fish and Wildlife Department for consultation prior to cutting any trees. As guidance, any potential roost trees meeting the following conditions for all of the acoustic survey nights will be determined to not have bats present:
 - i. No bat calls recorded; or
 - ii. No *Myotis* bat calls recorded during the dusk period (up to 2 hours after sunset) and dawn period (after 2 hours before sunrise).
 - f. The presence of roosting bats will be presumed for every tree for which *Myotis* bat calls have been recorded during the dusk or dawn periods. In order to overcome this presumption, TDI-NE shall perform emergence surveys consisting of three continuous nights of emergence surveys to establish the absence of roosting bats. The emergence surveys shall be conducted in accordance with the following:
 - i. The specific methodology for conducting emergence surveys is provided in the US Fish & Wildlife Service (“USFWS”) 2015 Range-wide Indiana Bat Summer

Survey Guidelines, Appendix E Phase 4 Emergence Surveys – Emergence Surveys for Potential Roost Trees.

- ii. The emergence surveys shall be conducted by at least one person, and shall begin at least one-half hour before sunset and not end earlier than one hour after sunset.
 - iii. Data shall be recorded on the USFWS Bat Emergence Survey Datasheet provided in the Appendix.
- g. All survey work and acoustic data analysis shall be conducted by individuals trained in bat monitoring and acoustic identification, who shall be pre-approved by DFW. TDI-NE shall provide DFW with the identity of the proposed surveyors, and their qualifications, at least thirty days in advance of when approval is sought. Approval of qualified surveyors for which documentation of qualifications has been provided will not be unreasonably withheld.
6. Any potential roost tree for which the surveys indicate no bat use may be removed by TDI-NE at any time of year, provided such tree is less than 16 inches diameter at breast height. For any tree which is greater than 16 inches diameter at breast height and for which surveys indicate no bat use, TDI-NE may cut the tree within 10 days of the last emergence count or acoustic survey night, or during the winter period of October 1 to March 31.
7. No cutting of roost trees containing Indiana Bats shall occur unless DFW reviews the exit survey data and determines that the tree can be cut from October 1 to March 31.

Fisheries

8. TDI-NE shall bury the cable in all segments of Lake Champlain that are less than 150' deep unless utilities or rock are encountered and burial of the cable is impractical. In such circumstances, TDI-NE shall utilize concrete mats to cover the cable. Where concrete mats will be utilized, TDI-NE shall avoid spawning reefs and shoals unless the Agency determines that re-routing around spawning reefs or shoals would result in greater impacts to other environmental resources or agrees that it is infeasible due to water depths, geological conditions, or proximity to the NY border, the VT shoreline, or archaeological resources. Notwithstanding the foregoing, TDI-NE shall avoid the following spawning reefs and shoals entirely:

Reef or Shoal	NOAA Chart #	Location
Motte Reef	14781	44 deg 56', 73 deg 20'
Middle Reef	14781	44 deg 45.1', 73 deg 20'
Sister Shoal	14781	44 deg 44.9', 73 deg 20.7'
Hogback Reef	14782	44 deg 34', 73 deg 19.5'

Reef or Shoal	NOAA Chart #	Location
Colchester Reef and Shoals	14782	44 deg 33', 73 deg 20'
Saxton Reef	14783	44 deg 24', 73 deg 17'
Quaker Smith Reef	14783	44 deg 23', 73 deg 18'
Sloop I	14783	44 deg 18.5', 73 deg 19'
Scotch Bonnet	14783	44 deg 10.5', 73 deg 22.5'
Rock I	14783	44 deg 8.5, 73 deg 22.5'

9. TDI-NE may conduct route clearing and installation activities in Lake Champlain between MP 1 and MP 74 from June 1 to October 1. TDI-NE may conduct route clearing and installation activities between MP 74 and MP 98 from June 1 to December 31. Route clearing and installation activities are prohibited outside of the identified dates in the respective Lake segments. This installation schedule does not apply to the land to lake horizontal directional drill (“HDD”) activities, provided that these HDD activities are conducted in a manner that prevents the introduction of sediments into, or creation of turbidity within, the Lake beyond the immediate vicinity of the in-water HDD entry point, and further provided that the in-water HDD activities do not occur before May 1 or after October 1 in the northern portion of the Lake.

10. Except as otherwise provided in paragraph 11 below, TDI-NE shall bottom-lay the cable and shall not conduct any pre-installation route clearing between MP 24.3 and MP 25 in order to reduce the potential for increased turbidity caused by sediment resuspension in the vicinity of the deep water intake that supplies the Ed Weed Fish Culture Station. TDI-NE shall adjust the route of the cable between MP 24.3 and MP 25 so that the cable will be located a minimum of 300 feet to the west of the deep water intake. The cable shall not be placed over the deep water intake, nor placed over the pipe between the deep water intake and the shoreline to the east.

This adjustment to the cable route will be reflected in the revised plans to be filed with the supplemental testimony, the Lake Champlain lake encroachment permit application, and the 401 Water Quality Certification application.

11. In the unlikely event that pre-installation route clearing and/or trenching of the aquatic cable is required between MP 24.3 and MP 25 as a result of water depths or lakebed conditions that are different than the conditions that TDI-NE anticipates based upon the studies TDI-NE has reviewed and research it has conducted to date, TDI-NE shall further adjust the cable route to the west by an additional 100 feet to provide a total buffer of 400 feet from the deep water intake.

12. TDI-NE shall comply with the following provisions for all work associated with the Project between MP 24.3 and MP 25, regardless of whether performing a bottom-lay of the cable, pre-

installation route clearing, trenching, or any other method of route preparation or cable installation. In every instance, TDI-NE shall follow the “Lake Champlain Construction Phase Water Quality Monitoring Program” to be incorporated as a condition of the Section 401 Water Quality Certification and the Lake Encroachment Permit, supplemented by the following:

- a. TDI-NE shall provide the Ed Weed Fish Culture Station Manager with a designated TDI-NE representative who shall be available at all times pre-installation route clearing and/or cable installation activities are being performed between MP 24.3 and MP 25. The TDI-NE representative shall be accessible by cell phone and by email, and shall have the authority to slow down, or halt, cable bottom-laying, pre-installation route clearing, or any other cable installation activities should turbidity levels be experienced at the Ed Weed Fish Culture Station that pose a risk to the Station’s operations.
 - b. TDI-NE shall monitor weather forecasts and weather events for the purpose of anticipating seiche events that are likely to cause turbidity entrainment into the hatchery deep-water intake while conducting Project activities between MP 24.3 and MP 25. The final Lake Champlain Construction Phase Water Quality Monitoring Program shall include specific measures for monitoring and corrective actions to address exceedances of an action threshold to be developed by ANR in consultation with TDI-NE between these mileposts.
 - c. Should any Project activities between MP 24.3 and MP 25 increase turbidity levels at the Ed Weed Fish Culture Station, whether alone or in conjunction with a seiche event, to a degree which results in fish mortality at the Station, then TDI-NE shall compensate the Agency at the rate of \$20.51 per pound of fish lost as a result of TDI-NE’s actions, up to a maximum of 48,000 pounds of fish.
13. TDI-NE shall provide 3 weeks’ notice to the Ed Weed Fish Culture Station manager in advance of any pre-installation or installation activities between MP 24.3 and MP 25, and shall provide the Station manager with the range of dates that such activities will be performed for this segment of the route. This notice shall include contact information for a TDI-NE Manager overseeing installation activities in Lake Champlain. TDI-NE shall also provide the Station manager with daily updates on the progress and status of the work on this segment as it proceeds.

Plants

14. TDI-NE shall have a qualified botanist re-delineate and clearly demarcate (utilizing fencing or an acceptable alternative) the previously identified RTE plant polygons within or adjacent to the construction work area prior to any site preparation or construction activities. TDI-NE shall update the plant survey prior to engaging in any site preparation or construction activities that occur more than three years beyond the actual date of the original inventory (Summer 2014).

The updated survey will be limited to areas with greater potential for RTE occurrences, such as wetlands, ledges, etc. TDI-NE shall work in consultation with ANR in defining the scope of the updated RTE plant survey. TDI-NE shall perform additional RTE plant surveys should any alterations of the cable route, or access points, have the potential to impact areas that were not part of the original plant survey.

15. If impacts to threatened or endangered plant populations are expected to occur, a takings permit will be required. With regard to rare plants, TDI-NE shall provide for avoidance and minimization, which may consist of: (1) narrowing the work area; and (2) using matting to cover rare plant populations, provided matting is in place for no longer than five days during the growing season. Should any matting be left in place for more than five days during the growing season, the population will be considered to have been impacted and mitigation shall be required in accordance with the following provisions. TDI-NE shall provide for mitigation should 20% or more of any rare plant population be impacted. Mitigation may take the form of transplantation of plants and rhizomes and/or seed collection and planting. The Short-stalked False Bindweed, plants, as well as rhizomes, shall be transplanted beyond the VTrans mowed area where they are visibly stressed. For the False Pennyroyal, seeds shall be collected in the year prior to any site preparation or construction activities taking place.

The provisions of Exhibit TDI-GGM-2 related to RTE plants shall be revised to incorporate and comply with the above conditions and will be provided to the Agency within 90 days of the execution of this Stipulation by all parties for the Agency's review and approval subject to the procedures specified in Section III of this Attachment.

16. The post-construction Vegetation Management Plan (Exhibit TDI-JAN-12) shall be revised to incorporate the following modifications: (1) all populations of RTE plants potentially impacted or directly adjacent to the project construction shall be monitored annually for a period of 5 years and any population that declines by 20% or more during that period will require remedial action to stem the decline; (2) consideration of, and coordination with, existing management plans of other entities that control the rights-of-way utilized by the Project; (3) TDI-NE shall re-delineate the 20 previously-identified RTE polygons along the Project corridor at least every 8 years for the entire life of the Project; and (4) where construction activity occurs in the immediate vicinity of RTE plants, seeding with conservation mix will be avoided and the area will instead be lightly mulched with certified weed free hay so as to facilitate recolonization by the RTE plants. The revised plan shall be provided to the Agency within 90 days of the execution of this Stipulation by all parties for the Agency's review and approval subject to the procedures specified in Section III of this Attachment.
17. The non-native invasive species plan (Ex. TDI-JAN-12) shall be revised to include the following: (1) the European Alder (*Alnus glutinosa*), Wild Chervil (*Anthriscus sylvestris*) and Narrow-Leaved Bitter-Cress (*Cardamine impatiens*) will be added for the purposes of NNIS

monitoring; (2) NNIS monitoring and control shall be performed in the vicinity of all identified RTE plant populations that may be impacted by Project related construction activities; and (3) TDI-NE shall take reasonable efforts to obtain permission from adjoining landowners to perform NNIS monitoring and control in proximity to the known RTE plant populations outside areas where TDI-NE retains permanent land control, if necessary. NNIS monitoring shall be performed for a period of three years following construction. The revised plan shall be provided to the Agency within 90 days of the execution of this Stipulation by all parties for the Agency's review and approval subject to the procedures specified in Section III of this Attachment.

Floodplains and River Corridors

18. TDI-NE shall amend its floodplain permit application to include alternative crossing methods for the proposed "over-culvert" crossings at MP 103.1 in Benson and MP 144.8 in Mount Holly.
19. The "over-culvert" crossing at MP 133.4 in Shrewsbury may remain as currently designed. TDI-NE shall place signage on both sides of the culvert indicating the presence of the cables and shall provide as-built information and location details regarding this culvert crossing to municipal road crews, first responders, VTrans, ANR, PSD and the Department of Emergency Management and Homeland Security. TDI-NE shall coordinate the specific design of this over-culvert crossing with VTrans prior to construction.
20. TDI-NE shall amend its floodplain permit application for the cable crossing of the Black River at MP 149.0 in Ludlow, at the East Lake Road Bridge, by proposing an alternative method of crossing the River (such as trenching beneath the River), or providing information that demonstrates that there is no practicable alternative to using the "aerial crossing method." If the aerial crossing method is the only practicable alternative, TDI-NE shall provide the Agency with anchoring specifications at least 90 days prior to commencement of construction of the Black River crossing which demonstrate that the cables will be able to withstand flood forces from the 1% and 0.2% annual chance flood events. Additionally, if TDI-NE demonstrates that the aerial crossing method is the only practicable alternative, TDI-NE shall place signage on both sides of the East Lake Road Bridge indicating the presence of the cables and shall provide as-built information and location details regarding the aerial crossing to municipal road crews, first responders, VTrans, ANR, PSD, and the Department of Emergency Management and Homeland Security.

Lake Champlain

21. Woody debris, trees, stumps, historical sawn logs, and rock and boulders encountered during route clearing activities or installation shall be left in Lake Champlain whenever feasible, but outside of the installation corridor and any sensitive habitats identified by ANR in advance of construction. TDI-NE shall consult with ANR and develop a plan for the return of trees,

stumps, historical sawn logs, and boulders that TDI-NE anticipates having to remove from the Lake during route clearing activities. The plan shall ensure the resources are placed back in the Lake outside of the installation corridor and any sensitive habitats identified by ANR in advance of construction. TDI-NE shall provide the plan to ANR for review and approval, subject to the procedures specified in Section III of this Attachment, at least 90 days prior to commencing route clearing activities.

22. TDI-NE has provided 20% design plans of the Lake route in its Section 248 Petition. After issuance of the CPG, TDI-NE intends to conduct further physical investigations of the Lake route in order to prepare the “final design” plans and bid documents, and may make adjustments to the route based on such investigations. After these investigations TDI-NE shall provide ANR with the draft final design plans and shall identify and assess all potential impacts to natural resources associated with the final design route changes. ANR and TDI-NE agree to consult on the Lake route changes prior to submission of the final design plans to the PSB, taking into account the potential impacts as well as project-related constraints including proximity to the VT shoreline, the NY borders, shallow water, geological conditions, and archaeological resources. The Parties acknowledge that ANR shall retain its independent authority under its own permitting programs.
23. TDI-NE shall provide a detailed description of the current condition of the bank located on the parcel of land in Benson near the lake-land transition in Benson, and shall consult with ANR and produce a restoration and long-term maintenance plan for this area that reestablishes bank stability and shoreline habitat. TDI-NE shall provide the plan to ANR at least 90 days prior to commencement of construction, subject to the procedures specified in Section III of this attachment.

Greenhouse Gases

24. On an annual basis, TDI-NE shall submit a report to the VT PSB that will summarize the amount of megawatt hours shipped on the line. TDI-NE shall provide the Agency with a copy of this report at the same time it is submitted to the Public Service Board. In addition to complying with Section 7(o) of the Stipulation (Confirmation of Renewable Energy), TDI-NE shall provide the Agency, and include in this report, the following information related to the energy shipped on the line: (1) the country of origin; (2) the annual throughput on the Project in megawatt hours, by producer; and (3) for each producer, their generation portfolio percentages by category (e.g. wind, hydro, etc.) for the report period year. The report will be due March 1 of each year the Project is operational, commencing after the first year of operation.
25. TDI-NE shall take commercially reasonable efforts to procure circuit breakers that do not contain SF₆. If non SF₆ breakers are identified that are suitable for the Project, TDI-NE shall consult with ANR prior to procurement to confirm that the greenhouse gas-related impacts

would be reduced, and that there are no other known unacceptable environmental impacts associated with the alternative.

26. In the event that SF₆-containing breakers or other equipment are utilized, TDI-NE shall participate in the U.S. Environmental Protection Agency's ("US EPA") SF₆ Emissions Reduction Partnership for Electric Power Systems on an ongoing basis while the breakers, or other equipment, are present. Copies of reports provided to the US EPA shall also be provided to ANR. TDI-NE shall develop and implement best practices in circuit breaker installation, operation, maintenance, and decommissioning to prevent and minimize releases of SF₆ to the atmosphere. TDI-NE shall utilize state-of-the-art SF₆ monitoring systems (e.g., temperature-compensated gauges to minimize measurement discrepancies, etc.) to accurately monitor the condition of the breakers and automatically be alerted to SF₆ leaks.

Blasting (Groundwater)

27. TDI-NE shall avoid the use of initiators that contain perchlorate, and shall not utilize perchlorate in connection with Project blasting activities.
28. TDI-NE shall revise its blasting plan (Exhibit TDI-JMB-10) to incorporate as requirements the VT Department of Environmental Conservation, Waste Management Prevention Division, Best Management Practices for Blasting to Avoid Environmental Contamination (Exhibit ANR-MBS-2).
29. TDI-NE does not anticipate that more than 5,000 cubic yards of bedrock will be blasted in a single work zone in connection with the Project. In the event TDI-NE determines that more than 5,000 cubic yards would need to be blasted in a single work zone, TDI-NE shall undertake an evaluation of the potential impacts to groundwater of such blasting and shall provide the evaluation, as well as its plan for conducting such blasting, to ANR at least 90 days before the blasting will need to take place for the Agency's review and approval, subject to the procedures specified in Section III of this Attachment.

Waste Management and Hazardous Materials

30. TDI-NE shall revise, as needed, the previously-submitted Overall Oil and Hazardous Materials Spill Prevention and Contingency Plan, or submit a stand-alone plan, to address overland construction activities, and shall submit the revised plan to the Agency at least 90 days prior to any site preparation or construction for the Agency's review and approval, subject to the procedures specified in Section III of this Attachment.

II. Conditions Related to Collateral ANR Permits

A. Acknowledgement and Identification of Collateral Permits

31. TDI-NE and ANR agree that TDI-NE shall obtain, prior to commencement of site preparation or construction of the Project, and comply with, the ANR permits specified below. TDI-NE and ANR further agree that any CPG issued by the Public Service Board will be conditioned on TDI-NE obtaining and complying with the ANR permits, and that the preceding Conditions Related to Section 248(b)(5) Natural Resources Criteria are neither intended to relieve TDI-NE of its responsibility to obtain the ANR permits nor limit in any way ANR's authority under applicable law to impose conditions in the collateral permits in order to ensure that Project impacts are avoided, minimized, or mitigated, to the extent required under applicable law governing the specific permitting programs. These ANR collateral permits include the following: a Vermont Stream Alteration Permit, a Vermont Construction Stormwater Discharge Permit, a Vermont Operational Stormwater Discharge Permit, a Vermont Wetlands Permit, a Vermont Flood Hazard Area & River Corridor Permit, two Vermont Lake Encroachment Permits (for Lake Champlain and Lake Bomoseen), a 401 Water Quality Certification, and a Vermont Endangered and Threatened Species Takings Permit.

This Stipulation does not relieve TDI-NE of the responsibility to comply with all other necessary federal, state, and local laws, regulations, and permitting requirements.

B. Water Quality Monitoring Plan

32. TDI-NE shall prepare a "Lake Champlain Construction Phase Water Quality Monitoring Program," which shall include the key elements of the water quality monitoring for the following in-lake activities: route clearing and cable installation. The water quality monitoring program shall be developed in consultation with ANR, subject to approval by ANR, and incorporated as a condition into TDI-NE's Vermont Lake Encroachment Permit and 401 Water Quality Certification. The Lake Champlain Construction Phase Water Quality Monitoring Program shall include, at a minimum, the following elements: identification of approved sampling and analytical equipment and methodologies for each method of cable installation in different locations of the lake (recognizing that different installation methods may have different potential impacts); timing and frequency of sampling including real time monitoring for suitably measured water quality constituents; target chemicals and substances for sampling; sample documentation and reporting requirements; water quality action thresholds; and corrective action requirements. The water quality action thresholds shall ensure protection of water quality and maintenance of applicable Vermont Water Quality Standard criteria. The corrective action requirements may contain a suite of actions including, but not limited to: slowing the pace of route clearing or cable installation, modifying equipment or techniques utilized and/or pausing work. At least 160 days prior to in-lake construction, TDI-NE shall submit a Lake Champlain Construction

Phase Quality Assurance Project Plan. The Plan will be consistent with the approved Lake Champlain Construction Phase Water Quality Monitoring Program.

C. Additional Permitting Items Raised in ANR's Pre-filed Testimony

33. In ANR's prefiled testimony, ANR raised the following issues, which TDI-NE agrees to address through the Lake Encroachment Permit and 401 Water Quality Certification processes:

During permit application review by ANR:

- a. TDI-NE shall revise the typicals related to coffer dams and receiver casings to provide more specific details on the installation and operation of these measures.
- b. TDI-NE shall provide additional information, to the extent available, regarding all existing uses that could be impacted by Project construction activities. TDI-NE does not plan to utilize any DFW access areas or other publicly-owned facilities for Lake construction activities except for the Korean War Veterans Access Area. If these plans change, TDI-NE shall seek, and obtain, prior approval from DFW or the applicable owner and shall update its Lake Encroachment Permit application accordingly.
- c. TDI-NE shall follow the "Aquatic Invasive Species Management and Control Plan" established by the Lake Encroachment Permit, which will be updated to address how it will inspect and, as appropriate, clean vessels that have been delayed one month or longer to avoid the transport of aquatic invasive species as well as how it will ensure bilge water in such vessels will not transport aquatic invasive species. Additionally, as part of the Plan, TDI-NE shall provide to ANR for review and approval, subject to the procedures specified in Section III of this Attachment, a listing of the specific chemicals (including MSDS sheets and product information) and amounts of those chemicals it will use to clean the outside of its vessels to prevent the spread of aquatic invasive species. TDI-NE shall provide this listing to ANR at least 90 days prior to any vessel commencing transit to Lake Champlain.
- d. TDI-NE shall provide a post-construction thermal monitoring plan to ANR for review and approval, subject to the procedures specified in Section III of this Attachment. .

Prior to construction:

- e. TDI-NE shall supplement its HDD Inadvertent Return Contingency Plan with an Area Specific Plan.
- f. TDI-NE shall provide to ANR Safety Data Sheets and product information for drilling fluids to be used in the Lake HDDs.

- g. TDI-NE shall revise, as needed, the previously-submitted Overall Oil and Hazardous Materials Spill Prevention and Contingency Plan to address construction activities in the Lake.

III. Process for Review and Approval of Plans

- 34. Any plans subject to review and approval by the Agency under this Attachment shall be subject to the following procedures: within a reasonable period of time from submission of the plan, the Agency will approve the plan, approve the plan with modifications, or reject the plan. If the Agency rejects the plan, the Agency will provide TDI-NE with an explanation of the reasons why the plan was rejected and TDI-NE shall have the opportunity to revise the plan accordingly and resubmit it to the Agency for further review. The Agency will then approve the revised plan, provided it sufficiently addresses the reasons for rejection of the original plan. In all instances, the Agency will act reasonably with regard to the timeliness of its review and its approval or rejection of the plan. Should the Agency determine it is unable to approve the revised plan as submitted, the parties agree to work together in good faith to resolve the issues that are preventing plan approval.

[END OF DOCUMENT]

Docket No. 8400 – Stipulation Between TDI-NE, DPS, ANR and DHP
Attachment III – Conditions Regarding Historic Resources

I. General Conditions

1. All historic sites studies and assessments must be conducted by qualified consultants meeting the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation - Professional Qualifications Standards*.
2. All archaeological studies, including but not limited to Phase I site identification, Phase II site evaluation, and Phase III data recovery investigations, or other mitigation proposals must follow the VDHP *Guidelines for Conducting Archaeological studies in Vermont (2002)* and any subsequent timely guideline revision, which include direct reference to applicable Secretary of Interior archaeological standards. TDI-NE's archaeological consultant must submit any archaeological scope of work to the VDHP for review and approval prior to initiation.
3. Any proposed change of use, repairs, alterations, or other treatments to any extant historic site, building, landscape and/or district must meet the Secretary of Interior's *Standards for Rehabilitation*.
4. Any sale, transfer of property or other conveyance of historic sites owned by TDI-NE within the Project area must be reviewed by VDHP and have the appropriate deed restrictions in place prior to disposition of a property. Please refer to "Historic Preservation Covenants – rev. 7/14/2014"
5. No known historic site or archaeologically sensitive area shall be subject to any project related disturbance prior to the completion of all required studies and the implementation of any necessary mitigation measures. Mitigation may include but is not limited to further site evaluation, data recovery, redesign of one or more proposed project components, or the implementation of specific conditions that may be imposed during construction.
6. TDI-NE shall conduct all appropriate studies in accordance with the above stipulations for any project component or project modification not currently within the Project area that result from Project design changes.

II. Underwater Resources

1. Subject to Section II.2, TDI-NE shall maintain a 40 meter (131ft) buffer or exclusion zone around known or suspected cultural resources that are found to be near the NECPL installation corridor.
2. TDI-NE shall prepare and implement one or more scopes-of-work in accordance with the above general conditions to address potential impacts to the three currently defined underwater historic sites that cannot be avoided by the NECPL underwater corridor. These sites are :
 - The Rouses Point Train Trestle
 - The Larrabees Point-Willow Point Train Trestle (VT-AD-1344) and its associated features
 - The Great Bridge between Fort Ticonderoga, NY and Mount Independence, VT (VT-AD-731).
 - a. At minimum, these three historic sites and associated structures shall be carefully documented before installation begins to record their current state of preservation and to pinpoint their locations in order to provide recommendations for the final design of the Project to avoid any significant impacts. The pre-construction work may include recommendations for additional documentation to mitigate unavoidable impacts. The historic sites shall be inspected after construction of the Project is complete to document the Project effects.
 - b. In the case of the Revolutionary War Great Bridge crossing between Ticonderoga New York and Mount Independence, Vermont, in addition to the pre-construction documentation, subsurface testing shall be carried out to identify, evaluate, and recover any significant cultural deposits located within the Project corridor.
3. TDI-NE shall attempt to adjust the Project corridor to avoid the three unverified sonar targets that have been found to lie within 40m of the installation corridor. In the event that avoidance is not feasible, TDI-NE's qualified underwater archaeological consultant shall conduct all necessary studies to evaluate and mitigate impacts to any significant underwater resource.
4. TDI-NE's underwater consultant will be granted access to any additional survey data recorded during the continuing design and engineering process for the

NECPL. This data will be examined for evidence of the presence of cultural resources not currently identified within or immediately adjacent to the Project corridor. This effort will include review of data from engineering level surveys of the corridor as well as that recorded during installation of the cable itself. Any identified or potential underwater resource documented shall be subject to all appropriate investigation protocols.

III. Overland Archaeological and Historic Resources

1. The VDHP has concurred with the Phase IA Archaeological Reconnaissance Survey New England Clean Power Link Project –Overland Portion (November 2014) prepared by the Public Archeological Laboratory, Inc. (PAL). The Phase IA study identified four known archaeological sites, four previously undocumented sites, and archaeologically sensitive areas within approximately 11.6 linear miles of the Project’s overland corridor and within four of the five work parcels. TDI-NE’s archaeological consultant shall conduct all necessary archaeological studies in these areas, and any subsequently identified archaeologically sensitive area, in accordance with the general conditions stipulated above. All archaeological work will be undertaken by TDI-NE in consultation with VDHP, and will be conducted in compliance with all applicable state and federal regulations.
2. Prior to commencement of construction of the Project, TDI-NE shall provide supplemental information to VDHP regarding the locations and intensity of proposed blasting near identified historic resources along the overland route. In the event that blasting will result in potential adverse effects on any historic resource, TDI-NE will consult with the VDHP to seek ways to avoid, minimize, or mitigate the effect.
3. TDI-NE will maintain the buildings and grounds of two State Register-listed properties it owns, the Fullam House and the Mott House, in an appropriate state of repair in order to prevent any deterioration from their present condition. In the event that any major physical changes are proposed, they will be done in accordance with the Secretary of the Interior’s Standards for Rehabilitation. If TDI-NE elects in the future to sell or otherwise transfer ownership of one or both properties, TDI-NE shall consult with VDHP in advance of any such sale or transfer.