

NHPUC 23FEB'15PM12:07

ESSEX POWER SERVICES, INC.55 UNION STREET, 4TH FL
BOSTON, MA 02108TELEPHONE: +617-367-0032
E-MAIL: AL@ESSEXHYDRO.COM

February 20, 2015

Ms. Debra A. Howland
Executive Director and Secretary
State of New Hampshire
Public Utilities Commission
21 S. Fruit St, Suite 10
Concord, NH 03301-2429

Attn: Executive Director and Secretary Howland

Dear Ms. Howland,

As the operator of the Jackson Mills hydroelectric facility and on behalf the City of Nashua, pursuant to New Hampshire Administrative Code Puc 2500 Rule, Puc 2505.02 Application Requirements Laws of 2012, Chapter 0272, please find included with this letter an application for the qualification of the City of Nashua's Jackson Mills hydroelectric project as a New Hampshire Class IV RPS Resource.

An electronic copy of this application was emailed to you at executive.director@puc.nh.gov and Barbara Bernstein at barbara.bernstein@puc.nh.gov and three hard copies were mailed to your attention at the New Hampshire PUC on Friday, February 20, 2015.

Thank you in advance for review of this application and please contact me at 617-367-0032 or al@essexhydro.com with any questions

Sincerely,



Andrew Locke
Treasurer



State of New Hampshire Public Utilities Commission

21 S. Fruit Street, Suite 10, Concord, NH 03301-2429



APPLICATION FORM FOR RENEWABLE ENERGY SOURCE ELIGIBILITY FOR CLASS IV

HYDRO SOURCES WITH A TOTAL NAMEPLATE CAPACITY OF ONE MEGAWATT OR LESS

Pursuant to New Hampshire Administrative Code [Puc 2500](#) Rules, *Puc 2505.02 Application Requirements*
Laws of 2012, Chapter 0272

- Please submit one (1) original and two (2) paper copies of the completed application and cover letter to:

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

- Send an electronic version of the completed application and the cover letter electronically to executive.director@puc.nh.gov.

The cover letter must include complete contact information and clearly state that the applicant is seeking certification as a Class IV source. Pursuant to Chapter 362-F:11 I, the Commission is required to render a decision on an application within 45 days upon receiving a completed application.

If you have any questions please contact Barbara Bernstein at (603)271-6011 or Barbara.Bernstein@puc.nh.gov.

Please provide the following:

1. Applicant Name: City of Nashua

Mailing Address: 229 Main Street

Town/City: Nashua State: NH Zip Code: 03060

Primary Contact: Sarah Marchant

Telephone: 603-589-3075 Cell: N/A

Email address: marchants@nashuanh.gov

2. Facility Name: Jackson Mills Project

(physical address) One Nashua Drive

Town/City: Nashua State: NH Zip Code: 03061

If the facility does not have a physical address, the Latitude _____ & Longitude _____

(To qualify the electrical production for RECs, the facility must be registered with the NEPOOL – GIS).

Contact information for the GIS administrator follows:

James Webb, Registry Administrator, APX Environmental Markets
224 Airport Parkway, Suite 600, San Jose, CA 95110
Office: 408.517.2174, jwebb@apx.com

3. The facility's ISO-New England asset identification number, if available. MSS890
4. The facility's GIS facility code, if available. MSS890
5. A description of the facility including the following:
 - 5.a. The gross nameplate capacity 1,000 kW
 - 5.b. The facility's initial commercial operation date June 1984
 - 5.c. The date the facility began operation, if different than the operation date N/A
 - 5.d. A complete description of the facility **including location, structures and equipment.**

See *Attachment 5* for a complete project description and Attachment A for: (1) the FERC Order Granting Exemption from Licensing dated April 24, 1984; (2) Nashua Hydro Associates December 22, 1999 response to FERC request for clarification of discrepancies in the as-built installed capacity and spillway crest elevation as compared to the project's exemption from licensing dated April 24, 1984; (3) FERC Order dated April 11, 2002 approving as-built drawings and amending the project's installed capacity to 1MW; and (4) FERC Order Amending Exemption (5 Megawatts of Less) dated January 11, 2013 approving the installation of a pneumatic crest gate on the Jackson Mills project dam.

6. A copy of all necessary state and federal (FERC) regulatory approvals as **Attachment A**.
7. A copy of the title page of the Interconnection Agreement between the applicant and the distribution utility, the page(s) that identifies the nameplate capacity of the facility and the signature pages. *Please provide this information as **Attachment B**.*
8. Pursuant to 2505.01(c), no generation facility shall be eligible to acquire new certificates under this Chapter while selling its electrical output at long-term rates established before January 1, 2007. Please provide a copy of the facility's long-term rate agreement as **Attachment C**.
9. A description of how the generation facility is connected to the distribution utility.

The interconnection point is that point at which the Jackson Mills facility interconnects with the 34.5 KV, three-phase, sixty hertz electric system of Public Service Company of New Hampshire.

10. A statement as to whether the facility has been certified under another non-federal jurisdiction's renewable portfolio standard and proof thereof. *Provide documentation as **Attachment D**.*

The Jackson Mills (aka The Nashua) hydroelectric project has been qualified as a Massachusetts Class II, Rhode Island Existing, Connecticut Class II, and low impact hydroelectric facility. See Appendix D for statement of qualification letters

10. A statement as to whether the facility’s output has been verified by ISO-New England.

Nashu Hydro is an MSS unit (MSS890). The meter is read by Public Service Company of New Hampshire, reported to ISO New England, verified and automatically reported to the NEPOOL GIS.

11. An affidavit by the applicant attesting that the contents of the application are accurate. *Use either the Affidavit at the bottom of this page, or provide a separate document as **Attachment E**.*

12. The name and telephone number of the facility’s operator, **if different from the owner**.

Facility Operator Name: Essex Power Services, Inc.

Phone: 617-367-0032

13. Other pertinent information that you wish to include to assist in classification of the facility provide as **Attachment F**.

CHECK LIST: The following has been included to complete the application:	YES
• All contact information requested in the application.	
• A copy of all necessary state and federal (FERC) regulatory approvals as Attachment A .	
• A copy of the title page of the Interconnection Agreement between the applicant and the distribution utility, the page(s) that identifies the nameplate capacity of the facility and the signature pages as Attachment B .	
• A copy of provide a copy of the facility’s long-term rate agreement as Attachment C	
• . If applicable , documentation of the hydro facility’s certification(s) in other non-federal jurisdiction’s renewable portfolio standard program(s) as Attachment D .	
• A signed and notarized attestation or Attachment E .	
• A GIS number has been provided or has been requested.	
• Other pertinent information has been provided (if necessary) as Attachment F .	
• This document has been printed and notarized.	
• The original and two copies are included in the packet mailed to Debra Howland, Executive Director of the PUC.	
• An electronic version of the completed application has been sent to executive.director@puc.nh.gov .	

AFFIDAVIT

The Undersigned applicant declares under penalty of perjury that contents of this application are accurate.

Applicant's Signature *DonnaLee Lozeau* Date 2-6-2015
Printed Name DONNALEE LOZEAU

Subscribed and sworn before me this 6th Day of FEB. (month) in the year 2015

County of HILLSBOROUGH State of N.H.

Brenda J. Cloutier
Notary Public/Justice of the Peace

My Commission Expires 1/25/17

Appendix 5

Project Location and Operations

The Jackson Mills Hydroelectric facility (“the facility”) is located on Nashua Road in downtown Nashua, New Hampshire approximately 700 feet downstream from the crossing of Main Street (old U.S. Route 3) over the Nashua River (see Exhibit 5-A). The area in the vicinity of the dam is urban in character and typical of an old New England manufacturing city. The Nashua public library is located on the south bank of the river. The former powerhouse on the north bank currently houses a restaurant, which contains some of the features of the old operation. The new powerhouse was constructed adjacent to the old powerhouse with the turbine inlet located beneath the restaurant.

The land uses along the north side of the river to the east of the restaurant are predominantly industrial and to the west they are commercial. On the south side of the river the land usage to the east of the library is predominantly urban residential with commercial uses lying to the west. Along both banks above and below the dam the vegetation consists of planted ornamentals and those types typical of disturbed ground.

The facility is operated as a fully automated run of river project. At times of non-generation, the project is licensed to release an outflow equal to an instantaneous minimum of 207 cfs which is .50 cfs for the 414 square mile drainage area above the project site. When inflows fall below 207 cfs, inflow is equal to outflow.

Construction of the Jackson Mills Dam was completed in 1920. The dam is designed as a gravity-type stone masonry spillway, with a concrete cap and a concrete extension and concrete-faced stone gravity-type abutments. The height of the dam is 27 feet and the length is 178 feet. The crest elevation is 115.6 feet and the project is run with a six foot high, 140-foot-long, pneumatic spillway crest control system for a total hydraulic elevation of 116.6 feet. See Appendix 5.e_20130111 - FERC Order Amending Exemption Nashua Hydro for the January 11, 2013 FERC order amending exemption for the installation of a pneumatic spillway crest control system.

A semi-Kaplan Turbelec turbine is installed in the powerhouse. The generating unit consists of one single-regulated propeller-type turbine. The installed capacity of the unit is 1,000 kW. See Appendix 1-April 11, 2002 FERC Order Approving as-built Exhibits A, B, and G for confirmation of the project's installed capacity.

Attachment A

- FERC Order Granting Exemption from Licensing dated April 24, 1984
- Nashua Hydro Associates December 22, 1999 response to FERC request for clarification of discrepancies in the as-built installed capacity and spillway crest elevation as compared to the project's exemption from licensing dated April 24, 1984
- FERC Order dated April 11, 2002 approving as-built drawings and amending the project's installed capacity to 1MW.
- FERC Order Amending Exemption (5 Megawatts of Less) dated January 11, 2013 approving the installation of a pneumatic crest gate on the Jackson Mills project dam.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

✓ copy to
2) file
3) 10/5/83 FERC 162, 078

Nashua Hydro Associates)

Project No. 7590-000

ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS

(Issued April 24, 1984)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act (Act) pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (ESA) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the ESA and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

-
- 1/ Nashua Hydro Associates, Project No. 7590, filed on September 18, 1983.
 - 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).
 - 3/ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1983). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, (1983). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) Jackson Mills Project No. 7590-000 as described and designated in Nashua Hydro Associates' application filed on September 18, 1983, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106, of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980), and the following Special Article.

Article 6. Any exempted small hydroelectric power project that utilizes a dam which is more than 33 feet in height above streambed, as defined in 18 CFR 12.31(c) of this chapter, impounds more than 2,000 acre-feet of water, or has a significant or high hazard potential, as defined in 33 CFR Part 222, is subject to the following provisions of 18 CFR Part 12;

- (i) Section 12.4(b)(1)(i) and (ii), (2)(i), (iii)(A) and (B), (iv), and (v);
- (ii) Section 12.4(c);
- (iii) Section 12.5;
- (iv) Subpart C; and
- (v) Subpart D.

For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee.



Robert E. Cackowski
Deputy Director, Office of
Electric Power Regulation

ORIGINAL



NASHUA HYDRO ASSOCIATES

c/o ESSEX HYDRO ASSOCIATES, LLC
ONE STATE STREET, SUITE 1200
BOSTON, MASSACHUSETTS 02109 USA

TELEPHONE:
FAX:
E-MAIL:

+617-367-0032
+617-367-3796
essex@essexhydro.com

December 22, 1999

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
Mail Code: DLC, HL-11.1
888 First Street, N.E.
Washington, DC 20426

Re: Project No. 7590-001-NH, Jackson Mills Hydro, Nashua Hydro Associates

Dear Mr. Boergers:

Charles Cover's letter of September 8, 1999 requested clarification of apparent discrepancies between project features observed during a Division of Licensing Compliance staff inspection in September of 1998 and the description of those features in the project's exemption from licensing.

FILED IN THE SECRETARY'S OFFICE
DEC 27 1999
FEDERAL ENERGY REGULATORY COMMISSION

1. Installed Capacity

The Jackson Mills project's application for exemption, filed in September 1983, lists the average river flow as 720 cubic feet per second, the design hydraulic head as 20.5 feet and the installed turbine-generator capacity as 1,100 kW. Station performance tests conducted by Stone & Webster Engineering Corporation in March of 1985 show an output of 944 kW at a gross head of 19.48 feet and a turbine discharge of 740 cubic feet per second.

The nameplate ratings of the station generator is 1,000 kW. The station turbine does not carry a nameplate. However the vendor's contract literature lists the turbine capacity as 1,000 kW.

During the project's fourteen years of operation, the turbine-generator has occasionally produced at or near the 1,100 kW level. Because of tailwater effects however, during high river discharge events, the station's normal output is 1,000 kW +/- 50 kW.

2. Spillway Crest Elevation

The first survey of the Jackson Mills project area, by Survey Field Services, was commissioned by Nashua Hydro Associates in July of 1982. This initial survey lists the spillway crest at elevation 94.7 feet in an unspecified local datum. All surrounding features carry elevations in this same datum with no reference made to sea level or any other standard datum. A November 1982 survey, conducted by Robert B. Todd, LLS 260, New Boston, NH, used a local datum,

FERO DOCKET#750

DEC 27 1999

AA

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December 22, 1999

Page 2

established by the Department of Public Works of the City of Nashua, NH, and lists the elevation of the Jackson Mills Dam spillway crest as 24.6 feet, providing an equivalent MSL elevation of 115.5 feet. The 115.5' elevation was used in the application for exemption filed in September 1983.

A more detailed, pre-construction survey conducted by Robert B. Todd in May 1984, used a U.S.G.S. disk (No. 168) to tie all project elevations into the N.G.V.D. That survey lists the spillway crest elevation as 116.1 feet N.G.V.D. A copy of this 1984 survey was provided to FERC Division of Hydropower Licensing staff on September 30, 1999.

In the late Spring of 1985, in the first year of project operation, a brief attempt was made to operate the spillway with the allowed one foot of flashboards. Soon after installing the flashboards, the operator of a floating cocktail lounge, which had been operating for some years on the pond created by the Jackson Mills Dam, informed Nashua Hydro the increased pond level (with flashboards) made it impossible for him to navigate under several pipe crossings. Nashua Hydro removed the flashboards and they have not been used since.

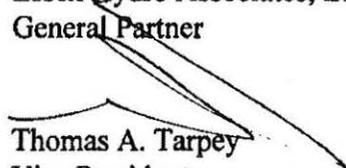
In September and October of 1992, the badly spalled spillway crest was reconstructed while the dam was dewatered for repair of its upstream face. Provision was made for installation of flashboards on the repaired crest. Flashboards (two feet high) have been used only on a twenty foot long section on the extreme left end of the spillway to improve entrance conditions for a fish passage facility located there. These flashboards do not affect the impoundment level. Other than for this purpose, Nashua Hydro has no intention to use flashboards on the Jackson Mills Dam.

If you need additional information, please contact me at our Boston office.

Sincerely,

NASHUA HYDRO ASSOCIATES

By: Essex Hydro Associates, L.L.C.
General Partner


Thomas A. Tarpey
Vice President

99 FERC ¶ 62,037
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Nashua Hydro Associates

Project No. 7590-002

ORDER APPROVING AS-BUILT EXHIBITS A, B, AND G

(Issued April 11, 2002)

On May 12, 2000, Nashua Hydro Associates (Nashua), Exemptee for the Jackson Mills Project, FERC No. 7590, filed as-built exhibits. Nashua supplemented its filing on January 2, March 4, and April 2, 2002. Nashua filed the exhibits in response to the Commission request in letters dated September 8, 1999, January 13, 2000, and August 17, 2000. The Jackson Mills Project is located in Hillsborough County, New Hampshire.

During a September 1998 operation inspection, our New York Regional Office staff, noticed a discrepancy between the projects installed capacity of 1,000 kW and the authorized capacity of 1,100 kW.¹ Also, staff noticed a discrepancy between the spillway crest elevation of 116.1 feet (ft) and the authorized crest elevation of 116.6 ft N.G.V.D.

Nashua states in a letter dated December 27, 1999, that the nameplate rating of the project's generator is 1,000 kW and the turbine does not have a nameplate, but vendor literature indicates its capacity is 1,000 kW. Also, Nashua states that a more detailed, pre-construction survey conducted in 1984 determined the spillway crest elevation is 116.1 ft. N.G.V.D. This order revises the installed capacity in the exemption from 1,100 kW to 1,000 kW, and the spillway crest elevation from 116.6 ft. to 116.1 ft. N.G.V.D.

The revised exhibits A, B, and G conform to the Commission's rules and regulations and are approved by this order. The exhibits supercede all previously approved exhibits A, B, and G. Ordering paragraph (E) of this order requires the exemptee to file microfilm copies of the approved exhibit B and G drawings.

¹ 27 FERC ¶ 62,078, Order Granting Exemption From Licensing Of A Small Hydroelectric Project Of 5 Megawatts Or Less, April 24, 1984.

The Director orders:

(A) The exemption for the Jackson Mills Project, FERC No. 7590, is amended as provided by this order.

(B) The Exhibit A filed on January 2, 2002, is approved, superseding the old exhibit under the exemption.

(C) Appendix A, notice of application, of the Exemption is revised in part as follows: The project consist of (2) a 40 acre reservoir with no usable storage capacity and a normal maximum water surface elevation of 116.1 feet N.G.V.D. with flashboards; (3) a powerhouse in the basement of a building located at the north dam abutment partially containing a 1.0 MW turbine generator and a powerhouse extension constructed to house part of the turbine-generator which extends beyond the existing building;.....

(D) The following exhibits B-1, B-2, and G-2, filed on January 2, 2002 and the exhibit G-1 filed on April 2, 2002, are approved and made part of the exemption, superseding old exhibits.

Exhibit	FERC No.	Title
B-1	7590-1	General Location Map
B-2	7590-2	Jackson Mills Hydro Electric Project
G-1	7590-3	Site Plan and Section
G-2	7590-4	Dam Plan and Section

(E) Within 90 days of the date of issuance of this order, the licensee shall file three sets of aperture cards of the approved drawings. The aperture cards should be reproduced on silver or gelatin 35 mm microfilm. All microfilm should be mounted on Type D (3¼" x 7⅜") aperture cards.

Prior to microfilming, the FERC Drawing Number (i.e., 7590-1 through 7590-4) shall be shown in the margin below the title block of the approved drawings. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC exhibit (i.e., B-1, B-2, G-1, and G-2), Drawing Title, and date of this order should be typed in the upper left corner of

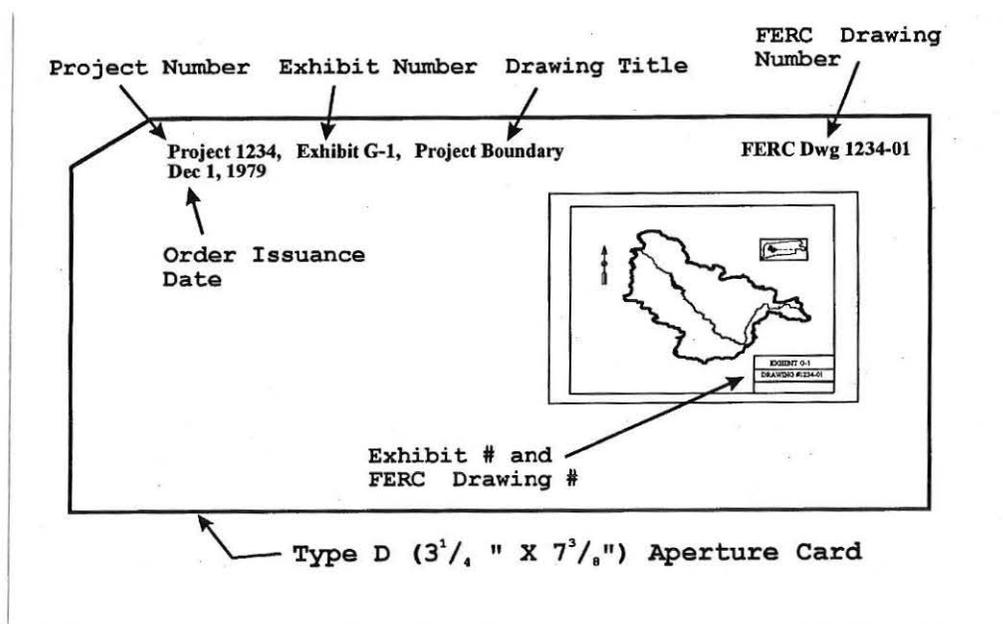


Figure 1. Sample Aperture Card Format

each aperture card. See Figure 1.

(F) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.713.

Mohamad Fayyad
 Engineering Team Lead
 Engineering and Jurisdiction Branch
 Division of Hydropower Administration
 and Compliance

142 FERC ¶ 62,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Nashua Hydro Associates

Project No. 7590-007

ORDER AMENDING EXEMPTION (5 MEGAWATTS OR LESS)

(Issued January 11, 2013)

1. On September 20, 2012, and as supplemented on December 21, 2012, Nashua Hydro Associates (Nashua), exemptee for the 1 megawatt (MW) Jackson Mills Project,¹ FERC No. 7590, filed an application for an amendment of the exemption from licensing. Nashua proposes to construct, install, operate, and maintain a pneumatic crest gate facility, within the existing overflow spillway of the Jackson Mills Dam, to alleviate upstream flooding. The project is located on the Nashua River in Hillsborough County, New Hampshire.

Background

2. The Jackson Mills Project is located on the Nashua River approximately 1.27 miles upstream of its confluence with the Merrimack River. The project consists of: (1) a 33-foot-high, 178-foot-long stone-masonry gravity dam with one-foot-high wooden flashboards along 38 feet of the dam's overflow spillway; (2) a 40-acre reservoir with no usable storage capacity; (3) a powerhouse containing a single 1 MW turbine-generator unit; and (4) a fishway located adjacent to the dam consisting of a downstream fish bypass and upstream fish ladder.

Proposed Amendment

3. The exemptee proposes to construct the pneumatic crest gate facility on its existing 178-foot-long spillway of the Jackson Mills Dam, to alleviate upstream flooding. The exemptee proposes to construct the crest gate on 140-foot-long section of the spillway. It plans to reduce the dam's elevation by six feet, and replace that section with a six-foot-high, 140-foot-long, pneumatic spillway crest control system. The spillway crest control system would activate automatically during times of high water, when flows exceed 7,500 to 9,000 cubic feet per second (cfs).

¹ *Nashua Hydro Associates*, 27 FERC ¶ 62,078 (1984).

Project No. 7590-007

- 2 -

4. The proposed pneumatic crest gate system would consist of multiple 20-foot-long, hinged steel panel sections supported on the downstream side by tubular, air-filled, rubber bladders. Restraining straps attached to each gate panel would prevent the panels from being raised above the six foot effective height above the dam crest. The exemptee also proposes to remove the 38-foot-long section of temporary flashboards located near the fishway.

5. The proposed crest gate will only operate under impending flood conditions. The exemptee is not proposing to modify the normal water surface elevation; the normal flows upstream and downstream of the project would not be altered upon installation of the crest gate system. The crest gate system would be designed to withstand overtopping in the raised position, and would be capable of operating in both a fully raised and partially raised position. The project will continue to operate in run-of-river mode.

6. The exemptee proposes to construct the crest gate in "dry conditions." It will eliminate flows over the Jackson Mills Dam by using an existing submerged cofferdam located about 300 feet upstream of the dam to divert all flows through the existing powerhouse, and setting the existing turbine unit to sluice mode.

Public Notice

7. On October 31, 2012, the Commission issued public notice accepting the exemption amendment application. The notice established November 30, 2012 as the deadline to file comments, motions to intervene, and protests. On November 29, 2012, the U.S. Department of the Interior, Office of the Secretary (Interior) filed, stating it had no comments. On December 21, 2012, New Hampshire Department of Environmental Services (New Hampshire DES) filed comments on the project's water quality certification. On January 10, 2013, the National Oceanic and Atmospheric Administration (NOAA) filed, stating it had no comments.

Pre-filing Consultation

8. On August 8, 2012, Nashua conducted a pre-filing consultation meeting with the City of Nashua, New Hampshire DES, the New Hampshire Division of Historical Resources (New Hampshire SHPO), and the U.S. Army Corps of Engineers (Corps). The exemptee also consulted with the New Hampshire Fish and Game (New Hampshire F&G) and the U.S. Fish and Wildlife Service (FWS). The exemptee asked these agencies to provide comments on the draft application.

9. Both New Hampshire F&G and New Hampshire DES waived its opportunity to comment on the draft application.² But both agencies did state that the operation of the

² On September 19, 2012, New Hampshire DES filed its comments with the

(continued)

crest gates was not likely to cause any adverse environmental impacts or cause the project to violate the terms and conditions of the issued exemption from licensing as amended.³

Threatened and Endangered Species

10. Section 7(a)(2) of the Endangered Species Act (ESA) of 1973⁴ requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species, or result in the destruction or adverse modification of their designated critical habitat. No federally listed endangered or threatened species would be affected by the proposed action.

Water Quality Certification

11. By letter filed December 21, 2012, the New Hampshire DES stated it will not be amending the existing section 401 Water Quality Certification issued to the exemptee in 1983.

National Historic Preservation Act

12. Under section 106 of the National Historic Preservation Act (NHPA),⁵ and its implementing regulations,⁶ federal agencies must take into account the effect of any proposed undertaking on properties listed or eligible for listing in the National Register of Historic Places (defined as historic properties) and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking. This generally requires the Commission to consult with the State Historic Preservation Officer (SHPO) to determine whether and how a proposed action may affect historic properties, and to seek ways to avoid or minimize any adverse effects. By letter dated October 5, 2012,⁷ the New Hampshire SHPO provided a finding of "no effect" because there are no

Commission on the draft application. New Hampshire F&G's September 19 comments on the draft application were included in the application.

³ Both New Hampshire F&G and New Hampshire DES reserved their right to comment on the final exemption amendment application when filed with the Commission and to propose terms and conditions, but neither agency did so.

⁴ 16 U.S.C. § 1536(a) (2006).

⁵ 16 U.S.C. § 470 (2006).

⁶ 36 CFR Part 800 (2012).

⁷ Filed on October 18, 2012 as part of the exemption amendment application

known properties of archaeological significance within the area of the undertaking's potential impact.

Discussion

A. Project Operation

13. The Jackson Mills Project is operated in a run-of-river mode and no changes to the project operation are proposed. The exemptee is not proposing to change the long-term operational pattern, frequency, or quantity of the run-of-river mode and project minimum flows, nor is it proposing to change the authorized normal headpond elevation or impoundment size as specified under the exemption from licensing for the Jackson Mills Project. During construction, the exemptee proposes to divert all flows through the powerhouse rather than using the spillway and maintain minimum flows by operating the turbine in sluice mode. The exemptee is required to discharge from the project an instantaneous flow of 207 cfs or inflow to the project, whichever is less, as set forth by the terms and conditions of the exemption required by the Interior.

B. Environmental Review

14. In this section we discuss the effects of the proposal on relevant environmental resources. Only those resources that would be affected, or for which comments were received, are addressed. In general, resources of the project area that could be affected by the exemptee's proposal include water quality and quantity and aquatic resources. Since we have not identified any substantive issues related to terrestrial, recreational or cultural resources, these resources have been omitted from the analysis.

Water Quality

15. The Nashua River flows from the Wachusett Reservoir in Massachusetts to the confluence with the Merrimack River in Nashua, New Hampshire. The New Hampshire State Legislature has designated it as a Class B surface water, meaning the water body is considered to be of the second highest water quality, with no objectionable physical characteristics, and has a dissolved oxygen content of 75 percent saturation, and a geometric mean *E. coli* count of 126 per 100 milliliters, or no more than 406 *E. coli* per 100 milliliters per single sample period. However, New Hampshire has also divided surface waters into smaller segments called assessment units. Two of the assessment units on the Nashua River are indentified as impaired, and one of the units includes the City of Nashua and the proposed project site. Water quality has exceeded the maximum allowable level of 406 *E. coli* per 100 milliliters per sample period on multiple occasions

materials.

in the city of Nashua unit. The U.S. Environmental Protection Agency lists the Nashua River as "impaired" for aquatic life, fish consumption, and primary contact recreation.

16. Construction of the crest gate has the potential to cause short-term impacts to water quality. To facilitate construction, the exemptee proposes to raise the existing submerged cofferdam, located about 300 feet upstream of the dam, and divert all flows through the powerhouse with the turbine unit set to sluice mode. The exemptee would raise the submerged cofferdam, dewater the area between the upstream face of the dam and the cofferdam, mechanically excavate the sediments, and construct a temporary access road and staging area. The cofferdamed section of the river would be 150-foot-long by 200-foot-wide, and would be dewatered for approximately two and a half months, as weather conditions allow.

17. The exemptee estimates that approximately 2,800 cubic yards of sediment would be removed during construction. The exemptee has developed a sediment sampling plan to assess the presence of heavy metals and persistent bioaccumulative and toxic pollutants (PBTs), as well as physical characteristics. Sample locations would provide baseline conditions and toxicity information for sediments within the area of impact, specifically at the upstream face of the submerged cofferdam and at the upstream face of the Jackson Mills Dam. Based on sampling results, the exemptee would develop a Sediment Management Plan. If sampling results indicate hazardous sediments are present within the project area, the exemptee would excavate, export and dispose of the sediment in an approved landfill or at an approved location subject to a New Hampshire DES Activity and Use Restriction. Non-hazardous sediments would be transported offsite and stabilized either through land application and vegetated stabilization or incorporated into the landscape with stabilized vegetation. Proper handling and removal of sediment behind the Jackson Mills Dam would minimize any impact to water quality.

18. Dewatering the cofferdam area has the potential to cause increased erosion in the cofferdam area, and thereby potentially increasing turbidity during the dewatering process. Once construction is complete, refilling the dewatered area also has the potential to cause short-term turbidity downstream from previously disturbed sediments on the river bottom during construction. To minimize impacts, construction would be limited to the low-water season of July 1 through October 31. To minimize turbidity, the exemptee proposes to utilize turbidity curtains surrounding the river-side of the proposed cofferdam, and the tailrace outlet channel when river flow is sluiced through the powerhouse. Also, the exemptee would use siphons rather than pumping for initial dewatering between the cofferdam and the dam. Further, the exemptee would develop and implement a construction stormwater protection plan that would include stabilization of disturbed areas within the cofferdam with gravel, grading the floor of the cofferdam area to a low spot where runoff can be pumped to a silt bag, and utilizing haybale and mulch stabilization on the inside earth slopes of the cofferdam. These measures should

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construction. The operation of the proposed crest gate would not affect normal river flows, water surface elevation, or project operation, and therefore would not affect aquatic resources in the river.

25. The Jackson Mills Dam has both upstream and downstream fish passage facilities. The downstream passage consists of an upper chamber separate from the turbine intake that allows fish near the surface safe passage to the tailrace. It operates from April 1 to June 30, and October 1 to November 30. The upstream passage consists of a Denil ladder with two points of entry, one near the dam and one near the turbine discharge. It operates from May 1 to June 30. Construction of the crest gate would occur from mid-July to early-October, a time period when the fish passage facility is not passing fish.

26. The FWS requested that the exemptee remove the 38-foot section of temporary flashboards located on the dam crest just in front of the fishway. These boards were originally installed to deflect debris from the fishway ladder exit and the bypass entrance. During consultation with the exemptee, the FWS indicated that removing the flashboards would help establish a more consistent water elevation at the fish ladder exit and bypass entrance. The exemptee proposes to remove this flashboard section as part of the proposal.

C. Operation Plan

27. In its December 21, 2012 letter, the New Hampshire DES notes that the exemptee would be submitting an operation plan for review and approval that describes operation during low, normal, and high flows, emergency drawdown, and refill procedures. The exemptee has not proposed to submit this plan to the Commission. However, in ordering paragraph (I) we are requiring the exemptee to file an operation plan for Commission approval by December 31, 2013. The exemptee shall include with the plan documentation of consultation, copies of the consulted entities' comments and recommendations on the completed plan, and specific descriptions of how the comments are accommodated by the plan. The exemptee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the exemptee does not adopt a recommendation, the filing shall include the exemptee's reasons, based on project-specific information. The Commission reserves the right to require changes to the plan.

D. Exhibits

28. The exemptee filed two Exhibit G drawings on September 20, 2012, and replaced those drawings with two drawings filed on December 21, 2012, which illustrate the site plan of the proposed pneumatic crest gates and cross section of the Jackson Mills Dam. The Exhibit G drawings accurately depict the installation of the pneumatic crest gates, conform to the Commission's rules and regulations, and are approved by this order in ordering paragraph (C). Ordering paragraph (D) requires the exemptee to file the

minimize water quality impacts. No significant impacts to water quality are expected as a result of the proposed construction.

19. Operation of the crest gate would not change project operation or current normal surface water elevation, nor would it alter normal flows upstream and downstream of the dam. Since project operations would not change, there would be no long-term effect to water quality.

Water Quantity

20. The Nashua River is gaged by U.S. Geological Survey (USGS) gage number 01096500 at East Pepperell, Massachusetts. Based on pro-rated data by drainage area to the project site, the average daily flow for the Nashua River ranges from approximately 300 cfs in the summer to 2,000 cfs in the spring.

21. During construction, flow over the spillway would be eliminated, and flow would be diverted through the powerhouse. However, flow downstream of the dam would remain unchanged. If during construction the river flow exceeds the ability of the turbine to sluice, the exemptee would use siphons or pumps to maintain water levels within the impoundment.

22. In the long-term, the operation of the new crest gate would not alter flow during normal flow periods. The crest gate would only begin to operate at flows in excess of 7,500 to 9,000 cfs. The new crest gate would lower the water surface elevation just upstream of the dam during a flood event, but would not change the overall magnitude of flow. The new crest gate provides additional spillway capacity during high flow conditions by lowering the flood water surface elevation just upstream of the dam, and diminishes the adverse impacts of flooding on upstream properties adjacent to the river. The proposed project would have no effect on normal water surface elevations, nor would it alter existing flows during normal conditions.

Aquatic Resources

23. Dewatering of the cofferdam area has the potential to cause an impact on aquatic resources in the construction area. Aquatic species residing in the area of the cofferdam and on the river bottom when the area is dewatered would be adversely impacted by the lack of water. To reduce impacts, the exemptee proposes to relocate fish and amphibian species when feasible. With the implementation of erosion and sediment control measures, as well as a stormwater protection plan, short-term impacts to aquatic resources are anticipated to be minimal.

24. As discussed above, no long-term impacts to water quality or quantity are anticipated, and therefore no long-term impacts to aquatic resources are anticipated. Impacts to aquatic resources would be short-term, and limited to the duration of

approved drawings in aperture and electronic file formats within 45 days of the date of this order. Prior to filing the exhibits in aperture card format, the exemptee should revise Exhibit G-3 to eliminate the words "To be removed" from the drawing in relation to the flashboard removal since this order authorizes the removal of the flashboards.

E. Plans and Specifications

29. To ensure that the exemptee is constructing and operating a safe and adequate project, ordering paragraph (G) requires the exemptee, at least 60 days prior to the start of any construction, to submit three copies of its plans and specifications and a supporting design document to the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer for approval. The exemptee may not begin construction until the D2SI- New York Regional Engineer has reviewed and commented on the plans and specifications, determined that all preconstruction requirements have been satisfied, and authorized start of construction.

30. Ordering Paragraph (H) requires the exemptee to review and approved contractor-designed cofferdam construction drawings and deep excavations; and at least 30 days before starting construction, submit to the D2SI-New York Regional Engineer the approved cofferdam construction drawings and specifications and the letters of approval.

Conclusion

31. Based upon the review of the information provided by the exemptee, agency comments, and staff's independent analysis, Commission staff concludes that approval of the amendment of the exemption from licensing is not a major federal action significantly affecting the quality of the human environment. This order approves the amendment to construct, install, operate, and maintain a pneumatic crest gate facility on 140-feet of the existing overflow spillway of the Jackson Mills Dam, and to remove 38-feet of temporary flashboards adjacent to the fishway.

The Director orders:

(A) The amendment application for the Jackson Mills Project filed September 20, 2012, and supplemented December 21, 2012, is approved, as provided in this order.

(B) The Project works of the exemption from licensing is revised as follows:

The project consists of: (1) an existing 33-foot-high, 178-foot-long stone masonry uncontrolled spillway dam with a 6-foot-high pneumatic crest gate system on 140 feet of the spillway; (2) an existing 40-acre reservoir with no usable storage capacity and a normal maximum water surface elevation of 116.6 feet National Geodetic Vertical Datum (NGVD); (3) an existing powerhouse located at the north dam abutment containing a 1 megawatt turbine-generator; (4) a tailrace channel; (5) a transmission line; (6) a fishway;

and (7) appurtenant facilities.

(C) The following Exhibit drawings for the Jackson Mills Project, FERC Project No. 7590, filed on December 21, 2012, are approved and made a part of the exemption from licensing:

Exhibit	Drawing No.	Superseded Drawing No.	Title
G-3	7590-5	n/a	Site Plan
G-4	7590-6	n/a	Dam Cross Section

(D) Within 45 days of the date of issuance of this order, the exemptee shall file the approved exhibit drawings in aperture card and electronic file formats. Prior to filing the exhibits in aperture card format, the exemptee should revise Exhibit G-3 to eliminate the words "To be removed" from the drawing in relation to the flashboard removal since this order authorizes the removal of the flashboards.

a) Three sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Project-Drawing Number (i.e., P-7590-5) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., G-3), Drawing Title, and date of this order shall be typed on the upper left corner of each aperture card. See Figure 1.

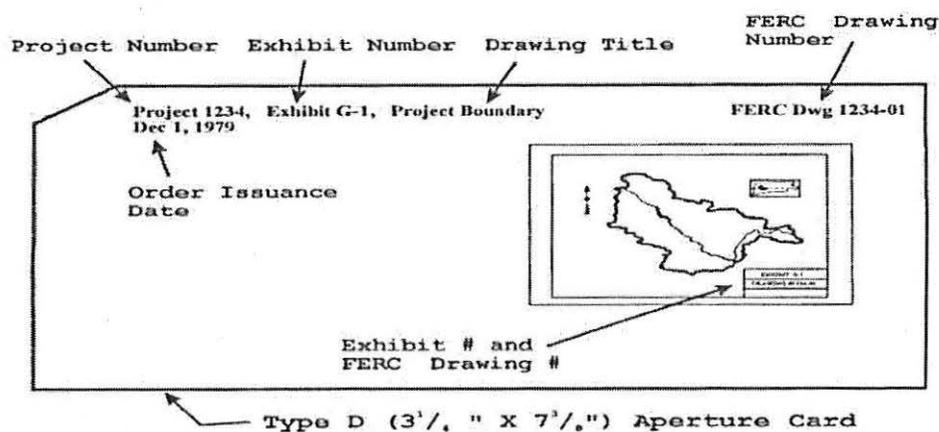


Figure 1 Sample Aperture Card Format

Two of the sets of aperture cards shall be filed with the Secretary of the

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Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections New York Regional Office.

b) The exemptee shall file two separate sets of the exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections New York Regional Office. Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this order, and file extension in the following format [P-7590-5, G-3, title, MM-DD-YYYY.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
FILE TYPE – Tagged Image File Format, (TIFF) CCITT Group 4
RESOLUTION – 300 dpi desired, (200 dpi min)
DRAWING SIZE FORMAT – 24" X 36" (min), 28" X 40" (max)
FILE SIZE – less than 1 MB desired

(E) *As-built Drawings.* Within 90 days of completion of all construction activities authorized by this amendment, the exemptee shall file for Commission approval, revised Exhibits A, B and G, as applicable, to describe the project facilities as-built. A courtesy copy shall be filed with the Commission's D2SI – New York Regional Engineer; the Director, D2SI; and the Director, Division of Hydropower Administration and Compliance.

(F) *Start of Construction.* The exemptee shall start construction of the proposed work authorized in this order within two years and complete construction within four years from the issuance date of this order.

(G) *Contract Plans and Specifications.* At least 60 days prior to the start of any construction, the exemptee shall submit one copy of its final contract plans and specifications and supporting design report to the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer, and two copies to the Commission (one of these shall be a courtesy copy to the Director, D2SI). The submittal must also include as part of preconstruction requirements: a Quality Control and Inspection Program, a Temporary Construction Emergency Action Plan, and a Soil Erosion and Sediment Control Plan. The exemptee may not begin construction until the D2SI-New York Regional Engineer has reviewed and commented on the plans and specifications, determined that all preconstruction requirements have been satisfied, and authorized start of construction.

(H) *Cofferdam Construction Drawings and Deep Excavations.* Before starting construction, the exemptee shall review and approve the design of contractor-designed

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cofferdams and deep excavations and shall ensure construction of cofferdams and deep excavations is consistent with the approved design. At least 30 days before starting construction of a cofferdam, the exemptee shall submit one copy to the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer and two copies to the Commission (one of these copies shall be a courtesy copy to the Commission's Director, D2SI), of the approved cofferdam construction drawings and specifications and the letters of approval.

(I) *Operations Plan.* The exemptee shall submit an operation plan for Commission approval by December 31, 2013. With this plan, the exemptee shall submit documentation of consultation with New Hampshire Department of Environmental Services. The exemptee shall include with the plan documentation of consultation, copies of the consulted entities' comments and recommendations on the completed plan, and specific descriptions of how the comments are accommodated by the plan. The exemptee shall allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the exemptee does not adopt a recommendation, the filing shall include the exemptee's reasons, based on project-specific information. The Commission reserves the right to require changes to the plan.

(J) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2012). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The exemptee's failure to file a request for rehearing shall constitute acceptance of this order.

William Guey-Lee
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

Attachment B

- Nashua hydroelectric facility (Jackson Mills) interconnection agreement with Public Service Company of New Hampshire dated September 20, 1984.

INTERCONNECTION AGREEMENT

AGREEMENT, dated Sept. 20, 1984, by and between NASHUA HYDRO ASSOCIATES a New Hampshire Limited Partnership, with its principal office in Concord, New Hampshire (hereinafter referred to as INTERCONNECTOR), and PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, a New Hampshire corporation having its principal place of business in Manchester, New Hampshire (hereinafter referred to as PUBLIC SERVICE).

WHEREAS, INTERCONNECTOR desires to interconnect their Nashua hydro-electric generating facility (formerly known as Jackson Mills), located in Nashua, New Hampshire, on the Nashua River, with the electric system of PUBLIC SERVICE in accordance with applicable New Hampshire Public Utilities Commission (hereinafter referred to as NHPUC) Orders; and

WHEREAS, the NHPUC requires that a written interconnection agreement be executed between the parties; and

WHEREAS, it is necessary that certain agreements be made prior to interconnection and the commencement of sales of electricity to insure the safety, reliability and integrity of PUBLIC SERVICE's electric system, and to establish a mechanism of payment of the rate established by the NHPUC, the parties hereby agree as follows:

Article 1. Interconnection and Voltage Characteristics.

The interconnection point shall be that point at which INTERCONNECTOR's generating facility interconnects with the 34.5 KV electric system of PUBLIC SERVICE.

Unless PUBLIC SERVICE converts its interconnection circuit, all electric energy interconnected with PUBLIC SERVICE's system shall be 34.5 KV, three-phase, sixty hertz.

Article 2. Metering.

The metering shall be configured so as to represent the generation delivered to PUBLIC SERVICE. The metering may be installed on the generation side of the transformer provided that transformer losses are subtracted from the measured generation by a suitable method.

INTERCONNECTOR will install, own, and maintain all metering equipment

as referenced in Article 4, to measure the flow of electrical energy from INTERCONNECTOR to PUBLIC SERVICE. If at any time, the meter is found to be in error by more than two percent fast or slow (+ or - 2%), INTERCONNECTOR shall cause such meter to be corrected and the meter readings for the period of inaccuracy shall be adjusted to correct such inaccuracy so far as the same can be reasonably ascertained, but no adjustment prior to the beginning of the preceding month shall be made except by agreement of the parties. All tests and calibrations shall be made in accordance with Section V-14 of the NHPUC Rules and Regulations Prescribing Standards for Electric Utilities in effect as of September 8, 1972, as amended. The meter shall be tested as prescribed in said Rules and Regulations.

In addition to the regular routine tests, INTERCONNECTOR shall cause the meter to be tested at any time upon request of and in the presence of a representative of PUBLIC SERVICE. If such equipment proves accurate within two percent fast or slow (+ or - 2%), the expense of the test shall be borne by PUBLIC SERVICE.

PUBLIC SERVICE reserves the right to secure or seal the metering installation, to require INTERCONNECTOR to measure electrical energy sold to PUBLIC SERVICE on an hour-by-hour basis, and to require INTERCONNECTOR to notify PUBLIC SERVICE once each day of INTERCONNECTOR's generation in kilowatthours for each hour during the prior 24 hours.

Article 3. Billing and Payment.

PUBLIC SERVICE shall read the meter on or about the end of each month and shall promptly send INTERCONNECTOR a form showing the month's beginning and ending meter readings and net kwh generation. INTERCONNECTOR shall then transmit to PUBLIC SERVICE a bill showing the amount due for the sale of energy to PUBLIC SERVICE, which amount shall be determined by multiplying the number of kWh's of energy delivered to PUBLIC SERVICE since the prior reading of the meter times the energy rate per kwh (or times the appropriate time-of-day rates, as applicable) set forth in INTERCONNECTOR's rate filing approved by the NHPUC and is, or will be when available, attached hereto as Attachment A.

INTERCONNECTOR shall also include on said bill the appropriate

capacity payment, if any, to be made by PUBLIC SERVICE, as approved by the NHPUC. PUBLIC SERVICE will send to INTERCONNECTOR a payment for that amount within 20 days of receipt of INTERCONNECTOR's bill. The foregoing is intended to provide a procedure for the payment of rates established by the NHPUC, and shall not be construed as creating a separate contractual obligation on the part of PUBLIC SERVICE to pay the rate(s) approved by the NHPUC.

INTERCONNECTOR understands that any capacity payments are contingent upon an audit of the generating facility performed by the NHPUC and that Interconnector must request the NHPUC to perform said audit.

Article 4. Interconnection & Protection Requirements.

The INTERCONNECTOR shall install all interconnection, protection, metering, and control equipment as specified in PUBLIC SERVICE's study of the INTERCONNECTOR's electric generating facility, which study is, or will be upon mutual consent of both parties, attached hereto as Attachment B and any other such equipment which may be necessary to ensure the safe and reliable operation of INTERCONNECTOR's generating unit in parallel with PUBLIC SERVICE's system. INTERCONNECTOR shall bear all costs associated with said equipment and its installation, including those costs associated with PUBLIC SERVICE's study of the INTERCONNECTOR's electric generating facility. Prior to the aforementioned study, one half of PUBLIC SERVICE's estimated costs of the study shall be paid to PUBLIC SERVICE prior to beginning the study. The balance, based on actual costs incurred, shall be due upon completion of the study.

Up to the interconnection point, all said interconnection, protection, metering, and control equipment including, but not limited to, line extensions, transformers, meters, relays, breakers, and appurtenant equipment shall remain the sole property of INTERCONNECTOR.

INTERCONNECTOR shall have sole responsibility for the operation, maintenance, and repair of its generating unit, including the interconnection, protection, metering, and control equipment. INTERCONNECTOR shall maintain, repair, or replace said generating unit including said equipment whenever necessary for the safe and reliable operation of INTERCONNECTOR's electric facility in parallel with PUBLIC SERVICE's system.

In addition to the above, upon the effective date of this Agreement,

and every twelve months thereafter, the INTERCONNECTOR shall test, or cause to be tested, all protection devices including verification of calibration and tripping functions; and the INTERCONNECTOR shall notify PUBLIC SERVICE in writing that said tests have been conducted. INTERCONNECTOR shall notify PUBLIC SERVICE of any defect affecting the safety or reliability of said equipment not later than two hours after its discovery of the same.

If either party reasonably determines that the operation or use of any portion of the protection system, as required in this Article, will or may not perform its protective function, including but not limited to opening the interconnecting tie, INTERCONNECTOR shall open the interconnection between PUBLIC SERVICE's system and INTERCONNECTOR's facility. INTERCONNECTOR shall notify PUBLIC SERVICE not more than two days after it has opened said interconnection. PUBLIC SERVICE shall not be obligated to receive electrical energy from INTERCONNECTOR and the interconnection shall remain open, until INTERCONNECTOR has satisfactorily cured said defect at no cost to PUBLIC SERVICE.

Article 5. Right of Access.

Upon prior written or oral notice to INTERCONNECTOR, PUBLIC SERVICE shall have the right to enter the property of INTERCONNECTOR at reasonable times and shall be provided access to INTERCONNECTOR's metering, protection, control, and interconnection equipment.

Article 6. Modification of Facility.

If INTERCONNECTOR plans any modifications to its electric facility, INTERCONNECTOR shall give PUBLIC SERVICE prior written notice of its intentions. In the event that PUBLIC SERVICE reasonably determines that said modifications would necessitate changes to the interconnection, protection, control, or metering equipment or would cause PUBLIC SERVICE to incur additional expenses associated therewith, the INTERCONNECTOR shall make such changes as reasonably required by PUBLIC SERVICE and reimburse PUBLIC SERVICE for said expenses before PUBLIC SERVICE is obligated to purchase any increased output.

If the PUBLIC SERVICE interconnecting circuit is converted to a higher voltage in the future, the INTERCONNECTOR shall be responsible for all intercon-

nection changes necessitated by the conversion and shall bear all costs associated with said conversion.

Article 7. Liability & Insurance.

- a. Each party will be responsible for its facilities and the operation thereof and will indemnify and save the other harmless from any and all loss by reason of property damage, bodily injury, including death resulting therefrom suffered by any person or persons including the parties hereto, employees thereof or members of the public, (and all expenses in connection therewith, including attorney's fees) whether arising in agreement, warranty, tort (including negligence), strict liability or otherwise, caused by or sustained on, or alleged to be caused by or sustained on, equipment or facilities, or the operation or use thereof, owned or controlled by such party, except that each party shall be solely responsible for and shall bear all costs of claims by its own employees or contractors growing out of any workmen's compensation law.
- b. INTERCONNECTOR hereby agrees to maintain in force and effect, for the duration of this Agreement, Workmen's Compensation Insurance, as required by statute, and Comprehensive General Liability Insurance for bodily injury and property damage at minimum limits of three million dollars (\$3,000,000). At least sixty days prior to the actual, physical interconnection of the facility, the INTERCONNECTOR agrees to provide PUBLIC SERVICE with a certificate of insurance evidencing such coverage.
- c. In no event shall INTERCONNECTOR or PUBLIC SERVICE be liable, whether in agreement, tort (including negligence), strict liability, warranty, or otherwise, for any special, indirect, incidental, or consequential loss or damage, including but not limited to cost of capital, cost of replacement power, loss of profits or revenues or the loss of the use thereof. This provision, Article 7, subsection c, shall apply notwithstanding any other provision of this Agreement.

Article 8. Force Majeure.

Either party shall not be considered to be in default hereunder and shall be excused from interchanging electricity hereunder if and to the extent that it shall be prevented from doing so by storm, flood, lightning, earthquake, explosion, equipment failure, civil disturbance, labor dispute, act of God or the public enemy, action of a court or public authority, withdrawal of facilities from operation for necessary maintenance and repair, or any cause beyond the reasonable control of either party.

Article 9. Termination.

PUBLIC SERVICE may not terminate this Agreement during such time as its obligations as set forth in the Limited Electrical Energy Producers Act or Public Utility Regulatory Policies Act remains unchanged and in force, except that PUBLIC SERVICE may terminate this Agreement should INTERCONNECTOR fail to substantially perform in accordance with the terms of this Agreement.

The INTERCONNECTOR may terminate this Interconnection Agreement in accordance with the provisions established by the New Hampshire Public Utilities Commission in their applicable orders.

After termination, both parties shall be discharged from all further obligation under the term of this Agreement, excepting any liability which may have been incurred before the date of such termination.

Article 10. Modification of Agreement.

In order for any modification to this Agreement to be binding upon the parties, said modification must be in writing and signed by both parties.

Article 11. Prior Agreements Superseded.

This Agreement with Attachments A and B represents the entire agreement between the parties hereto relating to the subject matter hereof, and all previous agreements, discussion, communications, and correspondence with respect to the said subject matter are superseded by the execution of this Agreement.

Article 12. Waiver of Terms or Conditions.

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

Article 13. General.

This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the parties hereto, provided that INTERCONNECTOR shall not assign this Agreement except to an affiliated company, without the prior written consent of PUBLIC SERVICE, which consent shall not be unreasonably withheld. The term "affiliated company" shall include any partnership in which INTERCONNECTOR or one of INTERCONNECTOR's subsidiaries, affiliates, principals, or owners is a general partner or any corporation in which INTERCONNECTOR or one of its subsidiaries, affiliates, principals, or owners owns or controls more than 50 percent of the voting stock or otherwise has operating control. In the event of an assignment to an affiliate, INTERCONNECTOR shall notify PUBLIC SERVICE within five (5) days of the effective date of the assignment.

Article 14. Applicable Law.

This Agreement is made under the laws of The State of New Hampshire and the interpretation and performance hereof shall be in accordance with and controlled by the laws of that State.

Article 15. Mailing Addresses.

The mailing addresses of the parties are as follows:

INTERCONNECTOR: Nashua Hydro Associates
99 North State Street
Concord, NH 03301
Attn: Thomas A. Tarpey

PUBLIC SERVICE: Public Service Company of New Hampshire
1000 Elm Street
P.O. Box 330
Manchester, NH 03105
Attn: Roy G. Barbour, Vice President

Article 16. Effective Date.

This Agreement shall become effective between the parties as of the effective date of the Commission order approving the long term rate, although PUBLIC SERVICE shall not be obligated to make any payments to INTERCONNECTOR, as referred to in Article 3, until INTERCONNECTOR has satisfactorily installed all metering, interconnection and protective equipment as specified in Attachment B.

IN WITNESS WHEREOF, the parties each by its duly authorized representatives have hereunto caused their names to be subscribed, as of the day and year first above written.

NASHUA HYDRO ASSOCIATES
by Merrimack Valley Energy, Inc.
A General Partner

Harold J. Dinsmore
(Witness)

By: Richard A. Norman
Richard A. Norman, President

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

John E. Lyons
(Witness)

By: Roy G. Barbour
Roy G. Barbour, Vice President

Attachment D

Jackson Mills (aka The Nashua) hydroelectric project Massachusetts Class II, Rhode Island Existing, Connecticut Class II, and low impact hydroelectric facility statement of qualification letters.



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE ST., SUITE 1020
BOSTON, MA 02114
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Deval L. Patrick

Governor

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Ian A. Bowles
Secretary, Executive Office of Energy
and Environmental Affairs

Philip Giudice
Commissioner

October 6, 2010

Richard A. Norman
President
Essex Hydro Associates, LLC
55 Union St. 4
Boston, MA 02108

**RE: RPS Class II Eligibility Decision
Nashua Hydro, 1.1 MW in Nashua, NH (HY-4017-10)**

Dear Mr. Norman,

On behalf of the Department of Energy Resources (the Department), I am pleased to inform you that the Statement of Qualification Application for the referenced Generation Unit pursuant to the Massachusetts Renewable Energy Portfolio Standard (RPS) – Class II Regulations is hereby approved. The Department finds that the Generation Unit meets the requirements for eligibility as an RPS Class II Renewable Generation Unit pursuant to 225 CMR 15.05, including its certification by the Low Impact Hydropower Institute (LIHI).

Each Massachusetts Class II Renewable Generation Unit is assigned a unique Massachusetts RPS Class II Identification Number (MA RPS Class II ID#), which must be included in all correspondence with the Department. Your Unit's MA RPS Class II ID# is **HY-4017-10**.

Please note that the Unit's continued certification by LIHI is a critical condition of continued RPS Class II qualification, and you are obligated to notify the Department of any change in that status within thirty days of such change. Note, in particular, that these RPS qualifications are contingent on compliance with the conditions listed in the Unit's July 21,

2010, LIHI certification. Accordingly, the entire electrical energy output of the Unit for any month during any portion of which the Unit is under suspension or revocation of its LIHI certification due to the state of its compliance with those conditions, shall not qualify as RPS Class II Renewable Generation, and the Department will instruct the NEPOOL GIS Administrator to not encode the Unit's certificates for such months as RPS Class II Renewable Generation qualified.

The Department calls your attention to the Capacity Commitment provision in 225 CMR 15.05(1)(e)1. Specifically, you may not commit to any Control Area other than ISO-New England the amount of generation capacity whose electrical energy output is claimed as RPS Class II Renewable Generation.

The Department wishes to remind you of the notification requirements for changes in eligibility status contained in 225 CMR 15.06(3) and for changes in capacity, contact information, and identity of the Owner or Operator contained in 225 CMR 15.06(6). The Owner or Operator of the Generation Unit shall submit notification of such changes to the Department no later than five days following the end of the month during which such changes were implemented.

Finally, the Department wishes to remind you to be cognizant of the Operating Rules and the reporting requirements of the NEPOOL GIS, which may be amended from time to time, and compliance with which may affect the RPS qualification of your Generation Unit's GIS certificates.

If you have any questions or concerns about the Statement of Qualification or any aspect of the RPS program, please contact Howard Bernstein, RPS Program Manager, at the Department's address, or (617) 626-7355, or howard.bernstein@state.ma.us.

Sincerely,

Robert Sydney
General Counsel

Encl: Statement of Qualification

Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
DEPARTMENT OF ENERGY RESOURCES

STATEMENT OF QUALIFICATION

Pursuant to the Renewable Energy Portfolio Standard – Class II
225 CMR 15.00

This Statement of Qualification, provided by the Massachusetts Department of Energy Resources (DOER or the Department), signifies that the Generation Unit identified below, as described in a Statement of Qualification Application (SQA) dated July 26, 2010, meets the requirements for eligibility as an RPS Class II Renewable Generation Unit, pursuant to the Renewable Energy Portfolio Standard – Class II, 225 CMR 15.05. Therefore, this Generation Unit is duly qualified as an RPS Class II Renewable Generation Unit.

Generation Unit Name, Capacity,
and Location:

Nashua Hydro
1.1 MW
Nashua, NH

Authorized Representative's Name
and Address:

Richard A. Norman
President
Essex Hydro Associates, LLC
55 Union St. 4
Boston, MA 02108

This RPS Class II Renewable Generation Unit is assigned a unique Massachusetts RPS Identification Number, listed below. Please include the ID number on all correspondence with DOER.

MA RPS Class II ID #: HY-4017-10

This Unit's NEPOOL GIS Generation Asset Identification Number is:

MSS 890

The RPS Class II Effective Date for this Unit is deemed to be April 1, 2010.

Qualification of this Generation Unit as an RPS Class II Renewable Generation Unit is subject to all applicable provisions in 225 CMR 15.00, including but not limited to the following.

Pursuant to 225 CMR 15.05(1)(a)6.d, the Unit shall remain certified by the Low Impact Hydropower Institute, and the Owner or Operator of the Unit shall inform DOER within thirty calendar days of any suspension, revocation, or expiration of that certification or of any denial of an application to renew that certification.

Pursuant to 225 CMR 15.05(1)(e)1, the amount of the generation capacity of the Unit whose electrical energy output is claimed as RPS Class II Renewable Generation shall not be committed to any Control Area other than the ISO-NE Control Area.

Pursuant to 225 CMR 15.06(5) and (6), the Unit's Owner or Operator is obligated to notify DOER of any changes in the characteristics of the Unit that could affect its eligibility status, as well as any changes in the Unit's ownership, generation capacity, or contact information.

Pursuant to 225 CMR 15.11, DOER may conduct site visits, as well as audits and inspections of documents related to the Unit's compliance with 225 CMR 15.00, including the provisions of this Statement of Qualification.

DOER may suspend or revoke this Statement of Qualification if the Owner or Operator fails to comply with 225 CMR 15.00, including the provisions of this Statement of Qualification.



Philip Giudice
Commissioner
Department of Energy Resources

Date: 10/6/2010

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: APPLICATION FOR STANDARD CERTIFICATION DOCKET NO. 3864
AS ELIGIBLE RENEWABLE ENERGY RESOURCE
FILED BY NASHUA HYDRO ASSOCIATES,
ESSEX HYDRO ASSOCIATES, L.L.C., GENERAL PARTNER

ORDER

WHEREAS, Effective January 1, 2006, the Rhode Island Public Utilities Commission ("Commission") adopted Rules and Regulations Governing the Implementation of a Renewable Energy Standard (RES Regulations) including requirements for applicants seeking certification as an Eligible Renewable Energy Resource under the RES Regulations¹ pursuant to the Renewable Energy Act, Section 39-26-1 et. seq. of the General Laws of Rhode Island; and

WHEREAS, On August 20, 2007, Nashua Hydro Associates, Essex Hydro Associates, L.L.C, General Partner ("Company", Authorized Representative: Richard A. Norman, President, c/o Essex Hydro Associates, L.L.C., 55 Union Street, 4th Floor, Boston, MA 02108 (617) 367-0032, nha@essexhydro.com) filed with the Commission an application seeking certification for its Nashua Hydro Associates Generation Unit, a 1.1 MW Small Hydro energy Generation Unit located in Nashua, New Hampshire, as an eligible Existing Renewable Energy Resource under the State of Rhode Island RES Regulations; and

WHEREAS, Pursuant to Section 6.0 and other relevant Sections of the RES Regulations, a thirty (30) day period for public comment was provided during which time, no such comments were received, and

¹ State of Rhode Island and Providence Plantations Public Utilities Commission Rules and Regulations Governing the Implementation of a Renewable Energy Standard – Date of Public Notice: September 23, 2005, Date of Public Hearing: October 12, 2005, Effective Date: January 1, 2006.

WHEREAS, After examination, the Commission is of the opinion that the application is proper, reasonable and in compliance with the RES Regulations, and hereby grants the Company certification as an eligible renewable energy resource pursuant to the Renewable Energy Act, Section 39-26-1 et. seq. of the General Laws of Rhode Island; and

WHEREAS, The Commission's determination in this docket is based on the information submitted by the Company, and the Commission may reverse its ruling or revoke the Applicant's certification if any material information provided by the Applicant proves to be false or misleading.

Accordingly, it is

(19155) ORDERED:

1) That the Nashua Hydro Associates Generation Unit, meets the requirements for eligibility as a Existing, Small Hydro Renewable Energy Resource with its 1.1 MW, Grid-Connected Generation Unit having a Commercial Operation Date of December 21, 1984 and located within the NEPOOL Control Area in Nashua, New Hampshire.

2) That the Generation Unit's NEPOOL-GIS Identification Number is MSS890.

3) That the Company's Generation Unit as identified above is hereby assigned unique certification number RI-3864-E07.

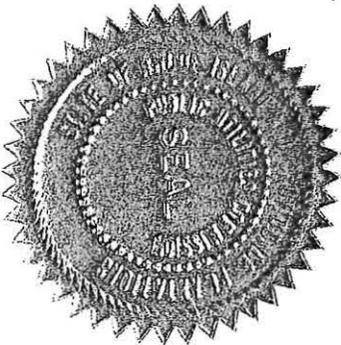
4) That, although the Commission will rely upon the NEPOOL GIS for verification of production of energy from the Company's Generation Unit certified as eligible in this Order, the Company will provide information and access as necessary to the Commission, or persons acting at its behest, to conduct audits or site visits to assist in verification of continued eligibility for and compliance with RI RES Certification at any

eligible in this Order, the Company will provide information and access as necessary to the Commission, or persons acting at its behest, to conduct audits or site visits to assist in verification of continued eligibility for and compliance with RI RES Certification at any time at the Commission's discretion.

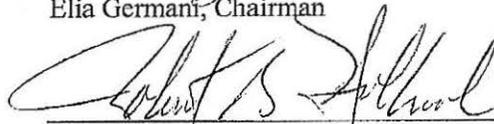
5) That the Company shall notify the Commission in the event of a change in the facility's eligibility status.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON
DECEMBER 20, 2007 PURSUANT TO AN OPEN MEETING DECISION. WRITTEN
ORDER ISSUED DECEMBER 20, 2007.

PUBLIC UTILITIES COMMISSION




Elia Germani, Chairman


Robert B. Holbrook, Commissioner


Mary E. Bray, Commissioner

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 04-06-34 APPLICATION OF NASHUA HYDRO ASSOCIATES FOR
QUALIFICATION OF NASHUA HYDRO-JACKSON MILLS
AS A CLASS II RENEWABLE ENERGY SOURCE

January 12, 2005

By the following Commissioners:

Anne C. George
Donald W. Downes
John W. Betkoski, III

DECISION

INTRODUCTION

A. SUMMARY

In this Decision, the Department of Public Utility Control determines that the Nashua Hydro-Jackson Mills generating facility qualifies as a Class II renewable energy source as a run-of-river hydroelectric facility and assigns it Connecticut Renewable Portfolio Standard (RPS) Registration Number CT00141-04.

B. BACKGROUND OF THE PROCEEDING

By application dated June 16, 2004, Nashua Hydro Associates requested that the Department of Public Utility Control (Department) determine that the Nashua Hydro-Jackson Mills (NH-JM) generation facility qualifies as a Class II renewable energy source.

NH-JM is a run-of-river hydroelectric facility owned by Nashua Hydro Associates located in Nashua, New Hampshire. NH-JM began commercial operation on December 21, 1984, and has a nameplate capacity of 1.1MW.

C. CONDUCT OF THE PROCEEDING

There is no statutory requirement for a hearing, no person requested a hearing, and none was held.

D. PARTICIPANTS IN THE PROCEEDING

The Department recognized Nashua Hydro Associates, c/o Essex Hydro Associates, L.L.C. 55 Union Street, 4th Floor, Boston, Massachusetts 02108, and the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051, as participants in this proceeding.

II. DEPARTMENT ANALYSIS

Pursuant to Connecticut General Statutes (C.G.S.) §16-1(a)(27), as amended by Public Act 03-135, An Act Concerning Revisions to the Electric Restructuring Legislation, "Class II renewable energy source" includes energy derived from a run-of-the-river hydropower facility provided such facility has a generating capacity of not more than five megawatts, does not cause an appreciable change in the river flow, and began operation prior to July 1, 2003.

In interpreting C.G.S. §16-1(a)(27), the Department determined that:

(1) "Facility" refers to an entire hydroelectric plant at a single site rather than a turbine generating unit within a hydroelectric plant;

(2) The "generating capacity of not more than five megawatts" refers to a hydroelectric facility's nameplate capacity, not its actual or average generation output;

(3) In order to qualify as "run-of-the-river," a hydroelectric facility must show a current FERC license or exemption that requires the facility to operate in run-of-river mode. In addition, a facility can qualify as a Class I or Class II renewable energy facility only to the extent that its FERC license or exemption requires run-of-river operation. Hydroelectric facilities that are not regulated by FERC will be required to show a FERC order or a court decision stating that FERC has no jurisdiction, or has declined to exercise jurisdiction, over such facility. In such cases, the hydroelectric facility must show that its operation allows the river inflow to equal outflow instantaneously and therefore, does not cause an appreciable change in the river flow; and

(4) "Began operations" means (A) the date an existing facility with generation began commercial operation as shown in documentation from FERC; (B) the new date given to an abandoned or destroyed facility that comes back into operation as shown in its documentation from FERC or as determined by the Department; (C) the date upon which a facility changes operation from store and release to run-of-river as shown in documentation from FERC; or (D) the new date that incremental generation is in operation at an existing facility as shown in its documentation from FERC.

See Docket No. 04-02-07, DPUC Declaratory Ruling Concerning "Run-of-the-River Hydropower" as That Term is Used in the Definitions of Class I and Class II Renewable Energy Source in C.G.S. §16-1(a)(26) &(27).

As provided in the application, NH-JM is a hydroelectric facility located at Nashua Drive, Nashua, New Hampshire. NH-JM is currently owned by Nashua Hydro Associates. According to Nashua Hydro Associates, there is 1 turbine generator at this facility, with a total combined nameplate capacity of 1.1 megawatts. The FERC Project Compliance Summary also shows that NH-JM began operation on December 21, 1984. In its FERC Application for Exemption of Small Hydroelectric Project from Licensing, NH-JM proposed to operate as a run-of-river facility. FERC Exemption Application, Exhibit A (4), September 18, 1983. FERC issued the Exemption based specifically on the information described and designed by Nashua Hydro Associates in its Exemption Application. FERC Exemption, Project No. 7590-000, 27 FERC P62, 078, April 24, 1984. FERC Project Compliance Summary, 12/03/98. For purposes of C.G.S. §16-1(27), the Department determines that Nashua Hydro Associates FERC Exemption and Application, taken together, sufficiently establish that NH-JM's is required to operate in run-of-river mode.

Based on the foregoing, the Department determines that NH-JM qualifies as a Class II renewable energy facility.

FINDINGS OF FACT

1. NH-JM is a hydroelectric generating facility located in Nashua, New Hampshire.
2. NH-JM is currently owned by Nashua Hydro Associates.
3. NH-JM began operation on December 21, 1984.
4. NH-JM has 1 turbine generator with a total combined nameplate capacity of 1.1 megawatts.
5. NH-JM is exempt from FERC licensing.

CONCLUSION

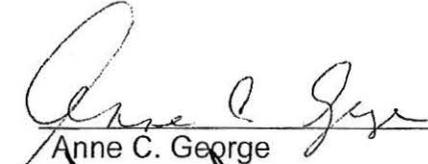
Based on the evidence submitted, the Department finds that NH-JM qualifies as a Class II renewable generation source pursuant to Connecticut General Statutes §16-1(a)(27).

The Department assigns each renewable generation source a unique Connecticut Renewable Portfolio Standard (RPS) registration number. NH-JM Connecticut RPS registration number is CT00141-04.

The Department's determination in this docket is based on the information submitted by Nashua Hydro Associates. The Department may reverse its ruling or revoke the Applicant's registration if any material information provided by the Applicant proves to be false or misleading. The Department reminds Nashua Hydro Associates that it is obligated to notify the Department within 10 days of any changes to any of the information it has provided to the Department.

DOCKET NO. 04-06-34 APPLICATION OF NASHUA HYDRO ASSOCIATES FOR
QUALIFICATION OF NASHUA HYDRO-JACKSON MILLS
AS A CLASS II RENEWABLE ENERGY SOURCE

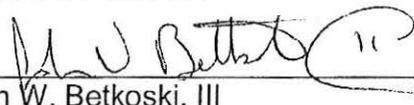
This Decision is adopted by the following Commissioners:



Anne C. George



Donald W. Downes



John W. Betkoski, III

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.



Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

JAN 14 2005
Date

6600



August 11, 2010

Richard A. Norman
Briar Hydro Associates,
c/o Essex Hydro Associates, LLC
55 Union Street, 4th Floor
Boston, MA 02108

Subject: **Jackson Mills Hydroelectric Project (FERC No. 7590)**
LIHI Certification No. 54

Dear Richard:

I am delighted to report that at their July 21, 2010 meeting the Institute's Governing Board determined that the Jackson Mills Hydroelectric Project meets the LIHI Certification Criteria. An original LIHI certificate will be forwarded to you once the Governing Board Chair and Secretary have executed it.

In reaching its decision to certify the Jackson Mills Hydroelectric Project, the Low Impact Hydropower Institute's Governing Board reviewed the application for certification, as well as the Application Reviewer's report and recommendations. LIHI certification for the Jackson Mills Hydroelectric Project is granted for 5-year term beginning on January 31, 2010 with the following Project Specific Conditions:

Water Quality - LIHI certification will be suspended if, no later than December 31, 2010, the Applicant has not filed documentation with LIHI demonstrating that the Jackson Mills Hydroelectric Facility has completed the following actions regarding the project meeting state water quality standards:

1. Provide information recommended by NHDES to determine the impact of the following on aquatic life:

a. pond fluctuations, and

b. minimum flows;

2. Perform water quality monitoring and report on results in accordance with agreement with NHDES.

Fish Passage - Consult with USFWS and NHFGD to confirm that they are satisfied with the Project's current upstream and downstream fish passage and by July 31, 2011 provide LIHI with:

evidence that the project upstream and downstream fish passage survival rates for anadromous and catadromous fish at the dam each documented at greater than 95% over 80% of the run using a generally accepted monitoring methodology; or,

if unable to meet the fish passage standards above, the Applicant must obtain a letter from the US Fish and Wildlife Service confirming that the upstream and downstream fish passage measures at the Facility are appropriately protective of the fishery resource.

During the time the Jackson Mills Hydroelectric Project is certified, you may market the Jackson Mills Hydroelectric Project facilities as a LIHI certified facility. It is your responsibility to maintain compliance with the certification criteria and to notify us of any changed conditions relevant to the certification. This could include changes in agency recommendations, or changes in operations. You will also be asked to fill out a short form each year to confirm compliance during the preceding year. The Institute may also conduct occasional follow-up checks with you and/or relevant resource agencies to ensure that the Jackson Mills Hydroelectric Project remains in compliance.

I strongly recommend you review LIHI's Certification Use Requirements (addressing the language to be used for describing a LIHI Certified Facility for marketing purposes), our Compliance standards and the penalties for non-compliance, as well as current information about renewing your certification. That information, as you know, is available at the LIHI website (www.lowimpacthydro.org). If you have any questions about any of those materials please call.

If the Institute identifies a problem with Jackson Mills Hydroelectric Project's compliance with the certification criteria, it will evaluate the situation and take any necessary actions. In the case of non-compliance, possible responses include the suspension or revocation of the certification. Factors to be considered would include the scope, duration, and intensity of any non-compliance, its effects on the environment, whether the violation was intentional or not, and whether or not there was a valid reason (e.g., public safety) for the non-compliance.

All applicants for certification that have filed an initial LIHI application after November 7, 2007 will be invoiced an Annual Fee on the first anniversary of their certification date. All existing certificate holders filing for recertification after November 7, 2007 will be billed the recertification processing fee and after the first anniversary of their certification date will be invoiced an Annual Fee. The certificate holder will not be charged an Annual Fee during the year the Recertification Processing Fee has been invoiced.

The Annual Fee will be 15% of the original Application Processing Fee and the Annual Fee invoicing will be coordinated with the Annual Compliance mailing sent to all certificate holders on their first and subsequent anniversaries.

Thank you for your interest in the LIHI Certification Program, and congratulations on securing LIHI Certification for the Jackson Mills Hydroelectric Project.

Contact me if you have any questions, or if I can be of any assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Fred Ayer", with a large, stylized initial "F" and "A".

Fred Ayer,
Executive Director

cc: Public files