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STATE OF NEW HAMPSHIRE



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April 24, 2015

Susan Geiger, Esq.
Orr & Reno
45 South Main Street
Concord, NH 03301

Re: DE 15-066; NH-Big Island Co.
Petition for License to Construct and Maintain Cables and Pipeline
Beneath State Waters and Lands in the City of Laconia

Dear Ms. Geiger:

The Commission granted the crossing requested in the above matter on a *nisi* basis in Order No. 25,776 (April 8, 2015). The *nisi* language stated that the order would become effective on April 20, 2015, provided, in part, that NH-Big Island mailed a copy of the order to certain parties, including the property owner where the crossing terminates:

NH-Big Island shall provide a copy of this Order Nisi to ... the owners of the land bordering on said public waters at the location of the crossing ... by first class mail, no later than April 13, 2015, and to be documented by affidavit filed with this office on or before April 17, 2015.

Id. at 7. The only landowner "bordering on said public waters at the location of the crossing" in this docket is the South Down Beach Club Condominium Association (the Beach Club).

Counsel's affidavit of service described a problem in mailing the order to the Beach Club. On or before April 13 counsel timely mailed the order to a post office box for the Beach Club taken from the city's tax map. A post office employee called counsel on April 14 and informed her that the post office box was closed. Counsel later that evening obtained the home address of the Beach Club's president. On April 15, two days after the April 13 deadline, counsel sent a second copy of the order to the president by overnight mail. Given these events, NH-Big Island asked the Commission for confirmation that it adequately complied with the notice requirements of the *nisi* ordering clauses.

After review of the file, the Commission has determined that NH-Big Island sufficiently complied with the Order Nisi and that Order No. 25,776 went into effect on April 20, 2015, for three reasons. First, and most important, the record in this docket includes an easement that the

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Beach Club granted to NH-Big Island to allow for the crossing of Beach Club property at issue. See Attachment G to the petition. The easement is conclusive evidence that the Beach Club had actual notice of, and assented to, the proposed crossing. The *nisi* language is intended to provide parties who may object an opportunity to do so before the order's effective date. The easement constitutes the Beach Club's conclusive before-the-fact assent to the project. Second, a copy of the order was timely mailed to the Beach Club at an address of record. Third, upon learning that the post office box address was not valid, a second copy of the order was sent to another reasonable address for the Beach Club in sufficient time to object or request a hearing before the order went into effect. No party requested a hearing or raised any objection to the Order Nisi. Order No. 25,776 thus went into effect on April 20, 2015.

Sincerely,



Debra A. Howland
Executive Director

cc: Service List

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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