

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Petition of Champlain VT, LLC d/b/a TDI New England )  
 for a Certificate of Public Good, pursuant to 30 V.S.A. § 231, )  
 to own and operate a high voltage direct current electric ) Docket No. \_\_\_\_\_  
 transmission line with a capacity of 1,000 MW, a converter )  
 station, and other associated facilities, known as the New )  
 England Clean Power Link, and for de minimis regulation )

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January 27, 2016

***By Hand Delivery***

Ms. Judith Whitney, Acting Clerk  
Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, VT 05620-2701

**Re: Petition of Champlain VT, LLC d/b/a TDI New England for a Certificate of Public Good pursuant to 30 V.S.A. § 231 to own and operate the New England Clean Power Link, and for de minimis regulation**

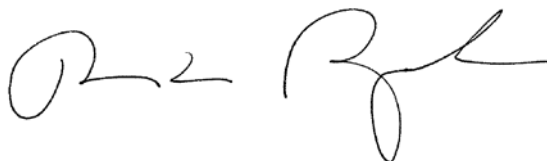
Dear Ms. Whitney:

Petitioner Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) is pleased to submit the enclosed *Section 231 Petition* and supporting materials for the Board’s review and approval. With this Petition, TDI-NE is requesting issuance of a Section 231 Certificate of Public Good to own and operate the New England Clean Power Link Project, for which the Board issued a Section 248 CPG on January 5, 2016. Based on the limited activities that TDI-NE intends to pursue in Vermont and the regulatory oversight that will be exercised over the Project by the Federal Energy Regulatory Commission, TDI-NE respectfully requests that the Board exercise *de minimis* regulation over it, pursuant to the Board’s discretion under 30 V.S.A. § 203. Such regulation would be consistent with the Board’s treatment of other merchant (non-utility) entities in past Section 231 dockets.

Petitioner previously shared a draft of the Petition and supporting affidavit with the Public Service Department and is providing the Department with a copy of this filing as is required under § 231. Petitioner will continue to work with the Department to address any issues or concerns that may arise. As TDI-NE is a merchant (non-utility) petitioner and much of the Petition content has already been covered in the previous Section 248 proceeding, Petitioner respectfully submits that the Board can render a decision without the need for a technical hearing.

Thank you in advance for your consideration, and please do not hesitate to contact us with any questions.

Sincerely,



Andrew N. Raubvogel, Esq.  
Victoria M. Westgate, Esq.

cc: Service List  
encls.

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Docket No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I, Lucia White, certify that on January 27, 2016, I forwarded copies of Champlain VT, LLC d/b/a TDI New England's *Section 231 Petition* to the service list below in the format and by the delivery method noted:

**By Hand Delivery:**

Judith Whitney, Acting Clerk  
Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, VT 05620-2701  
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Dated at Burlington, Vermont this 27<sup>th</sup> day of January, 2016.

By Lucia White  
Lucia White  
Paralegal

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Docket No. \_\_\_\_\_

**NOTICE OF APPEARANCE**

Pursuant to Public Service Board Rule 2.201(A), the undersigned attorneys hereby enter their notice of appearance on behalf of Petitioner Champlain VT, LLC d/b/a TDI New England in the above-captioned matter.

Dated at Burlington, Vermont this 27<sup>th</sup> day of January, 2016.

By



Andrew N. Raubvogel, Esq.  
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**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Petition of Champlain VT, LLC d/b/a TDI New England            )  
for a Certificate of Public Good, pursuant to 30 V.S.A. § 231,    )  
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Docket No. \_\_\_\_\_

**PETITION FOR A CERTIFICATE OF PUBLIC GOOD**  
**PURSUANT TO 30 V.S.A. § 231**

NOW COMES Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) and files this Petition, pursuant to 30 V.S.A. § 231, requesting that the Public Service Board (“Board”) issue a Certificate of Public Good (“CPG”) for TDI-NE to own and operate the New England Clean Power Link Project (“NECPL” or “Project”) in the State of Vermont, a proposed electric transmission line subject to Section 248. TDI-NE further requests that the Board grant *de minimis* regulation over the company based on the limited activities that TDI-NE intends to pursue in the State of Vermont subject to Board jurisdiction and the regulatory oversight exercised over the Project and the Company by the Federal Energy Regulatory Commission (“FERC”). Such *de minimis* regulation would be consistent with the Board’s decisions in other dockets involving merchant electricity suppliers.

As this Board has found in issuing the Project CPG pursuant to 30 V.S.A. § 248, the NECPL is an important project for the State of Vermont that will result in significant economic, environmental, and renewable energy benefits that will serve the public good, and TDI-NE is committed to responsible stewardship as the owner and operator of the Project. As discussed in more detail below and supported by the affidavit and exhibits of TDI-NE’s Chief Executive Officer Donald Jessome, TDI-NE meets the applicable criteria that the Board has examined in prior § 231

cases, and the Board should therefore grant TDI-NE a § 231 CPG with a determination that TDI-NE qualifies for *de minimis* regulation.

## **I. Introduction**

1. Petitioner Champlain VT, LLC d/b/a TDI-NE is a limited liability company organized and existing pursuant to the laws of Delaware. TDI-NE is a special purpose entity created for the purpose of developing and financing the NECPL, and is indirectly wholly-owned by the Blackstone Group, L.P. (“Blackstone”), a publicly-traded global investment and advisory firm. TDI-NE is also an affiliate of TDI-USA Holdings Corporation (“TDI”), an entity that is also indirectly wholly-owned by Blackstone. *See Jessome Affidavit* ¶¶ 4-9.
2. TDI-NE has proposed the NECPL as a merchant-transmission project, meaning that TDI-NE is a privately-funded developer that will sell transmission rights at negotiated rates on the NECPL to electricity suppliers under an open solicitation process regulated by FERC. *Jessome Aff.* ¶ 56. Using this approach, TDI-NE’s transmission service agreements will likely be with sophisticated wholesale shippers, who would only secure transmission rights from TDI-NE at competitive rates and not with retail ratepayer customers. Shippers securing these rights will be able to rely on the NECPL in order to deliver electrical energy and capacity into ISO New England’s (“ISO-NE”) wholesale electricity market. *Jessome Aff.* ¶ 99. These shippers are expected to ship electricity generated from hydroelectric, wind, or other renewable energy sources in Canada and the United States. *Jessome Aff.* ¶ 91.
3. On March 10, 2014, FERC issued an order conditionally authorizing TDI-NE to sell transmission rights associated with the Project at negotiated rates. Pursuant to this order, TDI-NE has committed to turn over operational control of the transmission line to ISO-NE, which will operate the NECPL under ISO-NE’s FERC-approved Open Access Transmission Tariff

("OATT"). *Jessome Aff.* ¶ 92; **Exhibit TDINE-1** (FERC Order 3/10/14). FERC's grant of authority to TDI-NE is subject to the Commission's approval of a subsequent filing under Section 205 of the Federal Power Act and TDI-NE's submission of a rate schedule for service under the ISO-NE OATT. Under the FERC order, TDI-NE will further be required to comply with various financial monitoring conditions, including filing electric quarterly reports of its transactions and abiding by FERC standards of conduct. *Jessome Aff.* ¶ 94; **Exhibit TDINE- 1**.

4. On January 5, 2016, the Board issued a § 248 CPG authorizing the installation and operation of the NECPL, a 154-mile 1,000 MW high voltage direct current (HVDC) underground and underwater electric transmission line. In doing so, the Board determined that the Project will promote the general good of the State. *See TDI New England Petition for § 248 CPG*, Docket 8400, Final Order at 97 (January 5, 2016).
5. When the NECPL is constructed and operational, TDI-NE will be "[a] company engaged in the manufacture, transmission, distribution or sale of gas or electricity directly to the public or to be used ultimately by the public for lighting, heating or power," and is therefore subject to Board jurisdiction under 30 V.S.A. § 203(1).

## II. Petitioner TDI-NE

6. Petitioner Champlain VT, LLC d/b/a TDI New England is a limited liability company organized and existing pursuant to the laws of Delaware with a principal place of business at 600 Broadway, Albany, New York, 12207. TDI-NE is a special-purpose entity established in 2013 for the purpose of developing, financing, owning and operating the NECPL. TDI-NE is authorized to do business in Vermont and is in good standing. *Jessome Aff.* ¶¶ 4-5; **Exhibits TDINE-2** (*Vermont Certificate of Organization for Champlain VT*), **TDINE-3** (*Operating Agreement – Champlain VT, LLC*).

7. TDI-NE and its affiliate, TDI-USA Holdings Corporation (“TDI”), which is developing the Champlain Hudson Power Express (“CHPE”) project in New York, are both indirectly wholly-owned by investment funds under control of Blackstone. *Jessome Aff.* ¶ 7; **Exhibit TDINE-4** (*TDI-NE Corporate Structure Chart*),
8. TDI-NE’s leadership team is primarily made up of individuals employed by TDI-NE’s affiliate, TDI. These individuals, together with a number of specialized experts who submitted prefiled testimony on behalf of TDI-NE in Docket 8400, make up the team that has designed and evaluated the NECPL for potential impacts under the § 248 criteria. The NECPL will be constructed, operated, and maintained by qualified contractors and consultants under the oversight of TDI-NE’s engineering team. *Jessome Aff.* ¶¶ 18-27, 65-70, 72-86; **Exhibits TDINE-5** (*Jessome Bio*), **TDINE-6** (*TDI-NE Leadership Team Background Summaries*); **TDINE-7** (*Chart of TDI-NE’s Outside Contractors*).

### III. Section 231 Criteria

#### A. Legal Standard

Where the Board has jurisdiction over “a person, partnership, unincorporated association, or previously incorporated association that desires to own or operate a business over which the public service board has jurisdiction,” it must determine whether the operation of such a business will promote the general good of Vermont. 30 V.S.A. § 231. In determining whether to issue a § 231 CPG, the Board is authorized to exercise its jurisdiction “so far as may be necessary to enable [the Board] to perform the duties and powers conferred upon [it] by law.” *Id.* § 203.

In prior § 231 cases, the Board has applied the following criteria in assessing whether authorizing the entity will serve the public good:

1. Technical expertise;
2. Adequate service;



3. Facility maintenance;
4. Balance between customers and shareholders;
5. Financial stability;
6. Company's ability to obtain finance;
7. Business reputation; and
8. Relationship with customers.

*See, e.g., Petition of USGen New England, Inc.*, Docket 7038, Order of Mar. 25, 2005 at 9 (citing *Petition of New England Power Company*, Docket 6039, Order of June, 29, 1998 at 17; *Petition of Quebec Service Company*, Docket 5699, Order of Nov. 15, 1994 at 47).

Noting that these criteria “are guidelines only” and that “the Board may deviate from them as the circumstances require,” the Board has applied a limited set of the criteria to non-utility merchants to reflect the limited activities such an entity plans to undertake in Vermont, and issue a CPG that reflects such limited activities. *See Joint Petition of Dalton Hydro LLC*, Docket 7478, Order of Dec. 4, 2008 at 7-8; *Petition of USGen* at 10; *In re New England Power Co.* at 9-10. Specifically, the criteria “adequate service,” “balance between customers and shareholders,” and “relationship with customers” have not been applied where circumstances render those criteria moot; i.e., where there are no retail customers being served. As the Board in the *Petition of USGen* noted, “[t]hese criteria were designed for and apply to public utility companies whose services are regulated by the Board and that have retail customers,” and “need not be reviewed” where the petitioner is an “Exempt Wholesale Generator” incorporated outside Vermont that will sell power competitively and only at wholesale pursuant to a FERC-approved tariff. *Petition of USGen* at 10.

Petitioner TDI-NE is comparable to the petitioner in *USGen* (TransCanada Hydro Northeast, Inc.) and should be similarly evaluated against a limited set of § 231 criteria. Like TransCanada, TDI-NE is a private merchant company incorporated outside Vermont, and it will sell wholesale transmission rights for the NECPL through a FERC-regulated open solicitation process. *Jessome Aff.* ¶ 91; ***Exhibit TDINE-1***. TDI-NE will not sell directly to retail customers. Thus, as in

*USGen* and other cases, the criteria for “adequate service,” “balance between customers and shareholders,” and “relationship with customers” do not apply to TDI-NE and should not be applied by the Board in its determination of whether to grant a § 231 CPG to TDI-NE.

Of the criteria that are applicable to Petitioner as a merchant transmission services provider, TDI-NE satisfies these criteria, as supported by the attached affidavit of Donald Jessome and supporting exhibits. Based on this evidence, TDI-NE’s ownership and operation of the NECPL will support the general good of the state, and the company should be granted a CPG.

*B. Technical Expertise*

9. TDI-NE’s leadership team has significant technical expertise in constructing and operating large-scale electrical infrastructure, and has experience developing and permitting two high voltage direct current buried electric transmission projects – the CHPE and NECPL. *Jessome Aff.* ¶¶ 15, 28-30; ***Exhibits TDINE-5, TDINE-6.***
10. TDI-NE’s leadership team also has substantial experience in energy markets, finance, construction of energy projects, renewable energy, and electric transmission services, and TDI-NE has hired expert consultants to design the NECPL to meet all state and federal standards. *Jessome Aff.* ¶¶ 15, 27; ***Exhibit TDINE-7.***
11. TDI-NE has the necessary technical expertise to install and run the NECPL (subject to ISO-NE having day-to-day operational control) and will be responsible for overseeing the day-to-day management during construction and operation of the NECPL. All inspections of, repairs to, or technical maintenance performed on Project equipment will be conducted by qualified technicians under a variety of operations and services agreements that TDI-NE will enter into. ***Exhibit TDINE-7.***

C. Facility Maintenance

12. Although the NECPL will not require on-site management of the facility, inasmuch as the controls will be automated, there will be off-site monitoring of the system. Scheduled maintenance and repairs of the Converter Station and cables will be conducted by the Original Equipment Manufacturer (“OEM”) under a long term services agreement that TDI-NE will enter into with the OEM. Other general operation and maintenance services for the facility will be conducted under an operations and maintenance services agreement. *Jessome Aff.* ¶¶ 74-78; ***Exhibit TDINE-7***.
13. Under the TDI-NE – VELCO Agreement executed on December 4, 2014 and entered into the record in the Section 248 proceeding, VELCO will be TDI-NE’s preferred vendor for the operation and maintenance services agreement for the Project (subject to negotiation and execution of a mutually agreeable contract). *Jessome Aff.* ¶ 76.
14. The transmission cables will be virtually maintenance-free due to the specific design and buried nature of the cables, but TDI-NE will have a robust inspection and maintenance program to ensure the optimum performance of the system. *Jessome Aff.* ¶ 74.
15. The entire Project will be monitored via a fiber optic system which can detect and locate any faults. TDI-NE will have the appropriate maintenance and repair plans and equipment in place to deal with both regular maintenance and any unexpected repairs that may be necessary to ensure that the NECPL is efficiently operated for its full lifespan. *Jessome Aff.* ¶¶ 78-79.

D. Financial Stability

16. TDI-NE is a financially-stable entity. As a wholly-owned subsidiary of Blackstone, TDI-NE is backed by the substantial funding available to Blackstone as the manager of over \$330 billion in assets. *Jessome Aff.* ¶¶ 51-52.

17. Blackstone is expected to commit 100% of the equity financing required to construct the \$1.2 billion NECPL project. *Jessome Aff.* ¶¶ 54, 65.
18. TDI-NE's development efforts to date have been successful in both the regulatory and commercial realms. All major state permits necessary to build and operate the NECPL have been secured and all federal permits are expected to be obtained by the first half of 2016. In addition, TDI-NE has successfully completed the first phase of the FERC-mandated Open Solicitation for the NECPL. The NECPL will only be financeable, and construction will only commence, if the eventual counterparty(ies) to the transmission service agreements are highly creditworthy and are prepared to pay rates that cover all costs of the NECPL plus a return on the equity investment. *Jessome Aff.* ¶¶ 48-49, 37.
19. TDI-NE anticipates that its project financing for the NECPL will have an investment grade credit rating. Based on the parameters outlined by TDI's financial advisor on the CHPE project and utilized in the financial model for the NECPL, TDI-NE believes the Project will receive an investment grade credit rating from S&P, Moody's and/or Fitch. *Jessome Aff.* ¶ 38.
20. TDI-NE will be required to obtain insurance for the construction and operating phases of the Project. Similarly, TDI-NE will secure warranties and guarantees from the cable and converter station manufacturer(s). This will provide further financial stability for operating and maintenance costs of the NECPL. *Jessome Aff.* ¶¶ 62-64.

*E. Ability to Obtain Financing*

21. As of October 2015, Blackstone has contributed \$16.4 million towards development capital since the NECPL's inception, and will continue to fund the balance of the development costs that are required to achieve a financial closing and commence construction. *Jessome Aff.* ¶ 54.
22. The construction costs of the NECPL are expected to be approximately \$1.2 billion.  
Construction of the NECPL will depend upon successful completion of construction financing.

The substantial majority of the cost will take the form of a debt financing provided by global commercial banks, export credit agencies, and/or other credit providers. The smaller remaining portion of the \$1.2 billion project cost will take the form of an equity investment from Blackstone. *Jessome Aff.* ¶¶ 61, 65.

23. Based on the discussions TDI and TDI-NE have had to date with 15+ banks, export credit agencies, and other credit providers, the debt financing for the NECPL should be oversubscribed by several times. *Jessome Aff.* ¶ 55.
24. Although TDI-NE currently plans to fund the NECPL as a merchant transmission facility, there is a potential that the Project funding could shift to a regional cost sharing mechanism such as that authorized by the “FERC Order 1000” process. In the event of this change, TDI-NE has taken steps to ensure that there is no possibility that this change could affect Vermont ratepayers. In the agreement executed by TDI-NE and VELCO (First Amendment dated August 22, 2015),<sup>1</sup> ***Exhibit TDINE-8***, TDI-NE agreed that, in the event the NECPL is funded through a regional cost sharing mechanism, TDI-NE will indemnify Vermont’s share of regionally-allocated costs and will not seek cost recovery for indemnification payments or any other cost sharing mechanism that allots costs to Vermont ratepayers. *Jessome Aff.* ¶¶ 58-60.

F. *Business Reputation*

25. TDI-NE has a good business reputation. The company is registered to do business in Vermont and is in good standing. *Jessome Aff.* ¶¶ 4, 10; ***Exhibit TDINE-2***.
26. TDI-NE successfully completed Section 248 permitting for the NECPL after close coordination with state agencies and other entities, wide public outreach and support, and very little opposition. Likewise, TDI-NE’s close affiliate TDI is successfully developing the CHPE project and has received all necessary approvals to construct that project. *Jessome Aff.* ¶¶ 10, 29.

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<sup>1</sup> Filed in Docket No. 8400 as ***Exhibit TDI-JMB-7a***.

27. Neither TDI nor TDI-NE has been engaged in any litigation whereby either entity has been accused of nonpayment or bad faith in the course of business dealings. *Jessome Aff.* ¶ 12.

#### IV. **De Minimis Regulation**

TDI-NE respectfully requests that the Board grant *de minimis* review over TDI-NE's financial dealings pursuant to its authority under § 203 to exercise jurisdiction "so far as may be necessary." Specifically, TDI-NE submits that the Board should only assert jurisdiction over TDI-NE with regard to those events contemplated in §§ 107 and 109, which govern respectively the acquisition of a controlling interest in any company subject to Board jurisdiction or the sale or lease of property located within Vermont and used for transmission services.<sup>2</sup>

With regard to any other regulation of TDI-NE by the Board, TDI-NE submits that the Board should determine that TDI-NE, as a merchant entity and not a retail electric distribution utility, should qualify for *de minimis* regulation on the basis that it will be subject to federal oversight of operations of the NECPL and will not sell electricity to retail customers or recover costs from ratepayers.<sup>3</sup> In previous cases, the Board has approved *de minimis* regulation where "full, traditional utility-type regulation of [a petitioner] is unnecessary to enable the Board to perform its duties and power conferred by Title 30." *New England Power Co.* at 7. Given the regulatory oversight of FERC

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<sup>2</sup> See 30 V.S.A. § 107(a) ("No company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the public service board, or in any company which, directly or indirectly has a controlling interest in such a company, without the approval of the public service board"); § 109(c) ("No company owning or operating an electric transmission facility located in this state that is capable of operating at 100 kilovolts or greater may sell or lease any real property or equipment that is required or may be required to transmit electricity using that facility without first obtaining a certificate of consent from the public service board.").

<sup>3</sup> As stated in Section III(E) above, this will remain true even if the NECPL is funded through the FERC Order 1000 process or another regional cost sharing mechanism.

and ISO-NE, it is not necessary or appropriate for Vermont to assert full regulatory review over TDI-NE or the NECPL.

Based on the plain language of the statute, TDI-NE submits that the Board does not have § 108 jurisdiction over it, and requests that the Board rule accordingly as it did in *Dalton Hydro*. See *Joint Petition of Dalton Hydro LLC*, Docket No. 7478, Order of Dec. 11, 2008 (clarifying that § 108 does not apply to Massachusetts LLC).<sup>4</sup> In the event that the Board determines that § 108 applies to TDI-NE, it should exercise such jurisdiction on a *de minimis* basis, i.e., TDI-NE should not be required to make any filings to the Board pursuant to § 108. See, e.g., *USGen* Order of 3/25/2005 at 11. The Board has previously stated that “[t]he primary purpose for reviewing financings is to ensure that utilities do not incur unnecessary expenses which can later be collected from consumers.” *Petition of USGen* at 12 (citing *Generic Investigation Into Regulation of Cellular Telecommunications Services*, Docket No. 5454, Order of Jan. 8, 1992 at 45). TDI-NE is not a retail distribution utility that could incur expenses to be passed on to ratepayers; thus, this purpose does not come to bear.

Here, as in *USGen*, TDI-NE’s provision of transmission services on the NECPL will be a federally-regulated activity under FERC’s open-solicitation process, for which FERC has issued conditional authorization. ***Exhibit TDINE-1***. Furthermore, TDI-NE is not a traditional, retail distribution utility; it is a competitive transmission services provider that will be selling transmission

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<sup>4</sup> Section 108 applies to “domestic corporations subject to the jurisdiction of the Public Service Board,” and requires that such entities obtain consent of the Board and a finding that a proposed action is consistent with the general good of the state prior to mortgaging or pledging any of its corporate property or issuing any stocks, bonds, notes, or other evidence of indebtedness. 30 V.S.A. § 108(a). As a Delaware LLC, TDI-NE is not a corporation or a domestic entity and therefore § 108 does not apply. See *Joint Petition of Dalton Hydro LLC*, Docket No. 7478, Order of Dec. 11, 2008 (§ 108 does not apply to Massachusetts LLC); *In re RCC Atlantis, Inc.*, Docket No. 6970, Order of Aug. 6, 2004 (§ 108 does not apply to a Minnesota corporation); *Joint Petition of St. Johnsbury Community Television Corp.*, Docket No. 5190, Order of Nov. 26, 1986 (requests for financing approval by foreign entities do not fall within Board’s § 108 jurisdiction). But See, e.g., *Petition of Entergy Nuclear Vermont Yankee, LLC*, Docket No. 7404, Order of June 24 2010 (finding that Entergy, a Delaware LLC, is subject to Board jurisdiction under § 108).

rights to sophisticated utilities pursuant to federally-authorized negotiated rates. As such, TDI-NE will have no retail customers in Vermont and will not look to Vermont ratepayers to recover any of its costs. As explicitly stated by FERC in the March 10, 2014 Order, *Exhibit TDINE-1*, “TDI-NE will bear all market risks that the Project will succeed or fail based on whether a market exists for its services . . . TDI-NE has no ability to pass on any costs to captive ratepayers.”<sup>5</sup> Moreover, TDI-NE will turn over operational control to ISO-NE, which will in turn operate the Project subject to FERC regulation, thus ensuring that the operation of the Project will be entirely within federal regulatory domain.

As TDI-NE is not a traditional, retail distribution utility, there is little if any room for state regulation over TDI-NE’s financial decisions with respect to the NECPL. Based on the significant level of federal regulation and the authorization in § 203 for the Board to exercise jurisdiction only to the extent necessary, TDI-NE respectfully requests that the Board conclude that *de minimis* state regulation of TDI-NE’s financial activities is appropriate and condition the § 231 CPG accordingly.

## **V. Request for Relief**

By this Petition and supported by the attached affidavit of Donald Jessome, Chief Executive Officer of TDI-NE and supporting exhibits, TDI-NE respectfully requests that the Board issue a § 231 CPG, exert *de minimis* financial regulation, and otherwise make the following findings:

1. TDI-NE meets all applicable criteria for the Board to determine that the operation of the NECPL will promote the general good of the State of Vermont and that a CPG should be issued in support of this determination.
2. TDI-NE is a private merchant developer that will sell transmission services under federally-mandated negotiated rates. TDI-NE will have no retail electric customers in Vermont.

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<sup>5</sup> As stated in Section III(E), this will remain true even if the NECPL is funded through an alternate process such as under FERC Order 1000.



3. By the granting of a § 231 CPG, TDI-NE will be subject to the requirements of §§ 107 and 109 regarding acquisition of a controlling interest in the company or the sale/lease of company property.
4. As a foreign limited liability company, TDI-NE should not be subject to Board regulation under 30 V.S.A. § 108. Even if the Board does assert jurisdiction, such jurisdiction should be *de minimis* such that TDI-NE should not be required to make any filings with the Board or the Public Service Department pursuant to § 108.

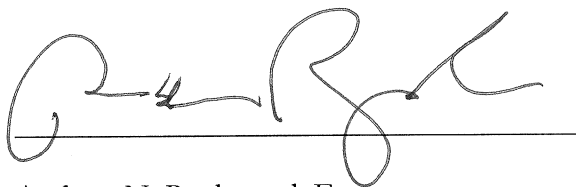
WHEREFORE, Petitioner TDI-NE respectfully requests the Board to:

1. Hold a prehearing conference as expeditiously as possible;
2. Waive technical hearings;
3. Render a decision on this Petition as soon as possible, but in any event no later than May 1, 2016;
4. Pursuant to 30 V.S.A. § 231, (a) make findings that TDI-NE shall be authorized to operate its business within the State of Vermont, said business consisting of the installation, ownership, operation, and maintenance of the NECPL, all with the effect of promoting the general good and (b) issue a Certificate of Public Good confirming the same;
5. Determine that TDI-NE qualifies for and therefore shall be subject to *de minimis* financial regulation; and
6. Take such other action as may be required for the expeditious review and approval of this Petition.

DATED at Burlington, Vermont this 27<sup>th</sup> day of January, 2016.

**Champlain VT, LLC d/b/a TDI New England**

By

A handwritten signature in black ink, appearing to read "A. Raubvogel", is written over a horizontal line.

Andrew N. Raubvogel, Esq.

Geoffrey H. Hand, Esq.

Victoria M. Westgate, Esq.

DUNKIEL SAUNDERS ELLIOTT RAUBVOGEL & HAND, PLLC

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*Attorneys for TDI New England*

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Petition of Champlain VT, LLC d/b/a TDI New England )  
for a Certificate of Public Good, pursuant to 30 V.S.A. § 231, )  
to own and operate a high voltage direct current electric ) Docket No. \_\_\_\_\_  
transmission line with a capacity of 1,000 MW, a converter )  
station, and other associated facilities, known as the New )  
England Clean Power Link, and for de minimis regulation )

Order Entered: \_\_\_\_\_

**PETITIONER CHAMPLAIN VT, LLC D/B/A TDI NEW ENGLAND'S  
PROPOSED FINDINGS OF FACT**

I. Introduction

On January 27, 2016, Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) filed a petition with the Vermont Public Service Board (“Board”) for a certificate of public good, pursuant to 30 V.S.A. § 231 (“CPG”), to own and operate a high voltage direct current electric transmission line with a capacity of 1,000 MW, a converter station, and other associated facilities, to be known as the New England Clean Power Link (“NECPL”), and for *de minimis* regulation. This docket was opened in response to that petition.

II. Findings

1. TDI-NE is a limited liability company organized and existing pursuant to the laws of Delaware with a principal place of business at 600 Broadway, Albany, New York, 12207. TDI-NE is authorized to do business in Vermont and is in good standing. Jessome aff. at 1-2; Exhs. TDINE-2, TDINE-3.
2. TDI-NE is an affiliate of Transmission Developers Inc. (“TDI”). TDI and TDI-NE are both indirectly wholly-owned by investment funds controlled by The Blackstone

Group, L.P. (“Blackstone”), a publicly-traded global investment and advisory firm with more than \$330 billion (as of September 30, 2015) currently under management. Jessome aff. at 1-2; Exh. TDINE-4.

3. TDI-NE is a financially-stable entity that has and is able to secure sufficient financing to carry on its business activities and to support the Project. Jessome aff. at 12.
4. TDI-NE is a private merchant company, not a traditional integrated public utility. Jessome aff. at 21.
5. TDI-NE has developed a reputation of being a competent and credible business entity with other businesses, utilities, and state and federal agencies. Jessome aff. at 3.
6. TDI-NE currently holds a CPG to install and operate the NECPL Project under 30 V.S.A. § 248. Jessome aff. at 7; Docket No. 8400, Final Order (January 5, 2016).
7. The NECPL is a proposed electric transmission line that will run from the Canadian border to Ludlow, VT along underwater and underground routes. The electricity shipped through the NECPL will be generated by renewable energy sources in Canada and elsewhere and will be delivered to the New England electric grid through an interconnection point in Vermont. The transmission line will utilize HVDC technology and will be capable of transmitting 1,000 megawatts (MW) of electricity. Jessome aff. at 7-8; Docket 8400 Final Order at 7.
8. Construction and operation of the NECPL will have significant economic, environmental, and electric system benefits for the State of Vermont and the New England region. Jessome aff. at 10; Docket 8400 Final Order at 93.

9. The total direct economic impact of the Project in the State of Vermont during the construction and commercial operations periods is estimated to be approximately \$1.9 billion. Jessome aff. at 11; Docket 8400 Final Order at 41.
10. The Project will enhance the region's fuel diversity by bringing hydroelectric, wind, or other renewable energy, as defined under Vermont law, to New England, and will strengthen and diversify the Vermont electric grid. The buried cable infrastructure will also be protected from natural disasters, and will have "Black Start" capability that can quickly restart the electric grid in event of a blackout. Jessome aff. at 10; Docket 8400 Final Order at 93.
11. The NECPL will be a privately-financed, or "merchant" transmission facility. That is, TDI-NE does not intend to seek to recover the costs of the Project through charges paid by retail electric ratepayers. Rather, it will recoup its costs of construction and operation through the payments it will receive from power suppliers who will contract to utilize the NECPL transmission line. Jessome aff. at 13-14.
12. TDI-NE is a wholly-owned subsidiary of Blackstone and is backed by the substantial funding available to Blackstone as the manager of over \$330 billion in assets. Jessome aff. at 12.
13. As of October 2015, Blackstone had contributed \$16.4 million thus far towards project development activities (studies, real estate, permitting, etc.), and will continue to fund the development. Blackstone is expected to commit 100% of the equity financing for construction of the Project. Jessome aff. at 13.
14. In addition to Blackstone's equity financing, TDI-NE will seek debt financing for the NECPL from export credit agencies, commercial banks, and/or other credit providers. Based on the discussions TDI and TDI-NE have had to date with 15+

banks, export credit agencies, and other credit providers, the debt financing for the NECPL should be oversubscribed by several times. Jessome aff. at 13.

15. Even though TDI-NE plans to fund the NECPL as a merchant transmission facility, it has recognized that there is a potential that the project funding could shift to a regional cost sharing mechanism such as that authorized by the “FERC Order 1000” process. In the event the NECPL is funded through a regional cost sharing mechanism, TDI-NE will indemnify Vermont’s share of regionally allocated costs and will not seek cost recovery for indemnification payments or any other cost sharing mechanism that allocates costs to Vermont ratepayers. Jessome aff. at 14-15; Exh. TDINE-8.
16. The NECPL has an expected lifespan of 40 years. Jessome aff. at 17.
17. TDI-NE has sufficient technical expertise to construct, own, operate, and maintain the NECPL and to ensure that the facility will be reliably and efficiently maintained. Jessome aff. at 4; Exhs. TDINE-5, TDINE-6.
18. TDI and TDI-NE have developed a streamlined business approach utilizing a small number of company employees with specific business expertise and then hiring consultants to supplement this knowledge within specialized areas such as project design, civil engineering, and environmental permitting. Jessome aff. at 4.
19. TDI-NE’s leadership has substantial experience in the field of electric transmission and high voltage direct current (“HVDC”) transmission project development, and the team is knowledgeable about power markets in New England. Each member of the TDI-NE team brings specialized knowledge and expertise in discrete areas. Jessome aff. at 4-5; Exhs. TDINE-5, TDINE-6.

20. In addition to the leadership team that is overseeing the Project, TDI-NE has hired expert consultants in a wide variety of disciplines to design the Project and to thoroughly evaluate the Project as proposed. During construction, operation, and maintenance of the NECPL, TDI-NE will continue to hire qualified contractors and consultants who will be overseen by TDI-NE's engineering team, headed by Mr. Martin and Mr. Harrison. Jessome aff. at 6; Exh. TDINE-7.
21. TDI has experience developing and permitting large-scale buried and submerged HVDC projects of similar scale to the NECPL. In addition to the NECPL, TDI has proposed another buried HVDC project known as the Champlain Hudson Power Express project ("CHPE"), which is a proposed 1,000 MW transmission line that will run from the Canadian border to New York City. The NECPL leadership team is made up of the same TDI leadership team developing the CHPE project. Jessome aff. at 7.
22. The NECPL will be constructed by qualified contractors and individuals under the oversight of TDI-NE's engineering team, including individuals who have previously overseen large-scale construction of electrical infrastructure and have the necessary experience to oversee the construction and installation of the NECPL. Jessome aff. at 16; Exhs. TDINE-6, TDINE-7.
23. Through construction, TDI-NE will retain construction and environmental inspection teams to conduct on-site reviews and provide status reports to TDI-NE. This will ensure that the Project is being built to the manufacturer's standards, appropriate industry standards, and in accordance with TDI-NE's contractual and regulatory obligations. Jessome aff. at 17; Exh. TDINE-7.

24. TDI-NE will be required to obtain insurance for the construction and operating phases of the Project. This will include, but not be limited to, the following categories of insurance (or insurance of comparable coverage): (i) builder's all risk insurance, covering construction through start of operation; (ii) a completed operations policy, covering workmanship issues and other non-equipment defects; (iii) business interruption insurance; (iv) other standard insurance policies such as workman's compensation, commercial general liability and property damage insurance, and automotive liability insurance. Jessome pf. at 15.
25. In addition to these policies obtained by TDI-NE as the owner of the Project, the general contractor selected for construction of the Project will maintain separate, but similar, insurance policies that will name TDI-NE as an "Additional Insured". The general contractor(s) will also be required to post performance and payment bonds (naming TDI-NE as obligee) from a pre-approved surety. Jessome pf. at 15.
26. With the exception of off-site system monitoring, the NECPL will be largely unmanned after construction. Controls will be automated, with remote operations being managed by TDI-NE. The only aspect of the NECPL that will require regular maintenance is the Converter Station. Jessome aff. at 17-18.
27. Scheduled maintenance for the equipment of the Converter station will include annual testing of the system and periodic inspections of the cooling water pumps and transformers and other technical equipment. These inspections will largely be carried out by the Original Equipment Manufacturer ("OEM"), with whom TDI-NE will have a warranty and long-term service agreement. The permanent stormwater features at the Converter Station will also be inspected and maintained by environmental consultants as required by the applicable permits. TDI-NE will also



enter into an operations and maintenance services agreement that will include general upkeep of the Converter Station site. Jessome aff. at 18; Exh. TDINE-7.

28. The buried NECPL cables will be installed to meet specific design and field condition parameters and will therefore be virtually maintenance-free. Although no components of the transmission system will require regular replacement, regular inspections in accordance with manufacturer specifications will be performed during scheduled outages to ensure that equipment integrity is maintained. Jessome aff. at 19.
29. In the event of any unplanned maintenance or emergency repairs, TDI-NE will be alerted of any breach or fault through the fiber optic system that will monitor the NECPL status at all times. In the unexpected event of a cable fault necessitating repair, the system will automatically de-energize and TDI-NE will arrange for a first-responder, likely the same party with which TDI-NE will have the operations and maintenance services agreement, to make a site visit and confirm the need for repair or unplanned maintenance. The repair or unplanned maintenance activity will then be conducted by the OEM under the long-term service agreement or warranty, depending on the issue. Jessome aff. at 18-19.
30. TDI-NE will have the appropriate maintenance and repair plans and equipment in place to deal with both regular maintenance and any unexpected repairs that may be necessary to ensure that the NECPL is efficiently operated for its full lifespan. These plans will be developed in close consultation with the OEM, who will perform or oversee any technical maintenance and repair. Jessome aff. at 18.
31. Before operation of the NECPL begins, an Emergency Repair and Response Plan will be prepared to identify procedures and contractors necessary to perform

maintenance and emergency repairs. The plan will detail the activities, methods, and equipment involved in repair and maintenance work for the transmission system.

This plan will be prepared in conjunction with the appropriate contractors. Jessome pf. at 20-21.

32. TDI-NE received conditional approval from the Federal Energy Regulatory Commission (“FERC”) to sell transmission rights at negotiated rates, by order dated March 10, 2014. Jessome aff. at 22; Exh. TDINE-1.
33. The NECPL is subject to regulation by FERC under the Federal Power Act. Jessome aff. at 21.
34. Pursuant to its authority granted by FERC, TDI-NE will sell transmission rights to power generators and other suppliers/marketers. They, in turn, will sell the power that is transmitted via the NECPL to New England area utilities who will deliver that output to retail customers. Jessome aff. at 23; Exh. TDINE-1.
35. TDI-NE has not yet entered into transmission service agreements (“TSAs”) with any energy suppliers, but it anticipates entering into agreements with suppliers of renewable energy, principally hydroelectric or wind power. Jessome aff. at 8-9.
36. TDI-NE commenced its open solicitation process on October 15, 2015. Expressions of Interest from 7 suppliers representing up to 3,200 MW were received on December 4, 2015. TDI-NE is now conducting confidential negotiations to secure transmission service agreements with supplier(s). Jessome aff. at 9.
37. Once the TSAs are secured, TDI-NE will make a Section 205 filing with FERC detailing the process and results. This power could come from suppliers in Quebec Province or elsewhere in Canada or the U.S. Jessome aff. at 10; Exh. TDINE-1.

38. TDI-NE will turn over operational control of the NECPL to ISO-NE, and will comply with all applicable reliability requirements. FERC has found that TDI-NE has met its regional reliability and operational efficiency requirements, subject to TDI-NE's continued participation in the necessary regional planning processes. Jessome aff. at 17; Exh. TDINE-1.
39. ISO-NE will operate the transmission line pursuant to ISO-NE's FERC-approved open access transmission tariff. Jessome aff. at 22; Exh. TDINE-1.
40. No entity on either end of the NECPL is required to purchase transmission service from TDI-NE, and customers will only do so if it is cost-effective. Jessome aff. at 23.
41. FERC has concluded that TDI-NE will bear all market risks that the NECPL will succeed or fail based on whether a market exists for its services, and that it has no ability to pass on any costs to captive ratepayers. Jessome pf. at 23.
42. TDI-NE will not enter into contracts with or sell directly to retail customers. Jessome aff. at 23.

### III. Conclusion

Based on a review of the record, the Board concludes that, subject to the conditions below, a CPG authorizing TDI-NE to own and operate the Project is in the general good of the state.

### IV. Order

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to 30 V.S.A. § 231, a certificate of public good, subject to the conditions below, shall be issued to TDI-NE for the ownership and operation of the NECPL

Project as described in the supporting affidavit and exhibits submitted with this Petition.

2. Any FERC filings related to the Project, including but not limited to filings related to TDI-NE's conditional authority to sell transmission rights at negotiated rates pursuant to FERC Order March 10, 2014, shall be filed with the Board and the Department of Public Service.
3. TDI-NE shall not be required to make any filings with the Board or the Department pursuant to 30 V.S.A. § 108 governing financing.
4. TDI-NE shall notify the Board and Department within fourteen days of any changes in the ownership of TDI-NE under 30 V.S.A. § 231.
5. TDI-NE shall not transfer ownership of the NECPL, nor this Certificate, without prior approval of the Board.
6. This docket shall be closed.

Dated at Montpelier, Vermont, this \_\_\_\_ day of \_\_\_\_\_, 2016.

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OFFICE OF THE CLERK

FILED:

ATTEST: \_\_\_\_\_

Clerk of the Board

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Petition of Champlain VT, LLC d/b/a TDI New England )  
for a Certificate of Public Good, pursuant to 30 V.S.A. § 231, )  
to own and operate a high voltage direct current electric ) Docket No. \_\_\_\_\_  
transmission line with a capacity of 1,000 MW, a converter )  
station, and other associated facilities, known as the New )  
England Clean Power Link, and for de minimis regulation )

**PETITIONER CHAMPLAIN VT, LLC d/b/a TDI NEW ENGLAND'S  
PROPOSED CERTIFICATE OF PUBLIC GOOD PURSUANT TO 30 V.S.A. § 231**

IT IS HEREBY CERTIFIED that the Public Service Board (“Board”) of the State of Vermont on this date finds and adjudges that the issuance of a Certificate of Public Good (“Certificate”) to Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) to own and operate a high voltage direct current electric transmission line with a capacity of 1,000 MW, a converter station, and other associated facilities to be known as the “New England Clean Power Link” (“NECPL”) will promote the general good of the State of Vermont. This Certificate is subject to the following conditions:

1. Any FERC filings related to the Project, including but not limited to filings related to TDI-NE’s conditional authority to sell transmission rights at negotiated rates pursuant to FERC Order March 10, 2014, shall be filed with the Board and the Department of Public Service.
2. TDI-NE shall not be required to make any filings with the Board or the Department pursuant to 30 V.S.A. § 108 governing financing.
3. TDI-NE shall notify the Board and Department within fourteen days of any changes in the ownership of TDI-NE under 30 V.S.A. § 231.

4. TDI-NE shall not transfer ownership of the NECPL, nor this Certificate, without prior approval of the Board.

Dated at Montpelier, Vermont, this \_\_\_\_ day of \_\_\_\_\_, 2016.

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PUBLIC SERVICE BOARD  
OF VERMONT

OFFICE OF THE CLERK

FILED:

ATTEST: \_\_\_\_\_

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**AFFIDAVIT OF DONALD JESSOME**

**ON BEHALF OF PETITIONER CHAMPLAIN VT, LLC d/b/a TDI NEW ENGLAND**

1. My name is Donald Jessome. I am the General Manager of Petitioner Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) an affiliate of TDI. I am also co-founder and chief executive officer of Transmission Developers, Inc. and TDI-USA Holdings Corporation (“TDI”). My business address is 600 Broadway, Albany, NY 12207.
2. I submitted prefiled direct testimony and supplemental testimony to the Public Service Board (“Board”) on behalf of TDI-NE in Docket 8400, the Section 248 review of TDI-NE’s New England Clean Power Link Project (“NECPL” or “Project”).
3. I am providing this affidavit in support of Petitioner TDI-NE’s request for a section 231 Certificate of Public Good.

**I. TDI New England’s Company Structure & Reputation**

4. Petitioner Champlain VT, LLC d/b/a TDI New England (“TDI-NE”) is an affiliate of TDI. TDI-NE is an affiliate of TDI within the corporate hierarchy of the Blackstone Group. TDI-NE is a limited liability company organized and existing pursuant to the laws of Delaware with a principal place of business at 600 Broadway, Albany, New York,

12207. TDI-NE is authorized to do business in Vermont and is in good standing.

*Exhibits TDINE-2, TDINE-4 (Vermont Certificate of Organization and Ownership chart).*

5. TDI-NE is a special purpose entity that was established in 2013 for the purpose of developing, financing, owning, and operating the NECPL, and it does not own or operate any existing electric generation, transmission, or distribution facilities.
6. Transmission Developers, Inc. is a Canadian corporation that is a minority shareholder in TDI. I have been seconded to TDI and TDI-NE, devote myself full time to these companies, and refer to myself in this affidavit as an employee of TDI.
7. TDI and TDI-NE are both indirectly wholly-owned by investment funds controlled by The Blackstone Group, L.P. (“Blackstone”), a publicly-traded global investment and advisory firm with more than \$330 billion (as of September 30, 2015) currently under management.
8. TDI-NE is directly owned by Champlain VT Ltd., a Cayman Islands limited liability entity with its principal place of business at Champlain VT, Ltd., c/o Blackstone, 345 Park Avenue, New York, NY 10154. Champlain VT Ltd. is a subsidiary of Blackstone and was established for the purpose of owning TDI-NE. I am the General Manager of Champlain VT Ltd and Champlain VT, LLC. The sole Director of Champlain VT Ltd is Bilal Khan c/o Blackstone, 345 Park Avenue, New York, NY 10154. Champlain VT Ltd. does not own or operate any existing electric generation, transmission, or distribution facilities. *Exhibits TDINE-2; TDINE-3 (Operating Agreement – Champlain VT, LLC); TDINE-4.*



9. Blackstone does not own or control any existing electric generation, transmission, or distribution facilities in the markets operated by ISO New England (“ISO-NE”) or Hydro-Quebec-TransEnergie (“HQT”).
10. TDI-NE has developed a reputation of being a competent and credible business entity with other businesses, utilities, and state and federal agencies. In the Section 248 Certificate of Public Good (“CPG”) proceeding for the NECPL, TDI-NE was able to come to agreement with all parties who submitted testimony in the proceeding, filing stipulations and agreements with the following entities: the Department of Public Service, the Agency of Natural Resources, the Vermont Agency of Transportation, the Vermont Division for Historic Preservation, the Conservation Law Foundation, Vermont Electric Power Company and Vermont Transco LLC (“VELCO”), Green Mountain Power Corporation, Burlington Electric Department, and the Towns of Alburgh, Ludlow, and Benson.
11. Within Vermont, TDI-NE has utilized many highly experienced VT-based firms for legal, environmental, archaeological, and other subject areas to develop the NECPL. *See Exhibit TDINE-7 (List of Experts and Consultants).* These firms have been invaluable members of the Project Team since late 2013 and continue to support the Project into 2016. Further, through outreach within VT communities and very little opposition, TDI-NE believes that the Project is well supported at a local level.
12. Neither TDI nor TDI-NE has been engaged in any litigation whereby either entity has been accused of nonpayment or acting in bad faith in the course of business dealings.
13. TDI-NE owns properties in the State of Vermont in the Towns of Alburgh, New Haven, West Rutland, Benson, and Ludlow and is current on all property taxes owed.

**II. TDI New England's Employees and Technical Expertise**

14. TDI-NE has sufficient technical expertise to construct, own, operate, and maintain the NECPL and to ensure that the facility will be reliably and efficiently maintained.
15. TDI-NE's leadership has substantial experience in the field of electric transmission and high voltage direct current ("HVDC") transmission project development, and the team is knowledgeable about power markets in New England. TDI-NE representatives have been asked to present at the Renewable Energy Vermont Conference on two occasions, ISO-NE's Consumer Liaison Group, and EUCI's Transmission Conference.
16. TDI and TDI-NE were created to meet the growing need to develop innovative transmission projects in the deregulated power markets. The key innovation was to combine the FERC-encouraged merchant transmission model, with shippers rather than ratepayers bearing the risks and costs, and an all-buried HVDC technology that would bridge the gap between constrained load centers and remotely-sourced renewable power resources such as hydroelectric and wind.
17. To develop these merchant transmission projects, TDI and TDI-NE have developed a streamlined business approach utilizing a small number of company employees with specific business expertise and then hiring consultants to supplement this knowledge within specialized areas such as project design, civil engineering, and environmental permitting.
18. TDI-NE has one employee, Joshua Bagnato (NECPL Project Manager). The remainder of TDI-NE's leadership team is made up of employees of TDI.

19. Each member of the TDI-NE team brings specialized knowledge and expertise in discrete areas. These employees include: myself (Chief Executive Officer), Eugene Martin (President and Chief Operating Officer), William Helmer (Executive Vice President and General Counsel), Todd Singer (Senior Vice President, Project Development and Finance), Joshua Bagnato (NECPL Project Manager), and Robert Harrison (Vice President of Engineering and Construction).
20. In 2008, I co-founded TDI and currently serve as its Chief Executive Officer and as a member of the board. My professional biography is attached as ***Exhibit TDINE-5***.
21. I have spent my entire career in the energy field, starting with 22 years at Emera Inc., a publicly-traded company in Canada with \$5.3 billion in energy infrastructure assets centered on power and natural gas.
22. Eugene Martin is the President and Chief Operating Officer of TDI. Mr. Martin has 30 years of experience in general and executive management with six New York Stock Exchange listed companies in the energy, engineering, construction, and private equity sectors. Mr. Martin is directly responsible for all aspects of construction and operation of the NECPL. His professional biography is included in ***Exhibit TDINE-6 (TDI-NE Leadership Team Professional Biographies)***.
23. William Helmer is the Executive Vice President and General Counsel of TDI. He has practiced energy, environmental, contract, and real estate law during a career spanning over three decades. He has occupied senior positions in New York State government, litigated groundbreaking cases before federal courts and the Court of Appeals, the highest court in New York State, and handled the legal issues associated with the

- development and financing of many large and complicated power projects. He is a member of the bar of the Supreme Court of the United States. *Exhibit TDINE-6.*
24. Todd Singer is Senior Vice President of Project Development and Finance at TDI. Prior to joining TDI, Mr. Singer spent over a decade on Wall Street as an investment banker, primarily at Morgan Stanley, and he has a broad range of capital markets and mergers and acquisitions experience. Mr. Singer is responsible for all of the financial analyses performed for the NECPL. *Exhibit TDINE-6.*
25. Joshua Bagnato is the Project Manager for the NECPL, and is responsible for overseeing the permitting and development of the NECPL. Mr. Bagnato was previously employed at First Wind, an independent North American renewable energy company that developed the Sheffield Wind Project in Vermont. *Exhibit TDINE-6.*
26. Robert Harrison is Vice President of Engineering and Construction at TDI. He is a licensed professional engineer in the States of New York and Vermont. Mr. Harrison is a senior engineering/construction executive with over 30 years of operating experience in diverse markets including power (generation and transmission), industrial gases and petrochemicals. *Exhibit TDINE-6.*
27. In addition to the leadership team that is overseeing the Project, TDI-NE has hired expert consultants in a wide variety of disciplines to design the Project and to thoroughly evaluate the Project as proposed. During construction, operation, and maintenance of the NECPL, TDI-NE will continue to hire qualified contractors and consultants who will be overseen by TDI-NE's engineering team, headed by Mr. Martin and Mr. Harrison. *Exhibit TDINE-7.*

28. Mr. Martin and Mr. Harrison have extensive experience in the construction and operation of large scale electric infrastructure. *See Exhibit TDINE-6.*
29. TDI has experience developing and permitting large-scale buried and submerged HVDC projects of similar scale to the NECPL. In addition to the NECPL, TDI has proposed another buried HVDC project known as the Champlain Hudson Power Express project (“CHPE”), which is a proposed 1,000 MW transmission line that will run from the Canadian border to New York City. The CHPE also proposes to run through Lake Champlain, but on the New York side of the Lake. The CHPE project will serve the New York City area as part of the NYISO electric system. The CHPE project was developed prior to the NECPL and is further along in the permitting process. All the necessary major state and federal permits have been issued for the CHPE, which is expected to begin construction late in 2016 or early 2017 in order to achieve an anticipated operational start date in the second quarter of 2020.
30. The NECPL leadership team is made up of the same TDI leadership team developing the CHPE project.

### **III. Overview of the NECPL Project**

31. On December 8, 2014, TDI-NE submitted a Petition for a CPG pursuant to 30 V.S.A. § 248 for the NECPL Project. On January 5, 2016, the Board issued a Final Order including Findings of Fact regarding the Project and a Section 248 CPG authorizing installation and operation of the Project.
32. The NECPL is a proposed electric transmission line that will run from the Canadian border to Ludlow, VT along underwater and underground routes. The electricity

- shipped through the NECPL will be generated by renewable energy sources in Canada and elsewhere and will be delivered to the New England electric grid through an interconnection point in Vermont. The transmission line will utilize HVDC technology and will be capable of transmitting 1,000 megawatts (MW) of electricity. *See TDI New England Petition for § 248 CPG, Docket 8400, Final Order at 7 (January 5, 2016) (hereinafter “Final Order, Docket 8400”).*
33. The transmission line will begin at a converter station in the Province of Québec, Canada and transmit electricity from Alburgh, Vermont to Ludlow, Vermont, where it will tie into TDI-NE’s proposed Converter Station. The Ludlow Converter Station will convert the electrical power from direct current (“DC”) to alternating current (“AC”) and then connect to the 345 kV Coolidge Substation in Cavendish, Vermont that is owned by the VELCO. *Id.* at 7-9.
34. Within Vermont, the line will run from the Canadian Border to Alburgh, Vermont, where it will enter Lake Champlain and be buried along the Vermont side of the Lake for approximately 97 miles. The line will exit the lake in Benson, Vermont, and then run for approximately 56 miles overland to Ludlow buried within existing public road rights-of-way. The overland route will run through the following Vermont towns: Alburgh, Benson, Castleton, Cavendish, Clarendon, Fair Haven, Ira, Ludlow, Mount Holy, Rutland, Shrewsbury, Wallingford, West Haven, and West Rutland. *Id.* at 8.
35. The NECPL has the potential to reduce reliance on fossil fuels in the New England region. *Id.* at 25.
36. TDI-NE has not yet entered into transmission service agreements (“TSAs”) with any energy suppliers, but it anticipates entering into agreements with suppliers of renewable

- energy, principally hydroelectric or wind power. Pursuant to the FERC order, TDI-NE commenced its open solicitation process on October 15, 2015. Expressions of Interest from 7 suppliers representing up to 3,200 MW were received on December 4, 2015. TDI-NE is now conducting confidential negotiations to secure transmission service agreements with supplier(s). These potential customers have expressed willingness to enter into negotiations for TSAs, under which they would compensate TDI-NE at negotiated rates for the right to transmit energy and related products and services on the NECPL, regardless of whether those rights are exercised. *Exhibit TDINE-1 (FERC Order 3/10/14)*.
37. The NECPL will only be financeable, and construction will only commence, if the eventual counterparty(ies) to the TSA(s) are highly creditworthy and are prepared to pay rates that cover all costs of the NECPL plus a return on the equity investment.
38. TDI-NE anticipates that its project financing for the NECPL will have an investment grade credit rating. The eventual rating will be dependent primarily upon the structure of the TSA(s) and the creditworthiness of TDI-NE's counterparties; the engineering, procurement, and construction ("EPC") contract and associated protections for TDI-NE in the event of non-performance by the contractor(s); and the ability of the cash flows from the NECPL to cover debt service (i.e., principal and interest payments). Based on the parameters outlined by TDI's financial advisor on the CHPE project -- RBC Capital Markets -- and utilized in the financial model for the NECPL, TDI-NE believes the Project will receive an investment grade credit rating from S&P, Moody's and/or Fitch.

39. Once the TSAs are secured, TDI-NE will make a Section 205 filing with FERC detailing the process and results. This power could come from suppliers in Quebec Province or elsewhere in Canada or the U.S. *See Exhibit TDINE-1.*
40. As a condition of the Section 248 CPG, TDI-NE will file all TSAs for the NECPL with the Board to confirm its representations that the energy shipped through the NECPL is “renewable energy.” Final Order, Docket 8400 at 100 (Condition 14).
41. The NECPL will be capable of delivering 1,000 MW of electricity into New England, at a nominal operating voltage of 300 to 320 kV (+/-). TDI-NE anticipates that the line will operate at 95% of its capacity and is expected to deliver 8,322 gigawatt hours per year, which is equivalent to the energy used by approximately 1 million homes. *Id.* at 7.
42. Construction and operation of the NECPL will have significant economic, environmental, and electric system benefits for the State of Vermont and the New England region. *Id.* at 93.
43. Environmental benefits of the Project include supporting state and regional renewable energy goals, replacing existing electricity generated by fossil fuels that will reduce greenhouse gases by millions of tons/year, supporting Lake Champlain cleanup and restoration efforts, and providing a major source of electricity without the need for any above-ground aesthetic impacts. *Id.* at 93.
44. The Project will enhance the region’s fuel diversity by bringing hydroelectric, wind, or other renewable energy, as defined under Vermont law, to New England, and will strengthen and diversify the Vermont electric grid. The buried cable infrastructure will also be protected from natural disasters, and will have “Black Start” capability that can quickly restart the electric grid in event of a blackout. *Id.* at 93.



45. TDI-NE has proposed a number of funds and payments in support of the Project that will bring significant economic and public good benefits to Vermont ratepayers, renewable energy programs, and Lake Champlain cleanup efforts. These public good funds and payments will total \$509 million. *Id.* at 41.
46. In addition to the above-referenced Public Good benefit funds, TDI-NE will also be making additional direct payments to state and local entities, including tax, license, and lease payments. TDI-NE will pay an estimated total of \$274.2 million in property taxes in Vermont over the course of construction and operation of Project, and \$211.8 million in lease payments to VTrans. The estimated totals of corporate income taxes and sales taxes paid by TDI-NE are \$414.4 million and \$31.4 million each, respectively. In total, TDI-NE will pay an estimated \$900 million in taxes and required lease payments. *Id.* at 39-41.
47. The total direct economic impact of the Project in the State of Vermont during the construction and commercial operations periods is estimated to be approximately \$1.9 billion. *Id.* at 41.
48. In addition to Section 248 CPG approval, TDI-NE has applied for and received a number of state permits for the NECPL Project, including a 401 Water Quality Certificate, Lake Encroachment Permits for Lake Bomoseen and Lake Champlain, a Stream Alteration Permit, a Wetland Permit, a Flood Hazard Area and River Corridor Permit, a Construction Stormwater Permit, and an Operational Stormwater Permit.
49. The federal permits required in order for the NECPL to proceed, including Sections 404 and 10 Permits from the U.S. Army Corps of Engineers (“USACE”) and a Presidential Permit from the U.S. Department of Energy (“DOE”) are likely to be obtained in the

- first half of 2016. Federal review of the environmental impacts of the Project was conducted pursuant to the National Environmental Policy Act by the DOE in cooperation with the USACE, the Environmental Protection Agency, and the U.S. Coast Guard. A final Federal Environmental Impact Statement was issued by the DOE in October 2015, stating that the “DOE’s Proposed Action (Preferred Alternative) is the issuance of a Presidential permit that would authorize the construction, operation, and maintenance of the Project, which would cross the United State-Canada border.”<sup>1</sup>
50. Once the permitting phase of the NECPL is complete, pre-construction activities are anticipated to commence in 2016 related to the qualification and selection of contractors. Pre-construction related engineering activities are expected to commence in 2016 with construction activities to follow in 2017, 2018, and 2019. Following completion of construction, the NECPL will undergo performance testing and commissioning. TDI-NE anticipates that the commercial operation date for the NECPL will occur in the second quarter of 2019.

#### **IV. Financial Structure**

51. TDI-NE is a financially-stable entity that has and is able to secure sufficient financing to carry on its business activities and to support the Project.
52. TDI-NE is a wholly-owned subsidiary of Blackstone and is backed by the substantial funding available to Blackstone as the manager of over \$330 billion in assets.

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<sup>1</sup> Federal Environmental Impact Statement at S-7, available at <http://necplinkeis.com/wp-content/uploads/2015/10/Final-NECPL-EIS-2015-10-27.pdf> (last visited Jan. 26, 2016).

53. Blackstone is one of the world's leading alternative asset management firms. In 2013, Standard and Poor's Rating Services raised its issuer credit ratings for Blackstone to A+, and its ratings on Blackstone's senior unsecured notes to A+. See <http://blackstone.com/docs/pdfs/blackstone-ratings-upgrade.pdf>.
54. As of October 2015, Blackstone had contributed \$16.4 million thus far towards project development activities (studies, real estate, permitting, etc.), and will continue to fund the development. Blackstone is expected to commit 100% of the equity financing for construction of the Project.
55. In addition to Blackstone's equity financing, TDI-NE will seek debt financing for the NECPL from export credit agencies, commercial banks, and/or other credit providers. Based on the discussions TDI and TDI-NE have had to date with 15+ banks, export credit agencies, and other credit providers, the debt financing for the NECPL should be oversubscribed by several times. As TDI-NE has been informed by these entities, there will be a number of attractive attributes for the debt financing for the NECPL: (i) the long-term, predictable nature of the TSA payments from a highly creditworthy counterparty(ies); (ii) the financing is for a transmission asset which is a unique and sought after asset class in the project finance and export credit agency debt markets; (iii) Blackstone's involvement as the Project's equity provider; and (iv) the highly experienced, global scope of the prospective EPC contractor(s).
56. The NECPL will be a privately-financed, or "merchant" transmission facility. That is, TDI-NE does not intend to seek to recover the costs of the Project through charges paid by retail electric ratepayers. Rather, it will recoup its costs of construction and

operation though the payments it will receive from Canadian or other power suppliers who will contract to utilize the NECPL transmission line.

57. This same model is being utilized by TDI and Blackstone to privately develop and finance the CHPE project.
58. Even though TDI-NE plans to fund the NECPL as a merchant transmission facility, it has recognized that there is a potential that the project funding could shift to a regional cost sharing mechanism such as that authorized by the “FERC Order 1000” process, which is explained below.
59. Should the finance structure for the NECPL change and the Project become one that is funded through the Federal Energy Regulatory Commission (“FERC”) Order 1000 process or another regional cost sharing mechanism, TDI-NE has executed an agreement with VELCO that provides the following:

TDI-NE shall indemnify Vermont’s regionally allocated share of the costs to ensure that the net benefit identified in Schedule I of the VELCO Agreement accrues to Vermont’s retail electric customers, by making additional payments to Vermont Transco LLC. Vermont Transco LLC or the Special Purpose Entity shall distribute these additional funds in accordance with Paragraph 1 and the other relevant provisions of the VELCO Agreement. In the event that the FERC Order 1000 process or another regional cost sharing mechanism is utilized and for so long as Project costs are being recovered by such process or mechanism, these additional indemnification payments shall not be suspended. Paragraphs 5 and 6 of the VELCO Agreement shall apply to these payments. TDI-NE will not seek cost recovery for these additional indemnification payments whether under the ISO-NE Tariff or any other cost sharing mechanism that allocates costs to Vermont ratepayers.

***Exhibit TDINE-8*** (*First Amendment to TDI-NE/VELCO Agreement*); Final Order, Docket 8400 at 43-44.

60. Based on the VELCO agreement, which was incorporated by reference in the Board's Section 248 Order, in the event the NECPL is funded through a regional cost sharing mechanism, TDI-NE will indemnify Vermont's share of regionally allocated costs and will not seek cost recovery for indemnification payments or any other cost sharing mechanism that allocates costs to Vermont ratepayers. Final Order, Docket 8400 at 97-98.
61. The cost of constructing the NECPL is approximately \$1.2 billion, and the initial year annual operating expenses for the Project estimated to be \$40.6 million. *Id.* at 20.
62. TDI-NE will be required to obtain insurance for the construction and operating phases of the Project. This will include, but not be limited to, the following categories of insurance (or insurance of comparable coverage): (i) builder's all risk insurance, covering construction through start of operation; (ii) a completed operations policy, covering workmanship issues and other non-equipment defects; (iii) business interruption insurance; (iv) other standard insurance policies such as workman's compensation, commercial general liability and property damage insurance, and automotive liability insurance. In addition to these policies obtained by TDI-NE as the owner of the Project, the general contractor selected for construction of the Project will maintain separate, but similar, insurance policies that will name TDI-NE as an "Additional Insured". The general contractor(s) will also be required to post performance and payment bonds (naming TDI-NE as obligee) from a pre-approved surety.
63. The insurance categories listed above reflect TDI-NE's current assessment of the insurance that will be required. Depending on the outcome of negotiations with the general contractor and/or equipment supplier(s), additional insurance may be required.

64. Similarly, TDI-NE will secure warranties and guarantees from the cable and converter station manufacturer(s) that will cover equipment manufacturing, workmanship, and performance defects.

**V. Installation and Construction of the NECPL**

65. Construction of the NECPL will depend upon successful completion of construction financing. The substantial majority of this funding will take the form of a debt financing provided by global commercial banks, export credit agencies, and/or other credit providers. The smaller remaining portion of the \$1.2 billion project cost will take the form of an equity investment from Blackstone.

66. The NECPL will be constructed by qualified contractors and individuals under the oversight of TDI-NE's engineering team. Mr. Martin and Mr. Harrison have previously overseen large-scale construction of electrical infrastructure and have the necessary experience to oversee the construction and installation of the NECPL. *Exhibit TDINE-6.*

67. TDI-NE will also retain an Owner's Engineer, a consulting firm that will lend technical expertise to the TDI-NE team in providing independent design reviews and evaluations of the contractor's engineering activities. *Exhibit TDINE-7.*

68. Installation and construction of the in-Lake cable and the Converter station will be accomplished through EPC contracts. The Original Equipment Manufacturer ("OEM") of the cables and Converter Station equipment will serve as the EPC contractor(s), who will in turn utilize one or more subcontractors for the actual installation work.

69. Installation of the overland cables will be accomplished either through an EPC contract, or TDI-NE will purchase the cable from the OEM and then directly hire a general contractor to install the cables. Regardless of the type of contractual arrangement(s) utilized for construction of the Project, the installation and ultimate performance of the cables and Converter Station will be backed by the OEM(s)' performance guarantees and warranties. *Exhibit TDINE-7.*
70. Through construction, TDI-NE will retain construction and environmental inspection teams to conduct on-site reviews and provide status reports to TDI-NE. This will ensure that the Project is being built to the manufacturer's standards, appropriate industry standards, and in accordance with TDI-NE's contractual and regulatory obligations. *Exhibit TDINE-7.*

**VI. Operation and Maintenance of the NECPL**

71. The NECPL has an expected lifespan of 40 years.
72. With the exception of off-site system monitoring, the NECPL will be largely unmanned after construction. Controls will be automated, with remote operations being managed by TDI-NE.
73. TDI-NE will turn over operational control of the NECPL to ISO-NE, and will comply with all applicable reliability requirements. FERC has found that TDI-NE has met its regional reliability and operational efficiency requirements, subject to TDI-NE's continued participation in the necessary regional planning processes. *Exhibit TDINE-1.*

74. The only aspect of the NECPL that will require regular maintenance is the Converter Station, inasmuch as the cables will be virtually maintenance-free. Maintenance of the Converter Station will fall into two general categories: (1) scheduled maintenance and inspection, and (2) unplanned or emergency repairs.
75. For general scheduled maintenance of the facility and site, TDI-NE will enter into an operations and maintenance services agreement that will include general upkeep of the Converter Station site. Scheduled maintenance activities may include fence repair and upkeep, snow plowing, vegetation maintenance, stormwater infrastructure maintenance, and periodic site visits to ensure the site is secure.
76. Under the TDI-NE/VELCO Agreement executed on December 4, 2014 and entered into the record in the Section 248 proceeding, VELCO will be TDI-NE's preferred vendor for these general operation and maintenance services for the Project (subject to negotiation and execution of a mutually agreeable contract). *Exhibit TDINE-8.*
77. Scheduled maintenance for the equipment of the Converter Station will include annual testing of the system and periodic inspections of the cooling water pumps and transformers and other technical equipment. These inspections will largely be carried out by the OEM, with whom TDI-NE will have a warranty and long-term service agreement. The permanent stormwater features at the Converter Station will also be inspected and maintained by environmental consultants as required by the applicable permits.
78. In the event of any unplanned maintenance or emergency repairs, TDI-NE will be alerted of any breach or fault through the fiber optic system that will monitor the NECPL status at all times. In the unexpected event of a cable fault necessitating repair,



- the system will automatically de-energize and TDI-NE will arrange for a first-responder, likely the same party with which TDI-NE will have the operations and maintenance services agreement, to make a site visit and confirm the need for repair or unplanned maintenance. The repair or unplanned maintenance activity will then be conducted by the OEM under the long-term service agreement or warranty, depending on the issue.
79. TDI-NE will have the appropriate maintenance and repair plans and equipment in place to deal with both regular maintenance and any unexpected repairs that may be necessary to ensure that the NECPL is efficiently operated for its full lifespan. These plans will be developed in close consultation with the OEM, who will perform or oversee any technical maintenance and repair.
80. As noted, the buried NECPL cables will be installed to meet specific design and field condition parameters and will therefore be virtually maintenance-free. Although no components of the transmission system will require regular replacement, regular inspections in accordance with manufacturer specifications will be performed during scheduled outages to ensure that equipment integrity is maintained.
81. The aquatic portion of the NECPL will be surveyed at least once every five years, and inspections will focus on verifying the depth of cable burial, condition of infrastructure protection measures, and the identification of areas where protection of the transmission system or the environment could be compromised. The aquatic cables will be inspected by remotely-operated vehicles and/or magnetometers to ensure that the cables remain in their installed positions and that protection and co-location schemes are in place with full integrity. In addition, within the Lake, TDI-NE is obligated under the Docket 8400

- Stipulations to institute a thermal monitoring plan, ensure a previously eroded lakeshore bank is stabilized, and coordinate any maintenance activities with the U.S. Coast Guard.
82. The overland portion of the NECPL will be inspected approximately every three years to confirm that there is adequate cover over the buried cables. These inspections will focus on ensuring no deep-rooted vegetation is growing within six feet of the cables, ensuring no erosion that could expose the cables has occurred, and confirming there are no unauthorized encroachments or vandalism.
83. As required by the Stipulations entered into in Docket 8400, TDI-NE is also obligated to institute a Vegetation Management Plan and Invasive Species Monitoring Plan along the state highway portion of the terrestrial route. This Plan will be implemented by a qualified environmental firm.
84. The primary maintenance activity along the terrestrial routes involves vegetation maintenance above the cables to ensure deep rooted vegetation does not impact the cables. Generally, this maintenance activity is already performed by VTTrans as part of their right of way maintenance program, but mowing and selective cutting to prevent tree establishment will also occur on an as-needed basis. Within town roads, no vegetation management will be required. Following installation of the transmission cables, walk down inspections will be conducted of the cable right-of-ways, splice vaults, and duct banks to ensure that the cables are fully secure and there is no potential intrusion or activity that could impact cable operation.
85. Before operation of the NECPL begins, an Emergency Repair and Response Plan will be prepared to identify procedures and contractors necessary to perform maintenance and emergency repairs. The plan will detail the activities, methods, and equipment involved

- in repair and maintenance work for the transmission system. This plan will be prepared in conjunction with the appropriate contractors.
86. Prior to the end of the expected useful life of the Project, TDI-NE will evaluate the continued viability of the NECPL's existing infrastructure to determine whether it can continue to operate, and/or whether the NECPL should be upgraded (subject to any necessary regulatory approvals).
87. Prior to beginning construction for the NECPL, TDI-NE will submit a decommissioning plan and estimate for the removal of the Converter Station and restoration of the site to the Board for review and approval. The buried cables will be de-energized at the end of operation but will remain in place.
88. TDI-NE is required by the conditions of the Section 248 CPG to submit all TSA(s) for the NECPL to the Board as evidence that the facility is still in use. If at any time TDI-NE's review of the TSA(s) reveals that, within two years, TSA(s) for use of the transmission line will fall below 50% of total line capacity, TDI-NE will notify the Board and the Board will initiate an investigation of the appropriateness of establishing a decommissioning fund. Failure to use the Converter Station, other than during planned or unplanned outages or repairs, for a period of eighteen consecutive months will trigger Board review of the whether the Converter Station should be decommissioned.

**VII. Regulatory Oversight of Project**

89. TDI-NE is a private merchant company, not a traditional integrated public utility.
90. The NECPL is subject to regulation by FERC under the Federal Power Act.

91. TDI-NE is selling transmission rights for the NECPL at negotiated rates through the ongoing open solicitation process that allows transmission customers to utilize the NECPL to offer and deliver electrical energy into the ISO-NE market. These shippers are expected to rely on hydroelectric or other renewable generation in order to sell energy, capacity and ancillary services into the ISO-NE market.
92. On March 10, 2014, FERC issued an Order, 146 FERC ¶ 61,167, conditionally authorizing TDI-NE to sell transmission rights on the Project at negotiated rates and granting TDI-NE's request for a waiver of certain Commission regulations. *Exhibit TDINE-1*.
93. ISO-NE will operate the transmission line pursuant to ISO-NE's FERC-approved open access transmission tariff. *Exhibit TDINE-1*.
94. FERC's grant of authority to TDI-NE is subject to the Commission's approval of a subsequent filing under Section 205 of the Federal Power Act and TDI-NE's submission of a rate schedule for service under the ISO-NE Open Access Transmission Tariff ("OATT"). Under the FERC order, TDI-NE will further be required to comply with various financial monitoring conditions, including filing electronic quarterly reports of its transactions and abiding by FERC standards of conduct.
95. As made clear in TDI-NE's application to FERC: (i) TDI-NE will assume all market risks for the Project and there will be no captive customers; (ii) TDI-NE is a new market entrant that does not own or operate any existing facilities in ISO-NE; and (iii) no affiliate of TDI-NE owns or operates facilities in these markets. Because incumbent transmission owners have an obligation under the ISO-NE OATT to expand their transmission capacity, upon request, at cost-based rates, no entity will purchase

- transmission service from TDI-NE unless it is cost-effective to do so when compared to the incumbent transmission owners' cost of expanding capacity.
96. No entity on either end of the NECPL is required to purchase transmission service from TDI-NE, and customers will only do so if it is cost-effective.
97. Operation of the NECPL under ISO-NE's OATT will prevent TDI-NE from acquiring market power or controlling barriers to entry into the ISO-NE market.
98. FERC has concluded that TDI-NE will bear all market risks, that the NECPL will succeed or fail based on whether a market exists for its services, and that it has no ability to pass on any costs to captive ratepayers.<sup>2</sup>
99. FERC has recognized that negotiated rates for service over merchant transmission lines are effectively capped at the differential in power prices between markets, in this case the markets operated in Canada and ISO-NE. The customers likely to subscribe for services provided by the NECPL are sophisticated utilities that would only secure transmission service at competitive rates. These shippers will be able to rely on the NECPL in order to deliver electrical energy and capacity into ISO-NE's wholesale electricity market.
100. Pursuant to its authority granted by FERC, TDI-NE will sell transmission rights to power generators and other suppliers/marketers. They, in turn, will sell the power that is transmitted via the NECPL to New England area utilities who will deliver that output to retail customers.


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<sup>2</sup> As noted in Paragraph 60 above, should the finance structure for the Project change and the Project become one that is funded through the FERC Order 1000 process or another regional cost sharing mechanism, TDI-NE has agreed to indemnify Vermont's regionally allocated share of the Project's costs. *See Exhibit TDINE-8.*

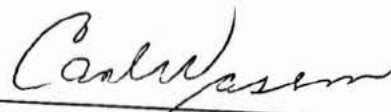
101. TDI-NE will not enter into contracts with or sell directly to retail customers.

I, Donald Jessome, do hereby swear and affirm under penalty of law that the information provided in the above testimony is accurate to the best of my knowledge and that I have personal knowledge of, and am able to testify as to the validity of the information contained in, my testimony and in the attached exhibits.

Dated at Boston, Massachusetts this 27<sup>th</sup> day of January, 2016.

  
\_\_\_\_\_  
Donald Jessome  
Champlain VT, LLC d/b/a TDI New England

The foregoing instrument was signed and acknowledged before me this 27<sup>th</sup> day of January, 2016 at Boston, Mass by Donald Jessome who acknowledged the act to be his free act and deed.

  
\_\_\_\_\_  
Notary Public

Name of Notary: Carol Wasserman

Commission Expires: 3/13/2020



146 FERC ¶ 61,167  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

Champlain VT, LLC

Docket No. ER14-966-000

ORDER CONDITIONALLY AUTHORIZING PROPOSAL AND GRANTING  
WAIVER

(March 10, 2014)

1. On January 8, 2014, Champlain VT, LLC, d/b/a TDI New England (TDI-NE) filed a request for authorization to sell transmission rights at negotiated rates on a proposed high-voltage direct current merchant transmission project (Project) and for waiver of certain Commission regulations. In this order, the Commission conditionally authorizes TDI-NE to sell transmission rights on the Project at negotiated rates and grants TDI-NE's request for waiver.

**I. Background**

**A. Applicant**

TDI-NE is a limited liability company owned by Champlain VT, Ltd., which is indirectly wholly-owned by investment funds controlled by The Blackstone Group LP (Blackstone).<sup>1</sup> TDI-NE states that it was established for the purpose of developing and financing the Project, and does not own or operate any existing electric generation, transmission, or distribution facilities. Through the common control of Blackstone, TDI-NE is affiliated with the Champlain Hudson Power Express project, which is expected to be completed in 2017 and will be under the operational control of New York Independent System Operator, Inc.<sup>2</sup> TDI-NE states that Blackstone does not own or control any

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<sup>1</sup> Filing at 3.

<sup>2</sup> Filing at 3 n.2.



existing electric generation, transmission, or distribution facilities in the markets operated by ISO New England Inc. (ISO-NE) or Hydro-Québec TransÉnergie (HQT).<sup>3</sup>

### **B. Description of Project**

2. The Project is a 150-mile, 1,000 MW, high-voltage direct current transmission line, which will originate at a converter station in Quebec, Canada and terminate in Ludlow, Vermont.<sup>4</sup> Approximately 100 miles of the Project will be buried in Lake Champlain, and the remaining length will be buried underground along existing rights-of-way. The Project will directly connect the markets in Quebec and ISO-NE. TDI-NE states that it has completed an engineering pre-feasibility study and market analysis to assess the commercial opportunities available to the Project's potential customers.<sup>5</sup> Additionally, TDI-NE states it has filed interconnection applications with ISO-NE and HQT. Upon completion of the transmission line, TDI-NE states that the approximately 150-mile-long section of the Project located in the United States will be under ISO-NE's operational control.<sup>6</sup>

### **C. Application**

3. TDI-NE seeks authority to charge negotiated rates for the sale of transmission rights on the Project. It contends that it meets the four factor analysis outlined in *Chinook* (and further discussed below) for approval of negotiated rate authority.<sup>7</sup> In its

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<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 5.

<sup>6</sup> *Id.* at 1-2.

<sup>7</sup> *Chinook Power Transmission, LLC*, 126 FERC ¶ 61,134 (2009) (*Chinook*). See also, *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011) (*Hudson Transmission*); *Champlain Hudson Power Express, Inc.*, 132 FERC ¶ 61,006 (2010) (*Champlain Hudson*) (distinguishing merchant transmission projects from traditional public utilities in that developers of merchant projects assume all market risk of a project and have no captive customers from which to recover project costs).

application, TDI-NE proposes to conduct an open solicitation process in compliance with the Commission's January 17, 2013 Policy Statement.<sup>8</sup> TDI-NE's application is described in further detail below.

## II. Notice, Intervention, and Responsive Pleadings

4. Notice of TDI-NE's Filing was published in the *Federal Register*, 79 Fed. Reg. 3,192 (2014), with interventions and protests due on or before January 29, 2014. None were received.

## III. Discussion

### A. Negotiated Rate Authority

5. In addressing requests for negotiated rate authority from merchant transmission providers, the Commission has stated its commitment to fostering the development of such projects where reasonable and meaningful protections are in place to preserve open access principles and to ensure that the resulting rates for transmission service are just and reasonable.<sup>9</sup> In evaluating negotiated rate applications, the Commission has focused on four areas of concern: (1) the justness and reasonableness of rates; (2) the potential for undue discrimination; (3) the potential for undue preference, including affiliate preference; and (4) regional reliability and operational efficiency requirements.<sup>10</sup> This approach allows the Commission to use a consistent framework to evaluate requests for

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<sup>8</sup> *Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects*, 142 FERC ¶ 61,038 (2013) (Policy Statement).

<sup>9</sup> *See, e.g., TransEnergie U.S., Ltd.*, 91 FERC ¶ 61,230, at 61,838-39 (2000) (accepting a request to charge negotiated rates on a merchant transmission project, subject to conditions addressing, among other things, the merchant's open season proposal); *Mountain States Transmission Intertie, LLC*, 127 FERC ¶ 61,270, at PP 57, 59 (2009) (denying a request to charge negotiated rates on a merchant transmission project because, among other things, sufficient protections did not exist to ensure that rates for service would be just and reasonable); *Hudson Transmission*, 135 FERC ¶ 61,104 at ordering para. (A) (authorizing Hudson Transmission to charge negotiated rates for transmission service).

<sup>10</sup> *Chinook*, 126 FERC ¶ 61,134 at P 37.

negotiated rate authority from a wide range of merchant projects that can differ substantially from one project to the next.

### 1. Policy Statement

6. On January 17, 2013, the Commission issued the Policy Statement to clarify and refine its policies governing the allocation of capacity for new merchant transmission projects and new non-incumbent, cost-based, participant-funded transmission projects.<sup>11</sup> The Policy Statement allows the developer of a new merchant transmission project to select a subset of customers, based on not unduly discriminatory or preferential criteria, and negotiate directly with those customers to reach agreement for procuring up to 100 percent of transmission capacity when the developer: (1) broadly solicits interest in the project from potential customers; and (2) demonstrates to the Commission that the developer has satisfied the solicitation, selection and negotiation process set forth in the Policy Statement.<sup>12</sup> To the extent the Commission determines that a merchant transmission developer complies with such policies, the Commission may find that the developer has satisfied the second (undue discrimination) and third (undue preference) factors of the aforementioned four-factor analysis.<sup>13</sup>

7. Under the Policy Statement, once a developer has identified a subset of customers through the open solicitation process, the Commission will allow the developer to engage in bilateral negotiations with each potential customer. In these negotiations, the Commission will allow for distinctions among prospective customers based on transparent and not unduly discriminatory or preferential criteria, with the potential result that a single customer, including an affiliate, may be awarded up to 100 percent of the transmission capacity.<sup>14</sup>

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<sup>11</sup> Policy Statement, 142 FERC ¶ 61,038.

<sup>12</sup> *Id.* P 16.

<sup>13</sup> *Id.* P 15.

<sup>14</sup> *Id.* P 28.

## 2. Four-factor Analysis

### a. Factor One: Just and Reasonable Rates

8. To approve negotiated rates for a transmission project, the Commission must find that the rates are just and reasonable.<sup>15</sup> In making that determination, the Commission considers whether the merchant transmission owner has assumed the full market risk for the cost of constructing its proposed transmission project. The Commission also considers whether the project is being built within the footprint of the merchant transmission owner's (or an affiliate's) traditionally regulated transmission system; if so, the Commission may determine that there are no captive customers who would be required to pay the costs of the project. The Commission also considers whether the merchant transmission owner or an affiliate already owns transmission facilities in the particular region where the project is to be located, what alternatives customers have, whether the merchant transmission owner is capable of erecting any barriers to entry among competitors, and whether the merchant transmission owner would have any incentive to withhold capacity.

#### i. TDI-NE's Proposal

9. TDI-NE states that it will assume all market risks for the Project and there will be no captive customers.<sup>16</sup> TDI-NE asserts that it is a new market entrant that does not own or operate any existing facilities in ISO-NE, and that no affiliate owns or operates facilities in these markets. TDI-NE also states that when the transmission line is completed, it will turn over operational control of the line to ISO-NE, which will operate the line under ISO-NE's Open Access Transmission Tariff (OATT), thus preventing TDI-NE from acquiring market power or controlling barriers to entry in the ISO-NE market.

10. TDI-NE states that incumbent transmission owners have an obligation under the ISO-NE OATT to expand their transmission capacity, upon request, at cost-based rates, and therefore no entity will purchase transmission service from TDI-NE unless it is cost-effective to do so when compared to the incumbent transmission owners' cost of expanding capacity. TDI-NE also states that the Commission has recognized that negotiated rates for service over merchant transmission lines are effectively capped at the differential in power prices between markets, in this case the markets operated in Canada

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<sup>15</sup> See *Champlain Hudson*, 132 FERC ¶ 61,006 at P 17.

<sup>16</sup> Filing at 9.

and ISO-NE.<sup>17</sup> Finally, TDI-NE states that the anchor customers likely to subscribe to the Project are sophisticated utilities that would only secure transmission service at competitive rates.<sup>18</sup>

**ii. Commission Determination**

11. The Commission concludes that TDI-NE's request for authority to charge negotiated rates for service on the Project has met the first of the *Chinoook* factors. TDI-NE will bear all market risks that the Project will succeed or fail based on whether a market exists for its services. Additionally, TDI-NE has no ability to pass on any costs to captive ratepayers.

12. No entity on either end of the Project is required to purchase transmission service from TDI-NE, and customers will do so only if it is cost-effective. TDI-NE will be unable to charge more for transmission than the expected differential in electric prices between Canada and a competitive price in ISO-NE. Additionally, because neither TDI-NE nor its affiliates own any other transmission facilities within the footprint of the Project, TDI-NE has no ability to erect barriers to entry in the relevant markets. Accordingly, these factors lead us to conclude that the requested negotiated rate authority meets the first of the *Chinoook* factors.

**b. Factor Two: Undue Discrimination**

13. Under the Policy Statement, a developer may demonstrate no undue discrimination or preference by conducting an open solicitation that complies with the requirements of the Policy Statement.<sup>19</sup> As detailed below, the developer must (1) broadly solicit interest in the project from potential customers; and (2) after the solicitation process, demonstrate to the Commission that it has satisfied the solicitation, selection, and negotiation process criteria set forth in the Policy Statement.<sup>20</sup>

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<sup>17</sup> *Id.* at 10 (citing *Lake Erie CleanPower Connector*, 144 FERC ¶ 61,203, at P 13 (2014)).

<sup>18</sup> Filing at 10.

<sup>19</sup> Policy Statement, 142 FERC ¶ 61,038 at PP 15, 23.

<sup>20</sup> *Id.* P 16.

**i. Broad Notice under the Policy Statement**

14. Under the Policy Statement, applicants must issue broad notice of the project in a manner that ensures that all potential and interested customers are informed of the proposed project, such as by placing notice in trade magazines or regional energy publications.<sup>21</sup> Such notice should include developer points of contact, pertinent project dates, and sufficient technical specifications and contract information to inform interested customers of the nature of the project, including: (1) project size/capacity, (2) end points of the line, (3) projected construction and/or in-service dates, (4) type of line, (5) precedent agreement (if developed), and (6) other capacity allocation arrangements (including how the developer will address potential oversubscription of capacity).<sup>22</sup> The developer should also specify in the notice the criteria it plans to use to select transmission customers. In addition, the developer may also adopt a specific set of objective criteria it will use to rank prospective customers, provided it can justify why such criteria are appropriate. Finally, the Policy Statement states that the Commission expects the developer to update its notice if there are any material changes to the nature of the project or the status of the capacity allocation process, in particular to ensure that interested entities are informed of any remaining available capacity.<sup>23</sup>

**ii. Post-Selection Filing under the Policy Statement**

15. The Policy Statement states that the Commission will continue to require merchant developers to disclose the results of their capacity allocation process. The developer's request for approval of the capacity allocation process will be noticed and acted upon under section 205 of the Federal Power Act.<sup>24</sup> The Policy Statement explains that the Commission expects developers to demonstrate that the processes that led to the identification of transmission customers and the execution of the relevant contractual arrangements are consistent with the Policy Statement and the Commission's open access principles. The developer should describe the criteria used to select customers, any price terms, and any risk-sharing terms and conditions that served as the basis for identifying transmission customers selected versus those that were not, as well as provide certain information listed in the Policy Statement in order to provide transparency to the

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<sup>21</sup> *Id.* P 23.

<sup>22</sup> *Id.* P 20.

<sup>23</sup> *Id.* PP 24-27.

<sup>24</sup> 16 U.S.C. § 824d (2012).

Commission and interested parties.<sup>25</sup> The Policy Statement emphasizes that the information in the post-selection demonstration is an essential part of a merchant developer's request for approval of a capacity allocation process, and that the developer will have the burden to demonstrate that its process was in fact not unduly discriminatory or preferential, and resulted in rates, terms, and conditions that are just and reasonable.<sup>26</sup>

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<sup>25</sup> Policy Statement, 142 FERC ¶ 61,038 at P 30.

<sup>26</sup> *Id.* P 32.

16. The Policy Statement allows developers discretion in the timing of requests for approval of capacity allocation processes. The Policy Statement provides two examples. First, a developer can seek approval of its capacity allocation approach after having completed the process of selecting customers in accordance with Commission policies. Alternatively, a developer can first seek approval of its capacity allocation approach, and then demonstrate in a compliance filing to the Commission order approving that approach that the developer's selection of customers was consistent with the approved selection process.<sup>27</sup>

**iii. TDI-NE's Proposal**

17. TDI-NE states that it will turn over operational control of the Project to ISO-NE and conduct an open solicitation process consistent with the Policy Statement.<sup>28</sup> To ensure that its open solicitation process is not unduly discriminatory or preferential, TDI-NE states that it will retain a third-party independent adviser experienced in overseeing open seasons for merchant transmission capacity to facilitate broad notice of the Project and the selection and ranking of prospective customers. To accomplish this broad notice, TDI-NE anticipates establishing a website specific to the Project and issuing a press release to be circulated to energy trade publications, news outlets within the ISO-NE/HQT region, and a list of potential transmission customers.<sup>29</sup> TDI-NE states that both the website and press release will include the Project's capacity, the interconnection points in HQT and ISO-NE, anticipated construction milestones and characteristics of the line, a statement regarding allocation of capacity, and the criteria to be used to assess potential customers (e.g., creditworthiness, term of transmission service). According to TDI-NE, the website will also contain more detailed information about the Project, such as Project activities completed to date, a confidentiality agreement, additional details regarding selection and ranking criteria (including justifications for each criteria), a form of precedent agreement (when available), and information about dates and locations of public meetings where TDI-NE will address inquiries from potential customers. TDI-NE anticipates holding one public meeting in Canada and one public meeting in the United States. TDI-NE states that it will post and time-stamp on its website and distribute through an email list-serve any material changes to the Project status or the open solicitation process.

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<sup>27</sup> *Id.* P 31.

<sup>28</sup> Filing at 11.

<sup>29</sup> *Id.* at 11-12.



18. Once customer agreements have been executed, TDI-NE commits to posting on its website the winning bidder's name, quantity, the expiration date of the transmission rights awarded, and the contact information of the bidder for purposes of potential resale of the transmission rights.<sup>30</sup> TDI-NE states that it will file with the Commission the results of its capacity allocation process, and will demonstrate that it conducted its open solicitation process and execution of contractual agreements in a manner consistent with the Commission's open access policies and the Policy Statement.

19. TDI-NE also states that it will ensure that books and records for the Project will comply with the Uniform System of Accounts in Part 101 of the Commission's regulations and will be subject to examination as required in Part 41 of the regulations, file financial statements and reports in accordance with Part 141.14 and 141.15 of the Commission's regulations, and employ an independent auditor to audit its books and records.<sup>31</sup>

#### iv. Commission Determination

20. In its filing, TDI-NE describes how it plans to broadly solicit interest from potential customers.<sup>32</sup> In addition to committing to engage in an open solicitation process, TDI-NE states that it will make a future filing under section 205 with the Commission disclosing the results of the capacity allocation process, and describing the process in sufficient detail to demonstrate its capacity allocation was consistent with the Policy Statement. TDI-NE also commits to turn over operational control of the Project to ISO-NE. The Commission acknowledges TDI-NE's commitment to engage in an open solicitation and capacity allocation process consistent with the Policy Statement and

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<sup>30</sup> *Id.* at 13.

<sup>31</sup> *Id.* at 13-14.

<sup>32</sup> We note that TDI-NE has committed to, among other things, issuing a press release to energy trade publications and news outlets within the ISO-NE/HQT region regarding the open solicitation. We also note that the Policy Statement contemplates "[placing a notice] in trade magazines or regional energy publications." Policy Statement, 142 FERC ¶ 61,038 at P 23. As sending a press release to a publisher does not guarantee its actual publication, we note that TDI-NE must ensure that the solicitation information is published sufficiently broadly, including, if necessary, purchasing sufficient supplemental advertisement coverage to establish that TDI-NE has met the "broad notice" requirement of the Commission's analysis under the Policy Statement.

reserves judgment on TDI-NE's section 205 filing (providing details regarding the open solicitation and capacity allocation process) and TDI-NE filing, through eTariff, of a rate schedule for service under the ISO-NE OATT prior to commencement of service. We accept these commitments as addressing our undue discrimination and preference concerns, subject to the Commission's approval of TDI-NE's subsequent section 205 filing demonstrating that the assignment of capacity is not unduly preferential or discriminatory.

21. Consistent with *Chinook*, once the Project has commenced operation, TDI-NE must ensure: (1) it maintains books and records for the Project that comply with the Uniform System of Accounts found in Part 101 of the Commission's regulations,<sup>33</sup> subject to examination as required in Part 41 of the regulations;<sup>34</sup> and (2) its books and records are audited by an independent auditor.<sup>35</sup>

**c. Factor Three: Undue Preference and Affiliate Concerns**

22. In the context of merchant transmission, Commission concerns regarding the potential for affiliate abuse arise when the merchant transmission owner is affiliated with either the anchor customer, participants in the open season or solicitation, and/or customers that subsequently take service on the merchant transmission line. The Commission noted in the Policy Statement that it will continue to expect an affirmative showing that the affiliate is not afforded an undue preference. The Commission noted that the developer will bear a high burden to demonstrate that the assignment of capacity to its affiliate and the corresponding treatment of nonaffiliated potential customers is just, reasonable, and not unduly preferential or discriminatory.<sup>36</sup>

**i. TDI-NE's Proposal**

23. TDI-NE states that none of its affiliates own or operate electric facilities in ISO-NE or HQT, and that the Project will not interconnect with any existing facilities

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<sup>33</sup> 18 C.F.R. pt. 101 (2013).

<sup>34</sup> 18 C.F.R. pt. 41 (2013).

<sup>35</sup> *Chinook*, 126 FERC ¶ 61,134 at P 62; *Champlain Hudson*, 132 FERC ¶ 61,006 at P 48; *Tres Amigas LLC*, 130 FERC ¶ 61,207, at P 90 (2010) (*Tres Amigas*).

<sup>36</sup> Policy Statement at P 34.

owned by an affiliate.<sup>37</sup> TDI-NE asserts that it does not anticipate that an affiliate will purchase transmission rights through the open solicitation process, but in the event that one does, the post-solicitation filing with the Commission will document the facts and circumstances surrounding this allocation of capacity. Consequently, TDI-NE contends that there will be no opportunity for affiliate abuse. TDI-NE states that it will turn over operational control of its facilities to ISO-NE, file electric quarterly reports of its transactions as required of transmission providers, comply with any applicable affiliate rules, and be subject to the Commission's Standards of Conduct to the extent any affiliate takes transmission service on the Project.<sup>38</sup> Finally, as discussed above, TDI-NE commits to conduct an open solicitation process that broadly solicits interest in the Project from potential customers and make a section 205 filing with the Commission to demonstrate that TDI-NE has satisfied the solicitation, selection, and negotiation process set forth in the Policy Statement.

**ii. Commission Determination**

24. We acknowledge TDI-NE's commitment to engage in an open solicitation process and make a future filing with the Commission disclosing the results of the capacity allocation process and describing the process in sufficient detail to demonstrate no affiliate has been afforded undue preference. In addition, we acknowledge TDI-NE's commitment to turn over operational control of its facilities to ISO-NE, file electric quarterly reports of its transactions as required of transmission providers, comply with any applicable affiliate rules, and abide by the Commission's Standards of Conduct to the extent any affiliate takes transmission service on the Project. We accept these commitments as addressing our affiliate preference concerns, subject to the Commission's approval of TDI-NE's subsequent section 205 filing demonstrating that the assignment of capacity to any affiliate and the corresponding treatment of nonaffiliated potential customers is just, reasonable, and not unduly preferential or discriminatory.

**d. Factor Four: Regional Reliability and Operational Efficiency**

25. In order to ensure regional reliability and operational efficiency, the Commission expects that any merchant transmission projects connected to an RTO or ISO turn over

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<sup>37</sup> Filing at 14.

<sup>38</sup> *Id.* at 15.

operational control to the RTO/ISO.<sup>39</sup> Further, merchant transmission projects, like cost-based transmission projects, are subject to mandatory reliability requirements.<sup>40</sup> Merchant transmission developers are required to comport with all applicable requirements of the North American Electric Reliability Corporation and any regional reliability council in which they are located.

**i. TDI-NE's Proposal**

26. TDI-NE commits to turn over operational control of the Project to ISO-NE and to comply with all applicable reliability requirements.<sup>41</sup> Additionally, TDI-NE states that consistent with the requirements of Order No. 1000,<sup>42</sup> it will provide to ISO-NE all required information regarding its regional planning process.

**ii. Commission Determination**

27. The Commission acknowledges TDI-NE's commitment to turn over operational control of the Project to ISO-NE and comply with all applicable reliability requirements, and TDI-NE representation that it has filed interconnection applications with ISO-NE. Accordingly, we find that TDI-NE has met the regional reliability and operational efficiency requirement, subject to TDI-NE's continued participation in the necessary regional planning processes.

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<sup>39</sup> *Chinook*, 126 FERC ¶ 61,134 at P 52.

<sup>40</sup> *See, e.g., Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006).

<sup>41</sup> Filing at 15.

<sup>42</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, 136 FERC ¶ 61,051, at PP 164-65 (2011), *order on reh'g*, 139 FERC ¶ 61,132 (2012), *appeal pending South Carolina Pub. Serv. Auth. v. FERC, et al.*, No. 12-1232 (D.C. Cir. Filed 5/25/2012 and later).

**B. Waiver Requests****1. TDI-NE's Proposal**

28. TDI-NE requests waiver of: (1) the full reporting requirements of Subparts B and C of Part 35 of the Commission's regulations, except for sections 35.12(a), 35.13(b), 35.15, and 35.16; and (2) Part 141, except for sections 141.14 and 141.15. TDI-NE states that the Commission has granted similar waiver requests to other merchant transmission owners seeking negotiated rate authority.<sup>43</sup>

**2. Commission Determination**

29. Because TDI-NE is proposing to charge negotiated rates, the regulations requiring the filing of cost-based data are not applicable. For good cause shown and consistent with our prior orders, we will grant waiver of the applicable filing requirements of Subparts B and C of Part 35 of the Commission's regulations except for sections 35.12(a), 35.13(b), 35.15, and 35.16.<sup>44</sup>

30. The Commission will also grant TDI-NE's request for waiver of Part 141, with the exception of 141.14 and 141.15, including the Form No. 1 filing requirement. The Commission has previously granted waiver of the Form No. 1 filing requirement to merchant transmission owners.<sup>45</sup>

**The Commission orders:**

(A) The Commission hereby grants TDI-NE authority to sell transmission rights on its proposed merchant transmission project at negotiated rates, subject to the Commission's approval of a subsequent section 205 filing, and to TDI-NE's submission

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<sup>43</sup> Filing at 18 (citing *Chinook*, 126 FERC ¶ 61,134 at PP 68, 69; *Rock Island Clean Line LLC*, 139 FERC ¶ 61,142, at PP 43-47 (2012); *Neptune Regional Transmission System, LLC*, 139 FERC ¶ 61,110, at P 12 (2012) (*Neptune*)).

<sup>44</sup> *Hudson Transmission*, 135 FERC ¶ 61,104 at P 42; *Tres Amigas*, 130 FERC ¶ 61,207 at P 103; *Wyoming Colorado Intertie, LLC*, 127 FERC ¶ 61,125, at P 62 (2009) (*Wyoming*); *Linden VFT, LLC*, 119 FERC ¶ 61,066, at P42 (2007) (*Linden*).

<sup>45</sup> *Neptune*, 139 FERC ¶ 61,110 at P 12; *Wyoming*, 127 FERC ¶ 61,125 at P 65; *Linden*, 119 FERC ¶ 61,066 at P 44; *Montana Alberta Tie Ltd.*, 116 FERC ¶ 61,071, at P 66 (2006).

of a rate schedule for service under the ISO-NE OATT, as discussed in the body of this order.

(B) The Commission grants TDI-NE requests for waiver of the provisions of Subparts B and C of Part 35 of the Commission's regulations, with the exception of sections 35.12(a), 35.13(b), 35.15, and 35.16, and Part 141 of the Commission's regulations, with the exception of sections 141.14 and 141.15, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**STATE OF VERMONT**  
**OFFICE OF SECRETARY OF STATE**

**The Office of Secretary of State hereby grants a**

**Certificate of Organization**

**to**

**CHAMPLAIN VT, LLC**

**a Delaware domestic limited liability company effective on October 29, 2013**

**November 04, 2013**

**Given under my hand and the seal  
of the State of Vermont, at  
Montpelier, the State Capital**

*James C. Condos*

**James C. Condos  
Secretary of State**



**LIMITED LIABILITY COMPANY ARTICLES OF ORGANIZATION**  
(Domestic & foreign -T.11,Ch.21)  
Vermont Secretary of State, 128 State Street, Montpelier, VT 05633-1104(802-828-2386)

LLC name: Champlain VT, LLC

(Name must contain the words Limited Liability Company, Limited Company, LLC, LC, PLLC or L3C)

Organized under the laws of the state (or country) of: Delaware

(Foreign LLC must attach a good standing cert, dated no earlier than 30 days prior to filing, from its State of origin.)

Business PURPOSE: Energy Transmission

Professional L.L.C. - attach license information with this application.

Principal office: 600 Broadway

Albany

NY

12207

Registered agent: C T Corporation System

Agent's street & po box: 400 Cornerstone Drive, Suite 240

Williston

VERMONT 05495

The fiscal year ends the month of: December (DEC will be designated unless you state differently.)

Each company under this title is required to file online an *annual report* within 2½ months of the close of its fiscal year. Failure to file may result in termination of its authority.

If this is a *term* company, state the duration of its term: \_\_\_\_\_

An LLC is an At-Will Company unless it is designated in the articles as a Term Co

{This company must be either manager managed or member managed}

Is this a MANAGER-MANAGED company?  Yes  No

If manager-managed list the name & address of each initial manager. (managers are the operators)

Is this a MEMBER-MANAGED company?  Yes  No

List the name and address of the MANAGING MEMBER. (members are the owners)

Champlain VT Ltd., 190 Elgin Avenue, George Town, Grand Cayman KY1-9005

Are members personally liable for debts & obligations under T.11,§3043(b)?  Yes  No

Is this an L3C Company?  Yes  No

Printed Name William S. Helmer Signature William S. Helmer date: 10-7-2013

Organizers address:

600 Broadway, Albany, New York 12207

**\$125.00 FEE payable to VTSOS**

File in duplicate with self-addressed envelope. A delayed effective date cannot be later than 90 days after the filing.

List effective date being requested here: \_\_\_\_\_

VERMONT  
SECRETARY OF STATE  
CORPORATIONS  
2013 OCT 24 PM 1:33

VERMONT  
SECRETARY OF STATE  
CORPORATIONS  
2013 OCT 29 PM 1:19



**LIMITED LIABILITY COMPANY AGREEMENT**

of

**CHAMPLAIN VT, LLC**

The undersigned is executing this Limited Liability Company Agreement (the "Agreement") of Champlain VT, LLC (the "Company") as of September 19, 2013, pursuant to the provisions of the Delaware Limited Liability Company Act, 6 Del. C. § 18-101 et seq., as amended from time to time (the "Act"), and does hereby agree as follows:

1. Formation. A certificate of formation of the Company (the "Certificate") was executed and filed with the Office of the Secretary of State of the State of Delaware on September 19, 2012.
2. Name. The name of the limited liability company shall be "Champlain VT, LLC", or such other name as the Member may from time to time hereafter designate.
3. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth therefor in Section 18-101 of the Act.
4. Purpose. The Company is formed for the purpose of, directly or indirectly through subsidiaries or affiliates, engaging in any lawful business permitted by the Act or the laws of any jurisdiction in which the Company may do business. The Company shall have the power to engage in all activities and transactions which the Member deems necessary or advisable in connection with the foregoing.
5. Offices. The principal place of business and office of the Company shall be located at, and the Company's business shall be conducted from, such place or places as the Member may designate from time to time.
6. Registered Offices. The registered office of the Company in the State of Delaware shall be located at c/o The Corporation Trust Company, 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The name and address of the registered agent of the Company for service of process on the Company in the State of Delaware shall be The Corporation Trust Company, 1209 Orange Street, in the City of Wilmington, County of New Castle, 19801. The Member may from time to time change the registered agent or office by an amendment to the Certificate of Formation of the Company.
7. Member. Champlain VT Ltd. is the sole and initial member of the Company (the "Member"). The name and business or residence address of the Member is c/o 345 Park Avenue, New York, NY 10154, Attn: Bilal Khan. Any additional members to this Agreement shall be listed along with the Member on Schedule A hereto.
8. Term. The term of the Company shall commence on the date of filing of the certificate of formation of the Company in accordance with the Act and shall continue until the Company is dissolved and its affairs are wound up in accordance with Section 18 of this Agreement and a certificate of cancellation is filed in accordance with the Act.

9. Officers. Subject to the direction of the Member, the day-to-day administration of the business of the Company may be carried out by employees and agents who may be designated as officers, with titles including but not limited to “chairman,” “vice chairman,” “managing director,” “principal,” “president,” “vice president,” “treasurer,” “assistant treasurer,” “secretary,” “assistant secretary,” “general manager,” “director” and “chief financial officer,” as and to the extent authorized by the Member. The officers of the Company shall have such titles and powers and perform such duties as shall be determined from time to time by the Member and otherwise as shall customarily pertain to such offices or be determined from time to time by the Member. Any number of offices may be held by the same person. Any delegation pursuant to this Section 9 may be revoked at any time by the Member. An officer may be removed with or without cause at any time by the Member.
10. Appointment. Donald Jessome has been designated by the Member as General Manager of the Company, and is hereby authorized to act on behalf of the Company in his capacity as General Manager of the Company.
11. Powers. The business and affairs of the Company shall be managed by the Member in accordance with the provisions of this Agreement. The Member shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by any member under the laws of the State of Delaware. Each of the Member, the General Manager and officers is hereby designated as an authorized person, within the meaning of the Act, to execute, deliver and file any amendments and/or restatements of the Certificate of Formation and any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business. The execution by the General Manager or one officer or Member of any of the foregoing certificates (and any amendments and/or restatements thereof) shall be sufficient.
12. Management. The Member shall have the exclusive right to manage the business and affairs of the Company and may delegate such management rights, powers, duties and responsibilities to the General Manager or one or more officers or such other person or persons designated by them as they may determine, provided that such delegation by the Member shall not cause the Member to cease being a member of the Company. Pursuant to its discretion to do so under this Section 12, the Member hereby delegates to the General Manager the nonexclusive power and authority to act as an agent of the Company and, in such capacity, to bind the Company in the ordinary course of the Company’s business and to execute any and all documents to be signed by the Company.
13. Capital Contributions. The Member may make capital contributions to the Company from time to time, but shall not be required to make any capital contributions.
14. Transfers of Member Interest. The Member may sell, assign, pledge or otherwise transfer or encumber (collectively, a “Transfer”) any of its limited liability company interest in the Company to any Person so long as such Transfer is in writing.

15. Resignation. The Member shall have the right to resign from the Company so long as such resignation is in writing. The provisions hereof with respect to distributions upon resignation are exclusive and no Member shall be entitled to claim any further or different distribution upon resignation under Section 18-604 of the Act or otherwise.
16. Allocations and Distributions. Distributions of cash or other assets of the Company shall be made at such times and in such amounts as the Member may determine in its sole discretion. Distributions shall be made to (and profits and losses of the Company shall be allocated to) the Member.
17. Return of Capital. The Member has the right to receive any distributions which include a return of all or any part of such Member's capital contribution, provided that upon the dissolution and winding up of the Company, the assets of the Company shall be distributed as provided in Section 18-804 of the Act.
18. Dissolution. The Company shall be dissolved and its affairs wound up upon the earlier of (i) the written consent of the Member and (ii) the occurrence of an event causing a dissolution of the Company under Section 18-801 of the Act, except the Company shall not be dissolved upon the occurrence of an event that terminates the continued membership of a Member if (i) at the time of the occurrence of such event there are at least two Members of the Company, or (ii) within ninety (90) days after the occurrence of such event, all remaining Members agree in writing to continue the business of the Company and to the appointment, effective as of the date of such event, of one or more additional Members. In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority set forth in Section 18-804 of the Act.
19. Other Business. The Member may engage in or possess an interest in other business ventures of every kind and description, independently or with others. The Company shall not have any rights in or to such independent ventures or the income or profits therefrom by virtue of this Agreement.
20. Limited Liability. The debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member of the Company shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member or by reason of taking any action in its capacity as a Member.
21. Limited Liability Company Interests. The Company's limited liability company interests shall be in such form as the Member shall determine in its sole discretion.
22. Banking Matters. The Member, the General Manager and each officer and any agent or employee of the Company, or other person designated by the Member, the General Manager or officer is hereby authorized and empowered (A) to (i) establish one or more domestic or international accounts (including but not limited to, depository, checking, disbursement, custodian, or investment accounts, and other accounts as deemed necessary

or expeditious for business purposes of the Company) ("Accounts"), in the name of the Company with any bank, trust company, savings and loan institution, brokerage firm or other financial institution which said Member, General Manager or officer shall from time to time designate as a depository of funds, securities or other property of the Company, for any purpose and on terms and conditions deemed appropriate by such person on behalf of the Company; and (ii) close Accounts of the Company now or hereafter established; and (B) to assign, limit or revoke any and all authority of any agent or employee of the Company, or other person designated by such Member, General Manager or officer to (i) sign checks, drafts and orders for the payment of money drawn on the Company's Accounts, and all notes of the Company and all acceptances and endorsements of the Company; (ii) execute or initiate electronic fund transfers; (iii) execute or initiate foreign currency exchange transactions; (iv) execute or initiate the investment of monies; and (v) initiate requests for information for any Account of the Company.

23. Tax Matters. The Company is intended to be disregarded as an entity separate from the Member for U.S. federal income tax purposes.
24. Amendment. This Agreement may only be amended by a writing duly signed by the Member.
25. Successors. Except as otherwise provided herein, this Agreement will inure to the benefit of and be binding upon the Members and their respective legal representatives, heirs, successors and permitted assigns
26. Benefits of Agreement. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or by any credit of any member.
27. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Delaware, without regard to conflict of law rules.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the undersigned, constituting the sole member of the Company caused this Limited Liability Company Agreement to be signed as of the date first above written.

CHAMPLAIN VT LTD.

By: 

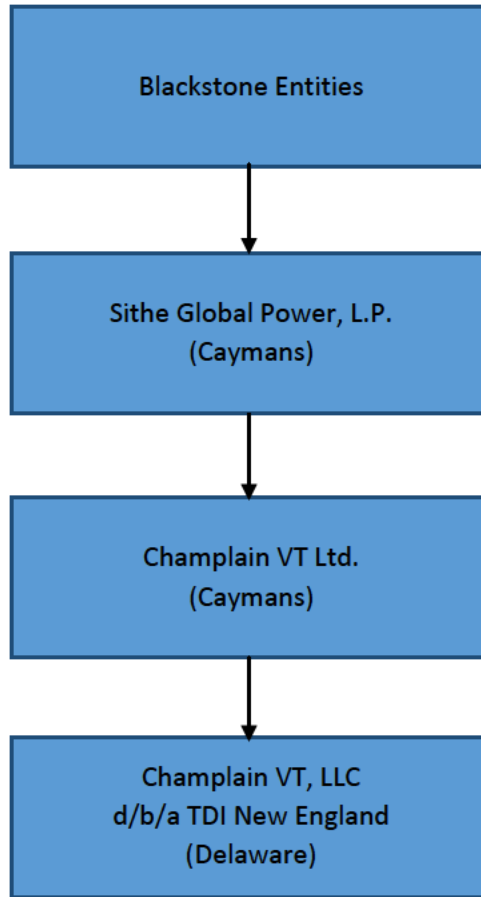
Name: Bilal Khan

Title: Director

**Schedule A**  
**List of Members**

<b>Member</b>	<b>Ownership</b>
Champlain VT Ltd.	100%

**Corporate Hierarchy of  
Champlain VT, LLC d/b/a TDI England**





## **Donald Jessome, CEO**

*Transmission Developers Inc.*

T: (518) 465-0710

C: (902) 440-0664

[donald.jessome@transmissiondevelopers.com](mailto:donald.jessome@transmissiondevelopers.com)

[www.transmissiondevelopers.com](http://www.transmissiondevelopers.com)

[WWW.CHPEXpress.com](http://WWW.CHPEXpress.com)

[WWW.NECPLink.com](http://WWW.NECPLink.com)

Don is the CEO of TDI New England, a Blackstone portfolio company currently developing the New England Clean Power Link (NECPL) in Vermont. NECPL is a 1,000MW high-voltage direct current (HVDC) buried cable transmission project that will connect Canadian hydro and wind resources with the New England marketplace. In development since 2013 the project is scheduled to be in service by 2019. Don is also the co-founder and CEO of Transmission Developers Inc. (TDI). Since 2008, TDI has been developing the 1,000MW Champlain Hudson Power Express (CHPE) project that will also link hydro/wind resources from Canada to New York City.

Prior to creating TDI, Don spent twenty-two years with Emera Inc., a publicly traded company in Canada with \$5.3 billion in energy infrastructure assets centered on power and natural gas. Don earned his undergraduate degree in Electrical Engineering from the Technical University of Nova Scotia in 1987 and his Masters of Business Administration, with Distinction, from Saint Mary's University in 1999.



## **TDI New England Leadership Team – Positions and Biographies**

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### **Donald Jessome – Chief Executive Officer, TDI**

Donald Jessome is the Chief Executive Officer of TDI. Mr. Jessome co-founded TDI in 2008 and serves as a member of the board. Mr. Jessome received an undergraduate degree in Electrical Engineering from the Technical University of Nova Scotia (currently referred to as Dalhousie University) in 1987, and a Masters of Business Administration, with Distinction, from Saint Mary's University in 1999.

Mr. Jessome has spent his entire career in the energy field, starting with 22 years at Emera Inc., a publicly-traded company in Canada with \$5.3 billion in energy infrastructure assets centered on power and natural gas. Mr. Jessome worked in a broad range of areas while at Emera, including transmission & distribution operations and construction, integrated system planning, system operations, generation operations and fuel procurement, marketing and sales, and most recently Director of Asset Optimization and Power Trading for Emera Energy Inc. a wholly-owned non-regulated trading and asset optimization company of Emera Inc. Through Mr. Jessome's marketing and trading experience with both the regulated and non-regulated business at Emera, he developed extensive knowledge of the power markets in the Northeast including ISO-NE, NYISO, IESO, TransEnergie, NBSO, and PJM.

Mr. Jessome joined Riverbank Power Corporation ("RPC") in 2008 as Vice President of Marketing and Trading, to help the company develop its commercialization strategy for its 1,000 MW underground pump-storage technology, referred to as Aquabank™. This strategy included the development of economic models and programs for the sale of energy, capacity and renewable attributes for both the regulated and market-based energy markets. In addition, Mr. Jessome was responsible, along with the RPC Chief Executive Officer, for raising equity financing for RPC's development plans.

### **Eugene Martin – Chief Operating Officer of TDI**

Eugene Martin is the President and Chief Operating Officer at TDI. Mr. Martin has 30 years of experience in general and executive management with six New York Stock Exchange listed companies in the energy, engineering, construction and private equity sectors. His professional background includes divisional CEO roles with EMCOR Group (NYSE:EME), KeySpan Energy (NYSE:KSE), and UtiliCorp United (NYSE:UCU), as well as various management roles for SCANA

Corporation (NYSE:SCG) and AECOM (NYSE:ACM), where Mr. Martin brought several life cycle service companies focused on energy infrastructure to a valuation of over \$5 billion, serving some of the world's largest commercial, industrial and institutional companies across their global operations. Over the past 30 years, Mr. Martin has led turnkey operations focused on developing, building and operating power, thermal, transmission and distribution and commodity opportunities/assets in both domestic and international markets. He was the leader and management spokesperson for utility, contracting and engineering investments in excess of \$3 billion, including the \$1.15 billion acquisition of United Energy in Melbourne, Australia. Mr. Martin also sits on the State University of New York's Advanced Energy and Research Technology Center Advisory Board and Heath Consultant's Board of Directors.

### **William Helmer – Executive Vice President and General Counsel of TDI**

William Helmer is the Executive Vice President and General Counsel of TDI. He has practiced energy, environmental, contract, and real estate law during a career spanning over three decades. He has occupied senior positions in New York State government, litigated groundbreaking cases before federal courts and the Court of Appeals, the highest court in New York State, and handled the legal issues associated with the development and financing of many large and complicated power projects. Mr. Helmer is a member of the bar of the Supreme Court of the United States.

After a judicial clerkship, Mr. Helmer practiced law privately in Albany, New York, for a dozen years until he was placed in charge of the Environmental Protection Bureau in the State Attorney General's office. During his tenure as Bureau Chief, Mr. Helmer managed a staff that included over 30 attorneys, six scientists, and dozens of other employees in offices located in Buffalo, Albany, and New York City.

From 1999 until 2007, Mr. Helmer served as special counsel in the New York Power Authority's law department. At the Authority, Mr. Helmer oversaw all legal matters associated with the Authority's nuclear fleet until the plants were sold to Entergy Corporation late in 2000. Shortly before the sale, Mr. Helmer also assumed responsibility for the Authority's hydroelectric relicensing portfolio. By early 2007, new 50-year federal licenses had been issued for the Authority's projects on the St. Lawrence and Niagara Rivers.

### **Todd Singer – Senior Vice President of Project Development and Finance of TDI**

Todd Singer is Senior Vice President of Project Development and Finance at TDI. Prior to joining TDI, Mr. Singer spent over a decade on Wall Street as an investment banker, primarily at Morgan Stanley, and he has a broad range of capital markets and mergers and acquisitions experience. Mr. Singer has closed \$97.6 billion of capital markets financings across the entire capital structure (e.g., secured debt, unsecured debt, convertible debt, equity) and \$3.6 billion in mergers and acquisitions transactions. Approximately \$23.5 billion of these capital markets financings were for energy-related companies with the balance associated with real estate, consumer credit, technology, and other industries. In addition, Mr. Singer has had his own strategic consulting practice where he advised a wind energy storage company as well as the Natural Resources Defense Council.

### **Joshua Bagnato – NECPL Project Manager for TDI**

Joshua Bagnato is the Project Manager for the NECPL Project and is responsible for overseeing the permitting and development of the NECPL. From 2007-2013 he was employed at First Wind, an independent North American renewable energy company, where he managed a wide array of tasks during the development, construction and operational phases of utility-scale wind and solar projects throughout the United States—particularly in New England. While at First Wind, Mr. Bagnato assisted with development and construction/operational compliance of the Sheffield Wind Project in Sheffield, VT. Before joining First Wind, he held several positions with the Massachusetts Office of Environmental Affairs, including as its Director of Renewable Energy Policy.

### **Robert Harrison - Vice President of Engineering and Construction of TDI**

Robert Harrison is Vice President of Engineering and Construction at TDI. He is a licensed professional engineer in the States of New York and Vermont. Mr. Harrison is a senior engineering/construction executive with over 30 years of operating experience in diverse markets including power (generation and transmission), industrial gases and petrochemicals. Mr. Harrison started his career in the natural gas industry, working as plant supervisor/field engineer in a liquefied natural gas (LNG) plant for a predecessor company to National Grid (NYSE: NGG). From there he moved to Linde AG (XETRA: LIN) where he progressed into a senior project management role executing design/build projects worldwide.

During his time with EMCOR Group (NYSE: EME), Mr. Harrison's initial role was as Vice President, Operations overseeing a portfolio of mechanical and electrical contractors in the US and Canada with combined revenue of \$500 million. Upon seeing the opportunities presented by changing energy markets, he accepted the role as Vice President, Construction Services in EMCOR's energy subsidiary. There he led the largest business unit in the subsidiary in pursuit of design/build opportunities in the power generation markets.

In his most recent role as Vice President, Energy Infrastructure for AECOM (NYSE: ACM), Mr. Harrison was recruited to AECOM to assume the operations lead in turning around their unprofitable energy division. In less than three years, it became the fastest growing unit at AECOM. This diverse experience working for both engineering firms and construction contractors gives him a broad understanding of the industry and makes him particularly adept at optimizing resources, generating significant cost savings and promoting innovative solutions in complex environments.

Mr. Harrison has served as Chairman and Executive Board member of the Long Island, NY section of the American Society of Mechanical Engineers (ASME). He currently serves on the Department Advisory Board for the Mechanical and Aerospace Engineering Department at the University at Buffalo. He is a registered Professional Engineer licensed in New York and Vermont and holds a Master of Science in Mechanical Engineering from the NYU- Polytechnic School of Engineering and a Bachelor of Science in Mechanical Engineering from the University at Buffalo.

**Outside Contractors and Consultants Hired by TDI-NE to Advise, Design, and/or Review the NECPL During Development and Permitting**

Name	Firm/Company	Expertise/Assessment Provided for the NECPL
Alan Wironen	TRC Companies, Inc.	Engineering and project design
Sean Murphy	TRC Companies, Inc.	Environmental assessment focusing on the lake
Larry Eng	Siemens Industry Inc., Power Technologies International	Electrical design and transmission system impacts
Seth Parker	Levitan & Associates, Inc.	Energy need and financial assessments
Thomas Kavet	Kavet, Rockler & Associates (KRA)	Economic impacts
Jeffrey Nelson	Vanasse Hangen Brustlin, Inc. (VHB)	Environmental assessment focusing on the land portion
Kenneth Kaliski	Resource Systems Group, Inc. (RSG)	Noise assessment
Michael Buscher	T.J. Boyle Associates	Visual assessment
Kristin Heitert	The Public Archaeology Laboratory, Inc. (PAL)	Land archaeological assessment
Stephen Olausen	PAL	Historic structure assessment
Dr. William Bailey	Exponent, Inc.	Thermal and magnetic assessments
Andrew Thuman	HDR	Water quality assessment
Christopher Sabick	Lake Champlain Maritime Museum	Lake Champlain archaeological assessment
Jay Ryan	Baker Botts	Legal Counsel, FERC-related matters

**Outside Consultants and Contractors to be Hired by TDI-NE During Construction and Operation of the NECPL**

Phase	Type of Contractor/Consultant	Scope of Work
Construction	Owner's Engineer	Lend technical expertise to TDI-NE and provide secondary review of EPC Contractor's engineering activities.
Construction	Construction Inspection	Provide construction inspections under contract with TDI-NE.
Construction	Submarine Cable EPC ("Engineer, Procure, Construct") Contractor	Oversee installation of cable in Lake Champlain; will likely be the Original Equipment Manufacturer ("OEM")
Construction	Submarine Cable Installation Sub-Contractor	Physical installation of cable in Lake Champlain, to be overseen by EPC

<b>Phase</b>	<b>Type of Contractor/Consultant</b>	<b>Scope of Work</b>
		contractor
Construction	Environmental Consultant: Lake	Provide environmental permitting compliance management during construction for work in Lake Champlain
Construction	Environmental Consultant: Land	Provide environmental permitting compliance management during construction for the overland route and Converter Station.
Construction	Converter Station EPC Contractor	Oversee Construction of the Converter Station; will likely be the OEM
Construction	Converter Station Installation Sub-Contractor	Physical Construction of the Converter Station, to be overseen by EPC Contractor
Construction	Overland Cable General Contractor or OEM	Oversee and physically install overland portion of cable
Operations/Maintenance (“O/M”)	O/M Services Agreement Provider (likely VELCO)	Converter station and overland cable O/M – e.g. fence repair, snow plowing, veg. management, stormwater infrastructure maintenance
Operations/Maintenance	Long-Term Service Agreement Provider (likely to be OEM)	Schedule maintenance of Converter Station technical equipment and cables; Unplanned maintenance or emergency repair of Converter Station technical equipment and cables
Operations/Maintenance	Submarine Cable Inspection Contractor	Inspect submarine cables at least once every 5 years
Operations/Maintenance	Overland Cable Inspection Contractor	Inspect overland cables at least once every 3 years
Operations/Maintenance	Vegetation Management (Primarily VTrans); augmented by specialized Environmental Consultants	Vegetation maintenance along state highways and inspection for RTE plant species

**First Amendment to Agreement Between**  
**Vermont Transco LLC/Vermont Electric Power Company, Inc.**  
**and**  
**Champlain VT, LLC**

This First Amendment (“Amendment”) to the Parties’ December 4, 2014 Agreement (“Agreement”) is made as of the 20<sup>th</sup> day of August, 2015 between Vermont Transco LLC and Vermont Electric Power Company, Inc., the managing member of Vermont Transco LLC (collectively referred to as “VELCO”), and Champlain VT, LLC d/b/a TDI New England (“TDI-NE” and with VELCO, the “Parties,” and each, a “Party”) in order to preserve the bargained-for benefits afforded by the original Agreement in the event that TDI-NE ultimately seeks to fund the Project in a manner that recovers Project costs from Vermont ratepayers. The Parties hereby amend the Agreement as follows, leaving all other provisions in the Agreement in full force and effect:

New Paragraph 16 is added:

**“16. Vermont Retail Electric Customer Benefit Protection.** To the extent that the Project is funded through the Federal Energy Regulatory Commission Order 1000 process, or another regional cost sharing mechanism, TDI-NE shall indemnify Vermont’s regionally allocated share of the costs to ensure that the net benefit identified in Schedule I accrues to Vermont’s retail electric customers, by making additional payments to Vermont Transco LLC. Vermont Transco LLC or the SPE shall distribute these additional funds in accordance with Paragraph 1 and the other relevant provisions of this Agreement. In the event that the FERC Order 1000 process or another regional cost sharing mechanism is utilized and for so long as Project costs are being recovered by such process or mechanism, these additional indemnification payments shall not be suspended. Paragraphs 5 and 6 shall apply to these payments. TDI-NE will not seek cost recovery for these additional indemnification payments whether under the ISO-NE Tariff or any other cost sharing mechanism that allocates costs to Vermont ratepayers.”

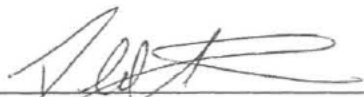
New Paragraph 17 is added:

**“17. TDI-NE Payments to Vermont Distribution Utilities.** Contingent on receipt of necessary approvals from its board of directors and the Vermont Public Service Board to do so, VELCO will establish a special class of stock (directly or through a special purpose entity) in order to receive and distribute the quarterly payments to be made by TDI-NE under Paragraph 1 of the Agreement to the Vermont Electric Distribution Utilities (DUs) for the benefit of their ratepayers. The DUs shall be the owners of such stock with their respective ownership in proportion to each DU’s load ratio share, in order to ensure an equitable distribution of benefits among Vermont ratepayers. VELCO shall distribute the TDI-NE quarterly payments (less any required taxes and administration costs) to the DUs as stock dividends on a quarterly basis, for the benefit of their ratepayers as required by the Agreement. VELCO and TDI-NE understand that the distributions would be credited by the DUs as revenues in their cost of service calculations. In the event that the VELCO board of directors fails to issue the necessary approval(s) in accordance with the above, VELCO shall propose a new payment arrangement to implement Paragraph 1 of the Agreement, subject to consent from TDI-NE and amendment of the Agreement.”

IN WITNESS WHEREOF the Parties hereto have caused their representatives to execute and deliver this Agreement as of the date hereinabove set forth.

Dated at Burlington, Vermont this 20<sup>th</sup> day of August, 2015.

Champlain VT, LLC d/b/a TDI New England

By:   
Donald Jessome, General Manager and  
Chief Executive Officer

Dated at Rutland, Vermont this 20<sup>th</sup> day of August, 2015.

Vermont Electric Power Company, Inc.  
Vermont Transco LLC

By:   
Thomas Dunn, President and CEO