



**US Army Corps
of Engineers** ®
New England District
696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

Comment Period Begins: December 6, 2016

Comment Period Ends: December 21, 2016

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NATIONAL GRID FUNDING AGREEMENT UNDER SECTION 214 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2000

The District Engineer announces the preliminary intent of the U.S. Army Corps of Engineers, New England District (Corps), to accept and expend funds from New England Power Company, Massachusetts Electric Company, Nantucket Electric Company, Narragansett Electric Company, Boston Gas Company, Colonial Gas Company, New England Electric Transmission Corporation, New England Hydro-Transmission Electric Company, Inc., and New England Hydro-Transmission Corporation, all d/b/a National Grid (collectively, "National Grid"), to expedite processing of their Department of the Army (DA) permit applications in New England subject to certain limitations. This public notice also solicits comments from the public on the subject of acceptance and expenditure of funds contributed by National Grid to expedite the evaluation of DA permit applications.

Section 214 of the Water Resources Development Act of 2000 (Section 214), as amended and codified at 33 U.S.C. 2352, provides in part that:

"The Secretary, after public notice, may accept and expend funds contributed by a non-Federal public entity or a public utility company or natural gas company to expedite the evaluation of a permit of that entity or company related to a project or activity for a public purpose under the jurisdiction of the Department of the Army."

The authority to accept and expend funds from public utility companies and natural gas companies expires on June 10, 2021, unless otherwise extended or revoked by law. The Corps must ensure that Section 214 funding agreements will not impact impartial decision making by the Corps or adversely affect the timeline for evaluation of the DA permit applications of other entities.

Definition of Public Utility Company: The term "public utility company" means an electric utility company or a gas utility company. The individual companies listed above each meet this definition.

How the Corps Would Expend Funds: The Corps Regulatory Program is funded as a Congressionally-appropriated line item in the annual Federal budget. Additional funds received from National Grid would be used to augment the budget of the Corps in accordance with the provisions of Section 214. The Corps would establish a separate account to track the receipt and expenditure of the funds.

Reason for the Funding Agreement: National Grid is required to provide reliable electric and gas service under standards determined by a variety of Federal, regional and state regulatory bodies and in accordance with the

New England Independent System Operator (“ISO New England”) reliability standards. Maintenance of existing energy infrastructure is critical to providing reliable service. With over 2,800 miles of electric transmission, 16,000 miles of electric distribution and 17,800 miles of gas distribution lines and related facilities, work to maintain these critical assets is ongoing. In addition, construction of new electric and gas infrastructure is necessary to meet demand, enhance reliability, and interconnect new generation, including renewable generation projects.

National Grid’s work often requires permits from the Corps under Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Over the last couple of years, the number of National Grid projects requiring DA Permits has increased substantially and National Grid expects that these higher levels will continue for the foreseeable future.

DA Permits can be the final permitting hurdle for National Grid projects and timely issuance by the Corps is critical to successful management of National Grid’s public utility assets. For example, National Grid often has narrow windows of time to perform electric project construction work because the lines must be de-energized (“outages”). These outages must be scheduled in advance through ISO-NE, along with other scheduled electric transmission projects throughout the region. If permits are not obtained on time, then a project would be delayed until the next available outage, which could be years. Because of this type of timing constraint, and the general need to manage the complicated schedules of a growing number of projects, it is imperative that National Grid and the Corps improve the permit review process and timelines.

How Acceptance of Funds Is Expected to Expedite the Permit Review: Since the purpose of Section 214 is to expedite the permit review process, a funding agreement is an ideal vehicle to improve the permitting process. The Corps and National Grid believe that a dedicated project manager will be able to develop expertise in the types of projects performed by National Grid which will improve the efficiency of the review. As a result, based on past experience and the volume of expected work going forward, funding a full-time Corps reviewer for National Grid projects will result in an expedited review process for National Grid projects. It will also improve the ability of the Corps and National Grid to coordinate and prioritize review of projects based on project schedules and deadlines. In addition, hiring an additional reviewer for National Grid projects will also expedite the review process for non-National Grid applications since Corps project managers that would otherwise be working on National Grid projects will now have additional time to work on other applications.

Activities for Which Funds Would be Expended: Funds would be expended primarily for the labor and overhead of Regulatory Division staff processing DA permit applications, including permit coverage and authorizations under Section 10 and Section 404. Such permit processing activities could include but would not be limited to the following: pre-application conferences, permit area determinations, application completeness review, jurisdictional determinations, site visits, preparation and distribution of public notices, preparation of correspondence, meetings, consultation and coordination with other agencies and consulting parties, public interest review, analysis of alternatives, compensatory mitigation proposal review, preparation of environmental assessments, preparation of permit decision documents and permit compliance.

If National Grid’s funds are expended and not renewed, National Grid’s remaining permit applications would be processed like those of any other non-participant, in a manner decided by the assigned Regulatory Division project manager and his or her supervisor.

Procedures to Ensure Impartial Decision Making: To ensure the funds will not impact impartial decision making, the following procedures would be applied:

- (a) Funds would not be expended for review of project managers' work by supervisors or other persons in the decision making chain of command.
- (b) All final permit decisions for cases where these funds are used must be reviewed at least one level above the normal decision maker, unless the decision maker is the District Commander. For example, if the decision maker is a branch chief, then the decision would be reviewed by the Regulatory Division Chief.
- (c) The application must comply with all applicable laws and regulations and the Corps will not eliminate any procedures or decisions that would otherwise be required for the type of project and permit application under consideration.
- (d) Funds from this agreement will not be used for enforcement activities.
- (e) Funds from this agreement will not be used for public hearings (e.g., venue fees) and distribution of public notices (e.g., postage).
- (f) All final permit decisions where these funds are expended will be made available on the Corps Headquarters' web page.

Impacts to the Regulatory Program: We expect that this funding agreement will have a net positive impact on the ability of the Regulatory Program to evaluate other applicants' permit applications. The Corps will use the funds to hire an additional project manager to process applications that fall under this funding agreement. This will free up the time of existing staff that would otherwise be used to process National Grid applications. Additionally, since process improvements that result from the funding agreement will be applied widely to other permit applicants, the Corps hopes that this funding agreement will result in additional time savings to the general public.

Consideration and Submission of Comments: In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date and should refer to the National Grid Funding Agreement. Comments may be sent electronically to gregory.r.penta@usace.army.mil or mailed to:

Mr. Greg Penta
U.S. Army Corps of Engineers, New England District
Regulatory Division
696 Virginia Road
Concord, MA 01742-2751

This public notice has a 15-day comment period. Following the review of comments received, the New England District Commander will determine if acceptance and expenditure of the funds is in compliance with Section 214. If the District Commander determines, after considering public comments, that the acceptance and expenditure of the funds is in compliance with Section 214 and is not otherwise contrary to the public interest, the New England District will proceed to accept and expend such funds from National Grid. Funds will be accepted only if the public interest is better served through cost-effectiveness, enhanced evaluation capability, streamlined permit application processing, or other appropriate justification. A final public notice will be issued regarding the District Commander's decision. Beyond that, no new public notice will be issued if National Grid increases the amount of funds previously furnished or extends the duration of the agreement provided that the purpose remains the same.

For additional information please call Mr. Greg Penta, of my staff at (978) 318-8862 or via email at gregory.r.penta@usace.army.mil.


Jennifer L. McCarthy
Chief, Regulatory Division

If you would prefer not to continue receiving Public Notices by email, please contact Ms. Tina Chaisson at (978) 318-8058 or by email at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

NAME: _____
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PHONE: _____