

**MEMORANDUM OF AGREEMENT
BETWEEN
CONSOLIDATED EDISON ENERGY MASSACHUSETTS, INC.
AND
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

This Memorandum of Agreement is entered into by and between Consolidated Edison Energy Massachusetts, Inc. (CEEMI), with a usual place of business at 15 Agawam Avenue, West Springfield, Massachusetts 01089, and the Massachusetts Department of Environmental Management (MDEM), with a usual place of business at 251 Causeway Street, Boston, Massachusetts 02114-2104.

PRELIMINARY STATEMENTS

CEEMI owns and operates the Gardners Falls Hydroelectric Project (FERC No. 2334) on the Deerfield River in Franklin County, Massachusetts. The Project received an operating license subject to certain articles from the Federal Energy Regulatory Commission (FERC) on April 4, 1997. CEEMI assumed ownership of the Project in 1999. Article 406 of the license required the Licensee to propose specific recreation improvements at the Project. On April 6, 1998, Western Massachusetts Electric Company (WMECO), CEEMI's predecessor in title, filed a recreation plan for the Project pursuant to Article 406 of the license (copy attached). MDEM and the Deerfield River Watershed Association (DRWA) did not support a portion of the plan submitted by WMECO that addressed development at the Wilcox Hollow site. The Wilcox Hollow site is located approximately ¼ mile downstream of the Project's powerhouse. FERC staff requested that CEEMI work with these two organizations to develop a mutually agreeable revision to the plan.

On April 18, 2001 the Federal Energy Regulatory Commission (Commission) issued an Order Approving Recreation Plan in Part Under Article 406 (95 FERC ¶ 62,060). The FERC ordered CEEMI to submit a plan for constructing recreational access at Wilcox Hollow. The Director ordered:

- (A) The recreation plan, filed on April 6, 1998, pursuant to article 406 is approved in part and made part of the license. The licensee shall design and construct the recreation facilities considering the needs of the physically handicapped in accordance with Part 2.7 of the Commission's regulations.
- (B) The licensee shall file, for approval, by June 1, 2001, a revised recreation plan for constructing an access facility at Wilcox Hollow. The plan shall be completed in consultation with the National Park Service, U.S. Fish and Wildlife Service, Natural Resources Conservation Service, Massachusetts Division of Environmental Management, and the Massachusetts Division of Fisheries and Wildlife and include their comments.
- (C) The licensee shall file, for approval, by December 31, 2002, as-built drawings of all the completed recreation facilities.

CEEMI has consulted with MDEM and the DRWA to identify an appropriate design for public access at Wilcox Hollow. CEEMI, MDEM, and DRWA agreed to modest development at Wilcox Hollow that will protect and enhance the site while maintaining the character of the natural setting. The level and nature of development agreed to by the aforementioned parties was issued to the other organizations stipulated in condition B above of the April 18, 2001 FERC order (copy attached) on April 27, 2001.

NOW, THEREFORE, for good and valuable consideration, the adequacy and terms of which are hereby acknowledged, including the mutual promises and covenants set forth herein, the parties hereby agree as follows:

1. The MDEM and CEEMI agree that universal angler access at the Wilcox Hollow site is not feasible or maintainable. In lieu of universal angular access at Wilcox Hollow, CEEMI shall make a gift of \$45,100 to the MDEM, payable to the Department of Environmental Management Conservation Trust, to be used to provide an equivalent opportunity within 20 miles of the Gardners Falls Project. The MDEM will use these funds for construction or improvement of a universal angler access facility and/or programming at an alternate site, to be managed and maintained by MDEM at its sole cost and expense. If it is not feasible to provide such an opportunity within the 20-mile radius, funds may be used to provide such opportunities as near to the Project as is feasible. This \$45,100 payment shall be remitted by CEEMI to the Department of Environmental Management Conservation Trust within 90 (ninety) days from the signing of this MOA. This payment being in the nature of gift, CEEMI will have no obligations or responsibilities for the construction or maintenance of these improvements.
2. Access to the Deerfield River at Wilcox Hollow is by way of a gravel road that extends through property owned by the Massachusetts Highway Department, the Quinnehtuk Company, a subsidiary of Northeast Utilities, MDEM, and CEEMI. CEEMI will have no obligations or responsibilities for the construction or the maintenance of any either access improvements or for portions of the gravel road not owned by CEEMI. However, CEEMI shall be responsible for maintenance of the section of the gravel road that it currently owns as shown on the attached Exhibit A, and for any improvements of that section of the gravel road to the extent such improvements are made by or under the direction of CEEMI.

CEEMI will be responsible for maintenance of all facilities located within the Project boundary as stipulated in licensee Exhibit, including the segment of gravel road extending from MDEM land in a southwesterly direction to the river's edge, owned and managed by CEEMI. CEEMI will also be responsible for maintenance of the parking lot to be constructed on MDEM land at Wilcox Hollow as outlined in the recreation plan, but only if MDEM has issued a special use permit to CEEMI to enter MDEM's property to perform such maintenance activities on the parking lot, as CEEMI shall determine to be required hereunder.

Execution of this Memorandum of Agreement (MOA) by the MDEM and CEEMI constitutes agreement between the parties that provision of these funds and CEEMI's execution of the Gardner's Falls Project Recreation Plan approved by FERC represent appropriate and adequate provision of recreational development at the Gardners Falls Project for the duration of its current

license. MDEM agrees it will not request additional funds from CEEMI beyond the agreements herein contained during the remainder of CEEMI's license (i.e., until 2037). DEM reserves its right to comment on any future FERC proceedings. The parties acknowledge that requests or requirements from other State or federal organizations not subject to this MOA may occur. If any such additional requests involve substantial development or disturbance to the Wilcox Hollow site, DEM agrees to analyze and question the feasibility of such development and its impacts to the natural character of the site.

The parties also acknowledge that the proposed level of development for the Project is subject to FERC approval and must address the concerns or requirements of other state and federal organizations as well as permitting agencies.

This MOA inures to the benefit of the parties hereto and their successors and assigns and is binding on each other and each other's successors and assigns; provided, however, that neither party will assign this MOA without the written consent of the other party. This MOA constitutes the entire agreement between MDEM and CEEMI with respect to the subject matter hereof. This MOA may be executed in multiple counterparts, each of which shall be deemed to be an original for all purposes. Each party agrees to waive its rights to a trial by jury in the event of any litigation arising under this MOA. This MOA may be modified only in writing signed by both parties.