

BK 4633 PG 277
03/03/00 02:58 DOC. 5087
Bristol Co. S.D.

QUITCLAIM DEED

James S. Gordon, Trustee of Old Fall River Realty Trust under Declaration of Trust dated November 29, 1989 and recorded with the Bristol South District Registry of Deeds (the "Registry") in Book 2487, Page 23, having a mailing address c/o James S. Gordon, Trustee, One Energy Road, North Dartmouth, Massachusetts 02747 ("Grantor"), for good and valuable consideration paid, and in consideration of One Million Nine Hundred Seventy Thousand Dollars (\$1,970,000), the receipt and sufficiency of which is hereby acknowledged, grants to Dartmouth Power Associates Limited Partnership, a Massachusetts limited partnership having a mailing address at 1001 Louisiana, Houston, Texas 77002 Attention Greg Jones, Esq. ("Grantee"), with QUITCLAIM COVENANTS, the following:

Those certain lots or parcels of land with all buildings and improvements located thereon, situated in Dartmouth, Bristol County, Massachusetts more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). The Property is conveyed subject to easements, restrictions and reservations listed in Exhibit B attached hereto and incorporated herein by reference and the Mortgages and security instruments described therein having an outstanding principal balance of \$6,067,400, which Mortgages the Grantee assumes and agrees to pay. As the outstanding balance on the Mortgages exceeds the consideration, no excise stamps need be affixed.

IN WITNESS WHEREOF, the Grantor has executed, acknowledged, and delivered this instrument as of the 5th day of February, 2000.

In the presence of:

Louis A. Lewis

James S. Gordon
James S. Gordon, as Trustee as aforesaid
and not individually

COMMONWEALTH OF MASSACHUSETTS

Dartmouth, ss:

2/3, 2000

Then personally appeared with above-named James S. Gordon, Trustee of Old Fall River Realty Trust, and acknowledged the foregoing instrument to be his free act and deed in said capacity, before me,

Charlotte Finigan
Notary Public Charlotte Finigan
My commission expires: 1/20/02

Property Address:

Assessor's Plat 72, Lot 2 (Parcel 2)
One Energy Road (Parcel 1)
Dartmouth, Massachusetts 02747

deed.doc

Parcel 1:

The land shown as Lot C (located on the Southerly side of Old Fall River Road in Dartmouth, Bristol County, Massachusetts) on a certain plan entitled "Approval Not Required Plan Drawn For Rahim & Dorothy Aghai and James S. Gordon, Trustees" dated October 25, 1990 (herein called the "Survey Plan") prepared by R.A. Cataldo Engineering of 141 Power Road, Pawtucket, Rhode Island, and recorded in said Bristol South District Registry of Deeds in Plan Book 126, Page 70.

Excepting and including therefrom a parcel of land containing 10.47 acres being more particularly shown as "Proposed 10 Acre Parcel" on a plan entitled, "Project Easement Plan, Dartmouth, Massachusetts" prepared for Dartmouth Power Associates dated October 24, 1990, and recorded with the Bristol South District Registry of Deeds in Plan Book 126, Plan 71 (the "Project Easement Plan")

Parcel 2:

The land located on the Northerly side of Old Fall River Road in Dartmouth, Bristol County, Massachusetts shown as Lot 2 on a certain plan entitled "Approval Not Required Plan Drawn For Terrance D. LeBerge & James Nassiff Located on Old Fall River Road North Dartmouth, Massachusetts Scale: 1"=80' Dated November 1989" prepared by Bristol County Engineering, Inc. of Swansea, Massachusetts, and recorded with said Bristol South District Registry of Deeds in Plan Book 124, Plan 116, and more particularly bounded and described as follows:

SOUTHERLY: by Old Fall River Road, as shown on said plan, two hundred and four and 15/100 (204.15') feet;

WESTERLY: by Lot 1 on said plan, One Thousand and Fifteen and 63/100 (1,015.63') feet;

NORTHERLY: by land now or formerly of Normand F. Smith III, Trustee of the Richard G. Hawes Revocable Trust, two hundred fifty-three and 77/100 (253.77') feet;

EASTERLY: by Lot 3 on said plan, One Thousand and Twelve and 25/100 (1,012.25') feet.

The Property is conveyed together with the following easements and rights:

- (A) "Easement and License Agreement Between Rahim Aghai and Dorothy Aghai, Dartmouth Power Associates Limited Partnership, and James S. Gordon, Trustee of Old Fall River Realty Trust" dated October 31, 1989, and recorded on November 2, 1990 at 4:30 p.m. in Book 2564, Page 20 (herein referred to as the "Aghai Easement Instrument"); and
- (B) "Easement" between the Old Fall River Trustee and Carol Medeiros (a/k/a Carol Smith), Cecil Smith III, Marion E. Smith (a/k/a Marion Luiz Smith), and Ambrose

J. Smith dated October 31, 1990, and recorded on November 2, 1990 at 4:30 p.m. in Book 2564, Page 46 (herein referred to as the "Smith Easement Instrument"); and

- (C) "Easement Grant" from James Nassiff and Terrance LeBerge, individually and as co-partners d/b/a Apache Associates" dated October 31, 1990 and recorded on November 2, 1990 at 4:30 p.m. in Book 2564, page 68, (herein referred to as the "Apache Easement Instrument").

The Property is conveyed subject to the following easements, restrictions and reservations:

1. Unpaid taxes subsequent to December 31, 1999 which constitute liens but are not yet due and payable.
2. Title to and rights of the public and others entitled thereto in and to so much of Parcel 1 and Parcel 2 lying within the bounds of Old Fall River Road in said Dartmouth, Massachusetts.
3. The terms and provisions of the "Aghai Easement Instrument", the "Smith Easement Instrument", or the "Apache Easement Instrument" as such terms are defined herein.
4. Terms and provisions of the following five (5) instruments, each entitled "Grant of Easement" given to Algonquin Gas Transmission Company": (i) From Dorothea M. Raposa dated April 21, 1952 and recorded with said Deeds at Book 1048, Page 459; (ii) From Manuel DeMello dated November 20, 1986 and recorded with said Deeds at Book 1996, Page 370; (iii) From Daniel M. Gifford, et ux dated May 10, 1952 and recorded with said Deeds at Book 1056, Page 159; (iv) From Joseph Furtado, Jr. dated April 21, 1952 and recorded with said Deeds at Book 1048, Page 457; and (v) From Gilbert T. Perry and Humberto Borges dated December 23, 1986 and recorded with said Deeds at Book 2064, Page 310.
5. Order of Conditions under Massachusetts Wetlands Protection Act (DEQE File 15-580) wherein Algonquin Gas Transmission Company is applicant, dated May 5, 1987 and recorded with said Deeds at Book 2024, Page 659 as affected by Certificate of Compliance acknowledged October 29, 1991 and recorded with said Deeds in Book 2729, Page 53.
6. Order of Conditions under Massachusetts Wetlands Protection Act (DEQE File 15-841) wherein Dartmouth Power Associates is applicant dated October 16, 1990 and recorded with said Deeds at Book 2559, Page 327, as amended by Amended Order of Conditions recorded with said Deeds at Book 2604, Page 187, as further amended by Amended Order of Conditions recorded with said Deeds at Book 2610, Page 115, as further affected by Extension Permit recorded with said Deeds at Book 3143, Page 108, as further affected by Partial Certificate of Compliance recorded with said Deeds at Book 3382, Page 94 and Certificate of Compliance recorded with said Deeds in Book 3771, Page 192.
7. Terms, provisions and conditions contained in Special Permit Decision and Approval with Conditions from Dartmouth Selectmen dated October 25, 1990 and recorded with said Deeds at Book 2559, Page 276, as amended by Amended Decision and Approval with Conditions recorded with said Deeds at Book 2808, Page 220.
8. Terms and Provisions contained in Variance Decision of Dartmouth Zoning Board of Appeals dated October 25, 1990 and recorded with said Deeds at Book 2559, Page 317, as amended by Variance Decision for Amendment to variance and recorded with said Deeds at Book 2808, Page 213.

9. Such state of facts as shown on the following plans
- a. "As-Built Riser Station and Power Plant Facility in N. Dartmouth, MA prepared for Dartmouth Power Associates Limited Partnership" (the "Project As-Built Plans") dated August 31, 1992, prepared by Olde Boston Land Survey Co. Inc. sheets 1 and 2 of 2, updated and revised by Kenneth R. Ferreira Engineering Inc. as of January 28, 2000.
 - b. "Energy Road As-Built N. Dartmouth, MA prepared for Dartmouth Power Associates;" dated August 31, 1992 prepared by Old Boston Land Survey Co., Inc. (the "Road As-Built Plan") updated and revised by Kenneth R. Ferreira Engineering Inc. as of January 28, 2000.
10. Twenty (20) Foot Wide Right of Way reserved under deed from Nellie M. Gifford to Wilfred K. Gifford recorded with said Deeds at Book 781, Page 85, affecting the following items shown on the Project Easement Plan, as hereinafter defined: (a) Future Extension A; (b) Drainage Easement #12; (c) Drainage Easement #15; and (d) Berm Easement D.
11. Terms and provisions of Order of Conditions (File No. 15-846) issued by Dartmouth Conservation Commission to Dartmouth Power Associates dated August 22, 1990 and recorded with said Deeds at Book 2552, Page 137, as affected by Certificate of Compliance acknowledged on January 21, 2000 and recorded with said Deeds herewith.
12. Terms and provisions contained in two (2) certain easements granted to New Bedford Gas and Electric Light Company by John Rapoza, Rose Rapoza, Manuel M. Rapoza and Emily Rapoza dated June 23, 1960 and recorded with said Deeds at Book 1318, Page 517 and 519.
13. Reservation of right of way as set forth in a Deed to James S. Gordon, Trustee of Old Fall River Realty Trust from Rahim Aghai and Dorothy Aghai (a/k/a Dorothy Aghai) dated October 31, 1990 and recorded with said Deeds at Book 2564, Page 9.
14. Easement and License Agreement between Rahim Aghai and Dorothy Aghai, Dartmouth Power Associates Limited Partnership and Trustee of Old Fall River Realty Trust dated October 31, 1990 and recorded with said Deeds at Book 2564, Page 20.
15. Terms and provisions of easement granted to James S. Gordon, as the Trustee of The Old Fall River Realty Trust from Carol Medeiros (a/k/a Carol Smith), Cecil Smith, III, Marion E. Smith (a/k/a Marion Luiz Smith), and Ambrose J. Smith dated October 31, 1990 and recorded with said Deeds at Book 2564, Page 46.
16. Easement Agreement by and between James S. Gordon, Trustee of Old Fall River Realty Trust and Carol Medeiros (a/k/a Carol Smith), Cecil Smith, III, Marion E. Smith (a/k/a Marion Luiz Smith) and Ambrose J. Smith dated October 31, 1990 and recorded with said Deeds at Book 2564, Page 56.
17. Terms and provisions of easement granted to James S. Gordon, Trustee of The Old Fall River Realty Trust from James Nassiff and Terrance D. Leberge d/b/a Apache Associates dated October 26, 1990 and recorded with said Deeds at Book 2564, Page 68.

18. Covenant naming Dartmouth Power Associates Limited Partnership, as Covenantor dated October 2, 1990 and recorded with said Deeds at Book 2564, Page 84, as affected by Amendment to Covenant dated September 25, 1999, recorded with said Deeds in Book 3578, Page 201.
19. Declaration of Easements, Covenants and Restrictions by Dartmouth Power Associates Limited Partnership dated October 30, 1990 and recorded with said Deeds at Book 2564, Page 87.
20. Accommodation Agreement between Dartmouth Power Associates Limited Partnership, Commonwealth Electric Company, Old Fall River Realty Trust, Westpac Banking Corporation and Trust Company of the West dated October 30, 1990 and recorded with said Deeds at Book 2564, Page 135.
21. Easement granted to Commonwealth Electric Company from James S. Gordon, Trustee of Old Fall River Realty Trust dated March 15, 1991 and recorded with said Deeds at Book 2612, Page 332.
22. Certificate of Compliance (File No. 15-792) by the Dartmouth Conservation Commission recorded with said Deeds at Book 2624, Page 180.
23. Order of Conditions (File No. 15-894) by the Dartmouth Conservation Commission to Dartmouth Power Associates dated April 29, 1991 and recorded with said Deeds at Book 2662, Page 230, as affected by Certificate of Compliance acknowledged on January 21, 2000 and recorded with said Deeds herewith.
24. Deed Restriction granted to the Town of Dartmouth dated September 16, 1991 and recorded with said Deeds at Book 2808, Page 205.
25. Deed Restriction granted to the Town of Dartmouth dated September 16, 1991 and recorded with said Deeds at Book 2808, Page 209.
26. Deed Restriction granted to the Town of Dartmouth dated September 16, 1991 and recorded with said Deeds in Book 2808, Page 228.
27. Easements as set forth in a Deed to Rahim Aghai and Dorothy E. Aghai from James S. Gordon, Trustee of Old Fall River Realty Trust dated April 27, 1992 and recorded with said Deeds at Book 2808, Page 232.
28. Order of Conditions (File No. 15-972) by the Dartmouth Conservation Commission to Old Fall River Road Industrial Development, Dr. Rahim and Dorothy Aghai, Old Fall River Realty Trust and Dartmouth Power Associates Limited Partnership dated August 7, 1992 and recorded with said Deeds at Book 3029, Page 150, as affected by superceding Order of Conditions by the Department of Environmental Protection to Garcia & Galuska, Inc. recorded with said Deeds at Book 3449, Page 203 as affected by Extension Permit dated April 28, 1999 and recorded with said Deeds herewith.
29. Taking of a Permanent Easement by the Town of Dartmouth recorded with said Deeds at Book 2823, Page 83, as Assigned by Assignment to the Town of Dartmouth recorded with said Deeds at Book 2823, Page 85.

30. Notice of Decision of the Dartmouth Board of Appeals granting a Variance (Case No. 1995-35E) recorded with said Deeds in Book 3578, Page 177, as affected by Decision granting an Extension recorded with said Deeds in Book 3783, Page 292.
31. Mortgage from Dartmouth Power Associates Limited Partnership to Toronto Dominion (Texas), Inc. dated December 15, 1995 and recorded with the Bristol South County Registry of Deeds on December 27, 1995 at Book 3588, Page 119.
32. Subordinated Mortgage from Dartmouth Power Associates Limited Partnership to Toronto Dominion (New York), Inc. dated December 15, 1995 and recorded with said Deeds in Book 3588, Page 161.
33. UCC from Dartmouth Power Associates as Debtor to Toronto Dominion (Texas) Inc. as Secured Party dated December 22, 1995 and recorded with said Deeds in Book 3586, Page 1321.
34. UCC from Dartmouth Power Associates as Debtor to Toronto Dominion (New York) Inc. as Secured Party dated December 22, 1995 and recorded with said Deeds in Book 3587, Page 1.
35. Amended and Restated Financing Statement from Dartmouth Power Associates Limited Partnership to Toronto Dominion (Texas), Inc. recorded with said Deeds in Book 3587, Page 23.
36. Mortgage from Dartmouth Power Associates Limited Partnership to Commonwealth Electric Company dated October 30, 1990 and recorded with said Deeds in Book 2570, Page 1.
37. Notice of Lease between Dartmouth Power Associates Limited Partnership and Energy Management, Inc. dated 3/1, 2000 and recorded with said Deeds herewith.