

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Great River Hydro, LLC	)	Project Nos. 1855-050
	)	1892-030
	)	1904-078

**MOTION TO INTERVENE AND COMMENTS  
OF FIRSTLIGHT MA HYDRO LLC AND NORTHFIELD MOUNTAIN LLC**

Pursuant to Rules 212 and 214<sup>1</sup> of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure and the Commission’s February 22, 2024 Notices of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions,<sup>2</sup> FirstLight MA Hydro LLC and Northfield Mountain LLC (collectively, “FirstLight”) hereby comments and moves to intervene in Great River Hydro, LLC’s (“Great River Hydro”)<sup>3</sup> relicensing proceedings for the Vernon, Bellows Falls, and Wilder Hydroelectric Projects. In support of this motion and comments, FirstLight states the following:

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<sup>1</sup> 18 C.F.R. §§ 385.212, 385.214 (2023).

<sup>2</sup> Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions, Project No. 1855-050 (issued Feb. 22, 2024); Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions, Project No. 1892-030 (issued Feb. 22, 2024); Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions, Project No. 1904-078 (issued Feb. 22, 2024).

<sup>3</sup> Great River Hydro acquired the Vernon, Bellows Falls, and Wilder Hydroelectric Projects in April 2017. *See* Compliance with Ordering Paragraph (C) of the Commission’s February 22, 2017 Order Approving Transfer of Licenses, Project No. 1855-049 et al. (filed Apr. 18, 2017). For simplicity, FirstLight will use Great River Hydro to refer to it and its predecessor licensees.

## I. COMMUNICATIONS

All communications, correspondence, and documents related to this filing should be directed to the following persons:

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## II. BACKGROUND AND INTEREST OF FIRSTLIGHT

FirstLight MA Hydro LLC is the licensee of the 67.7 megawatt (“MW”) Turners Falls Hydroelectric Project, FERC Project No. 1889 (“Turners Falls”), and Northfield Mountain LLC is the licensee of the 1,166.80 MW Northfield Mountain Pumped Storage Project, FERC Project No. 2485 (“Northfield Mountain”). The current license for Turners Falls was issued in 1980 for a term of 38 years,<sup>4</sup> while the current license for Northfield Mountain was issued in 1968 for the Federal Power Act maximum term of 50 years.<sup>5</sup> Both licenses expired on April 30, 2018, and the projects are operating on annual licenses.<sup>6</sup>

Turners Falls and Northfield Mountain are located on the Connecticut River in the states of Massachusetts, New Hampshire, and Vermont, directly downstream from Great River Hydro’s Vernon, Bellows Falls, and Wilder Hydroelectric Projects. The Turners Falls Dam is located approximately 20 miles downstream from Vernon Dam, and the Northfield Mountain tailrace is approximately 15 miles downstream from Vernon Dam. The Bellows Falls and Wilder Projects

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<sup>4</sup> *W. Mass. Elec. Co.*, 11 FERC ¶ 61,124 (1980).

<sup>5</sup> *W. Mass. Elec. Co.*, 39 FPC 723 (1968); 16 U.S.C. § 799 (2018).

<sup>6</sup> See Notice of Authorization for Continued Project Operation, Project No. 1889-000 (issued May 9, 2018); Notice of Authorization for Continued Project Operation, Project No. 2485-000 (issued May 9, 2018).

are located approximately 52 and 95 miles upstream of the Turners Falls Dam, and approximately 47 and 90 miles upstream of the Northfield Mountain tailrace, respectively.

The operation of Turners Falls is governed by the magnitude of river flows, which are largely determined by discharge from the Vernon, Bellows Falls, and Wilder Projects, as well as other upstream hydropower projects. The Vernon Project license requires Great River Hydro to coordinate Vernon Project operations with FirstLight,<sup>7</sup> and the licenses for Wilder, Bellows Falls, Vernon, and Turners Falls include coordinated minimum flow requirements.<sup>8</sup> Consistent with the Commission's policy of coordinating the expiration dates of projects in the same river basin to maximize consideration of cumulative impacts at relicensing,<sup>9</sup> the Commission set the same license expiration date—April 30, 2018—for all five projects.<sup>10</sup>

Accordingly, Turners Falls, Northfield Mountain, Vernon, Bellows Falls, and Wilder are in the same stage of relicensing having used the Commission's integrated licensing process ("ILP"). FirstLight and Great River Hydro carefully coordinated the filing of their respective pre-application documents to enable the Commission precisely to synchronize the ILP deadlines for all five projects.<sup>11</sup> Commission staff conducted its environmental scoping for all five projects together and indicated its intent to prepare a multi-project environmental impact statement.<sup>12</sup> On

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<sup>7</sup> *New England Power Co.*, 59 FERC ¶ 62,267 at p. 63,598 (1992) (Art. 304).

<sup>8</sup> *New England Power Co.*, 8 FERC ¶ 61,122 at p. 61,476 (1979) (Art. 33); *New England Power Co.*, 9 FERC ¶ 61,322 at p. 61,683 (1979) (Art. 35); *New England Power Co.*, 7 FERC ¶ 61,292 at pp. 61,632-33 (1979) (Art. 34); *W. Mass. Elec. Co.*, 11 FERC ¶ 61,124 at p. 61,271 (1980) (Art. 34).

<sup>9</sup> 18 C.F.R. § 2.23.

<sup>10</sup> The Commission later extended the Great River Hydro project licenses for one year to April 30, 2019. *TransCanada Hydro Ne. Inc.*, 152 FERC ¶ 62,048 (2015).

<sup>11</sup> Both licensees filed their pre-application documents on October 31, 2012.

<sup>12</sup> Scoping Document 2 for the Wilder, Bellows Falls, Vernon, and Turners Falls Hydroelectric Projects, and the Northfield Mountain Pumped Storage Project at 2, Project No. 1892-026 et al. (issued Apr. 15, 2013).

February 22, 2024, the Commission issued its “ready for environmental analysis” notices for all five projects.

FirstLight filed a license application for Turners Falls and Northfield Mountain on April 29, 2016.<sup>13</sup> Great River Hydro filed license applications for Vernon, Bellows Falls, and Wilder on May 1, 2017.<sup>14</sup> Because key environmental studies were still in progress for all five projects, FirstLight and Great River Hydro in 2020 each filed amended final license applications (“AFLA”)<sup>15</sup> which included their respective proposals for protection, mitigation and enhancement (“PM&E”) measures.<sup>16</sup>

Among the significant PM&E measures in FirstLight’s proposal were substantial changes in operations (flows and water elevations).<sup>17</sup> These operational changes included higher seasonal minimum flows in the Connecticut River between Turners Falls Dam and the Cabot Station tailrace (the Turners Falls Project bypass) to enhance fish habitat and migration, including for the endangered shortnose sturgeon. For Cabot Station, the proposal includes higher seasonal minimum flows, maximum seasonal flow restrictions, and seasonal up- and down-ramping restrictions. These measures were intended to enhance fish habitat and to protect aquatic and terrestrial species below Cabot Station, including the endangered Puritan Tiger Beetle, the

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<sup>13</sup> FirstLight Hydro Generating Company Submission of Final License Application and Request for Waiver of Requirement to Include Draft Biological Assessment in Final License Application, Project No. 1889-085 et al. (filed Apr. 29, 2016). At this point, FirstLight had intended to license its two projects together under one license.

<sup>14</sup> Great River Hydro, LLC Submission of Final License Application and Request for Waiver of Requirement to Include Draft Biological Assessment in Final Licenses, Project No. 1855-050 et al. (filed May 1, 2017).

<sup>15</sup> Because FirstLight ultimately determined to keep its two projects under separate licenses, FirstLight filed two amended license applications, one for each project but sharing certain exhibits in common.

<sup>16</sup> FirstLight MA Hydro LLC and Northfield Mountain LLC Amended Final License Applications, Executive Summary at ES-2 to ES-5, and Ex. E at E-28 to E-36, Project No. 1889-092 et al. (filed Dec. 4, 2020) (“FirstLight AFLAs”); Amended Final License Applications of Great River Hydro, LLC, Ex. E at 2-31 to 2-33, Project No. 1855-050 et al. (filed Dec. 7, 2020) (“Great River Hydro AFLAs”).

<sup>17</sup> See FirstLight AFLAs, Executive Summary at ES-4 to ES-5 (Table ES-1).

state listed Cobblestone Tiger Beetle, and odonates, from abrupt changes in river levels due to hydroelectric operations. FirstLight also proposed flow releases for recreational uses, and proposed to limit the rate of rise of the Turners Falls Impoundment elevation, as measured at the Turners Falls Dam, for certain months and hours of the day to protect odonates.<sup>18</sup>

In March 2023, FirstLight entered into a settlement agreement with federal and state fish and wildlife agencies, whitewater recreation groups, and conservative organizations on relicensing issues related to: fish passage; flows for fishery, ecological conservation, and recreation purposes; and protected, threatened, and endangered species.<sup>19</sup> The Flows and Fish Passage Agreement supersedes FirstLight's AFLA proposal for PM&E measures related to project operations.

Great River Hydro's AFLAs also proposed changes to its operations that are relevant to FirstLight's projects. Great River Hydro proposes to operate all three projects in a manner which predominantly maintains reservoir elevations within a band width of 0.5 feet above and below specified targets and, as a result, maintains flows below each project equal to the approximate inflow as measured or calculated at the dam. As proposed by Great River Hydro, this mode of operations would be subject to certain exceptions for maintenance, emergencies, and the like; in addition, Great River Hydro would retain certain discretionary flexible operation capability to respond to high energy demand.<sup>20</sup> Great River Hydro does not propose any flow releases specifically for recreational boating.

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<sup>18</sup> Details of the operational proposal are found in FirstLight's Executive Summary to the AFLAs at ES-15 (Table ES-2a) and ES-16 (Table ES-2b).

<sup>19</sup> Flows and Fish Passage Settlement Agreement and Explanatory Statement, Project Nos. 1889-085 and 2485-071 (filed Mar. 31, 2023) ("Flows and Fish Passage Agreement").

<sup>20</sup> Great River Hydro AFLAs, Ex. E at 2-24 to 2-33 (Section 2.2).

### III. MOTION TO INTERVENE

FirstLight's ongoing relicensing process for Turners Falls and Northfield Mountain, which are immediately downstream of Great River Hydro's three projects, are part of a coordinated Commission proceeding involving all five projects. Further, as explained below, FirstLight's ability to meet the requirements of the Flows and Fish Passage Agreement will in part depend on timely information provided by Great River Hydro regarding its operations.

FirstLight thus has a direct and substantial interest in Great River Hydro's relicensing of the Vernon, Wilder, and Bellows Falls Projects that cannot be adequately represented by any other party. It is both appropriate and in the public interest that FirstLight be permitted to intervene in these proceedings.<sup>21</sup>

### IV. COMMENTS

The operating regime to which FirstLight has committed in the Flows and Fish Passage Agreement is highly complex. All minimum bypass flows, Cabot Station baseloading, and recreational flows are on an "or-inflow" basis, whichever is less. Inflow is defined as the Naturally Routed Flow which includes the Vernon Project discharge plus flows on the Ashuelot and Millers Rivers,<sup>22</sup> both of which empty into the Turners Falls Impoundment. Establishing minimum flows on an or-inflow basis is standard practice for similar projects licensed by FERC. The key to success of this flow regime is for FERC and other agencies with regulatory authority to ensure that FirstLight has adequate information on Vernon Project discharges to comply with the Flows and Fish Passage Agreement's flow-related PM&E measures.

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<sup>21</sup> 18 C.F.R. § 385.214(b)(2)(ii), (iii).

<sup>22</sup> Both rivers are equipped with United States Geological Survey gages.

Similarly, FirstLight's ability to meet its proposed Cabot Station ramping rates, Cabot Station maximum flow restriction, and Turners Falls Impoundment rate of rise restriction depends on accurate and timely updates of the real-time and projected Vernon Project discharges so that FirstLight can schedule appropriate operation of its facilities to meet demand and the Flows and Fish Passage Agreement's operational requirements.

In its AFLAs,<sup>23</sup> FirstLight set out the information it needed from Great River Hydro in order to operate its projects in compliance with the new license operating restrictions it had proposed. FirstLight specified the following information:

1. Day ahead hourly projections of total Vernon outflow (generation flows and spillage) provided by 8:00 am each day to FirstLight River Operations Personnel. FirstLight River Operations Personnel will use this information to schedule their river operations within the constraints of their license and hourly inflow from Vernon. FirstLight will take appropriate steps to ensure that the Vernon flow discharge information provided to its River Operations Personnel will not be communicated to individuals involved in marketing operations on behalf of FirstLight or any of its affiliates;
2. Day ahead hourly total Vernon outflow projections will be updated once the day ahead power bidding market closes and [ISO New England Inc. ("ISO-NE")] issues the day ahead schedule;
3. If ISO-NE updates the day ahead hourly total Vernon outflow schedule, then that schedule will be provided to FirstLight within two (2) hours of Great River Hydro receiving an update from ISO-NE;
4. In same day operations Great River Hydro will supply FirstLight with deviations in the total Vernon outflow schedule in real time as well as an updated hourly projection for the remainder of the day. Great River Hydro will provide this information each time its outflow deviates from the last hourly projection.

The information needs have not changed with the Flows and Fish Passage Agreement—indeed, the operating conditions in that agreement provide FirstLight even less room for error to manage its system and maintain compliance with the new license conditions than with FirstLight's AFLA flow proposals. The Flows and Fish Passage Agreement operating conditions

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<sup>23</sup> FirstLight AFLAs, Ex. E at E-23.

represent a completely new paradigm for FirstLight operators. Whereas FirstLight now has some flexibility to respond to unanticipated Vernon discharges, there will be much less flexibility in the future. The new requirements for minimum flows, recreational flows, and flow stabilization are all tied to the Naturally Routed Flow. The Flows and Fish Passage Agreement also requires FirstLight to limit the rate of rise in the Turners Falls Impoundment, as measured at the Turners Falls Dam, for certain months and hours of the day. The Vernon Project drainage area represents 87% of the total drainage area at the Turners Falls Dam.<sup>24</sup> The Vernon Project also has a hydraulic capacity of 17,130 cfs,<sup>25</sup> which is greater than the hydraulic capacity of the Turners Falls Project at 15,938 cfs.<sup>26</sup> Thus, it is critical that FirstLight has dependable, forecasted Vernon Project hourly discharge information from Great River Hydro so that it has the ability to plan and manage its hydroelectric operations, releases from Turners Falls Dam, and Turners Falls Impoundment levels, to meet the new license requirements.

The situation is complicated by Great River Hydro's proposal to maintain "flexible operation," whereby Great River Hydro may peak one or a combination of its three hydroelectric projects within certain constraints during certain times of the year.<sup>27</sup> At the same time FirstLight, in the Flows and Fish Passage Agreement has committed to maintain a stabilized flow regime below Cabot Station for a portion of the year when Great River Hydro may be implementing its flexible operations. FirstLight's ability to "smooth out" Great River Hydro's flexible operations will depend on obtaining dependable hourly Vernon discharge data.

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<sup>24</sup> *Id.*, Ex. B at B-4 (Section 2.2).

<sup>25</sup> Amended Final License Application for New License, Vernon Hydroelectric Project, Ex. A at A-6 (Section A1.3), Project No. 1904-078 (filed Dec. 7, 2020) ("Vernon AFLA").

<sup>26</sup> FirstLight AFLA, Ex. B, Section 1.3.

<sup>27</sup> *See, e.g.*, Vernon AFLA, Ex. B, Att. A.



Great River Hydro acknowledges “the close proximity and operational association between Great River Hydro’s Vernon Project and FirstLight’s Northfield Mountain Project and Turners Falls Project.”<sup>28</sup> However, Great River Hydro has objected to any requirement to provide FirstLight by 8:00 a.m. each day, the next day’s 24 hour anticipated Vernon Project total discharge and the instantaneous Vernon Project total discharge and tailwater elevation. Great River Hydro states that it already provides this information to FirstLight under an agreement between the licensees pursuant to its current Vernon Project license Article 304 and has no objection to FERC including a similar requirement to enter into an agreement with FirstLight under the new Turners Falls Project license, leaving the details to the licensees to negotiate and modify from time to time based on changing circumstances. Great River Hydro further states that it does not provide anticipated hourly discharge at Vernon before bids are due into the ISO-NE market because it considers this commercially sensitive market information.<sup>29</sup>

Given the stringent requirements of the new licenses and the critical nature of the information it is requesting from Great River Hydro, FirstLight does not agree that a license requirement to enter into an agreement with FirstLight for coordinated operations, with all the details to be worked out between the licensees, is sufficient. The Flows and Fish Passage Agreement, if adopted by the Commission, will result in FERC-enforceable license conditions. FirstLight’s ability to comply with those conditions should not be dependent on an informal agreement with Great River Hydro that FirstLight has no practical way of enforcing. Great River

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<sup>28</sup> Motion to Intervene of Great River Hydro, LLC at 3, Project Nos. 2485-071 and 1889-085 (filed Apr. 10, 2024).

<sup>29</sup> Great River Hydro, LLC Comment on FirstLight Relicensing Settlement Agreement at 3, Project No. 1889-085 et al. (filed May 26, 2023).

Hydro should have a FERC-enforceable license condition specifying the information Great River Hydro will be obligated to provide.

Moreover, FirstLight has previously acknowledged Great River Hydro's concerns about providing commercially sensitive market information by committing in its AFLAs to screen the day-ahead hourly projections from FirstLight marketing personnel. FirstLight is willing to agree to a new condition in the Turners Falls and Northfield licenses that codifies that commitment.

## V. CONCLUSION

For the reasons discussed above, FirstLight requests that the Commission grant its motion to intervene in this proceeding, and include a condition in each of the new Great River Hydro project licenses requiring Great River Hydro to coordinate operations with FirstLight and provide FirstLight the information specified above.

Respectfully submitted,

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DATED: May 6, 2024

**CERTIFICATE OF SERVICE**

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service lists compiled by the Secretary in these proceedings.

Dated at Washington, DC, this 6th day of May, 2024.

*/s/ Mealear Tauch*  
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