

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

	)	
	)	<b>Project No. 1892</b>
<b>TransCanada Hydro Northeast Inc.</b>	)	<b>(Wilder)</b>
	)	<b>Project No. 1855</b>
	)	<b>(Bellows Falls)</b>
	)	<b>Project No. 1904</b>
	)	<b>(Vernon)</b>

**MOTION FOR EXPEDITED ACTION ON REQUEST FOR REHEARING  
OF TRANSCANADA HYDRO NORTHEAST INC.**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, TransCanada Hydro Northeast Inc. (“TransCanada”), licensee and future applicant for new licenses for the Wilder Hydroelectric Project No. 1892 (“Wilder Project”), Bellows Falls Hydroelectric Project No. 1855 (“Bellow Falls Project”), and Vernon Hydroelectric Project No. 1904 (“Vernon Project”) (collectively, “Projects”), hereby submits this Motion for Expedited Action on TransCanada’s Request for Rehearing of Study Plan Determination (“Request for Rehearing”) filed on March 24, 2014, and currently pending before the Commission. As discussed herein, the Commission should expeditiously act on TransCanada’s Request for Rehearing by August 1, 2014, because the Study Plan Determination as it currently stands requires TransCanada to file a Vernon Hydroacoustic Study (“VHS”) by September 13, 2014. TransCanada respectfully requests expeditious action on its Request for Rehearing so that it will have clarification as to whether it is required to develop the VHS in the event the Commission denies the Request for Rehearing or, alternatively, so that it will have direction on how to proceed with the development of the VHS if the Commission modifies the VHS on rehearing.

## I. BACKGROUND

Under the Commission's regulations, the development of a study plan to submit for Commission approval is a 9-month-long process. *See* 18 C.F.R. §§ 5.11-5.13. A potential applicant must file study plans for comment within 45 days of the deadline for filing comments on the pre-application document. 18 C.F.R. § 5.11. Stakeholders have 90 days to comment on the study plans, 18 C.F.R. § 5.12, and the potential applicant has 30 days to file revised study plans for comment, 18 C.F.R. § 5.13(a). The revised study plans must include the comments received on the study plan, a description of the efforts made to resolve differences over study requests, and, if the potential applicant does not adopt a requested study, it must explain why the request was not adopted. *Id.* Stakeholders then have 15 days to comment on the revised study plans, 18 C.F.R. § 5.13(b), and the potential applicant has 30 days to submit the study plans for Commission approval, 18 C.F.R. § 5.13(c). Thus, at a minimum, the study plan development process requires 9 months to complete.

Consistent with this study plan process, on April 15, 2013, TransCanada submitted for Commission approval 33 study plans for all resources potentially affected by the issuance of new licenses for the Projects. On September 13, 2013, Commission staff issued a study plan determination for 13 of TransCanada's proposed non-aquatic studies. On February 21, 2014, the Commission issued a Study Plan Determination for Aquatic Studies ("SPD"), which required TransCanada to conduct the 20 aquatic studies it had proposed, including a study to assess the downstream migration of juvenile shad, one component of which included a single beam hydroacoustic transducer located at the fish bypass to assess the timing of the juvenile shad migration.

In addition, the SPD required one new study that Commission staff labeled the "Vernon Hydroacoustic Study" (VHS). The SPD required TransCanada to file for Commission

approval a study plan for the VHS concurrent with TransCanada's Initial Study Report on the 13 non-aquatic studies, which is due on September 13, 2014. On March 24, 2014, TransCanada filed a Request for Rehearing challenging the inclusion of the new VHS in the SPD.

## **II. MOTION FOR EXPEDITED ACTION**

TransCanada respectfully moves the Commission to expeditiously act on TransCanada's Request for Rehearing of the SPD by August 1, 2014. As described in TransCanada's Request for Rehearing, TransCanada has requested that the Commission remove the VHS from the SPD. If the Commission were to agree with TransCanada, then any costs incurred to prepare a study plan while awaiting the Commission's order on rehearing would be wasted. Alternatively, even if the Commission does not grant rehearing, it may modify or clarify the scope of the VHS. As discussed in TransCanada's Request for Rehearing, the scope, goals, and objectives of the VHS, as described by Commission staff in the SPD and by the agencies referenced by Commission staff in the SPD – the U.S. Fish and Wildlife Service, the Vermont Agency for Natural Resources, and the New Hampshire Fish and Game Department (collectively, “resource agencies”) – are overly broad, vague, and inconsistent. Depending on the extent of the Commission's modifications or clarifications to the SPD in its order on rehearing, TransCanada may need to further revise the study plan in response to such order.

Commission action by August 1, 2014, would allow TransCanada approximately 45 days to prepare a study plan for the VHS for Commission approval. This process involves hiring aquatic resource consultants specialized in the use and application of hydroacoustic technology to design a proposed study plan consistent with the scope, goals, and objectives identified by the Commission. Once a proposed study plan is developed, the resource agencies need to be consulted and given a sufficient amount of time to comment on the proposed study plan. Finally, TransCanada would need to prepare a revised study plan, which addresses the

comments from the resource agencies, to be filed for Commission approval. As previously noted, this process ordinarily requires at least 9 months. At a bare minimum, TransCanada believes that it needs 45 days to prepare a study plan, consistent with the Commission's regulations, for the new VHS, which would require Commission action on TransCanada's Request for Rehearing by August 1, 2014.

Furthermore, the Commission may agree with TransCanada's arguments in its Request for Rehearing that a VHS is (1) redundant because TransCanada has already proposed to use hydroacoustic technology associated with its study to assess the downstream migration of juvenile shad, which was approved by Commission staff in the SPD, and (2) unnecessary because it would not provide meaningful additional incremental information regarding aquatic resources relative to the information to be derived from the Commission-approved studies, as more particularly explained in TransCanada's Request for Rehearing. Should the Commission find that a VHS is unnecessary, then action by the Commission on TransCanada's Request for Rehearing by August 1, 2014, would avoid unnecessary expenditures by TransCanada to develop this study.

### III. CONCLUSION

For the foregoing reasons, TransCanada respectfully moves the Commission to expeditiously act by August 1, 2014, on TransCanada's Request for Rehearing of the SPD.

Respectfully submitted,

/s/ Kimberly Ognisty

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ATTORNEYS FOR TRANSCANADA HYDRO NORTHEAST INC.

Dated: June 19, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 19th day of June, 2014.

**/s/ Kimberly Ognisty**

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