

January 12, 2023

Ms. Shannon Ames, Executive Director
Low Impact Hydropower Institute
329 Massachusetts Avenue, Suite 2
Lexington, MA 02420



Transmitted via e-mail to comments@lowimpacthydro.org

Subject: Comments on Application for LIHI Certification for the Rollinsford Project

Dear Ms. Ames:

On behalf of its six chapters and over 2,000 members, Maine Council of Trout Unlimited (TU) submits these comments on the Green Mountain Power (GMP) Application for LIHI Certification for the Rollinsford Project dated September 20, 2022. The project is located on the Salmon Falls River that forms the boundary between Maine and New Hampshire. TU members fish in and otherwise enjoy the use of the watershed. LIHI received the application on January 4, 2023 indicating that the applicant had delayed its submission. We think that GMP should have continued to delay submission of its LIHI Application.

While recognizing that the Rollinsford Project well may meet LIHI certification requirements at some future date, there are still unresolved issues involving the project. GMP has not submitted the Operational Compliance Monitoring Plan that FERC requested¹ provided as Attachment A. This is linked to compliance with both Maine and New Hampshire Water Quality Certificates.² The LIHI certification process states regarding supporting information:

“The supporting information provided in an application should justify the standard selected for each criterion in each ZoE and include sufficient documentation to demonstrate exactly how the facility satisfies (beyond simply that it does satisfy) each criterion in each ZoE. Appendix B contains additional instructions, a recommended application outline, and tables for each criterion that list the types of information required for each alternative standard.

In all cases, the applicant must demonstrate that the facility is in compliance with or has taken action to regain compliance with, its current regulatory requirements related to the LIHI criteria contained in relevant FERC license or exemption articles, water quality certification conditions, resource agency terms and conditions, and other authorizations, permits, and enforceable agreements. **Any issues surrounding the**

¹ FERC Additional Information Request – Operation Compliance Monitoring Plan dated November 28, 2022.

² Id., page 1.

facility's compliance and current status of the issues should be discussed in the application with supporting documentation. ³ (bold provided for clarity)

This issue was not discussed in the application.

Accordingly, we ask that LIHI deny LIHI certification to the Rollinsford Project until this matter has been resolved to the satisfaction of FERC, Maine Department of Environmental Protection's (Maine DEP), and New Hampshire Department of Environmental Services' (New Hampshire DES).

Maine TU Council appreciates the opportunity to comment on this application.

Respectfully,



Stephen G. Heinz
Maine TU Council FERC Coordinator

Reply to: heinz@maine.rr.com

Attachment:

A – FERC Additional Information Request – Operation Compliance Monitoring Plan
dated November 28, 2022

³ LIHI Handbook 2nd Edition – Revision 2.05, 01/01/2022, page 23, 4.1.3 Supporting Information.

Attachment A

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 3777-016 – Maine and New
Hampshire
Rollinsford Hydroelectric Project
The Town of Rollinsford, New
Hampshire

November 28, 2022

VIA FERC Service

Mr. Jason L Lisai
Director, Generation and Relay
Green Mountain Power Corporation
163 Acorn Lane
Colchester, VT 05446

Subject: Additional Information Request – Operation Compliance Monitoring Plan

Dear Mr. Lisai:

This letter is in response to the November 21, 2022 filing of an Operation Compliance Monitoring Plan (Plan) for the Rollinsford Hydroelectric Project No. 3777.¹ You filed the Plan pursuant to Article 401 of the license. Within 60 days from the date of this letter, please address the following comments to allow us to complete our review:

1. The Maine Department of Environmental Protection's (Maine DEP) and New Hampshire Department of Environmental Services' (New Hampshire DES) section 401 water quality certifications (certification)² specify how you must operate the project including maintaining a target impoundment elevation at the flashboard crest elevation of 71.25 feet National Geodetic Vertical Datum of 1929 (NGVD 1929). Section 5.1 of the Plan explains that the headwater level sensor operates continuously to measure water level in the impoundment

¹ *The Town of Rollinsford, New Hampshire*, 179 FERC ¶ 61,203 (2022).

² Ordering paragraphs (E) of the license subjects the license to the conditions submitted by the Maine DEP and the New Hampshire DES under section 401(a)(1) of the Clean Water Act, 33 U.S.C. § 1341(a)(1), as those conditions are set forth in Appendices A and B to the license, respectively.

to maintain a headpond elevation of 71.25 feet NGVD 1929 +/- 0.01 feet. However, the Plan does not specify the threshold for reporting deviations of this operating requirement. Please revise the Plan in the appropriate sections to include this information.

2. It is unclear from the Plan if you consulted consistent with Article 401 of the license. First, it does not appear that you provided the Plan to the National Marine Fisheries Service (NMFS). Second, the New Hampshire DES's November 15, 2022 email states "NHDES consulted with staff of the New Hampshire Fish and Game Department, U.S. Fish and Wildlife Service, and Maine Department of Environmental Protection. Those staff informed NHDES that they do not have concerns about GMP's responses." It is unclear the position of the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Marine Resources, and the NMFS on the Plan and your responses to the New Hampshire DES's questions/comments on the Plan. Please follow the consultation requirements of Article 401 of the license when you revise the Plan.
3. The Plan identifies two annual reports. Article 401(b) requires you to file a Flow and Impoundment Management Report by May 31 of each year pursuant to New Hampshire DES condition E-11. Article 401(e) of the license requires you to file an annual report by January 31 of unplanned deviations lasting three hours or less that do not result in environment effects. It appears there may be overlap in these two annual reports. Please discuss this matter with the resource agencies. You may need to file an amendment application to revise one, or both, of the reporting deadlines based on the outcome of your discussion.

Please make the necessary revisions to address the matters in this letter and consult with the resource agencies pursuant to Article 401 of the license. After the resource agencies review and comment on the revisions, please address all comments and file the revised Plan in two forms:

- a. A strikethrough format (i.e., strikethrough items to be removed and underline or bold items to be added to the Plan), and
- b. A final, clean copy incorporating the changes (i.e., without the strikethrough, underline, and bold notations).

The Commission strongly encourages electronic filing. Please file the requested information using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, submissions sent via the U.S. Postal Service must be

addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing related to this proceeding should include docket number P-3777-016.

Thank you for your cooperation. If you have any questions regarding this letter, please contact me at (202) 502-6779 or Jeremy.Jessup@ferc.gov.

Sincerely,

Jeremy Jessup, PE
Headwater Benefits Lead
Engineering Resources Branch
Division of Hydropower Administration
and Compliance

CC: VIA FERC Service

John Tedesco
Green Mountain Power Corporation
163 Acorn Lane
Colchester, VT 05446