

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

TransCanada Hydro Northeast, Inc.

Project No. 2323-216

ORDER AMENDING ARTICLES 401, 402, 403, 406, AND WATER LEVEL
MANAGEMENT AND GATE OPERATION MONITORING PLAN

(Issued May 18, 2017)

1. On April 10, 2017, TransCanada Hydro Northeast, Inc., licensee for the Deerfield Hydroelectric Project No. 2323, filed a request to amend Articles 401, 402, 403, and 406 of the project license.¹ The filing also included a request to amend a water level management and gate operation monitoring plan that was approved under Articles 401 and 402. The licensee proposes these amendments primarily to modify target water elevations at the project's Somerset Reservoir to benefit loon nesting. The project located on the Deerfield River in Windham and Bennington counties, Vermont, and Franklin and Berkshire counties, Massachusetts. The project does not occupy federal lands.

Background

2. The Commission issued an Order Approving Offer of Settlement and Issuing New License for the Deerfield Project on April 4, 1997. The project, as licensed, includes 8 developments, including the Somerset Development, which is the subject of this order. The Somerset Development, has no generating facilities, and consists of: (1) an earthfill dam structure about 110 feet high and 2,101 feet long with a crest elevation of 2,133.58 feet mean sea level (msl); (2) main outlet works located at the eastern end of the dam which consists of two gated, 48 inch diameter pipes that are used to control reservoir discharge; (3) a side channel spillway, about 800 feet long, 45 feet wide, and from six to 30 feet deep, located at the western end of the dam with a crest elevation of 2,133.58 feet msl; (4) an impoundment, about 5.6 miles long, with a gross surface area of about 1,514 acres.

3. Article 401 of the project license requires the licensee to file, for Commission approval, a plan and schedule for operating the gates on Somerset Dam to manage water

¹ *New England Power Company*, 79 FERC ¶ 61,006 (1997).

levels in Somerset Reservoir from May 1 to July 31 to ensure protection of nesting of common loons, as described in Article 406. The plan must be developed in consultation with the Vermont Agency of Natural Resources (Vermont ANR), the Vermont Department of Fish and Wildlife (Vermont DFW), and the U.S. Fish and Wildlife Service (FWS).

4. Article 402 requires the licensee to file, for Commission approval, a plan to monitor gate operations required by Article 401 to ensure that the gate operations adequately maintain water levels to protect nesting loons. The plan must be developed in consultation with the Vermont ANR, the Vermont DFW, and FWS.

5. The licensee filed a water level management and gate operation monitoring plan (monitoring and operations plan)² on December 10, 1997 to satisfy the requirements of a series of license articles, including Articles 401 and 402. The plan incorporates reservoir elevation requirements stipulated by Article 406, and identifies operations to be used to meet those requirements and benefit loon nesting. An order approving the elements of the plan required by Article 401 was issued June 14, 1999, and an order approving the elements required by Article 402 was issued June 16, 1999.³

6. Article 403 of the license, in part, requires the licensee to operate the Somerset Development within certain ramping rate limits from August 1 to April 30 to protect fish resources downstream in the Deerfield River. The article allows the upramping limit to be suspended if necessary to lower the reservoir to meet the May 1 target elevation for loon nesting required by Article 406.

7. Article 406 of the license, in part, requires the licensee to maintain certain impoundment elevations at the Somerset Reservoir, and at the project's Searsburg and Harriman reservoirs. At the Somerset Reservoir, elevations during the summer/fall maximum drawdown period, from August 1 to November 1, are not to fall below 2,120 feet msl in order to protect open-water recreation in the reservoir. During the maximum annual winter drawdown, from November 2 to April 30, elevations are not to fall below 2,107 feet msl in order to protect fish and aquatic resources in the reservoir. From May 1 through July 31 impoundment fluctuations shall be limited to +/- 3 inches to facilitate loon nesting, and the reservoir shall not be drawn down below the target elevation of 2,128.58 feet msl.

² Entitled *Comprehensive Vermont Flow Monitoring and Reservoir Operations Plan*.

³ *USGen New England, Inc.*, 87 FERC ¶ 62,273 (Article 401); *USGen New England, Inc.*, 87 FERC ¶ 62,302 (Article 402).

Proposed Amendment

8. The licensee proposes to amend Articles 401, 402, 403, and 406, as well the relevant parts of the monitoring and operations plan as approved in the June 14 and June 16, 1999 orders, to accommodate water levels changes in Somerset Reservoir requested by the Vermont ANR and Vermont DFW to improve nesting conditions for loons. The licensee's request is based on the results of work under the Vermont Loon Recovery Project by the Vermont Center for Ecostudies (Vermont CE), a contractor for the Vermont DFW. The work determined that a reduction in water levels of 4.2 inches during the loon nesting period, from 2,128.58 feet msl to 2,128.23 feet msl, would benefit loon nesting in the reservoir. The licensee also indicates that loon nesting season at Somerset Reservoir rarely begins before early June, and therefore requests changes to the timing of water elevations requirements.

9. The licensee requests changes to the articles and the approved monitoring and operations plan to allow the water elevation and timing changes to benefit loon nesting, align operational and reporting requirements at the Somerset Development, and avoid a periodic conflicts between the flow and elevation requirements at the Somerset Development and the downstream Searsburg Development. Specifically, licensee proposes to change: (1) the date at which water level management by gates at Somerset Dam would begin, (2) the date at which collection of stage and outflow data at the Somerset Reservoir to the agencies would begin, (3) the date at which the default maximum ramping rate may be suspended to achieve the target reservoir elevation, and (4) the date at which management of fluctuations in reservoir elevations within +/- 3 inches would begin. These changes are summarized in Table 1 below.

Table 1. Currently authorized and proposed dates and elevations for loon nesting management on Somerset Reservoir.

Article No. and Affected Requirement	Authorized Dates and Elevation	Proposed Dates and Elevation
401- Gate water level management dates	May 1 – July 31	May 15 – July 31
402 Data collection period	April 1 – July 31	April 15 – July 31
403- Suspension of maximum ramping rates	May 1	May 15
406- Managing elevation fluctuation dates	May 1 – July 31	May 15 – July 31
406- Minimum target reservoir elevation	2,128.58 feet msl	2,128.23 feet msl

Agency Consultation

10. The licensee submitted its amendment proposal to the Vermont ANR, Vermont DFW, FWS, and the Vermont CE for review and approval on September 16, 2016. Each of these entities responded via email indicating their concurrence with the proposal. Copies of the responses were attached to the licensee's filing.

Public Notice

11. The Commission issued a public notice of the licensee's amendment application on April 20, 2017, with a deadline of May 5, 2017, for filing comments, motions to intervene, and protests. No responses to the notice were filed with the Commission.

Discussion and Conclusion

12. Under the licensee's proposal, the annual period for water level management for loon nesting at Somerset Reservoir would be shifted from May 1 through July 31 to May 15 through July 31, and target water levels during that period would be reduced by 4.2 inches. These changes would allow operation to reflect current understanding of loon nesting at the reservoir, and thereby benefit loon nesting success.

13. The proposed 4.2-inch reduction in target elevations would only occur within the May through July period in which water levels are currently managed for loon nesting, and would be well within the normal annual fluctuation range of the reservoir. The change would not affect water levels between August 1 and November 1, when levels are managed for recreation in the reservoir, or between November 2 and April 30, when levels are managed to protect fish and aquatic resources. Based on these points, as well as the support of federal and state resource agencies, and the lack of response to the Commission's public notice, we find that approval of the licensee's proposal would benefit long-term loon nesting success at the project without negatively affecting other environmental resources. Approval would also reduce conflicts with other license requirements. Therefore, the licensee's application should be approved.

The Director orders:

(A) TransCanada Hydro Northeast, Inc.'s application, filed April 10, 2017, to amend the license of the Deerfield Hydroelectric Project No. 2323, is approved, as provided below.

(B) Articles 401, 402, 403, and 406 of the license for the Deerfield Hydroelectric Project No. 2323, are amended to lower the target elevation at Somerset Reservoir during the common loon nesting period from 2,128.58 to 2,128.23 feet mean sea level, change the date at which water level management by gates at Somerset Dam would begin from May 1 to May 15, change the start of operation data collection for reporting to the resource agencies from April 1 to April 15, change the date at which the default maximum ramping rate may be suspended to achieve the target reservoir

elevation from May 1 to May 15, and change the date at which management of fluctuations in reservoir elevations within +/- 3 inches would begin from May 1 to May 15.

(C) The licensee's December 10, 1997 Vermont Flow Monitoring and Reservoir Operations Plan, as approved in Commission orders issued June 14, 1999 and June 16, 1999 pursuant to license Articles 401 and 402, is amended to lower the target elevation at Somerset Reservoir during the common loon nesting period from 2,128.58 to 2,128.23 feet mean sea level, change the date at which water level management by gates at Somerset Dam would begin from May 1 to May 15, change the start of operation data collection for reporting to the resource agencies from April 1 to April 15, change the date at which the default maximum ramping rate may be suspended to achieve the target reservoir elevation from May 1 to May 15, and change the date at which management of fluctuations in reservoir elevations within +/- 3 inches would begin from May 1 to May 15.

(D) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2016). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Kelly Houff
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and Compliance