



On October 30, 2012, TC Hydro Inc. filed Notices of Intent (“NOIs”) to file applications for new license for Project Nos. 1855, 1892, and 1904 and Pre-Application Documents (“PADs”) for each of these three projects. Since then, TC Hydro Inc. has made a number of additional filings with the Commission pursuant to the Integrated Licensing Process (“ILP”) schedule for the relicensing of Project Nos. 1855, 1892, and 1904. TC Hydro Inc. will be filing Preliminary Licensing Proposals for these three projects with the Commission on December 1, 2016.

(2) On November 1, 2016, TransCanada PipeLine USA Ltd. (“TC PipeLine”), the owner of TC Hydro Inc., and Great River Hydro NE, LLC (“Great River Hydro NE”), a Delaware limited liability company and an affiliate of ArcLight Capital Partners, LLC (“ArcLight”), entered into a Purchase And Sale Agreement (“PSA”) pursuant to which TC PipeLine will convey its ownership interests in TC Hydro Inc. to Great River Hydro NE (the “Acquisition”). In connection with the close of the Acquisition, pursuant to the PSA, TC Hydro Inc. will convert to a Delaware limited liability company (TransCanada Hydro Northeast LLC (“TC Hydro LLC”)) pursuant to the Delaware Limited Liability Company Act, 6 Del. C. Chapter 18, by filing with the Delaware Secretary of State a certificate of conversion to a limited liability company and a certificate of formation as provided for in § 18-214(b) of the Delaware Limited Liability Company Act. As discussed below, under Delaware law the effect of the conversion will be that TC Hydro Inc. will continue as TC Hydro LLC and title to all real estate and other property of the Projects will continue as vested in TC Hydro LLC. Following the close of the Acquisition, the name will be changed from TC Hydro LLC to Great River Hydro, LLC.<sup>6</sup>

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<sup>6</sup> Under the PSA, upon closing of the Acquisition, Great River Hydro NE is required to change the name (but not the legal identity) of the limited liability company to which TC Hydro Inc. will convert so as to remove any reference therein to “TransCanada” or “TC.” If the name change occurs prior to the point in time at which the documents referenced in paragraph (4)(d) hereof are

(3) (a) TC Hydro Inc. hereby applies for written approval by the Commission of the transfer of the licenses for the Projects from TC Hydro Inc. to TC Hydro LLC in association with the conversion<sup>7</sup> and requests that the instrument of such approval by the Commission be made effective as of the date the documents referenced in paragraph (4)(d) hereof are submitted to the Commission by TC Hydro LLC.

(b) TC Hydro Inc. also hereby requests that the Commission, effective upon the date the transfer of the licenses for the Projects becomes effective, deem the NOIs, PADs, and other documents previously and subsequently filed by TC Hydro Inc. in the ongoing proceedings for the relicensing of Project Nos. 1855, 1892, and 1904 under the ILP as being filed by TC Hydro LLC.

(c) TC Hydro Inc. desires to obtain all regulatory approvals necessary for the conversion, including the Commission's approval of the transfer of the licenses, as soon as possible. Accordingly, TC Hydro Inc. further requests that the Commission issue the public notice of this application expeditiously and thereafter approve it as expeditiously as possible following the close of the public comment period.

(d) TC Hydro Inc. and Great River Hydro NE will seek the necessary authorizations required by the Vermont Public Service Board ("VPSB") to permit the transactions contemplated by the PSA, including requesting that it amend TC Hydro Inc.'s certificate of public good ("CPG") to reflect the conversion of TC Hydro Inc. to TC Hydro LLC,

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filed with the Commission, those documents will reflect the name change. If the name change occurs after that point, the limited liability company will provide the Commission with written notice of the change in name.

<sup>7</sup> The relevant parties are also filing concurrently herewith an application seeking Commission authorization for disposition of Commission-jurisdictional facilities pursuant to § 203 of the FPA (16 U.S.C. § 824b).

and the subsequent issuance or amendment of the CPG reflecting the change in control from TransCanada Corporation to Great River Hydro NE following the close of the Acquisition.

(4) In support of this license transfer application, TC Hydro Inc. shows the Commission the following:

(a) As a limited liability company under the laws of Delaware, TC Hydro LLC will be qualified under § 4(e) of the FPA (16 U.S.C. § 797(e)) to hold hydroelectric licenses under Part I of the FPA. *See* § 18-106(a) of the Delaware Limited Liability Company Act, which provides that a limited liability company “may carry on any lawful business, purpose or activity,” and § 18-106(b) of such Act, which specifies that a “limited liability company shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its limited liability company agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited liability company.” Contemporaneously with the conversion of TC Hydro Inc. to TC Hydro LLC, TC Hydro LLC will file new registrations as a foreign limited liability company with New Hampshire, Massachusetts, and Vermont to obtain authorizations to conduct business in those jurisdictions, in which the Projects are located. Thus, after the conversion of TC Hydro Inc. to TC Hydro LLC is effectuated under Delaware law, which occurs upon the filing of the previously-referenced certificates of conversion and formation with the Delaware Secretary of State (*see* § 18-206(b) of the Delaware Limited Liability Company Act), and TC Hydro LLC obtains authorizations to conduct business in New Hampshire, Massachusetts, and Vermont, TC Hydro LLC will be duly qualified to hold the licenses for the five Projects and to operate them pursuant to the laws of Delaware, New Hampshire, Massachusetts, and Vermont.

(b) TC Hydro LLC has not previously been a Commission licensee. However, the personnel who have been operating and maintaining the Projects which are the subject of this transfer application will continue to work at the Projects after the conversion. Such personnel will continue operating and maintaining the Projects after Great River Hydro NE has acquired the ownership interests in TC Hydro LLC, since under the PSA Great River Hydro NE will retain all such personnel as employees of Great River Hydro NE or an affiliated company to continue to work at the Projects. Thus, TC Hydro LLC personnel will have the requisite experience to continue to operate and maintain the Projects. TC Hydro LLC will have the financial resources necessary to continue to operate and maintain the Projects as a result of its continued sale of energy, capacity, and other electrical products of the Projects into the relevant wholesale electric market (ISO-New England Inc.). Further, Great River Hydro NE, which will become the owner of the licensee following consummation of the conversion and the Acquisition, will be able to draw upon the financial expertise of the ArcLight family of companies, which owns billions of dollars in energy infrastructure assets.<sup>8</sup>

(c) Under Delaware law, when a Delaware corporation such as TC Hydro Inc. converts into a Delaware limited liability company such as TC Hydro LLC, the surviving entity (the limited liability company) is considered to be the same entity as the converting entity (corporation), the conversion does not constitute the dissolution of the converting entity, and the conversion shall constitute a continuation of the existence of the converting entity in the form of a limited liability company. *See* § 18-214(g) of the Delaware

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<sup>8</sup> ArcLight companies have owned the licensees of numerous Commission-licensed hydroelectric projects, including the Milford Project No. 2534, the Orono Project No. 2710, the Stillwater Project No. 2712, the Medway Project No. 2666, and the Ellsworth Project No. 2727. *See* 128 FERC ¶ 62,163 (2009).

Limited Liability Company Act. Further, “all property, real, personal and mixed . . . as well as all other things and causes of action belonging to such other entity, shall remain vested in the . . . limited liability company to which such entity has converted and shall be the property of such . . . limited liability company.” See § 18-214(f) of such Act. Thus, upon conversion of TC Hydro Inc. into TC Hydro LLC, title to all real estate and other property of the Projects held by TC Hydro Inc. will automatically continue as vested in TC Hydro LLC without any instruments of conveyance. Consequently, no such instruments of conveyance will exist for filing with the Commission following its approval of this application.

(d) Upon effectuation of the conversion and authorizations of TC Hydro LLC to conduct business in New Hampshire, Massachusetts, and Vermont, TC Hydro LLC will submit to the Commission certified copies of its certificate of organization, by-laws, and certificate of conversion from Delaware, along with its authorizations to conduct business in New Hampshire, Massachusetts, and Vermont.

(e) Pursuant to 18 C.F.R. § 9.3(b), TC Hydro LLC will have sixty days from the date of the Order Approving Transfers to submit its acknowledgement of acceptance of the licenses for the Projects and the documents referenced in paragraph (4)(d). However, as noted previously, TC Hydro Inc. also must obtain from the VPSB an amended CPG to reflect the conversion of TC Hydro Inc. to a limited liability company and Great River Hydro NE must obtain from the VPSB a CPG evidencing its approval of the change in control of TC Hydro Inc. from TransCanada Corporation to Great River Hydro NE. It is unknown when VPSB will act. Consequently, TC Hydro Inc. requests that, in lieu of requiring the acknowledgement of acceptance and paragraph (4)(d) documents be submitted by TC Hydro LLC within 60 days of the Order Approving Transfers as specified in 18 C.F.R. § 9.3(b), the Commission instead

require TC Hydro LLC to submit such documents within 60 days of receipt of the amended or new CPG from the VPSB, with TC Hydro LLC required to submit status reports on the VPSB process every three months, as needed. The Commission recently adopted such a procedure in a license transfer proceeding requiring a state approval. *See Pacific Gas and Electric Co. and Merced Irrigation District*, 152 FERC ¶ 62,015 at Ordering Paragraph (D) (July 6, 2015).

(f) Upon the effective date of the conversion, TC Hydro LLC will become the owner and holder of, and will permanently retain, all license instruments and all maps, plans, specifications, contracts, reports of engineers, accounts, books, records and all other papers and documents relating to the original Projects and to all additions thereto and betterments thereof.

(g) TC Hydro Inc. certifies that, to the best of its knowledge, other than as previously reported to the Commission,<sup>9</sup> it has fully complied with the terms and conditions of the licenses for the Projects, as amended, and that it has fully satisfied and discharged all of its liabilities and obligations under such licenses to the date hereof, and obligates itself to pay all annual charges accrued under the licenses to the date of the conversion.

(h) Contingent upon the final written approval of the Commission of the transfer of the licenses for the Projects, TC Hydro LLC accepts all of the terms and conditions of said licenses, as amended, and the FPA, and agrees to be bound thereby to the same extent as though it were the original licensees thereunder.

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<sup>9</sup> By letter dated September 21, 2015, Commission Staff determined that TC Hydro Inc. had deviated from a minimum flow requirement at the Deerfield River Project No. 2323. By letter dated May 19, 2016, Commission Staff determined that TC Hydro had deviated from a minimum flow requirement at the Fifteen Mile Falls Project No. 2077. In both instances, the deviations were of short duration, and Commission Staff took no action other than to make the incidents part of the compliance histories for the projects.

(5) The name, title, and telephone number of the persons to whom correspondence with regard to this application should be addressed are as follows:

Erin A. O'Dea  
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TransCanada U.S. Northeast  
110 Turnpike Road  
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The foregoing should be placed on the official service list to be compiled by the Commission's Secretary in this proceeding.

(6) After the approval of this application has become effective, all correspondence and communications relating to the Projects should be directed to:

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110 Turnpike Road  
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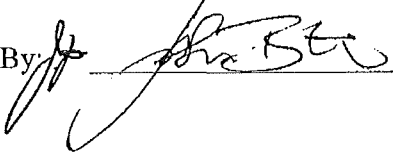
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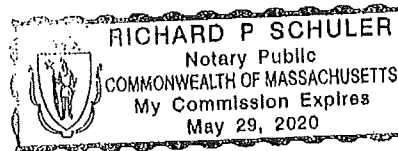
WHEREFORE, for the foregoing reasons, TC Hydro. Inc respectfully requests Commission approval of the transfer of the licenses as described herein and the other relief requested herein.

IN WITNESS WHEREOF, TransCanada Hydro Northeast Inc. has caused its name to be hereunto signed by Jasmin Bertovic, its Vice President, thereunto duly authorized this 17 day of November, 2016.

TRANSCANADA HYDRO NORTHEAST INC.

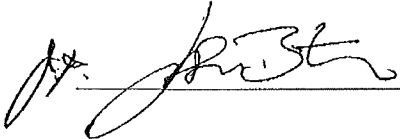
By:  \_\_\_\_\_

 11/17/2016



**VERIFICATION**

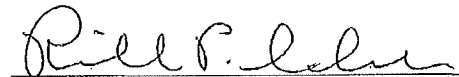
The undersigned, of TransCanada Hydro Northeast Inc., has read the foregoing application, knows the contents thereof, and believe the statements therein true to the best of his knowledge and belief.

  
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Dated: 11/17/2016

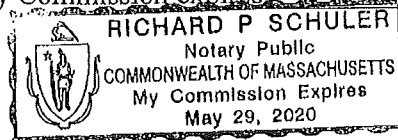
Subscribed and sworn before me, a notary public of the Commonwealth of Massachusetts, this 17 day of November, 2016.

SEAL



Print Name: \_\_\_\_\_  
Notary Public in and for the Commonwealth  
of Massachusetts, residing at

My Commission expires: \_\_\_\_\_



Document Content(s)

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