



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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August 3, 2021

*Via Electronic Filing*

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: FirstLight MA Hydro LLC, Turners Falls Hydroelectric Project (FERC No. 1889)  
Northfield Mountain LLC, Northfield Mountain Pumped Storage Project (FERC No. 2485)

Dear Secretary Bose:

The Massachusetts Department of Environmental Protection (MassDEP) is the certifying authority for the Commonwealth of Massachusetts for purposes of Section 401 of the Clean Water Act. For the reasons stated below, MassDEP hereby requests that the Federal Energy Resources Commission (FERC) defer the issuance of its Notice of Acceptance and Ready for Environmental Analysis until November 12, 2021, to allow additional time for discussions with FirstLight Power Resources (FirstLight), interested stakeholders and relevant state and federal agencies, as such discussions may result in a material application amendment and/or an offer of settlement. Interested state agencies include the Massachusetts Division of Fisheries & Wildlife and the Massachusetts Department of Conservation and Recreation, which fall under the direction of the Massachusetts Executive Office of Energy & Environmental Affairs.

Based on information recently provided by FERC staff, MassDEP understands that FERC intends to issue Notice of Acceptance and Ready for Environmental Analysis as early as next month, or as late as early this fall, on the Amended Final License Application (AFLA) filed on December 4, 2020, by FirstLight for the Northfield Mountain Pumped Storage Project (FERC No. P-2485) and the Turners Falls Hydroelectric Project (FERC No. P-1889). Under FERC's rules, FERC's issuance of the Notice of Acceptance and Ready for

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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Environmental Analysis will require FirstLight to file a Section 401 certification application within 60 days.

MassDEP has taken notice of the comments filed in these matters by the Town of Montague and Town of Gill, as well as comments by the Connecticut River Conservancy and those filed together by American Whitewater, the Appalachian Mountain Club and New England Flow, specifically in regard to the proposed recreation plan, as well as public comments associated with the Northfield Mountain Recreation Center and opportunities to improve recreational access and river-based camping. MassDEP is aware that FirstLight has recently been engaging with several interested stakeholders, and believes that it is possible that a focused, collaborative process may result in a settlement agreement pertaining to all or some of the issues raised by the various stakeholders in a manner consistent with State Water Quality Standards.

From a procedural standpoint, earlier settlement discussions held in late 2018 were not able to provide a meaningful opportunity for resolving the differing perspectives and priorities among the project participants. MassDEP believes that this was due, at least in part, to the significant uncertainties posed by the Great River Hydro<sup>1</sup> (GRH) licensing proceeding on FirstLight's future project operations. For example, in FirstLight's analyses within the AFLA, it is apparent that FirstLight made several assumptions relative to GRH's proposed operation of its up-river Wilder, Bellows Falls and Vernon Projects. Reviewing GRH's AFLA licensing proposal, it is now apparent that FirstLight's assumptions were markedly different than those proposed by GRH. To engage in a substantial discussion of FirstLight's future project operations, the GRH operations model understandably first needed to be resolved and FirstLight's and GRH's proposed operations then needed to be evaluated collectively in one operations model. Unfortunately, GRH's proposed operations model was not publicly available until June 2021.

MassDEP appreciates that FERC looks with great favor on settlements in licensing cases. According to FERC policy, "when parties are able to reach settlements, it can save time and money, avoid the need for protracted litigation, promote the development of positive relationships among entities who may be working together during the course of a license term, and give FERC, as it acts on license and exemption applications, a clear sense as to the parties' views on the issues presented in each settled case." *See Settlements in Hydropower Licensing Proceedings under Part I of the Federal Power Act, Policy Statement on Hydropower Licensing Settlements*, Docket No. PL06-5-000 (Issued September 21, 2006). MassDEP, therefore, respectfully requests deferral of the Notice of Acceptance and Ready for Environmental Analysis to allow FirstLight, in coordination with other state agencies, regulatory agencies, and municipal and advocacy stakeholders, to undertake a collaborative process in furtherance of this important policy before the need to commence a Section 401 certification proceeding.

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<sup>1</sup> Great River Hydro has three hydroelectric projects located above the Turners Falls Project. In upstream to downstream order, they include Wilder, Bellows Falls and Vernon. The Vernon Project discharges into the Turners Falls Impoundment.

Thank you for your consideration of this submittal. Questions or comments on this submittal should be addressed to Stephanie Moura, Director, Division of Wetlands & Waterways, at [stephanie.moura@mass.gov](mailto:stephanie.moura@mass.gov) or by phone at 857-338-5944.

Respectfully submitted,

A handwritten signature in dark blue ink that reads "Stephanie Cooper". The script is fluid and cursive, with the first name and last name clearly distinguishable.

Stephanie Cooper  
Deputy Commissioner