

DE12-240

Ampersand
Energy
Partners
LLC

717 Atlantic Avenue, Suite 1A
Boston, MA 02111
Tel: 617 933 7200
Fax: 617 933 7201

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



July 26, 2012

Re: Application for NH Class IV RECs

Dear Debra:

Enclosed please find American Hydro Inc. – Peterborough’s (AHI-P’s) applications for qualification of NH Class IV RECs for its facilities: Upper Project and Lower Project.

If you have any questions regarding this application, please contact me at (773) 919-0923 or jasonh@ampersandenergy.com.

Sincerely,



Jingdong Huang
American Hydro Inc. - Peterborough
Project Manager
717 Atlantic Avenue
Boston, MA 02111



State of New Hampshire Public Utilities Commission

21 S. Fruit Street, Suite 10, Concord, NH 03301-2429



APPLICATION FORM FOR RENEWABLE ENERGY SOURCE ELIGIBILITY FOR CLASS IV

HYDRO SOURCES WITH A TOTAL NAMEPLATE CAPACITY OF ONE MEGAWATT OR LESS

*Pursuant to New Hampshire Administrative Code Puc 2500 Rules, Puc 2505.02 Application Requirements
Laws of 2012, Chapter 0272*

- Please submit one (1) original and two (2) paper copies of the completed application and cover letter to:

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

- Send an electronic version of the completed application and the cover letter electronically to executive.director@puc.nh.gov.

The cover letter must include complete contact information and clearly state that the applicant is seeking certification as a Class IV source. Pursuant to Chapter 362-F:11 I, the Commission is required to render a decision on an application within 45 days upon receiving a completed application.

If you have any questions please contact Barbara Bernstein at (603)271-6011 or Barbara.Bernstein@puc.nh.gov.

Please provide the following:

1. Applicant Name: American Hydro Inc. - Peterborough

Mailing Address: 717 Atlantic Avenue, Suite 1A

Town/City: Boston State: MA Zip Code: 60613

Primary Contact: Jingdong Huang

Telephone: 617-933-7200 Cell: 773-919-0923

Email address: jasonh@ampersandenergy.com

2. Facility Name: American Hydro Inc. – Peterborough: Lower Project

(physical address) 394 Union Street

Town/City: Peterborough State: NH Zip Code: 03458

If the facility does not have a physical address, the Latitude _____ & Longitude _____

(To qualify the electrical production for RECs, the facility must be registered with the NEPOOL – GIS).
Contact information for the GIS administrator follows:

James Webb, Registry Administrator, APX Environmental Markets
224 Airport Parkway, Suite 600, San Jose, CA 95110
Office: 408.517.2174, jwebb@apx.com

3. The facility's ISO-New England asset identification number, if available. 926

4. The facility's GIS facility code, if available. NON34423

5. A description of the facility including the following:
 - 5.a. The gross nameplate capacity 280 kW
 - 5.b. The facility's initial commercial operation date 1/1/1990
 - 5.c. The date the facility began operation, if different than the operation date _____
 - 5.d. A complete description of the facility including related equipment

The Lower Project consists the following: Union Street Dam; a concrete intake structure with trash rack; a 450-foot-long penstock; concrete power house containing one generating unit with a capacity rating of 280 kW. turbine is a Francis and generator is Jeumont.

6. A copy of all necessary state and federal (FERC) regulatory approvals as **Attachment A**.

7. A copy of the title page of the Interconnection Agreement between the applicant and the distribution utility, the page(s) that identifies the nameplate capacity of the facility and the signature pages. *Please provide this information as Attachment B.*

8. A description of how the generation facility is connected to the distribution utility.

The facility is connected to electric system of PSNH through a 34.5 kV line.

9. A statement as to whether the facility has been certified under another non-federal jurisdiction's renewable portfolio standard and proof thereof.

N/A.

10. A statement as to whether the facility's output has been verified by ISO-New England.

The output is verified by ISO-NE through PSNH.

11. An affidavit by the applicant attesting that the contents of the application are accurate. *Use either the Affidavit at the bottom of this page, or provide a separate document as Attachment C.*

12. The name and telephone number of the facility's operator, if different from the owner.

Facility Operator Name: Tony Nichols

Phone: 603-562-6307

13. Other pertinent information that you wish to include to assist in classification of the facility provide as **Attachment D**.

CHECK LIST: The following has been included to complete the application:	YES
• All contact information requested in the application.	
• A copy of all necessary state and federal (FERC) regulatory approvals as Attachment A .	
• A copy of the title page of the Interconnection Agreement between the applicant and the distribution utility, the page(s) that identifies the nameplate capacity of the facility and the signature pages as Attachment B .	
• A signed and notarized attestation or Attachment C .	
• A GIS number has been provided or has been requested.	
• Other pertinent information has been provided (if necessary) as Attachment D .	
• This document has been printed and notarized.	
• The original and two copies are included in the packet mailed to Debra Howland, Executive Director of the PUC.	
• An electronic version of the completed application has been sent to executive.director@puc.nh.gov .	

AFFIDAVIT

The Undersigned applicant declares under penalty of perjury that contents of this application are accurate.

Applicant's Signature *Jingdong Huang* Date 7/26/12

Subscribed and sworn before me this 26 Day of July (month) in the year 2012

County of Suffolk State of MA

Bradford L. Whetstone
Notary Public/Justice of the Peace

BRADFORD L. WHETSTONE
Notary Public



Commonwealth of Massachusetts
My Commission Exp. **May 23, 2014**

My Commission Expires _____

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Power Company)

Project No. 7410-000

ORDER ISSUING LICENSE (MINOR)

(Issued August 15, 1984)

American Hydro Power Company (Applicant) has filed an application for a license under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Peterborough Project No. 7410. ^{1/} The project would be located at the Verney Mill and Union Street Dams on the Nubanusit Brook in Hillsborough County, New Hampshire. It would utilize surplus water or water power from the U. S. Army Corps of Engineers' (Corps) Verney Mill Dam.

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. No protests or motions to intervene have been filed and none of the agencies objected to issuance of the license. The significant concerns of the commenting agencies are discussed below.

The project proposed for licensing would consist of the Verney Mill Dam Development and the Union Street Dam Development, located about 1,800 feet downstream from Verney Mill Dam. The Verney Mill Dam Development would consist of 4-foot-high flashboards on top of the Corps' dam, a 10-kilowatt (kW) turbine-generator unit at the base of the dam, an intake structure, a 1,750-foot-long penstock, 2 submersible generating units at the downstream end of the penstock with a total capacity of 354 kW, and appurtenant facilities. The Union Street Dam Development would consist of the dam with 2-foot-high flashboards, the reservoir, a 10-kW turbine-generator unit at the base of the dam, an intake structure, a 450-foot-long penstock, 2 submersible generating units at the downstream end of the penstock with a total capacity of 236 kW, and appurtenant facilities. A more detailed project description is contained in ordering paragraph (B).

^{1/} Authority to act on this matter is delegated to the Director, Office of Hydropower Licensing, under §375.314 of the Commission's regulations, FERC Statutes and Regulations, ¶28,544, RM 84-18-000, issued July 13, 1984, .01 49 F.R. 29369 (July 20, 1984). This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. §385.1902 (1983). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

Safety and Adequacy

Staff inspected the project site and found the dams to be in good condition. Both dams are small and tentatively classified as having a significant hazard potential. Staff analysis of the Union Street Dam indicates that tension occurs at the heel under normal pool loading conditions and that the dam may fail under extreme flood loading. Therefore, license Article 31 requires the submittal of a dam break analysis and a plan and schedule for making the dam safe in the event that its failure under flood loading would be a hazard to life or cause significant property damage.

The project proposes to utilize two-foot-high flashboards on the Union Street Dam to create a head of 30.5 feet. The total installed capacity of the project would be 610 kW and would generate an estimated 3,000,000 kWh annually. The Corps commented that the two-foot-high flashboards proposed at the Union Street Dam would significantly reduce the existing non-damaging channel capacity in the vicinity of the dam. This would create an unacceptable impact on the Corps' Edward MacDowell flood control project regulation, which is about 1,000 feet upstream from the Verney Mill Dam. Exclusion of the flashboards would reduce the estimated average annual energy to 2,920,000 kWh. The project, however, would be economically feasible without the flashboards and would be best adapted to the comprehensive development of the Merrimack River Basin, considering flood control and power operations. Therefore, the flashboards on the Union Street Dam will not be authorized. The structural integrity and operation of the Corps' flood control project would be protected by license Article 32 which requires that the design and construction of any project facilities that could affect the operation or structural integrity of the Corps' project be done in consultation with and subject to the review and approval of the Corps' district engineer and by license Article 35 which requires the Licensee to enter into an agreement with the Corps regarding project operation.

Environmental Considerations

The New Hampshire Water Supply and Pollution Control Commission issued a water quality certificate for the project on February 27, 1984.

The Applicant has proposed to provide a continuous minimum instream flow of 10 cubic feet per second (cfs) in the 1,620 feet of the Nubanusit Brook that would be affected by project diversions for hydroelectric generation. This reach includes approximately 1,170 feet of reach downstream of the Verney Mill Dam and 450 feet of reach below the Union Street Dam. According to the Applicant, a 10 cfs minimum instream flow would be sufficient to protect the aquatic resources in the bypassed reach. However, the U.S. Fish and Wildlife Service (FWS) believes that a greater continuous minimum instream flow is necessary to protect aquatic habitat. FWS recommends that the Applicant provide an instream flow release of 15 cfs at Verney Mill and Union Street Dams, or reservoir inflow, whichever is less.

Neither the Applicant nor the FWS have provided any biological justification for their respective minimum flow recommendations. The New Hampshire Fish and Game Department (NHFG), which for many years has stocked brook and brown trout in the project area for angling in the spring and early summer, also does not appear to possess any biological data pertinent to a determination on the proper minimum flow. However, the NHFG, apparently on the basis of its years of experience with its fish stocking program, agrees with the Applicant that a 10 cfs minimum flow would adequately protect the aquatic resources of the area, including any put-and-take trout fishery. Given the absence of biological justification for the differing minimum instream flow recommendations, it would be appropriate to base an initial determination on minimum instream flow on NHFG's substantial experience with these aquatic resources and adopt the Applicant's 10 cfs recommendation. The appropriateness of this decision is supported by the fact that the principal reason for the FWS's 15 cfs recommendation -- the protection of the area's put-and-take fishery -- no longer exists since NHFG has discontinued its fish stocking program in the project area.

In accordance with the above, Article 40 requires the Licensee to provide an interim continuous minimum flow of 10 cfs or the inflow to the project reservoirs, whichever is less, for the protection of aquatic resources in the Nubanusit Brook. In order that the biological information necessary for a determination on the appropriate long-term minimum flow is obtained, Article 39 requires the Licensee to conduct an instream flow study of those segments of the Nubanusit Brook that would be impacted by the project. Article 39 also requires the Licensee, in carrying out the instream flow study, to determine the minimum instream flow which would be necessary to protect a put-and-take fishery comparable to that which the NHFG has placed in the area in the past. This latter requirement will ensure that the Commission will have the appropriate information to determine if the long-term minimum flow will need to be modified should the NHFG reinstitute its fish stocking program in the area.

The installation of 4-foot-high flashboards at Verney Mill Dam would increase the size of the existing reservoir by 2.1 acres. The land that would be inundated includes approximately 1.0 acre of autumn olive shrubs that were planted by the Corps in 1971. Although the Corps is not opposed to the installation of the flashboards at Verney Mill Dam, the Corps and the FWS have indicated that the Applicant should provide mitigation for the loss of this wildlife habitat. Article 41 requires the Licensee, after consultation with the Corps and the FWS, to develop and implement a mitigation plan to provide suitable replacement habitat.

There are no sites listed on the National Register of Historic Places located near the project. Article 42 of this license requires cultural resources protection measures in the event that: (1) any

future construction or development at the project other than the project development considered and authorized herein occurs; and (2) cultural resources are encountered during construction of the proposed project.

Construction and operation of the project would have no effect on Federally listed threatened or endangered species.

Some minor environmental disturbance would be expected during the construction of the project. However, the impacts would be of short-term duration, minor in nature, and limited to the construction period. For the above reasons, it is concluded that issuance of a license for this project will not constitute a major Federal action significantly affecting the quality of the human environment.

Other Aspects of Comprehensive Development

The proposed project would have an installed capacity of 610 kW and generate an estimated 2,920,000 kilowatt hours (kWh) annually, which the applicant proposes to sell to the Public Service Company of New Hampshire. 2/ The project is economically feasible based on the sale of project power at the avoided cost in the State of New Hampshire, adjusted for escalation.

The project is not in conflict with any planned development and its operation would be best adapted to the comprehensive development of the Merrimack River Basin under present conditions upon compliance with the terms and conditions of the license.

Annual Charges

Under the Federal Power Act, the Commission is required to assess Licensees an annual charge for the use of a Government dam. The Commission, on May 24, 1984, amended its regulations governing annual charges to Licensees for the use of Government dams and other structures under the Act. 3/ Under Article 38 of the license the provisions of those regulations, until modified by the Commission, will govern the determination of annual charges for use of a Government dam and other structures.

2/ The project, with its average annual generation of 2,920,000 kWh, would utilize a renewable resource that would save the equivalent of approximately 4,900 barrels of oil or 1,300 tons of coal.

3/ Annual charges for use of Government dams and other structures under Part I of the Federal Power Act, Order No. 379, 27 FERC ¶61,310 (1984).

It is ordered that:

(A) This license is issued to American Hydro Power Company (Licensee) under Part I of the Federal Power Act (Act), for a period of 50 years, effective the first day of the month in which this order is issued, for the construction, operation and maintenance of the Peterborough Project No. 7410, located on the Nubanusit Brook in Hillsborough County, New Hampshire, and using surplus water or water power from a Corps dam. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Act.

(B) The Peterborough Project No. 7410 would consist of:

(1) All lands to the extent of the Licensee's interests in those lands, constituting the project area and enclosed by the project boundary. The project area and boundary are shown and described by a certain exhibit that forms part of the application for license and that is designated and described as:

<u>Exhibit</u>	<u>FERC No. 7410-</u>	<u>Showing</u>
G-1	7	Project Location
G-2	8	Project Structures

(2) Project works at the Verney Mill Dam Development consisting of: (a) 4-foot-high flashboards on top of the Corps' Verney Mill Dam; (b) a 10-kW turbine-generator unit at the base of the dam; (c) an intake structure at the east abutment of the dam; (d) a 5-foot-diameter and 1,750-foot-long penstock; and (e) 2 submersible generating units at the downstream end of the penstock with a total installed capacity of 354 kW. Project works at the Union Street Dam Development consisting of: (a) the 101-foot-long and 18-foot-high concrete Union Street Dam; (b) a reservoir with negligible storage capacity; (c) a 10-kW turbine-generator unit at the base of the dam; (d) an intake structure; (e) a 5-foot-diameter and 450-foot-long penstock; and (f) 2 submersible generating units at the downstream end of the penstock with a total installed capacity of 236 kW. Electrical facilities include 480-volt generator leads from each of the 6 generating units, a three-phase 480-v/4.16 kV 750-kVA transformer, a 200-foot-long and 4.16-kV transmission line, and other appurtenances.

The location, nature, and character of these project works are generally shown and described by the exhibit cited above and more specifically shown and described by certain other exhibits that also form part of the application for license and that are designated and described as:

Exhibit A - Section A.1.3, A.2, and A.7.

<u>Exhibit</u>	<u>FERC No. 7410-</u>	<u>Showing</u>
F-1	1	Verney Mill Dam - Plan and Elevation
F-2	2	Dam Sections
F-3	3	Union Street Dam - Plan and Elevation
F-4	4	Typical Powerplant Plan and Elevation
F-5	5	Typical Powerplant Section

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation or maintenance of the project and located within the project boundary, all portable property that may be employed in connection with the project as approved by the Commission, and all riparian or other rights necessary or appropriate in the operation or maintenance of the project.

(C) Exhibit A (Sections A.1.3, A.2 and A.7), and Exhibits F and G, designated in ordering paragraph (B) above are approved and made a part of the license.

(D) Pursuant to Section 10(i) of the Act, it is in the public interest to waive the following Sections of Part I of the Act, and they are excluded from the license:

Section 4(b), except the second sentence; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15; 16; 19; 20; and 22.

(E) This license is also subject to Articles 1 through 26 in Form L-17 (revised October 1975), entitled "Terms and Conditions of License for Unconstructed Minor Project Affecting Lands of the United States", attached to and made a part of this license. This license is also subject to the following special conditions set forth in the following additional articles:

Article 27. Licensee shall commence construction of project works within two years from the effective date of this license and shall complete construction of the project within four years from the effective date of the license.

Article 28. Licensee shall provide the Commission's Regional Engineer and the Director, Office of Hydropower Licensing, one copy each of the final contract drawings and specifications for pertinent features of the project, such as water retention structures, powerhouse, and water conveyance structures, at least 60 days prior to start of construction. The Director, Office of Hydropower Licensing, may require changes in the plans and specifications to assure a safe and adequate project.

Article 29. Licensee shall review and approve the design of contractor-designed cofferdams and deep excavations proposed at the Union Street Dam prior to the start of construction and shall ensure that construction of cofferdams and deep excavations are consistent with the approved design. At least 30 days prior to start of construction of the cofferdam, the Licensee shall provide the Commission's Regional Engineer and Director, Office of Hydropower Licensing, one copy of the approved cofferdam construction drawings and specifications and a copy of the letter(s) of approval.

Article 30. Licensee shall within 90 days of completion of construction file with the Commission, for approval by the Director, Office of Hydropower Licensing, revised Exhibits A, F and G to describe and show the project as-built. Those drawings shall include the transmission lines listed herein.

Article 31. Licensee shall within six months from the effective date of this license file with the Commission for approval by the Director, Office of Hydropower Licensing, a report that identifies and quantifies the hazard to downstream life and property of failure of any susceptible project structure(s) at the Union Street Dam under flood conditions up to the Probable Maximum Flood (PMF). The report shall fully document all reconnaissance and other studies made in its preparation. In the event that failure of any project structure under flood conditions would present a hazard to human life or would cause significant property damage, then the Licensee shall simultaneously file a plan and schedule for modifying the project to ensure that the project can safely pass floods up to the PMF.

Article 32. The design and construction of those facilities that would be an integral part of, or that could affect the structural integrity or operation of the Corps' project shall be done in consultation with, and subject to the review and approval of, the Corps' District Engineer. Detailed design documents shall be submitted to the Corps prior to submitting the plans and specifications to the Corps for review and approval.

Article 33. Licensee shall enter into an agreement to coordinate their plans with the Corps for access to and site activities on, lands and property administered by the Corps so that the authorized purposes, including operation of the Federal facilities, are protected. In general, the agreement shall not be redundant with the Commission's

requirements contained in this license and shall identify the facility, and the study and construction activities, as applicable, and terms and conditions under which studies and construction will be conducted. The agreement shall be mainly composed of the following items: (1) reasonable arrangements for access to the Corps' site to conduct studies and construction activities, such access rights to be conditioned by the Corps as may be necessary to protect the Federally authorized project purposes and operations; (2) charges to be paid by Licensee to the Corps (a) for technical studies by the Corps that relate solely to the structural integrity of the Corps facility associated with power plant development, and (b) for review of designs including plans and specifications, and for construction inspections based on personnel costs, where such review and inspections are directly related to the structural integrity of the Verney Mill Dam; and (3) charges to be paid by Licensee to the Corps for copies of reports, drawings and similar data based on printing and mailing costs, provided that charges shall not be assessed for information, services, or relationships that would normally be provided to the public. Should Licensee and the Corps fail to reach an agreement, the Licensee shall refer the matter to the Commission for resolution.

Article 34. The construction, operation and maintenance of the project works that, in the judgment of the Corps may affect the structural integrity or operation of the Corps project shall be subject to periodic or continuous inspections by the Corps. Any construction, operation or maintenance deficiencies or difficulties detected by the Corps inspection will be immediately reported to the Regional Engineer. Upon review, the Regional Engineer will refer the matter to the Licensee for appropriate action. The Corps inspector will report to the Regional Engineer the need to stop construction, operation or maintenance while awaiting resolution of construction, operation or maintenance deficiencies or difficulties if such deficiency or difficulty would affect the structural integrity of the Corps project.

Article 35. Licensee shall, prior to commencement of operation enter into a memorandum of agreement with the Corps describing the mode of hydropower operation acceptable to the Corps. The Regional Engineer shall be invited to attend meetings regarding the agreement. The memorandum of agreement shall be subject to revision by mutual consent of the Corps and Licensee as experience is gained by actual project operation. Should the Corps fail to reach an agreement with the Licensee, the matter will be referred to the Director, Office of Hydropower Licensing. Copies of the signed memorandum between the Corps and the Licensee and any revision thereof shall be furnished to the Director, Office of Hydropower Licensing, and the Regional Engineer.

Article 36. Licensee shall have no claim under this license against the United States arising from the effect of any changes made in the operation or reservoir levels of the Corps' project.

Article 37. Licensee shall provide the Regional Engineer two copies of all correspondence between the Licensee and the Corps. The Regional Engineer shall not authorize construction of any project works until the Corps' written approval of construction plans and specifications has been received by the Regional Engineer.

Article 38. Licensee shall pay the United States the following annual charges, effective the first day of the month in which this license is issued:

(a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 810 horsepower.

(b) For the purpose of recompensing the United States for utilization of surplus water or water power from the Corps' Verney Mill Dam, an amount determined in accordance with the provisions of the Commission's regulations in effect from time to time.

Article 39. Licensee shall, in cooperation with the New Hampshire Fish and Game Department and the U. S. Fish and Wildlife Service, conduct an instream flow study to determine the minimum flow releases from the project dams that are necessary to protect and enhance fish and wildlife resources in the project area, including a put-and-take brook and brown trout fishery comparable to that which the New Hampshire Fish and Game Department has placed in the project area prior to the date of issuance of this license. Within 1 year from the date of issuance of this license, the Licensee shall file, with copies to the agencies consulted, a report on the results of the study, and, for Commission approval, recommendations for flow releases from the project dams. Copies of agency letters of comment on the adequacy of the recommended minimum flows shall be included in the filing.

Article 40. Licensee shall discharge from the Peterborough Water Power Project an interim continuous minimum flow of 10 cubic feet per second, as measured immediately downstream from the Verney Mill and Union Street Dams, or the inflow to the project reservoirs, whichever is less, for the protection of fish and wildlife resources. Interim minimum flows shall be maintained by the Licensee until alternative minimum flows are approved by the Commission. Interim minimum flows may be temporarily modified, if required, by operating emergencies beyond the control of the Licensee, for the instream flow study required by Article 39, and for short periods for fishery management purposes, upon mutual agreement between the Licensee and the New Hampshire Fish and Game Department.

Article 41. Licensee shall, after consultation with the New Hampshire Fish and Game Department, U. S. Fish and Wildlife Service, and the Corps, prepare and file for Commission approval, within 1 year from the date of issuance of this license, a mitigation plan (Plan) for the protection and enhancement of wildlife and botanical resources affected by the project's construction and operation. The Plan shall include, but shall not be limited to, a schedule of implementation, and the location and number of acres of replacement habitat. Documentation of agency consultation on the report and recommendations shall be included in the filing.

Article 42. Licensee shall, prior to the commencement of any future construction at the project, consult with the New Hampshire State Historic Preservation Officer (SHPO) about the need for any cultural resource survey and salvage work. The Licensee shall make available funds in a reasonable amount for any such work as required. If any previously unrecorded archeological or historical sites are discovered during the course of construction or development of any project works or other facilities at the project, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historic resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historic work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 43. (a) Licensee shall, in accordance with the provisions of this article, have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain other types of use and occupancy, without prior Commission approval. The Licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the Licensee shall also have continuing responsibility to supervise and control the uses and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the Licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the Licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The types of use and occupancy of project lands and waters for which the Licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the Licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the uses and occupancies for which it grants permission are maintained in good repair and comply with applicable State and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the Licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the Licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the Licensee's costs of administering the permit program. The Commission reserves the right to require the Licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The Licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary State and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The Licensee may convey fee titles to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary State and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and State water quality certificates or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and State approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the Licensee must file a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or State agency official consulted, and any Federal or State approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the Licensee to file an application for prior approval, the Licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraphs (c) or (d) of this article:

(1) Before conveying the interest, the Licensee shall consult with Federal and State fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the Licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a

nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the Licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or F drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or F drawings would be filed for approval for other purposes.

(F) The Licensee's failure to file a petition appealing this order to the Commission shall constitute acceptance of this license. In acknowledgment of acceptance of this order and its terms and conditions, it shall be signed by the Licensee and returned to the Commission within 60 days from the date this order is issued.

Quentin A. Edson
Director, Office of
Hydropower Licensing

Project No. 7410-000

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, American Hydro Power Company, this ____ day of _____, 19____, has caused its corporate name to be signed hereto by _____, its President, and its corporate seal to be affixed hereto and attested by _____, its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the ____ day of _____, 19____, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

Secretary

(Executed in quadruplicate)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED
MINOR PROJECT AFFECTING LANDS
OF THE UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of

the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other

officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative.

The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 8. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 9. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 10. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 11. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 12. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use,

free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 13. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property:

Article 14. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 15. The Licensee shall consult with the appropriate State and Federal agencies and, within one year of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition all trees along the periphery of project reservoirs which m

die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 16. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, That timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 17. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 18. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream,

conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 19. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 20. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 21. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 22. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project

transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 23. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 24. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission

may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 25. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 26. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

with the Forest Service during the term of this permit to develop a plan for alleviation of damage to, and achieving maximum utilization of, National Forest resources insofar as they are affected by any studies and investigations conducted pursuant to this permit; and shall enter into a memorandum of agreement with the Forest Service pertaining to requirements for fire prevention and control, and for alleviating injury to or destruction of Forest Service lands, resources, buildings, bridges, roads, trails, and other improvements of properties of the United States. The term of that memorandum of agreement shall be for the term of the preliminary permit and until final Commission action on any application for license for the proposed project. Within 90 days from the date of issuance of this order, the Permittee shall file a copy of the memorandum of agreement for the Commission's information.

Article 11. During the development of the fish and wildlife report pursuant to Article 9, the Permittee shall take into account the regional fish and wildlife program developed pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. Any inconsistencies with the regional program must be specifically addressed in any fish and wildlife report of any subsequent application for license or exemption.

(C) This order is final unless appealed to the Commission by any party within 30 days from the issuance date of this order under 18 C.F.R. § 385.1902 (1985).

— Footnote —

¹ In this, "Permittee" refers to the applicant or applicants named in the caption for this proceeding.

Appendix A

Notice of Application
(Issued September 10, 1985)

- a. Type of Application: Preliminary Permit
- b. Subject No.: 9316-000
- c. Date Filed: July 2, 1985
- d. Applicant: Polson Associates
- e. Name of Project: Polson Associates
- f. Location: On Lion Creek, in Flathead National Forest in Lake County, Montana
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a) - 825(r)
- h. Contact Person: Jordan Walker, 484 East 300 North, Manti, UT 84642
- i. Comment Date: November 12, 1985
- j. Description of Project: The proposed project would consist of: (1) a 3-foot-high, 20-foot-long native rock diversion dam with a crest at elevation 4,200 feet; (2) a 14-inch-diameter, 8,500-foot-long penstock; (3) a powerhouse at elevation 3,680 feet containing a generating unit rated at 314 kW producing an average annual output of 1,900 MWh; (4) a 60-foot-long tailrace; and (5) a 16,500-foot-long, 14.44-kV transmission line connecting to an existing Electric Coop, Inc. line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary to conduct the studies. The estimated cost of permit activities is \$15,000.

[Note: Remainder of notice omitted in printing.]

[¶ 62,339]

American Hydro Power Company, Project Nos. 7410-003 and 004

Order Amending License

(Issued December 11, 1985)

Kenneth M. Pusateri, Acting Director, Office of Hydropower Licensing.

On October 21, 1985, American Hydro Power Company, Licensee for the Peterborough Project No. 7410, filed a request for amendment of Articles 39 and 41 of the license. ¹ Articles 39 and 41 require the Licensee to file for approval the results of an instream flow study and a wildlife and botanical resources mitigation plan, respectively, within 1 year from the date of

issuance of the license. The Licensee requests that Articles 39 and 41 be amended to require the Licensee to comply with those articles by December 15, 1985.

The request for amendment of Articles 39 and 41 of the license is reasonable and is an administrative action that would not

significantly affect the quality of the human environment.

The Director of the Office of Hydropower Licensing, or the Director's designee, under 18 C.F.R. § 375.314, orders:

(A) Articles 39 and 41 of the license for the Peterborough Project No. 7410 are amended as follows:

Article 39. Licensee shall, in cooperation with the New Hampshire Fish and Game Department and the U.S. Fish and Wildlife Service, conduct an instream flow study to determine the minimum flow releases from the project dams that are necessary to protect and enhance fish and wildlife resources in the project area, including a put-and-take brook and brown trout fishery comparable to that which the New Hampshire Fish and Game Department has placed in the project area prior to the date of issuance of this license. The Licensee shall file, with copies to the agencies consulted, a report on the results of the study, and, for Commission approval, recommendations for flow releases from the project dams, on or before December 15, 1985. Copies of agency letters of comment on the

adequacy of the recommended minimum flows shall be included in the filing.

Article 41. Licensee shall, after consultation with the New Hampshire Fish and Game Department, U.S. Fish and Wildlife Service, and the Corps, prepare and file for Commission approval, on or before December 15, 1985, a mitigation plan (Plan) for the protection and enhancement of wildlife and botanical resources affected by the project's construction and operation. The Plan shall include, but shall not be limited to, a schedule of implementation, and the location and number of acres of replacement habitat. Documentation of agency consultation on the report and recommendations shall be included in the filing.

(B) This order is final unless appealed to the Commission by any party within 30 days from the issuance date of this order under 18 C.F.R. § 385.1902 (1984).

— Footnote —

¹ *American Hydro Power Company, Order Issuing License (Minor), issued August 15, 1984, 28 FERC ¶ 62,216.*

[¶ 62,340]

New England Power Company, Project No. 1892-002

Order Amending License

(Issued December 11, 1985)

Kenneth M. Pusateri, Acting Director, Office of Hydropower Licensing.

The New England Power Company (Licensee) filed on May 13, 1985, an application for amendment of the license for the Wilder Project No. 1892, under Part I of the Federal Power Act (Act). The project is located on the Connecticut River in Windsor and Orange Counties, Vermont and in Grafton County, New Hampshire. The Licensee proposes to amend the license to increase the project's installed capacity from 32,400 kW to 35,600 kW.

Notice of the application has been published and comments have been received from interested Federal, state, and local agencies. No protests were received and none of the agencies objected to the amendment of the license. The State of Vermont was granted intervention.

A license was issued for the Wilder Project on April 22, 1944 [4 FPC 3], and a new license was issued on December 10, 1979 [9 FERC ¶ 61,322]. The major changes proposed in this amendment include the installation of a new 3,200-kW unit, utilizing the attraction water

supply for the project fishway and the addition of a new lead to the existing 13.8-kV bus.

Environmental Considerations

Cumulative Impacts

By letter dated February 28, 1985, the Vermont Agency of Environmental Conservation (AEC) recommends that the Commission conduct a cumulative impact assessment of hydropower projects proposed within the Connecticut River Basin. No such recommendations, however, have been received in regard to this amendment of the Wilder Project license. The commenting agencies do not express any objections to this amendment. In fact, the AEC, in its August 9, 1985, comments on the amendment application, states its belief that this project would benefit the fishery resources of the upper Connecticut River Basin, and would not degrade the environment either at or upstream of the site.

Installation of the proposed 3.2-megawatt generating unit, as part of the attraction water

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Power Company

Project No. 7410-005

ORDER GRANTING EXTENSION OF TIME

(Issued August 8, 1986)

On July 28, 1986, the licensee for the Peterborough Project requested a 2-year extension of the July 31, 1986, deadline for commencing project construction. The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify a 2-year extension. The deadline for completion of construction will be similarly extended.

The Director orders:

- (A) The deadline for commencing project construction is extended to July 31, 1988.
- (B) The deadline for completing project construction is extended to July 31, 1990.
- (C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.



Richard T. Hunt
Director, Office of
Hydropower Licensing

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSIONAmerican Hydro Power Company
American Hydro, Inc.

Project No. 7410-009

ORDER APPROVING TRANSFER OF LICENSE

(Issued September 14, 1987)

The American Hydro Power Company (AHPC) seeks Commission approval to transfer its license for the Peterborough Project to American Hydro, Inc. (AHI). The project is located on the Nubanusit Brook in Hillsborough County, New Hampshire. AHI is a solely-owned subsidiary of AHPC. The transfer is necessary in order to facilitate the financing of the construction, operation and maintenance of the project.

AHPC has fully complied with the terms of the license and agrees to pay annual charges that have accrued to the date of the transfer. AHI is qualified to hold the license and operate the property under license and agrees to accept all of the terms and conditions of the license and to be bound by the license as if it were the original licensee.

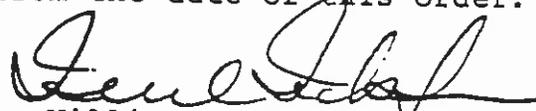
Transfer of the license for this project is consistent with the Commission's regulations and is in the public interest.

The Director orders:

(A) Transfer of the license for this project is approved.

(B) Approval of the transfer is contingent upon transfer of title of the properties under license and delivery of all license instruments to American Hydro, Inc., which shall be subject to all terms and conditions of the license as though it were the original licensee. American Hydro, Inc., shall submit certified copies of all instruments of conveyance within 60 days from the date of this order.

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order. American Hydro, Inc., shall acknowledge acceptance of this order and its terms and conditions by signing and returning the attached acceptance sheet within 60 days from the date of this order.



William C. Wakefield II
Acting Director, Division
of Project Management

Project No. 7410-009

IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, American Hydro, Inc., this 1st day of October, 1987, has caused its corporate name to be signed hereto by , its _____ President, and its corporate _____ seal to be affixed hereto and attested by Robert A. Olson, its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the 23rd day of September, 1987, a certified copy of the record of which is attached hereto.

By Peter G. McGrath
President

Attest:

Robert A. Olson
Secretary

(Executed in quadruplicate)



ACTION BY CONSENT OF THE
DIRECTORS OF
AMERICAN HYDRO POWER, INC. - PETERBOROUGH

The undersigned, being all of the Directors of the Corporation, hereby unanimously consent, as provided by New Hampshire RSA 293-A:44 and the by-laws of American Hydro, Inc. - Peterborough Section 3.12, to the action set forth below, effective as of September 23, 1987:

RESOLVED: The Directors hereby accept all of the terms and conditions of the "Order Approving Transfer of License" issued September 14, 1987 by the Federal Energy Regulatory Commission with regard to American Hydro Power Company and American Hydro, Inc. - Peterborough for Project No. 7410.



Peter McGrath, Director

AMERICAN HYDRO, INC. - PETERBOROUGH

Dated: September 23, 1987

GENERAL ASSIGNMENT

-This General Assignment ("Assignment") is made by and between American Hydro Power Company, a general partnership duly organized under the laws of the Commonwealth of Pennsylvania having a business address of 33 Rock Hill Road, Bala Cynwyd, Pennsylvania ("AHP"), and American Hydro, Inc. - Peterborough, a corporation duly organized under the laws of the State of New Hampshire having a business address of 33 Rock Hill Road, Bala Cynwyd, Pennsylvania and registered offices at 21 Green Street in Concord, New Hampshire ("AHIP").

RECITALS

A. AHP was issued a license for the development of a hydroelectric project located on the Nubanusit Brook in Peterborough, New Hampshire (the "Hydroelectric Project") by the Federal Energy Regulatory Commission ("FERC") by FERC's "Order Issuing License (Minor) Project No. 7410" on August 15, 1984 (the "License").

B. Since being issued the License, AHP has proceeded with the design and development of the Hydroelectric Project by obtaining a rate order and interconnection agreement with a local utility, by performing certain studies and engineering reports and by acquiring certain property rights and interests necessary for the development and operation of the Hydroelectric Project.

C. On September 14, 1987, the FERC issued an Order Approving the Transfer of the License from AHP to AHIP contingent upon the assignment of title of the properties under the License and delivery of all license instruments to AHIP.

D. AHIP, under the terms and conditions of the Order

Approving the Transfer of the License is required to submit certified copies of all instruments of conveyance to the FERC.

E. The parties are desirous of fulfilling their obligations under the terms and conditions of the order Approving the Transfer of the License.

NOW THEREFORE, it is agreed by and between AHP and AHIP as follows:

1. AHP, for good and valuable consideration paid, hereby assigns and transfers all rights, title and interest in and to any and all real property interests, license instruments, contracts, engineering reports and assets concerning or related to the Hydroelectric Project in Peterborough, New Hampshire, as required by the FERC Order Approving the Transfer of the License, including, but not limited to, the following:

(i) The Rate Order of the New Hampshire Public Utilities Commission issued to American Hydro Power Company on February 18, 1986, in Docket DR 86-34, Order Number 18,123;

(ii) The Interconnection Agreement between American Hydro Power Company and Public Service Company of New Hampshire dated January 28, 1986;

(iii) The Union Street Dam, so-called, located on the Nubanusit River in Peterborough, New Hampshire;

(iv) The Agreement between Gates, Inc. and American Hydro Power Company dated May 13, 1985 and recorded in the Hillsborough County Registry of Deeds at Book 3467 and Page 319 and as amended at Book 4463 and Page 139;

(v) All engineering studies, reports, data, material and related information of American Hydro Power Company

concerning the Hydroelectric Project;

(vi) All files and documents of American Hydro Power Company relating to the Hydroelectric project; and

(vii) All of the following real property interests and property rights now or hereinafter acquired:

An easement to locate, establish, construct and maintain a penstock across and under the lands of the property owners in Peterborough, New Hampshire, for the purpose of transporting water from the Verney Mill Dam to the hydroelectric turbine and generator set to be located downstream on the lands to be specified by AHIP. The route of the easement shall follow the center line of the existing penstock as now located on the properties. The easement shall be a total of 10 feet in width with a center line coincident with the center line of the existing penstock, and

All riparian rights of the owners in and appurtenant to said river, including the use of the flow thereof for hydro power production, excepting and reserving a continuous flow of ten (10) cubic feet per second through the streambed, together with the right to divert, by conduits, intake structure, or other devices, the water from said river which exceeds that reserved at a point above the lands of the owners with the right to conduct the water diverted to such lands and in such a manner as AHIP so desires.

The above described property or property rights are or shall be acquired from the following land owners:

A. Bruce A. Fox and Diane E. A. Rasanen. Two tracts of lands situated on the west side of Harrisville Road, also known as Wilder Street, being the same tracts described in a deed from B. Harold Erskine, to Diane E. A. Rasanen and Bruce A. Fox, tenants in common, dated October 24, 1979, and recorded in Book 2733, Page 102 at the Hillsborough County Registry of Deeds.

B. Michael S. Vaillancourt. A tract of land situated on the west side of Harrisville Road, also known as Wilder Street, being the same tract described in a deed from B. Harold Erskine, to Michael S. Vaillancourt, dated November 18, 1971, and recorded in Book 2195, Page 286 at Hillsborough County Registry of Deeds.

C. J. Saluste and Jenny M. Vaillancourt. A tract of land situated on the west side of Harrisville Road, also known as Wilder Street, being the same tract described in a deed from Maurice Blodgett, Administrator of the Estate of Jacob Gorski, to

J. Saluste and Jenny M. Vaillancourt, joint tenants with rights of survivorship, dated September 23, 1963 and recorded in Book 1750, Page 136 at the Hillsborough County Registry of Deeds.

D. Timothy P. Jarest and Deidre A. Jarest. A tract of land situated on the west side of Harrisville Road, also known as Wilder Street, being the same tract described in a deed from Richard L. and Barbara A. Busenbark, to Timothy P. Jarest and Deidre A. Jarest, joint tenants with rights of survivorship, dated September 22, 1986, and recorded in Book 3672, Page 197 at the Hillsborough County Registry of Deeds.

E. Povilas A. Gavelis. Certain tracts of land situated on the west side of Harrisville Road, also known as Wilder Street, being the same tracts described in a deed from Mary D. Lavoie, to Povilas A. Gavelis, dated June 15, 1981, and recorded in Book 2860, Page 530 at the Hillsborough County Registry of Deeds.

F. Donald S. Greene and Bette Greene. A tract of land situated on the southerly side of Union Street, so-called in West Peterborough, New Hampshire being the same tract described in a deed from Wayne Green Enterprises, Inc. to Donald S. Greene and Bette Greene, dated January 10, 1986 and recorded in Book 3447, Page 228 of the Hillsborough County of Registry of Deeds.

G. Ragged Edge Realty. A certain tract of land situated on the northerly side of Union Street, being the same tract described in a deed from IDG Realty, Inc. to Ragged Edge Realty, dated February 21, 1985 and recorded in Book 3271, Page 144 of the Hillsborough County Registry of Deeds.

H. James A. McEwan. A certain tract of land situated on the south side of Union Street, being the same tract described in a deed from Oliver Blanchette to James A. McEwan, dated April 8, 1987, and recorded in Book 2520, Page 299 of the Hillsborough County Registry of Deeds.

2. AHIP, in consideration of the Assignment, hereby agrees for itself, successors and assigns, to faithfully perform, discharge and fulfill all of AHP's engagements and undertakings under the License and this Assignment.

IN WITNESS WHEREOF, the parties have affixed their hands and seals this 13 day of November, 1987.

AMERICAN HYDRO POWER COMPANY

a General Partnership

By: Hydro Management Corp.,
Partner

Susan C. Glick
Witness

Peter A. McGrath
Peter A. McGrath, President

AMERICAN HYDRO, INC. -
PETERBOROUGH

Susan C. Glick
Witness

By: *Peter A. McGrath*
Peter A. McGrath, President

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA, SS

On this 13 day of November, 1987, before me, a notary public, the undersigned officer, personally appeared Peter A. McGrath, known to me (or satisfactorily proven), to be the President of Hydro Management Corp., a Pennsylvania Corporation, one of the general partners of American Hydro Power Company and President of American Hydro, Inc. - Peterborough, and he acknowledged to me that he, being authorized to do so, executed the foregoing instrument in said partnership name by signing as a general partner the name of Hydro Management Corp. by himself as President, and being authorized to do so, executed the foregoing instrument by signing as President of American Hydro, Inc. - Peterborough.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Daniel J. McDevitt
Notary Public
DANIEL J. McDEVITT
Notary Public, Phila., Phila. Co.
My Commission Expires Jan. 2, 1988

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Inc. - Peterborough Project No. 7410-014

ORDER REQUIRING MINIMUM FLOW RELEASE

(Issued February 24, 1988)

On January 11, 1988, American Hydro Inc. - Peterborough, licensee for the Peterborough Hydroelectric Project, filed a minimum flow release schedule to be implemented in lieu of performing the instream flow study required by Article 39 of the license. The licensee proposes a minimum instream flow of 15.0 cubic feet per second (cfs) from April 1st to July 31st of each year and 10.0 cfs or inflow, whichever is less, to the Nubanusit Brook, for the remainder of the year immediately below the project dams. Article 40 of the license requires the licensee to maintain an interim minimum flow release of 10.0 cfs or inflow to the project reservoirs, whichever is less, for the protection of fish and wildlife resources.

The New Hampshire Fish and Game Department (letter dated December 2, 1987) and the U. S. Fish and Wildlife Service (letter dated December 29, 1987) concur with the licensee's proposed minimum instream flow regime for the Peterborough Hydroelectric Project.

The proposed minimum flows would maintain and protect aquatic resources and the put and take trout fishery stocked by the New Hampshire Fish and Game Department during the spring and early to mid-summer months. There would be no significant adverse impacts as a result of implementing the licensee's proposed minimum flow regime for the Peterborough Hydroelectric Project. Implementation of this proposed minimum instream flow regime fulfills the requirements of article 39.

The Director Orders:

(A) Article 39 of the license requiring an instream flow study is deleted.

(B) Article 40 of the license is superseded by the following:

Article 40: Licensee shall discharge from the Peterborough Water Power Project a continuous minimum flow of 15.0 cubic feet per second (cfs) from April 1 through July 31 and 10.0 cfs or inflow, whichever is less, for the remainder of the year as measured immediately downstream from the Verney Mill and Union Street dams for the protection of fish and wildlife resources, and the put and take trout fishery, in

(C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.


Dean L. Shumway
Director, Division of
Environmental Analysis

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Inc.-Peterborough Project No. 7410-012 and -013

ORDER APPROVING RESERVOIR CLEARING PLAN
AND HABITAT MITIGATION PLAN

(Issued February 24, 1988)

On January 22 and January 29, 1988, the American Hydro Inc.-Peterborough, licensee for the Peterborough Hydroelectric Project, filed a reservoir clearing plan required by article 15 of the license and a habitat mitigation plan required by article 41, respectively. The reservoir clearing plan provides for the removal of autumn olive (*Elaeagnus umbellata*) shrubs that will be inundated from project construction. Autumn olive occupies approximately 0.13 acres of the 1.25 acres to be inundated. Autumn olive constitutes the only vegetation other than grasses subject to inundation from the proposed project. The habitat mitigation plan provides for 0.23 acres of autumn olive shrubs to be planted adjacent to the proposed area to be inundated, as replacement for the cleared plants and to enhance wildlife habitat. The plan provides for a total of 70 plants to be planted at a density of 1 plant per 144 square feet. The autumn olive will be 3 feet tall in 5 gallon containers, and will be planted during May 1 through July 31.

The New Hampshire Fish and Game Department (letters dated December 2, 1987 and December 9, 1987), the U. S. Fish and Wildlife Service (letters dated January 7, 1988 and January 29, 1988), and the Corps of Engineers (letter dated January 14, 1988) expressed no objections to the plans.

The proposed action should cause minimal impact to wildlife species in the area. Replacement of vegetation to be inundated by the project reservoir will adequately mitigate impacts to terrestrial resources. The plans are consistent with the requirements of articles 15 and 41 and are approved herein.

The Director orders:

- (A) The reservoir clearing plan required by article 15, filed on January 22, 1988, is approved.
- (B) The habitat mitigation plan required by article 41, filed on January 29, 1988, is approved.

- (C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.


Dean L. Shumway
Director, Division of
Environmental Analysis

Office Director Order

an assessment of the feasibility of the project. The appropriate federal, state, and local agencies should be contacted, pursuant to section 4.38 of the Commission's regulations (18 C.F.R. § 4.38 (1987)).

Article 9. During the initial period of the permit, the permittee shall consult with the U.S. Fish and Wildlife Service of the Department of the Interior, the state fish and game agencies, and the National Marine Fisheries Service of the Department of Commerce, if the project affects anadromous fish, to obtain the agencies' views and recommendations on studies to be conducted during the term of the permit to assess the effect that the proposed project might have on fish and wildlife resources and the facilities or measures that may be needed to conserve and develop those resources. Permittee shall also consult with and seek the views and recommendations of any Indian Tribe or Nation with recognized treaty interests in fish and wildlife resources that could be directly affected by the proposed project. A copy of the report on the permittee's study shall be filed as part of the fish and wildlife exhibits or reports of any subsequent application for license.

Article 10. During the development of the fish and wildlife report pursuant to article 9, the permittee shall take into account the regional fish and wildlife program developed pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. Any inconsistencies with the regional program must be specifically addressed in any fish and wildlife report of any subsequent application for license or exemption.

Article 11. Prior to undertaking any investigation work under the preliminary permit on National Forest land within the proposed project boundary, the permittee shall: consult with the Forest Supervisor, Gifford Pinchot National Forest, 6926 E. 4th Plain Blvd., Vancouver, Washington 98661, or his designated representative, as to reasonable requirements relative to field surveys and investigations; shall cooperate with the Forest Service during the term of this permit to develop a plan for alleviation of damage to, and achieving maximum utilization of, National Forest resources insofar as they are affected by any studies and investigations conducted pursuant to this permit; and shall enter into a memorandum of agreement with the Forest Service pertaining to requirements for fire prevention and control,

and for alleviating injury to or destruction of Forest Service lands, resources, building roads, trails, and other improvements on properties of the United States. The term of that memorandum of agreement shall be for the term of the preliminary permit and until the term of the preliminary permit and until the final Commission action on any application for license for the proposed project. Within 90 days from the date of issuance of this order, the permittee shall file a copy of the memorandum of agreement for the Commission's information.

(D) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order.

Appendix A

Notice of Application

(Issued December 12, 1988)

- a. Type of Filing: Preliminary Permit
- b. Project No.: 10671-000
- c. Date Filed: October 4, 1988
- d. Applicant: City of Tacoma
- e. Name of Project: Silver Creek
- f. Location: On Silver Creek, partially within the Gifford Pinchot National Forest, in Lewis County, Washington, T12N, R7E, and T13N, R7E.
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a) - 825(r)
- h. Applicant Contact: Mr. E. E. Coates, Director, City of Tacoma, Department of Public Utilities, P.O. Box 11007, Tacoma, WA 98411, (202) 383-2471
- i. FERC Contact: Mr. William Roy-Harrison, (202) 376-9830
- j. Comment Date: January 20, 1989
- k. Competing Application: Project No. 10571-000. Date Filed: April 4, 1988
- l. Description of Project: The proposed project would consist of: (1) a 6-foot-high, 75-foot-long diversion dam at elevation 1,450 feet m.s.l.; (2) a 72-inch-diameter, 1800-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 6 MW; (4) a 69-kV, 4,600-foot-long transmission line tying into the existing Lewis County Public Utility District system; and (5) appurtenant facilities. The applicant estimates a 40,000,000 kWh average annual energy production.

[Note: Remainder of notice omitted in printing.]

[¶ 62,167]

American Hydro Inc., Project No. 7410-016
Order Approving Minimum Flow Facilities

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Inc.

Project No. 7410-019
New Hampshire

ORDER GRANTING EXTENSION OF TIME

(Issued July 16, 1990)

The licensee for the Peterborough Project No. 7410 has requested an extension of time to complete project construction, as required by article 27 of the license, and to request a determination for need of an amendment to the license, as directed by the Commission's New York Regional Office (Regional Office).

In support of its request, the licensee states that it has substantially completed project construction but penstock damage at one of the two project units has delayed full operation. The damage cannot be repaired before July 31, 1990, the current deadline for completion of project construction.

During May, 1990, the Regional Office inspected the project and found that the generator rating at the damaged unit is greater than that authorized in the license. The Regional Office directed the licensee to submit a request for a determination that an amendment to the license was not required for the additional capacity. The licensee states that the capacity of the generator will be limited by the turbine to an amount less than the authorized capacity, but requests an extension of time to submit the request for determination so that repairs can be made and the turbine tested to verify the capacity.

The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify the extension. The time limitation of section 4.202(b) of the Commission's regulations (18 C.F.R. § 4.202(b)) is waived.

The Director orders:

(A) The deadlines to complete project construction, as required by article 27 of the license, and to request a determination for need of an amendment to the license are extended to September 30, 1990.

DC-A-4

(B) This order is issued under authority delegated to the Director pursuant to section 375.314 of the Commission's regulations. Section 385.1902 of the Commission's regulations provides 30 days from the date of this order for an appeal to the Commission of this action. Filing an appeal does not stay the effective date of this order or any date specified herein.


J. Mark Robinson
Director, Division of Project
Compliance and Administration

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro Inc.

Project No. 7410-019
New Hampshire

ORDER GRANTING EXTENSION OF TIME

(Issued July 16, 1990)

The licensee for the Peterborough Project No. 7410 has requested an extension of time to complete project construction, as required by article 27 of the license, and to request a determination for need of an amendment to the license, as directed by the Commission's New York Regional Office (Regional Office).

In support of its request, the licensee states that it has substantially completed project construction but penstock damage at one of the two project units has delayed full operation. The damage cannot be repaired before July 31, 1990, the current deadline for completion of project construction.

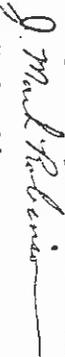
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The reasons advanced by the licensee in support of the requested extension of time are reasonable and justify the extension. The time limitation of section 4.202(b) of the Commission's regulations (18 C.F.R. § 4.202(b)) is waived.

The Director orders:

(A) The deadlines to complete project construction, as required by article 27 of the license, and to request a determination for need of an amendment to the license are extended to September 30, 1990.

(B) This order is issued under authority delegated to the Director pursuant to section 175.114 of the Commission's regulations. Section 185.1902 of the Commission's regulations provides 30 days from the date of this order for an appeal to the Commission of this action. Filing an appeal does not stay the effective date of this order or any date specified herein.


J. Mark Robinson
Director, Division of Project
Compliance and Administration

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

American Hydro, Inc.

Project No. 7410-023, -025
New Hampshire**ORDER AMENDING LICENSE AND APPROVING AS-BUILT EXHIBITS**

(Issued December 26, 1991)

On September 18, 1991, American Hydro, Inc. (AHI), licensee for the Peterborough Project, FERC No. 7410, applied to amend the license 1/ to show the inclusion of one-foot-high flashboards on top of the U.S. Army Corps of Engineers' (Corps) Verney Mill Dam. The approval of this amendment is necessary before the Commission can approve the as-built exhibits A, F, and G for the project. AHI filed these exhibits on March 28, 1991, and filed a revised exhibit A on November 12, 1991, in compliance with article 30 of the license.

The license authorized AHI to install four-foot-high flashboards on top of the Verney Mill Dam after the licensee received the Corps approval. Article 32 of the license states that the licensee must consult with the Corps' District Engineer and receive Corps approval before installing the flashboards. AHI has been unable to receive approval from the Corps for inclusion of the four-foot-high flashboards. However, the Corps allowed AHI to install one-foot-high flashboards to the crest of the dam.

In addition to the inclusion of the one-foot-high flashboards, the as-built exhibits show the following changes to the licensed project:

- The licensed 10-kW turbine-generator units at the bases of the Verney Mill and Union Street Dams were not built.
- The total installed capacity of the project, which is limited by the turbine hydraulic capacity and available head, is 623 kW. This is larger than the licensed capacity of 610 kW.

The increase in generating capacity does not result in any additional adverse environmental effects other than those identified during the processing of the original license application. The increase in the generating capacity will result in a change of the Commission's annual charges.

1/ 28 FERC ¶62,216, issued August 15, 1984.

(c) an intake structure; (d) a 5-foot-diameter and 450-foot-long penstock; and (e) a generating unit at the downstream end of the penstock with a total installed capacity of 260 kW. Electrical facilities include: 480-volt generator leads from each of the 6 generating units; a three phase, 480-v/4.16 kV, 750-kVA transformer; a 200-foot-long, 4.16-kV transmission line; and other appurtenances."

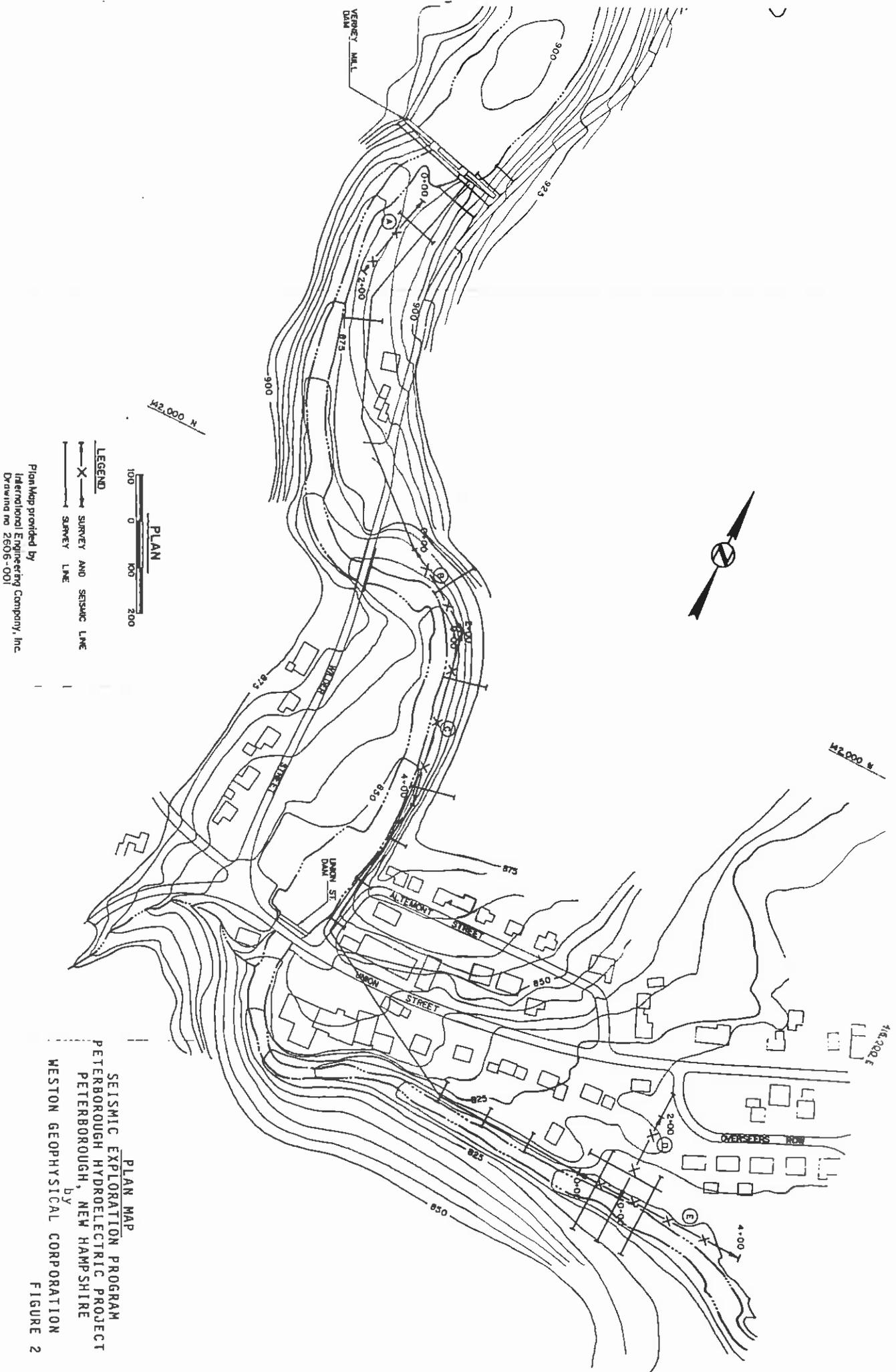
(E) Article 38 of the license is revised to read as follows:

Article 38. Licensee shall pay the United States the following annual charges, effective the first day of the month in which this Order Amending License is issued:

(a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for this purpose is 830 horsepower.

(b) For the purpose of recompensing the United States for using surplus water or water power from the Corps' Verney Mill Dam, an amount determined in accordance with the provisions of the Commission's regulations in effect from time to time.

(F) Within 90 days of the date of issuance of this order, the licensee shall file an original of the approved exhibit F and G drawings reproduced on silver or gelatin 35mm microfilm mounted on Type D (3 1/4" x 7 3/8") aperture cards for each drawing. In addition, the licensee shall file two Diazo-type duplicate aperture cards. The original set and one duplicate set of aperture cards should be filed with the Secretary of the Commission. The remaining duplicate set of aperture cards should be filed with the Commission's New York Regional Office. The FERC drawing numbers (7410-9 through 7410-18) shall be shown in the margin below the title block of the microfilmed drawing and also in the upper right corner of each aperture card. The top line of the aperture card shall show the FERC exhibit (i.e., F-6 through G-2), Project Number, Drawing Title, and date of this order.



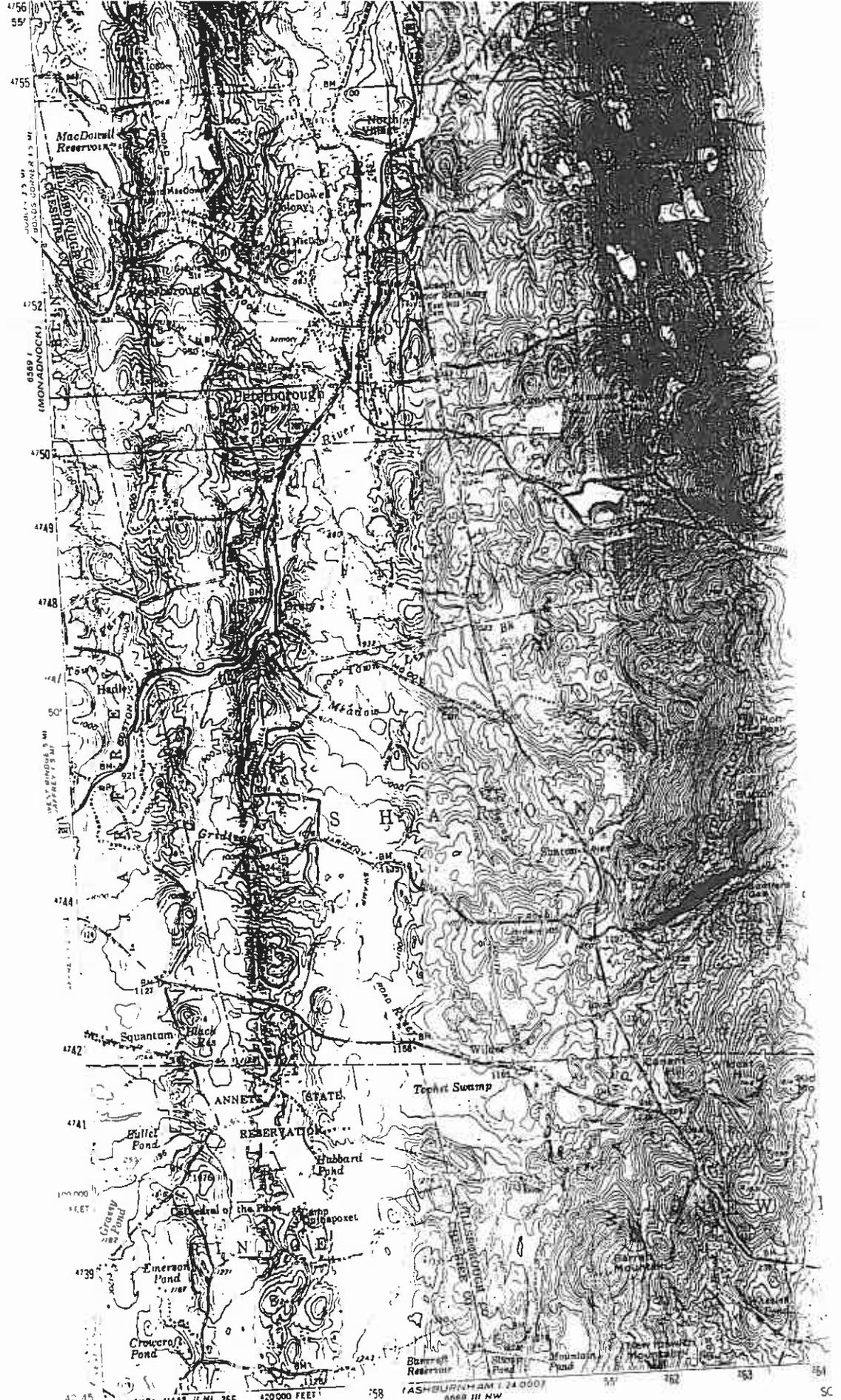
Plan Map provided by
 International Engineering Company, Inc
 Drawing No. 2606-001

PLAN MAP
 SEISMIC EXPLORATION PROGRAM
 PETERBOROUGH HYDROELECTRIC PROJECT
 PETERBOROUGH, NEW HAMPSHIRE
 by
 WESTON GEOPHYSICAL CORPORATION
 FIGURE 2



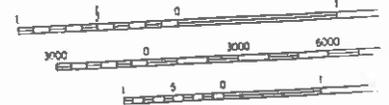
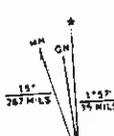
AREA OF INVESTIGATION
 SEISMIC EXPLORATION PROGRAM
 PETERBOROUGH HYDROELECTRIC PROJECT
 PETERBOROUGH, NEW HAMPSHIRE
 by
 WESTON GEOPHYSICAL CORPORATION

FIGURE 1
 Weston Geophysical



W. W. H. HENLON
8568 II

Mapped, edited, and published by the Geological Survey
 Control by USGS, USC&GS, and New Hampshire Geodetic Survey
 Topography from aerial photographs by photogrammetric methods
 Aerial photographs taken 1947 and 1952. Field check 1953
 Polyconic projection. 1927 North American datum
 10,000 foot grid based on New Hampshire coordinate system
 Contour elevations are shown in brown



CONTOUR

File
USE
Date

INTERCONNECTION AGREEMENT

AGREEMENT, dated *July 19*, 1988, by and between AMERICAN HYDRO INC. - PETERBOROUGH registered to do business in New Hampshire and having its principal place of business in Cynwyd, PA (hereinafter referred to as INTERCONNECTOR), and PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, a New Hampshire corporation having its principal place of business in Manchester, New Hampshire (hereinafter referred to as PUBLIC SERVICE).

WHEREAS, INTERCONNECTOR desires to interconnect their Peterborough Hydro electric generating facility, located in Peterborough, New Hampshire, on the Nubanusit Brook, with the electric system of PUBLIC SERVICE in accordance with applicable New Hampshire Public Utilities Commission (hereinafter referred to as NHPUC) Orders; and

WHEREAS, the NHPUC requires that a written interconnection agreement be executed between the parties; and

WHEREAS, it is necessary that certain agreements be made prior to interconnection and the commencement of sales of electricity to insure the safety, reliability and integrity of PUBLIC SERVICE's electric system, and to establish a mechanism of payment of the rate established by the NHPUC, the parties hereby agree as follows:

Article 1. Interconnection and Voltage Characteristics.

The interconnection point shall be that point at which INTERCONNECTOR's generating facility interconnects with the 34.5kv electric system of PUBLIC SERVICE.

Unless PUBLIC SERVICE converts its interconnection circuit, all electric energy interconnected with PUBLIC SERVICE's system shall be 34.5kv, three-phase, sixty hertz.

Article 2. Metering.

The metering shall be configured so as to represent the generation delivered to PUBLIC SERVICE. The metering may be installed on the generation side of the transformer provided that transformer losses are subtracted from the measured generation by a suitable method.

INTERCONNECTOR will install, own, and maintain all metering equipment as referenced in Article 4, to measure the flow of electrical energy from INTERCONNECTOR to PUBLIC SERVICE. If at any time, the meter is found to be in error by more than two percent fast or slow (+ or - 2%), INTERCONNECTOR shall cause such meter to be corrected and the meter readings for the period of inaccuracy shall be adjusted to correct such inaccuracy so far as the same can be reasonably ascertained, but no adjustment prior to the beginning of the preceding month shall be made except by agreement of the parties. All tests and calibrations shall be made in accordance with Section V-14 of the NHPUC Rules and Regulations Prescribing Standards for Electric Utilities in effect as of September 8, 1972, as amended. The meter shall be tested as prescribed in said Rules and Regulations.

In addition to the regular routine tests, INTERCONNECTOR shall cause the meter to be tested at any time upon request of and in the presence of a representative of PUBLIC SERVICE. If such equipment proves accurate within two percent fast or slow (+ or - 2%), the expense of the test shall be borne by PUBLIC SERVICE.

PUBLIC SERVICE reserves the right to secure or seal the metering installation, to require INTERCONNECTOR to measure electrical energy sold to PUBLIC SERVICE on an hour-by-hour basis, and to require INTERCONNECTOR to notify PUBLIC SERVICE once each day of INTERCONNECTOR's generation in kilowatthours for each hour during the prior 24 hours.

Article 3. Billing and Payment.

PUBLIC SERVICE shall read the meter on or about the end of each month and shall promptly send INTERCONNECTOR a form showing the month's beginning and ending meter readings and net kwh generation. INTERCONNECTOR shall then transmit to PUBLIC SERVICE a bill showing the amount due for the sale of energy to PUBLIC SERVICE, which amount shall be determined by multiplying the number of kwh's of energy delivered to PUBLIC SERVICE since the prior reading of the meter times the energy rate per kwh (or times the appropriate time-of-day rates, as applicable) set forth in INTERCONNECTOR's rate filing approved by the NHPUC and is, or will be when available, attached hereto as Attachment A.

INTERCONNECTOR shall also include on said bill the appropriate capacity payment, if any, to be made by PUBLIC SERVICE, as approved by the NHPUC. PUBLIC SERVICE will send to INTERCONNECTOR a payment for that amount within 20 days of receipt of INTERCONNECTOR's bill. The foregoing is intended to provide a procedure for the payment of rates established by the NHPUC, and shall not be construed as creating a separate contractual obligation on the part of PUBLIC SERVICE to pay the rate(s) approved by the NHPUC.

INTERCONNECTOR understands that any capacity payments are contingent upon an audit of the generating facility performed by the NHPUC and that INTERCONNECTOR must request the NHPUC to perform said audit.

Article 4. Interconnection & Protection Requirements.

The INTERCONNECTOR shall install all interconnection, protection, metering, and control equipment as specified in PUBLIC SERVICE's study of the INTERCONNECTOR's electric generating facility, which study is, or will be upon mutual consent of both parties, attached hereto as Attachment B and any other such equipment which may be necessary to ensure the safe and reliable operation of INTERCONNECTOR's generating unit in parallel with PUBLIC SERVICE's system. INTERCONNECTOR shall bear all costs associated with said equipment and its installation, including those costs associated with PUBLIC SERVICE's study of the INTERCONNECTOR's electric generating facility. Prior to the aforementioned study, one half of PUBLIC SERVICE's estimated costs of the study shall be paid to PUBLIC SERVICE prior to beginning the study. The balance, based on actual costs incurred, shall be due upon completion of the study.

Up to the interconnection point, all said interconnection, protection, metering, and control equipment including, but not limited to, line extensions, transformers, meters, relays, breakers, and appurtenant equipment shall remain the sole property of INTERCONNECTOR.

INTERCONNECTOR shall have sole responsibility for the operation, maintenance, and repair of its generating unit, including the interconnection, protection, metering, and control equipment. INTERCONNECTOR shall maintain, repair, or replace said generating unit including said equipment whenever necessary for the safe and reliable operation of INTERCONNECTOR's electric facility in parallel with PUBLIC SERVICE's system.

In addition to the above, upon the effective date of this Agreement, and every twelve months thereafter, the INTERCONNECTOR shall test, or cause to be tested, all protection devices including verification of calibration and tripping functions; and INTERCONNECTOR shall notify PUBLIC SERVICE in writing that said tests have been conducted. INTERCONNECTOR shall notify PUBLIC SERVICE of any defect affecting the safety or reliability of said equipment not later than two hours after its discovery of the same.

If either party reasonably determines that the operation or use of any portion of the protection system, as required in this Article, will or may not perform its protective function, including but not limited to opening the interconnecting tie, INTERCONNECTOR shall open the interconnection between PUBLIC SERVICE's system and INTERCONNECTOR's facility. INTERCONNECTOR shall notify PUBLIC SERVICE not more than two days after it has opened said interconnection. PUBLIC SERVICE shall not be obligated to receive electrical energy from INTERCONNECTOR and the interconnection shall remain open, until INTERCONNECTOR has satisfactorily cured said defect at no cost to PUBLIC SERVICE.

Article 5. Right of Access.

Upon prior written or oral notice to INTERCONNECTOR, PUBLIC SERVICE shall have the right to enter the property of INTERCONNECTOR at reasonable times and shall be provided access to INTERCONNECTOR's metering, protection, control, and interconnection equipment.

Article 6. Modification of Facility.

If INTERCONNECTOR plans any modifications to its electric facility, INTERCONNECTOR shall give PUBLIC SERVICE prior written notice of its intentions. In the event that PUBLIC SERVICE reasonably determines that said modifications would necessitate changes to the interconnection, protection, control, or metering equipment or would cause PUBLIC SERVICE to incur additional expenses associated therewith, INTERCONNECTOR shall make such changes as reasonably required by PUBLIC SERVICE and reimburse PUBLIC SERVICE for said expenses before PUBLIC SERVICE is obligated to purchase any increased output.

If the PUBLIC SERVICE interconnecting circuit is converted to a higher voltage in the future, INTERCONNECTOR shall be responsible for all interconnection changes necessitated by the conversion and shall bear all costs associated with said conversion.

Article 7. Liability & Insurance.

- a. Each party will be responsible for its facilities and the operation thereof and will indemnify and save the other harmless from any and all loss by reason of property damage, bodily injury, including death resulting therefrom suffered by any person or persons including the parties hereto, employees thereof or members of the public (and all expenses in connection therewith, including attorney's fees), whether arising in agreement, warranty, tort (including negligence), strict liability or otherwise, caused by or sustained on, or alleged to be caused by or sustained on, equipment or facilities, or the operation or use thereof, owned or controlled by such party, except that each party shall be solely responsible for and shall bear all costs of claims by its own employees or contractors growing out of any workmen's compensation law.
- b. INTERCONNECTOR hereby agrees to maintain in force and effect, for the duration of this Agreement, Workmen's Compensation Insurance, as required by statute, and Comprehensive General Liability Insurance for bodily injury and property damage at minimum limits of three million dollars (\$3,000,000). At least sixty days prior to the actual, physical interconnection of the facility, the INTERCONNECTOR agrees to provide PUBLIC SERVICE with a certificate of insurance evidencing such coverage.
- c. In no event shall INTERCONNECTOR or PUBLIC SERVICE be liable, whether in agreement, tort (including negligence), strict liability, warranty, or otherwise, for any special, indirect, incidental, or consequential loss or damage, including but not limited to cost of capital, cost of replacement power, loss of profits or revenues or the loss of the use thereof. This provision, Article 7, subsection c, shall apply notwithstanding any other provision of this Agreement.

Article 8. Force Majeure.

Either party shall not be considered to be in default hereunder and shall be excused from interchanging electricity hereunder if and to the extent that it shall be prevented from doing so by storm, flood, lightning, earthquake, explosion, equipment failure, civil disturbance, labor dispute, act of God or the public enemy, action of a court or public authority, withdrawal of facilities from operation for necessary maintenance and repair, or any cause beyond the reasonable control of either party.

Article 9. Termination.

PUBLIC SERVICE may not terminate this Agreement during such time as its obligations as set forth in the Limited Electrical Energy Producers Act or Public Utility Regulatory Policies Act remains unchanged and in force, except that PUBLIC SERVICE may terminate this Agreement should INTERCONNECTOR fail to substantially perform in accordance with the terms of this Agreement.

The INTERCONNECTOR may terminate this Interconnection Agreement in accordance with the provisions established by the New Hampshire Public Utilities Commission in their applicable orders.

After termination, both parties shall be discharged from all further obligation under the term of this Agreement, excepting any liability which may have been incurred before the date of such termination.

Article 10. Modification of Agreement.

In order for any modification to this Agreement to be binding upon the parties, said modification must be in writing and signed by both parties.

Article 11. Prior Agreements Superseded.

This Agreement with Attachments A and B represents the entire agreement between the parties hereto relating to the subject matter hereof, and all previous agreements, discussion, communications, and correspondence with respect to the said subject matter are superseded by the execution of this Agreement.

Article 12. Waiver of Terms or Conditions.

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

Article 13. General.

This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the parties hereto, provided that INTERCONNECTOR shall not assign this Agreement except to an affiliated company, without the prior written consent of PUBLIC SERVICE, which consent shall not be unreasonably withheld. The term "affiliated company" shall include any partnership in which INTERCONNECTOR or one of INTERCONNECTOR's subsidiaries, affiliates, principals, or owners is a general partner or any corporation in which INTERCONNECTOR or one of its subsidiaries, affiliates, principals, or owners owns or controls more than 50 percent of the voting stock or otherwise has operating control. In the event of an assignment to an affiliate, INTERCONNECTOR shall notify PUBLIC SERVICE within five (5) days of the effective date of the assignment.

Article 14. Applicable Law.

This Agreement is made under the laws of The State of New Hampshire and the interpretation and performance hereof shall be in accordance with and controlled by the laws of that State.

Article 15. Mailing Addresses.

The mailing addresses of the parties are as follows:

INTERCONNECTOR: American Hydro Inc. - Peterborough
C/O American Hydro Power Co.
33 Rockhill Road
Bala Cynwyd, PA 19004-2010

Attn: Peter A. McGrath, President

PUBLIC SERVICE: Public Service Company of New Hampshire
1000 Elm Street
P.O. Box 330
Manchester, NH 03105

Attn: Ralph S. Johnson, Vice President

Article 16. Effective Date.

This Agreement shall become effective between the parties as of the effective date of the Commission order approving the long term rate, although PUBLIC SERVICE shall not be obligated to make any payments to INTERCONNECTOR, as referred to in Article 3, until INTERCONNECTOR has satisfactorily installed all metering, interconnection and protective equipment as specified in Attachment B.

IN WITNESS WHEREOF, the parties each by its duly authorized representatives have hereunto caused their names to be subscribed, as of the day and year first above written.

AMERICAN HYDRO INC. - PETERBOROUGH

John Lynch
(Witness)

By: *Peter A. McGrath*
Peter A. McGrath, President

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Samuel L. Tracy
(Witness)

By: *Ralph S. Johnson*
Ralph S. Johnson, Vice President RHP