April 21, 1999

Honorable David P. Boergers
Secretary,
Federal Energy Regulatory Commission
Docket Branch
888 First Street, N.E., Rm. 1A
Washington, D.C. 20426

Re: Virginia Electric and Power Company, Roanoke Rapids and Gaston Hydropower Project (No. 2009-018)

Dear Secretary Boergers:

Enclosed please find the original and eight copies of “The Nature Conservancy’s Additional Study Requests and Motion to Defer Commission Action Pending Completion of Ongoing Negotiations.”

Thank you.

Respectfully submitted,

Dr. Sam Pearsall

cc: Attached service list
THE NATURE CONSERVANCY’S ADDITIONAL STUDY REQUESTS AND MOTION TO DEFER COMMISSION ACTION PENDING COMPLETION OF NEGOTIATIONS

The Nature Conservancy responds to the “Notice of Application Tendered for Filing with the Commission and Soliciting Additional Study Requests,” 64 Fed. Reg. 9500 (Feb. 26, 1999). The notice states that additional study requests must be filed within 60 days.
On Jan. 28, 1999, the licensee filed the application for new license and Draft Applicant Prepared Environmental Assessment (DAPEA). Consistent with the Commission’s order dated Dec. 13, 1996, the licensee and other members of the Collaborative Team continue to negotiate in an effort to reach a settlement on the application. In the application itself and the attached cover letter signed by Virginia Power Vice-President Vegas, the licensee proposes to undertake planned studies and amend the application, including the Settlement Alternative and DAPEA, on the basis of that further scientific work and related negotiations. The application specifically commits to further study of project impacts on flow level, water quality, fisheries and mussels, terrestrial resources, and recreation in the lower Roanoke. See, e.g., DAPEA, pp. 3-25, 4-5, and 8-4 - 8-5. These planned studies are described in the minutes of the Terrestrial Resources Technical Work Group (March 9, 1999), pp. _____, and related documents of the Collaborative Team, filed with the Commission. [Sam, the 3/9 minutes have already been filed, no matter what Ken plans to do by way of weaseling. Please include here other specific cites to minutes that accurately describe the further studies]

In response to this notice, The Nature Conservancy requests that the licensee complete the studies described above. Our basis -- including the objectives, methods, schedules, the necessity and utility of these studies, as required by 18 C.F.R. § 4.32(b)(7) -- is stated in the DAPEA and the Collaborative Team’s documents filed with the Commission.
Pursuant to 18 C.F.R. § 385.212, we move that the Commission defer further action on this and other Additional Study Requests. The Collaborative Team, which includes Commission staff, intends to undertake and complete the studies necessary for settlement on the application. Technical work groups have planned those very studies for 1999. Unilateral action by the Commission to resolve any potential disputes regarding study requests would be unnecessary and could conflict with the Collaborative Team’s procedures and continued progress.

We further move that the Commission allow the licensee to file a response to Additional Study Requests after the date set in 18 C.F.R. § 4.32(b)(8). Any formal response within 30 days would be unnecessary. The Collaborative Team will meet this May 13 to complete the planning of further studies for 1999. The licensee and all participants who have filed timely requests could make appropriate further filings if any disputes are not timely resolved through the collaborative procedures.
Dated: April 21, 1999

Respectfully submitted,

Dr. Sam Pearsall
[title, address]
DECLARATION OF SERVICE

In the Matter of:
Virginia Electric and Power Company,
Roanoke Rapids and Gaston Hydropower Project (No. 2009-018)

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Commission in this proceeding.

Dated: April 21, 1999

By:
Dr. Sam Pearsall
[title, address]