UNITED STATES OF AMERICA  122 FERC ¶ 62,262
FEDERAL ENERGY REGULATORY COMMISSION

Ice House Partners, Inc.  Project No.  12769-000

ORDER GRANTING EXEMPTION FROM LICENSING
(5 MW OR LESS)

( March 31, 2008 )

INTRODUCTION

1. On January 22, 2007, Ice House Partners, Inc. (Ice House Partners) filed an application to exempt its proposed 280-kilowatt (kW) Ice House Power Project (Ice House Project) from the requirements of Part I of the Federal Power Act (FPA). The project would be located on the Nashua River, in the Town of Ayer, Middlesex County, Massachusetts. The project would occupy 133 acres of federal lands administered by the U.S. Fish and Wildlife Service as part of the Oxbow National Wildlife Refuge. As discussed below, I am issuing an exemption from licensing for the project.

1 The Commission is authorized to exempt from the licensing requirements of Part I of the FPA small hydroelectric projects with an installed capacity of 5 megawatts or less that use for the generation of electricity either an existing dam (i.e., one in existence on or before July 22, 2005) or a "natural water feature" without the need for any dam or impoundment. See sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2705 and 2708 (2000) as amended by section 246 of the Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 679.

2 The Nashua River is a tributary to the Merrimack River, a navigable waterway. The Ice House dam was built in the 1790s. In 1907, an electrical powerhouse was installed at the dam that operated trolley cars until the 1920s, and subsequently, ice-making machinery. In the 1970s, the powerhouse was destroyed by fire. Ice House Partners proposes to operate two turbine generating units located in the rebuilt powerhouse at the project. Because the project would be located on a commerce clause waterway, would affect interstate commerce through its connection to an interstate power grid, and would involve post-1935 construction, it is required to be licensed or exempted from licensing by the Commission pursuant to FPA section 23(b)(1). Ice House Partners, Inc., 114 FERC ¶ 62,238 (2006).

3 Pursuant to 18 C.F.R. § 4.31(c)(2) (2007), an applicant for an exemption is required to have sufficient rights in any non-federal land required for the project prior to filing its application. On March 13, 2007, in response to an additional information

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