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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc. and )  
the Pennsylvania Electric Company

Project No. 2769-000

ORDER ISSUING LICENSE (MAJOR)

(Issued November 10, 1982)

Allegheny Electric Cooperative, Inc. and the Pennsylvania Electric Company (Applicants) filed on March 31, 1980, and supplemented on December 8, 1980, February 13, 1981, May 29, 1981, and March 3, 1982, an application for license under Part I of the Federal Power Act (Act) to construct, operate, and maintain the Raystown Project No. 2769. 1/ The project would be located at the existing Raystown Lake Dam and Reservoir owned and operated by the U.S. Army Corps of Engineers (Corps) on the Raystown Branch of the Juniata River in Huntingdon County, Pennsylvania. The project would occupy lands of the United States and would use a government dam.

Notice of the application has been published and comments have been received from interested Federal, State, and local agencies. No protests or petitions to intervene have been received, and none of the agencies objected to issuance of the license.

The Applicants propose to construct a multi-level gated intake structure near the right abutment of the dam, a power tunnel and steel penstock, a three-unit powerhouse immediately downstream of the dam with units having a total installed capacity of 20,300 kW, and transmission facilities. The project would be operated run-of-river and would utilize the flows released by the Corps.

Safety and Adequacy

The project structures would be safe for normal operating and flood control pool level conditions against flotation and overturning, if constructed in accordance with sound engineering practices and construction procedures. For floods greater in

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- 1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1981). 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, 47 Fed. Reg. 19047 (1982). 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.

magnitude than the standard project flood, the powerhouse would be inundated. The penstock would be designed to withstand internal surge pressures 40 percent in excess of normal pressure and to withstand full external surcharge pressure.

#### Project Operation and Aquatic Resources

The Raystown Dam, which is not a facility being licensed herein, was completed in 1975, and was built for flood control and recreational purposes. Temperature and DO levels of releases up to 1,420 cubic feet per second (cfs) are controlled by a tri-level intake structure to maintain State water quality standards downstream in the Raystown Branch of the Juniata River, and to protect the downstream warmwater fishery. The Corps maintains a minimum flow release of 200 cfs to protect recreational activities by preventing significant drawdown of the lake, and to protect aquatic resources.

A water quality certificate was issued to the Applicants by the Pennsylvania Department of Environmental Resources (DER) in July, 1980.

The Fish and Wildlife Service (FWS), Pennsylvania Fish Commission (PFC), Susquehanna River Basin Commission (SRBC) and the Huntingdon Business and Industry, Inc. (HBI), are all opposed to having the proposed project's mode of operation changed from a run-of-river to a peaking operation at any time in the future. They believe that a peaking mode would adversely impact recreation, the reservoir fishery, downstream fisheries, and lake wetlands. SRBC and PFC suggest that at no time should the quantity of water passed through the turbine exceed the inflow measured at the Saxton gage located on the Raystown Branch of the Juniata River at Saxton, Pennsylvania.

The Applicants responded that in the future a limited peaking operation may prove to be the optimum utilization of water resources. Should peaking operations merit consideration, Applicants indicated they would consult with appropriate agencies to undertake the necessary studies to determine the environmental effects of a change to a peaking operation, prior to seeking approval for a change in the project's operational mode. Any change in operating procedure to incorporate a peaking operation would also require approval by the Commission and the Corps to ensure compatibility with the purposes for which the Federal project was constructed.

The FWS, SRBC, HBI, PFC, and the Corps all expressed concern about the possible use of water during power emergencies. The Applicants responded by stating that there is little probability of such a power emergency. The Corps stated that project water regulations during a power emergency would be agreed upon in a Memorandum of Understanding between the Applicants and the Corps.

The Corps recommended that to maintain control of the temperature of the water released downstream, the location and geometry of the intake ports should be determined by a mathematical modeling study. Such a study should be supported by operating data from the existing project. The Applicants responded they have informally discussed this matter with Corps personnel and have agreed that prior to construction of the project, the selection of the opening elevations could be based, within limits, on mathematical modeling.

It is concluded that temperature regulation of the water released downstream is important in maintaining the downstream fisheries. Special license Article 34 requires Licensees to consult with the Corps and to conduct a mathematical modeling study of the proposed intake structure to determine the optimum location and design of the intake ports to ensure proper temperature regulation of waters released downstream for fishery protection.

The SRBC expressed concern regarding turbine mortality impacts on the fishery resource, and suggested that, should it be determined that mortality significantly impacts the fishery, Applicant should agree to stock fish or mitigate for these losses. The Corps proposed that a monitoring program should be established to determine turbine mortality and dissolved nitrogen levels, and that the program be coordinated with the FWS and PFC. They also proposed that the Applicants mitigate or compensate for any significant losses to the fisheries and to maintain desirable nitrogen levels.

Applicants agreed to monitor the effects of the project's operation on fish resources which might be attributed to turbine mortality and to mitigate fish losses that may occur. However, a report prepared by Harza Engineering Company, "Study of Fish Populations in Raystown Lake," indicated the probable loss of fish from the reservoir would be less with the proposed project operating than presently occurs, due to a reduction from the present intake velocities of 20 feet per second (fps) to a project operational mode of 3 fps. Neither the FWS nor the PFC expressed concern that turbine mortality is a significant issue.

It is concluded that further mortality studies are not necessary at this time. Should turbine mortality become a significant issue in the future, Standard license Article 15 provides for appropriate relief. We are, however, including Special license Article 34 which requires that proper dissolved nitrogen levels be maintained for fishery protection. The portions of the Exhibit E in which the Applicants agree to mitigate for any fish losses are approved in this order.

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### Recreational Resources

The Corps provides a variety of day-use and overnight recreational facilities around the 118-mile reservoir shoreline which include boat launches, campgrounds, fishing access, trails, and picnic areas. The reservoir is utilized year-round, primarily by campers, sightseers, and fishermen, and from June until September by swimmers and water skiers.

The Corps recommended that additional parking spaces be provided in the vicinity of the tailrace of the proposed project to accommodate the expected increase in visitation. Applicants did not respond to this comment.

The Report on Recreational Resources contains a conceptual plan for enhancing recreational opportunities at the project which would consist of providing improved public access to the tailrace area and an interpretive display of hydroelectric generation. The details of this plan have not been concurred in by the Corps. Special license Article 35 requires further consultation with the Corps on development of a recreation plan and the filing of as-built drawings of any recreation facilities constructed. Under Article 17 of this license the Commission reserves the right to require additional recreational development in the future, if needed.

### Historical and Archeological Resources

There are no historic sites listed on the National Register of Historic Places located near Raystown Lake. The Pennsylvania State Historic Preservation Officer indicated that the project would not affect any known archeological or historical sites.

In accordance with standard Commission practice, 2/ Article 33 of this license requires cultural resources protection measures in the event of any future construction or development at the project, other than the project development considered and authorized herein.

### Endangered Species

Ten species of plants listed by the Commonwealth of Pennsylvania as threatened or endangered may occur in the vicinity of the project. Four of these plant species are candidates for the Federal list of threatened or endangered plant species. However, Federally-listed threatened or endangered plant species are not expected to be found where construction activities would occur. Furthermore, construction activities under the license will occur only in previously disturbed areas.

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2/ See S. D. Warren, Project No. 2897, Order Denying Rehearing (issued February 19, 1980).

Bald eagles may occur at Raystown Lake in fall or winter; the peregrine falcon may migrate through the area; and the Raystown area is within the summer range of the Indiana bat. Of these species only the bald eagle has been observed in the project area. Construction and operation of the project as proposed would not affect the above species.

#### Environmental Impacts

Project construction would result in the loss of a small amount of vegetation, and increased dust, noise, sedimentation and erosion. Project operation may result in some fish mortality. However, on the basis of the record, and staff's independent analysis, it is concluded that the issuance of this license will not constitute a major Federal action significantly affecting the quality of the human environment.

#### Other Aspects of Comprehensive Development

The project is economically feasible when the annual levelized cost of power generated by the project is compared to the combined annual levelized cost of equivalent power generated by a fossil fuel plant and the cost of power purchased from the Pennsylvania-New Jersey-Maryland Interconnection (PJM). The project would generate an estimated average of 77,100,000 kWh annually, which is equivalent to output from 126,600 barrels of oil or 35,700 tons of coal.

The project would make good use of the head created by Raystown Dam and the flow released from the Raystown Lake, is not in conflict with any plans for development of the river, and would be best adapted to the comprehensive development of the Susquehanna River upon compliance with terms and conditions of this license.

#### Annual Charges

Under the Federal Power Act, the Commission is required to assess a Licensee an annual charge for the use of a Government dam. Since the Commission staff is reassessing the subject of annual charges for the use of a Government dam, the determination of charges should be deferred in accordance with Article 40 of this order.

#### It is ordered that:

(A) This license is issued to the Allegheny Electric Cooperative, Inc. and the Pennsylvania Electric Company (Licensees) 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 Raystown Project No. 2769, located on the Raystown Branch of

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the Juniata River in Huntingdon County, Pennsylvania, and occupying lands of the United States and using surplus water power from a Government 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 Raystown Project No. 2769 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 certain exhibits that form part of the application for license and that are designated and described as:

<u>Exhibit</u>	<u>FERC No. 2769-</u>	<u>Showing</u>
G-1	11	Project Boundary
G-2	12	Project Boundary

(2) Project works consisting of: (1) a multi-level, gated power intake constructed in the Raystown Lake near the right abutment of Raystown Dam; (2) a 12-foot diameter, 1,015-foot-long concrete-lined pressure tunnel; (3) a 12-foot-diameter, 86-foot-long buried steel penstock, which branches at the powerhouse into two 8-foot-diameter penstocks and then into one 7-foot-diameter and two 5-foot-diameter penstocks; (4) a powerhouse containing three turbine-generator units having a total installed capacity of 20,300 kW; (5) an excavated tailrace; (6) 6.9-kV generator leads, a 21/28 MVA 6.9/46-kV step-up transformer, a 2.7-mile long transmission line; and (7) other appurtenances.

The location, nature, and character of these project works are generally shown and described by the exhibits 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:

<u>Exhibit</u>	<u>FERC No. 2769-</u>	<u>Showing</u>
F-1	6	General Plan
F-2	7	General Profile
F-3	8	Powerhouse
F-4	9	Power Intake
F-5	10	Transmission Plan

(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, whether located within or outside the project boundary, as approved by the Commission, and all riparian or other rights necessary or appropriate in the operation or maintenance of the project.

(C) Exhibits F and G, designated in ordering paragraph (B) above are approved and made a part of the license.

(D) Pages E-3-6, E-3-7, E-3-28, E-3-30, E-3-31 and E-3-32 of the Report on Fish, Wildlife and Botanical Resources, filed March 31, 1980, is approved.

(E) This license is also subject to the terms and conditions set forth in Form L-2 (revised October 1975), entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Lands of the United States", attached and made part of this license. This license is also subject to the special conditions set forth as additional articles:

Article 33. Licensees shall, prior to the commencement of any construction or alteration of facilities at the project, consult with the Pennsylvania State Historic Preservation Officer (SHPO) about the need for any cultural resource survey and salvage work. The Licensees 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 Licensees shall consult with the SHPO to develop a mitigation plan for the protection for significant archeological or historical resources. If the Licensees 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 Licensees to conduct, at their own expense, any such work found necessary.

Article 34. Licensees shall, within 6 months after the date of issuance of this license, file for Commission approval, revised Exhibit F drawings showing the location, geometry and final design of the intake structure. This design shall be based on a mathematical model, shall be developed in consultation with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and Pennsylvania Fish Commission, and shall ensure proper temperature regulation and dissolved nitrogen levels of water released downstream for fishery protection.

Article 35. Licensees shall consult with the U.S. Army Corps of Engineers in finalizing the recreation plan for Project No. 2769, as described in the Report on Recreational Resources and as delineated on Figure 5-3 of Exhibit E in the Application. Licensees shall file with the Commission within 1 year following commencement of project operation, as-built drawing(s) that show the type and location of the recreational facilities being provided at the project.

Article 36. The Licensees shall commence construction of the proposed project within two years of the date of issuance of the license and shall complete construction within three years from the start of construction.

Article 37. The Licensees shall file with the Commission's Regional Engineer and the Director, Office of Electric Power Regulation, one copy each of the final contract drawings, specifications and final design report for pertinent features of the project, such as intake structure, powerhouse, and water conveyance structure, at least 60 days prior to start of construction. The Director, Office of Electric Power Regulation may require changes in the plans and specifications to ensure a safe and adequate project.

Article 38. The Licensees shall review and approve the design and construction procedures for contractor-designed cofferdams and deep excavations prior to the start of construction. The Licensees shall file with the Commission's Regional Engineer and Director, Office of Electric Power Regulation, one copy of the approved construction drawings and specifications, and a copy of the letter of approval.

Article 39. The Licensees shall have no claim under this license against the United States arising from the effect of any changes made in the operating pool levels at the Raystown Dam.

Article 40. The Licensees 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 27,000 horsepower.

(b) For the purpose of recompensing the United States for utilization of surplus water or water power from the Government dam or lands in connection therewith, an amount to be hereafter determined by the Commission.



Article 41. The Licensees shall enter into an agreement to coordinate their plans with the U.S. Corps of Engineers for access to an 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 Corps as may be necessary to protect the Federally authorized project purposes and operations; (2) charges to be paid by Licensees 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 Raystown Dam; and (3) charges to be paid by Licensees to the Corps for copies or 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 the Licensees and the Corps fail to reach an agreement, the Licensees shall refer the matter to the Commission for resolution.

Article 42. The Licensees shall within 90 days of completion of construction file in accordance with the Commission's Rules and Regulations revised Exhibit F drawings showing the project as-built.

Article 43. The construction, operation and maintenance of the project works that, in the judgment of the U.S. Corps of Engineers, Baltimore District, may affect the structural integrity or operation of the COE's project shall be subject to periodic or continuous inspections by the COE. Any construction, operation or maintenance deficiencies or difficulties detected by the COE inspection will be immediately reported to the Regional Engineer. Upon review, the Regional Engineer will refer the matter to the Licensees for appropriate action. The COE 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 COE project. In cases when construction, operation or maintenance practice or deficiency may result in an emergency situation causing imminent danger to the structural integrity and safety of the COE project, the COE inspector has the authority to stop construction, operation or maintenance while awaiting the resolution of the problem.

Article 44. Licensees shall prior to commencement of operation of the project enter into a memorandum of agreement with the U.S. Corps of Engineers, Baltimore District describing the mode of hydropower operation acceptable to the Corps. The Commission's 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 Licensees as experience is gained by actual project operation. Should the Licensees fail to reach an agreement with the Corps, the Licensees shall refer the matter to the Director, Office of Electric Power Regulation for resolution. Copies of the signed memorandum between the Corps and the Licensees and any revision thereof shall be furnished to the Director, Office of Electric Power Regulation and the Regional Engineer.

Article 45. The Licensees shall retain a Board of two or more qualified, independent, engineering consultants to review the design, specifications, and construction of the project for safety and adequacy. The names and qualifications of the Board members shall be submitted to the Director, Office of Electric Power Regulation (OEPR) for approval, with a copy to the Commission's Regional Engineer. Among other things, the Board shall assess the geology of the project site and surroundings; the design, specifications, and construction of the intake structure, power tunnel, penstock, powerhouse, and construction procedures and progress. The Licensees shall furnish to the Board, with a copy to the Regional Engineer and two copies to the Director, OEPR, prior to each meeting, allowing sufficient time for review, documentation showing details and analyses of design and construction features to be discussed, significant events in design and construction that have occurred since the last Board of Consultants meeting, drawings, questions to be asked, a list of items for discussion, an agenda, and a statement indicating the specific level of review to be performed by the Board. Within 30 days after each Board of Consultants meeting, the Licensees shall submit to the Commission copies of the Board's report and a statement of intent to comply with the Board's recommendations, or a statement identifying a plan to resolve the issue(s). In the event of noncompliance, the Licensees shall provide detailed reasons for not doing so. The Board's review comments for each portion of the project shall be submitted prior to or simultaneously with the submission of the corresponding Exhibit F final design drawings and design memoranda. The Licensees shall also submit a final report of the Board upon completion of the project. The final report shall contain a statement indicating the Board's opinion with respect to the construction, safety, and adequacy of the project structure(s).

Article 45 . (a) In accordance with the provisions of this article, the Licensees shall 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 Licensees 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 Licensees 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 Licensees 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 Licensees 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 Licensees may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities; 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 Licensees shall require multiple use and occupancy of facilities for access to project lands or waters. The Licensees 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 Licensees 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 Licensees 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 Licensees 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 Licensees 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 Licensees 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 Licensees may convey fee title 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 Licensees must file a letter to the Director, Office of Electric Power Regulation, 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 Licensees 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 Licensees 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 K 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 K drawings would be filed for approval for other purposes.

Article 47. Pursuant to Section 10(d) of the Act, the first 20 years of operation of the project under license, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account at the end of each fiscal year. To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year after the first 20 years of operation under the license, the amount of that deficiency shall be deducted from the amount of any surplus earnings subsequently accumulated, until absorbed. One-half of the remaining surplus earnings, if any, cumulatively computed, shall be set aside in the project amortization reserve account. The amounts established in the project amortization reserve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the annual weighted costs of long-term debt, preferred stock, and common equity, as defined below. The annual weighted cost for each component of the reasonable rate of return is the product of its capital ratio and cost rate. The annual capital ratio for each component of the rate of return shall be calculated based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for long-term debt and preferred stock shall be their respective weighted average costs for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's '10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

(F) The Licensees' 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.



Lawrence R. Anderson  
Director, Office of Electric  
Power Regulation

Project No. 2769-000

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IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Allegheny Electric Cooperative, Inc., this \_\_\_\_ day \_\_\_\_\_, 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 Director 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)

Project No. 2769-000

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IN TESTIMONY of its acknowledgment of acceptance of all of the terms and conditions of this order, Pennsylvania Electric Company, this \_\_\_\_ day \_\_\_\_\_, 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 Director 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)



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Form L-2  
(Revised October, 1975)

FEDERAL ENERGY REGULATORY COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR  
UNCONSTRUCTED MAJOR 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. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. 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 9. 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 10. 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 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. 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 13. 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 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. 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 16. 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 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps; beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. 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 19. 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 20. 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 may 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. 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 27. 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 28. 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.

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Article 29. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et seq.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 30. 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 31. 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 32. 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.

GENERAL FILE COPY  
REHEARING

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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Before Commissioners: C. M. Butler III, Chairman;  
Georgiana Sheldon and Oliver G. Richard III.

Pennsylvania Electric Company ) Project No. 2769-000  
Allegheny Electric Cooperative, Inc. )

ORDER DISMISSING PETITION FOR REHEARING

(Issued November 23, 1982)

The Pennsylvania Electric Company and Allegheny Electric Cooperative, Inc. ("Applicants") have filed an application for rehearing of the Commission's order cancelling the preliminary permit for the Raystown Project No. 2769. The Applicants assert that the permit should not have been cancelled.

On January 22, 1980 the Commission granted rehearing for the purpose of further consideration of the issues raised by the Applicants concerning the cancellation of the permit. The Applicants subsequently filed on March 31, 1980 an application for a major license to authorize the construction and operation of the Raystown Project. Notice was issued, and no interventions or competing applications were filed. On November 10, 1982, the Director, Office of Electric Power Regulation, issued an order 1/ granting a license to the Applicants for the Raystown Project.

Inasmuch as (1) the purpose of a preliminary permit is to maintain priority of application for a license while the permittee makes the necessary studies under the permit, and no competing license applications were filed, and (2) the application for license has been granted to the Applicants, the Applicants' petition for rehearing of the cancellation of the permit should be dismissed as moot.

1/ 21 FERC ¶62,239 (November 10, 1982).

DEC 16 1982

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc. and ) Project No. 2769-000  
The Pennsylvania Electric Company

ERRATA NOTICE

(Issued December 10, 1982)

Order Issuing License (Major) issued November 10, 1982, is revised to include the following additional Article:

"Article 48. The design and construction of only those facilities that would be an integral part of, or that could affect the structural integrity of the Raystown Dam shall be done in consultation with and subject to the review and approval of the Corps' District Engineer, Baltimore, Maryland. The Commission reserves the right to resolve any disagreement between the Licensee and the Corps of Engineers."

*Lawrence R. Anderson*  
Lawrence R. Anderson  
Director, Office of Electric  
Power Regulation

JUN 9 1983

23 FEB 1983

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc. and  
the Pennsylvania Electric Company ) Project No. 2769-003

ORDER AMENDING LICENSE

( Issued June 3, 1983 )

On April 25, 1983, Allegheny Electric Cooperative, Inc. and the Pennsylvania Electric Company, Licensees for the Raystown Project No. 2769, filed a request to amend Article 34 of their license issued November 10, 1983. 1/

Article 34 requires Licensees to file for Commission approval, within 6 months after the issuance date of the license, revised Exhibit F drawings showing the location, geometry and final design of the intake structure. The design must be based on a mathematical model developed, in consultation with the proper Federal and State agencies, to ensure proper temperature regulation and dissolved nitrogen levels of water released downstream for fishery protection. Licensees requested that Article 34 be amended to require them to file the revised Exhibit F drawings within 18 months after the date of issuance of the license, they state that a six-month time frame is not sufficient to complete the proposed scope of work to satisfy the requirements of Article 34. Staff concludes that this request is reasonable and its approval would not conflict with the other conditions of the license.

1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1982), FERC Statutes and Regulations 130,238. 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, FERC Statutes and Regulations 129,052, 47 Fed. Reg. 19014 (1982). 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 any other date specified in this order, except as specifically directed by the Commission.

Approval of the amendment of Article 34 is an administrative action involving no proposed modifications of the project or its operation and is in the public interest. For this reason, approval of the amendment to Article 34 would not constitute a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) The request to amend Article 34 of the license for the Raystown Project No. 2769 is approved.

(H) Article 34 of the license is amended to read:

Article 34. Licensees shall, within 18 months after the date of issuance of this license, file for Commission approval, revised Exhibit F drawings showing the location, geometry and final design of the intake structure. This design shall be based on a mathematical model, shall be developed in consultation with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and Pennsylvania Fish Commission, and shall ensure proper temperature regulation and dissolved nitrogen levels of water released downstream for fishery protection.

*Robert E. Carlson*  
for Lawrence R. Anderson  
Director, Office of Electric  
Power Regulation

JUN 25 1984

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27 FERC 162, 308

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc.	)	Project No. 2769-004
and the Pennsylvania Electric Company	)	
Allegheny Electric Cooperative, Inc.	)	Project No. 2769-005

ORDER APPROVING TRANSFER OF LICENSE  
AND AMENDING LICENSE  
( Issued June 19, 1984 )

On January 26, 1984, Allegheny Electric Cooperative, Inc. (Allegheny/Transferee) and the Pennsylvania Electric Company (Penelec), Licensees for the Raystown Project No. 2769 filed an application for transfer of their license to Allegheny and for amendment of Articles 34 and 36 of the license. 1/2/ The project would be located on the Juniata River in Huntingdon County, Pennsylvania.

Allegheny is an Electric Cooperative Corporation organized under the laws of the Commonwealth of Pennsylvania and is currently a co-licensee with Penelec for Project No. 2769. The Transferee submits that it will comply with all applicable laws of the Commonwealth of Pennsylvania as required by Section 9(b) of the Federal Power Act (Act). The transfer is requested because Penelec has determined that its share of the output of power from the project is not needed. The Raystown Project has not commenced construction. Unilateral development by the Transferee will have a mitigative impact on the long-term rate structure of the Transferee, as all project output will be available to offset more expensive wholesale power purchases.

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1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1983). 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.

2/ The license for Project No. 2769 was issued on November 10, 1982, 21 FERC ¶62,239.



Allegheny and Penelec certify that they have fully complied with the terms of the license and obligate themselves to pay annual charges accrued to the date of transfer. Transferee agrees to accept all of the terms and conditions of the license and to be bound by it as if it were the original Licensee. The application sets forth the qualifications of the Transferee to hold the license and to operate the property under license.

Public notice of the application for transfer was given with April 27, 1984, as the last date to file comments, protests and motions to intervene. None were received.

Due to the delays caused by the divestiture negotiations and the proceeding of the transfer of interests from the Licensees to the Transferee, and the transfer of the license itself, the Transferee requests that License Articles 34 and 36 be amended. Article 34 requires Licensees to file for Commission approval, within 18 months after the issuance date of the license, revised Exhibit F drawings showing the location, geometry and final design of the intake structure. The design must be based on a mathematical model developed, in consultation with the appropriate Federal and State agencies, to ensure proper temperature regulation and dissolved nitrogen levels of water released downstream for fishery protection. Transferee requests that Article 34 be amended to require it to file the revised Exhibit F drawings within 30 months after the date of issuance of the license. Article 36 requires the Licensees to commence construction of the project within 2 years of the date of issuance of the license and to complete construction within 3 years from the start of construction. Transferee requests that Article 36 be amended to require commencement of construction within 4 years from the date of issuance of the license. Staff has reviewed the request and the reasons for amending Articles 34 and 36 are reasonable and the amendment will be approved granting the requested extensions of time.

The Transferee has been diligent in unilaterally complying with the terms and conditions of the license. Transferee has met with the Corps of Engineers to discuss model requirements of Article 34 and to negotiate Memoranda of Understanding pursuant to Articles 41 and 44, has pursued project financing with the Rural Electrification Administration, has started the preliminary design process, has selected a Board of Consultants per Article 45, and has consulted with the SHPO per Article 33. Transferee states that it will diligently prosecute, and commence and complete construction within the requested extension.

Approval of the transfer of license and amendment of Articles 34 and 36 is an administrative action involving no proposed modifications of the project or its operation and is in the public interest. For this reason, approval of the transfer of license

and the amendment of Articles 34 and 36 would not constitute a major Federal action significantly affecting the quality of the human environment.

The Transferee is put on notice that Section 13 of the Federal Power Act states that the period for commencement of construction may be extended once for no longer than two additional years, and thus no further extensions will be permitted.

It is ordered that:

(A) Transfer of the major license for the Raystown Project No. 2769 described in the application for transfer filed January 26, 1984, is hereby approved effective as of the first day of the month in which this order is issued, subject to the provisions of Section 9.3 of the Commission's regulations under the Federal Power Act. 3/

(B) Approval of the transfer of license is contingent upon transfer of title to the properties under license and the delivery of all license instruments to the Allegheny Electric Cooperative, Inc., which shall be subject to all the conditions of the Federal Power Act, as though it were the original licensee. Allegheny Electric Cooperative, Inc. and the Pennsylvania Electric Company are responsible for the payment of annual charges that accrue prior to the date of transfer. The Allegheny Electric Cooperative, Inc. shall submit certified copies of all instruments of conveyance within 60 days from the date of issuance of this order.

(C) Article 34 of the license is amended to read:

Article 34. Licensee shall, within 30 months after the date of issuance of this license, file for Commission approval, revised Exhibit F drawings showing the location, geometry and final design of the intake structure. This design shall be based on a mathematical model, shall be developed in consultation with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service and the Pennsylvania Fish Commission, and shall ensure proper temperature regulation and dissolved nitrogen levels of water released downstream for fishery protection.

(D) Article 36 of the license is amended to read:

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Article 36. The Licensee shall commence construction of the proposed project within 4 years from the date of issuance of the license and shall complete construction within 7 years from the date of issuance of the license.

Lawrence R. Anderson  
Director, Office of  
Electric Power Regulation

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

RECEIVED  
AUG 20 1984

OHL-PM

Project No. 2769-006 - Pennsylvania  
Allegheny Electric Cooperative, Inc.

Mr. William F. Matson  
President  
Allegheny Electric Cooperative, Inc.  
212 Locust Street  
P. O. Box 1266  
Harrisburg, Pennsylvania 17108

AUG 17 1984

Dear Mr. Matson:

Your request submitted on July 9, 1984, for an extension of time until March 31, 1985, to submit certified copies of all instruments of conveyance of properties under the license for the Raystown Project No. 2769 is hereby granted.

Sincerely,



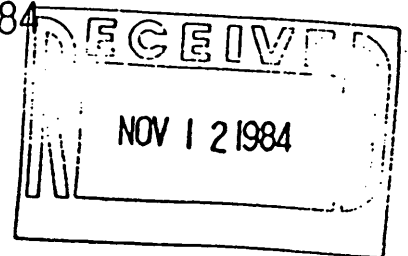
for  
Quentin A. Edson  
Director, Office of  
Hydropower Licensing

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

OHL/DINS  
Project No. 2769-Pennsylvania  
Allegheny Electric Cooperative, Inc.

Ms. Mary Ann Hosko  
Staff Engineer  
Allegheny Electric Cooperative, Inc.  
P.O. Box 1266  
Harrisburg, Pennsylvania 17108-1266

NOV 06 1984



Dear Ms. Hosko:

This is in reply to your letter of October 4, 1984 requesting approval of the Board of Consultants selected to review the design and construction of the Raystown Project No. 2769.

The proposed Board of Consultants consisting of Messrs. Andrew H. Merritt and John Parmakian is hereby approved to perform the functions required by Article 45 of the license.

Sincerely,

Ronald A. Corso  
Director, Division of  
Inspections

AUG 18 1986

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc. Project No. 2769-008

ORDER APPROVING REVISED EXHIBIT F DRAWINGS

(Issued August 11, 1986)

On December 3, 1985, the Allegheny Electric Cooperative, Inc. (licensee) filed revised Exhibit F drawings of the project intake structure for the Raystown Project, as required by article 34 of the license. The intake structure was to be designed in a manner that would ensure proper temperature regulation of and appropriate dissolved nitrogen levels in the water released downstream for protection of the fishery indigenous to the Raystown Branch.

The U.S. Department of the Army, Corps of Engineers (Corps) states, in a letter dated April 28, 1986, that the existing outlet works have been operated in a manner that ensures that releases from the Raystown Reservoir approximate preimpoundment water temperatures as requested by the Pennsylvania Fish Commission (PFC). Available data indicate, however, that because of the physical constraints of the outlet works, the release temperatures are less than preimpoundment water temperatures during the spring season.

The Corps states that the proposed intake structure may not access the reserve of coldwater in the lower portions of the reservoir during the latter part of the summer and fall and, because the resulting release temperatures would be higher than preimpoundment temperatures, the licensee would be required to cease project operation and release water through the existing outlet works. The U.S. Fish and Wildlife Service, in a letter dated November 20, 1985, states that the proposed intake structure would meet target temperatures during the spring and summer months. The PFC states, in a letter dated June 16, 1986, that the proposed intake structure would withdraw water from a higher elevation than the existing outlet works thereby providing releases in the spring that more closely approximate preimpoundment temperatures. The PFC also states that with this ability to release water at warmer temperatures in the spring and the beneficial effect these warmer water temperatures would have on fish spawning, there could be some divergence in the preimpoundment temperature requirements during the fall without harming the fishery downstream of the dam.

The licensee, by letter dated April 10, 1986, objects to the Corps requirement that releases be directed through the existing outlet structure when releases from the project powerhouse do not meet the target temperature. The licensee contends that the intake structure would enhance the ability of releases from the impoundment to meet preimpoundment levels during the spring because the proposed intake structure would withdraw water from higher elevations than the existing outlet and provide for the release of warmer water. In addition, the intake structure, according to the licensee would provide adequate temperature control during the remainder of the year to protect the fish resources of the Raystown Branch.

The proposed intake structure would withdraw water nearer the surface of the reservoir during the spring, which would increase the temperature of the releases from the reservoir above preproject levels. The increased water temperature in the spring would more closely approximate the preimpoundment water temperatures and would provide temperatures more suitable for fish spawning. The structure would not, however, access the reserve of coldwater that exists within the reservoir during the latter part of the summer and fall and, as a result, the water temperature of the releases would exceed preimpoundment levels during those times of the year. Available data indicates that the temperature of the releases during this period would range from 18 to 22 degrees Celsius which would protect smallmouth bass. The PFC, in a letter dated May 5, 1986, states that smallmouth bass are the main game fish in the Raystown Branch.

In conclusion, the proposed intake structure should provide for the maintenance of water temperatures at levels that would protect the fish resources of the Raystown Branch. In addition, the intake structure would withdraw water from sufficient depth to minimize air entrainment and, as a result, ensure maintenance of the dissolved nitrogen levels of the powerhouse discharge at levels that would protect fish resources. To ensure that operation of the intake maintains the water temperature of the powerhouse releases at levels that would protect these resources, the licensee should, in cooperation with the appropriate resources agencies develop a water temperature monitoring plan.

Adverse environmental impacts associated with construction of the intake structure are expected to be minor and of short duration.

The Director orders:

(A) The revised exhibit F drawings of the intake structure filed on December 3, 1985, are approved.

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(B) The licensee, in cooperation with the Pennsylvania Fish Commission, U.S. Fish and Wildlife Service, and U.S. Department of the Army, Corps of Engineer, shall develop a water temperature monitoring plan to evaluate the effectiveness of the intake structure for the Raystown Project in ensuring that the release water temperatures are maintained at levels that would protect the fish resources of the Raystown Branch. The plan shall be filed with the Commission, for approval, within 1 year from the date of issuance of this order along with comments from the aforementioned agencies on the plan. The plan shall include a schedule for filing the results of the monitoring and, if necessary, any recommendations for changes in project operation or facilities necessary to ensure maintenance of the temperatures of the powerhouse discharge within limits necessary to protect fish resources. The Commission reserves the right to require modifications to the plan.

(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.

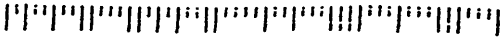
*Richard T. Hunt*  
Richard T. Hunt  
Director, Office of  
Hydropower Licensing

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JAN 1 1988

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc.

Project No. 2769-009

ORDER MODIFYING IN PART AND APPROVING IN PART  
WATER TEMPERATURE MONITORING PLAN

( Issued December 29, 1987 )

On August 3, 1987, Allegheny Electric Cooperative, Inc. (licensee) filed a water temperature monitoring plan for the Raystown Hydroelectric Project pursuant to paragraph B of the Order Approving Revised Exhibit F Drawings issued on August 11, 1986. The licensee amended the plan by letter dated September 9, 1987. In general, the order required the licensee to develop a water temperature monitoring plan in cooperation with the Pennsylvania Fish Commission (PFC), the Fish and Wildlife Service (FWS), and the U.S. Department of the Army, Corps of Engineers (COE) to evaluate the effectiveness of the project intake structure in maintaining discharge water temperatures at levels that would protect the fish resources of the Raystown Branch.

The proposed plan would provide for monitoring water temperatures in the powerhouse discharge and in the reservoir at five foot increments down to twenty-five feet below the surface. The plan includes a schedule for filing the results of the licensee's monitoring and any recommendations for changes in project operations or facilities necessary to maintain the temperature of the river at levels that would protect fish resources. The licensee proposes to compile water temperature data for the calendar years, 1988 and 1989, and file annual reports by March 31, 1989, and March 31, 1990, with the Commission. The report would include an analysis of the effectiveness of the operation of the intake structure in maintaining the water temperature of the powerhouse discharge at levels that would protect fish resources.

According to the plan, temperature regulation of the project discharge would begin in the spring when thermal stratification in the reservoir starts to occur. The licensee would attempt to obtain a water temperature of 16 degrees Celsius in the project discharge by May 1, or as soon as possible thereafter. The licensee would then gradually increase the temperature of the discharge to 24 degrees Celsius by mid-June, and maintain the temperature between 24 and 28 degrees Celsius as late into the fall as possible. This temperature regime would protect growth and reproduction of smallmouth bass.

In developing the plan, the licensee consulted with PFC, FWS, and COE. FWS and PFC concurred with the plan by letters dated August 12, 1987, and September 18, 1987, respectively. In a letter dated August 26, 1987, the COE made recommendations regarding thermal sensors in the reservoir, transmitting data to an existing data collection platform operated by COE, and the threshold level for temperature management. By filing dated September 9, 1987, the licensee amended the plan to incorporate all of the recommendations made by COE except for transmitting data to the existing data collection platform.

The plan makes provisions to supply the temperature data to the hydropower operator's office located at the dam. These data would provide the operator with the necessary information to determine when adjustment in the intake gate setting is necessary. The operator could then make the appropriate adjustment to ensure that the water temperature of the project discharge is maintained at proper levels. Providing continuous data to COE's data collection platform would not be necessary. COE would have the opportunity to comment on the effectiveness of the intake structure in maintaining appropriate discharge water temperatures and to make recommendations for changes in operation of the intake structure that would ensure protection of smallmouth bass in Raystown Branch below the project discharge.

To assist the Commission's staff in evaluating the effectiveness of the intake structure in maintaining water temperatures that protect fish resources in Raystown Branch, the licensee should include in their annual reports comments from the aforementioned agencies on the effectiveness of the structure in maintaining appropriate water temperature. In addition, the licensee should include any agency recommendations for changes in operation of the intake structure necessary to maintain the temperature of the powerhouse discharge at appropriate levels.

The water temperature monitoring plan would provide sufficient data to enable the Commission to evaluate the effectiveness of the project intake structure in maintaining discharge temperatures at levels that would protect the fish resources of the Raystown Branch. Modification of the plan, as identified above, would assist the Commission in determining changes in project operations or facilities that would be necessary to maintain the water temperature of the powerhouse discharge at these levels.



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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Allegheny Electric Cooperative, Inc.

Project No. 2769-010

ERRATA NOTICE

(January 27, 1988)

The order modifying in part and approving in part the water temperature monitoring plan for the Raystown Project No. 2769, issued on December 29, 1987, is revised as follows:

The Project No. 2769-009 as shown on the December 29, 1987, order is changed to read Project No. 2769-010.

Lois D. Cashell  
Acting Secretary