

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

20 FERC ¶62,054

Hydro Development Group Inc.)

Project No. 5633-001

**ORDER GRANTING EXEMPTION FROM LICENSING OF A
SMALL HYDROELECTRIC PROJECT OF 5 MEGAWATTS OR LESS**

(Issued July 14, 1982)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (Act) of 1980 for a project as described in the attached public notice. 2/ 3/

Notice of the application was published in accordance with Section 408 of the Act and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and petitions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption.

1/ Hydro Development Group Inc., Project No. 5633-001, filed March 1, 1982.

2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§2705 and 2708).

3/ Authority to act on this matter is delegated to the Deputy Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 45 Fed. Reg. 21216 (1980), as amended by Order No. 112 in Docket No. RM81-5, issued November 21, 1980, FERC Statutes and Regulations ¶30,211 (45 Fed. Reg. 79024).

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

It is ordered that:

(A) No. 3 Mill Project No. 5633-001 as described and designated in Hydro Development Group Inc. application filed on March 1, 1982, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106, of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106 45 Fed. Reg. 76115 (November 18, 1980).

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d)(1981), as amended, 44 Fed. Reg. 46449 (1981). The filing of a petition appealing this order to the Commission or an application for rehearing as provided in Section 313(a) of the Act does not operate as a stay of the effective date of this order, except as specifically ordered by the Commission.

Acting Deputy Director, Office
of Electric Power Regulation

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Project No. 5633-001

-2-

Hydro Development Group Inc.) Project No. 5633-001

NOTICE OF APPLICATION FOR EXEMPTION FOR SMALL HYDROELECTRIC
POWER PROJECT UNDER 5 MW CAPACITY

(April 27, 1982)

Take notice that on March 1, 1982, Hydro Development Group Inc. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. §§2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (PERC Project No. 5633) would be located on the South Branch Oswegatchie River in the Village of Mallettsboro, Town of Fowler, St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mr. John T. Bedard, Hydro Development Group Inc., P.O. Box 58, Dexter, New York 13634.

Project Description - The proposed project would utilize existing facilities consisting of: (1) a 16-foot high and 68-foot long reinforced-concrete dam having a 24-foot long spillway section with crest elevation 431.5 feet msl and having an intake section at the left (south) abutment and a gated sluiceway section at the right abutment; (2) a reservoir with a surface area of 6.5 acres and negligible storage capacity at normal surface elevation 432.5 feet msl; (3) a 12-foot wide, 16-foot deep, 150-foot long concrete flume; (4) a tailrace having water surface elevation 414.5 feet msl; (5) a substation; and (6) appurtenant facilities.

Applicant proposes to: (1) install new headgates and trash racks; (2) repair the flume; (3) construct a powerhouse containing two rebuilt generating units each rated at 500-kW at a head of 18 feet and hydraulic capacity of 360 cfs each; (4) construct a 0.25-mile long 2.3-kV transmission line. Applicant estimates that the average annual energy output would be 5 million kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Purpose of Exemption - An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments - The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications - Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 8, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. §4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. §4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene - Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. §1.8 or §1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 8, 1982.

