

134 FERC ¶ 62,020
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Central Vermont Public Service Corporation

Project No. 11475-013

ORDER AMENDING LICENSE

(Issued January 11, 2011)

1. On June 17, 2010, and supplemented on August 11 and 16, 2010, September 10, 2010, October 29, 2010, and December 3, 2010, Gomez and Sullivan Engineers, P.C., on behalf of Central Vermont Public Service Corporation (Central Vermont), licensee for the Carver Falls Hydroelectric Project, FERC No. 11475, filed an application for an amendment of the project license. The licensee proposes to replace the existing Unit No. 1 turbine. The project is located on the Poultney River, in Washington County, New York, and Rutland County, Vermont.

Background

2. The Carver Falls Project consists of a single powerhouse containing two turbine-generating units with installed capacities of 1,100 kW and 800 kW, for a total authorized installed capacity of 1,900 kW.¹

3. On June 17, 2010, the licensee filed an Application for Amendment of License to replace the existing 1,100 kW Unit No. 1 with a 1,451 kW unit. The licensee filed supplements to the application on August 11, 2010, providing documentation of consultation; on August 16, 2010, providing documentation of filing for amended Water Quality Certifications with the Vermont Department of Environmental Conservation (VDEC), and the New York State Department of Environmental Conservation (NYSDEC), a Memorandum of Agreement (MOA), and an Exhibit E; and on September 16, 2010, providing a revised Exhibit F-2 drawing. The Commission issued a letter on November 8, 2010, allowing the licensee to proceed with the replacement of Unit No. 1 following authorization from the Commission's Division of Dam Safety and Inspections New York Regional Office. However, this letter did not authorize electric generation until and unless the amendment is approved.

¹ 126 FERC ¶ 62,144 (2009).

Proposed Amendment

4. The licensee's proposal consists of replacing the existing Unit No. 1 turbine with a new turbine, thus increasing the generating capacity of Unit No. 1 from 1,100 kW to 1,451 kW and increasing the Unit No. 1 hydraulic capacity from 162 cfs to 177 cfs. The completed work would result in an increase in the total project generating capacity from 1,900 kW to 2,251 kW and an increase in total project hydraulic capacity from 254 cfs to 269 cfs.

Consultation

5. On April 12, 2010, the licensee provided a draft application for the amendment of license to resource agencies and stakeholders that included the U.S. Fish & Wildlife Service (USFWS), the VDEC and the NYSDEC. The USFWS provided an email on April 14, 2010, stating it would not be providing comments on the draft application and deferred to the VDEC. The VDEC, on June 11, 2010, stated it had no specific comments on the draft application but stated an amendment to the Section 401 Water Quality Certification would be required. The NYSDEC provided no comments on the draft application.

6. The licensee filed applications for amending the water quality certifications with the VDEC on June 17, 2010, and with the NYSDEC on August 16, 2010. On October 29, 2010, the licensee filed a letter, dated October 20, 2010, from the VDEC providing a water quality certification amendment for the project. On December 3, 2010, the licensee filed a letter, dated December 2, 2010, from the NYSDEC providing a modification to the original water quality certification.

7. On August 16, 2010, the licensee submitted documentation of consultation with the New York State Office of Parks, Recreation and Historic Preservation (SHPO). The August filing included a letter of concurrence and MOA signed by Central Vermont and the SHPO stating that the proposed action would have an "adverse effect" on the historic character and integrity of the project. The licensee has mitigated these impacts by documenting the Unit No. 1 turbine and governor with 35 mm black and white photographs, as well as a Section 106 report.

Public Notice

8. On September 2, 2010, the Commission issued a Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests. The notice set a closing date of October 4, 2010, for any comments, motions to intervene, and protests to be filed with the Commission.

9. On September 10, 2010, the VDEC filed a notice of intervention pursuant to its authorities under the Federal Power Act, 16 U.S.C. §§ 803(a), (j); 811.

10. On September 29, 2010, the Department of the Interior (Interior) filed comments stating it has no comments on the proposed amendment of license.
11. On October 1, 2010, the NYSDEC filed a notice of intervention pursuant to its authorities under the Federal Power Act, 16 U.S.C. §§ 803(a), (j); 811.
12. The motions to intervene, comments and recommendations have been fully considered in determining whether, or under what conditions, to approve this amendment of license.

Discussion

A. Project Operation

13. The Carver Falls Project is operated as a run-of-river facility and no changes to project operation were proposed. The proposed replacement of Unit No. 1 will not have any significant effect on the operation of the project.

B. Environmental Review

14. The current total hydraulic capacity at the Carver Falls Project is 254 cfs. The proposed amendment would result in an increase in total hydraulic capacity to 269 cfs, an increase of approximately six percent. The proposed amendment would also result in an increase by 15 cfs in maximum flows downstream through the turbines.
15. Under section 401(a) of the Clean Water Act (CWA),² the Commission may not authorize any activity that may result in a discharge from the project unless the state water quality certifying agency either has issued water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the certification shall become a condition of any federal license that authorizes construction or operation of the project.³
16. Given that the proposed action would result in an increase in hydraulic capacity and discharge at the project, the licensee filed an application for amending the project's water quality certification with the VDEC on June 17, 2010, and with the NYSDEC on August 16, 2010. By letter dated October 20, 2010, the VDEC provided a water quality certification amendment for the project and noted that all conditions of the original certification issued on December 5, 2008, remain in effect.⁴ By letter dated December 2,

² 33 U.S.C. § 1341(a) (2006).

³ 33 U.S.C. § 1341(d) (2006).

⁴ VDEC's water quality certification letter can be viewed in the licensee's filing

2010, the NYSDEC provided modification to the original water quality certification to authorize installation and operation of the new Unit No. 1 with increased hydraulic capacity.⁵ All other conditions of the original water quality certification remain in effect.

17. Because the proposed action would not change the mode of operation at the project, the project would continue run-of-river operation, and bypass flow requirements to maintain water quality, aquatic habitat, and passage of aquatic organisms in the bypassed reach would continue. Also, the original water quality certification requirements would remain in effect. The proposed turbine replacement would not require any excavation or ground disturbing activities and, therefore, is not expected to result in soil erosion, sedimentation, or any discharge into surface waters. For these reasons, the proposed action is not expected to have any negative impacts on water quantity, quality, or aquatic organisms at the Carver Falls Project.

18. Due to the lack of ground-disturbing activity associated with the proposed action, there will also be no impact to terrestrial resources, including but not limited to geology and soils, botanical and wildlife resources, threatened and endangered species, and land use and aesthetics. Removal of Unit No. 1 would have an adverse effect on cultural resources, however the provisions included in the MOA between the licensee and SHPO would appropriately mitigate for these impacts.

19. For these reasons, we conclude that issuance of this order will not constitute a major federal action significantly affecting the quality of the human environment.

C. Installed Capacity

20. The replacement of the Unit No. 1 turbine would result in a 351 kW generating capacity increase and 15 cfs hydraulic capacity increase. As such, the total authorized installed capacity of the project would increase from 1,900 kW to 2,251 kW and the total authorized hydraulic capacity would increase from 254 cfs to 269 cfs. Ordering paragraph (B) of this order amends ordering paragraph (B)(2) of the license to reflect the changes in installed and hydraulic capacities.

D. Annual Charges

21. The increase in authorized installed capacity requires revising the annual charges, Article 201 of the license, as shown in ordering paragraph (C) of this order. In accordance with the Commission's regulations at 18 C.F.R § 11.1 (c)(5), the assessments

with the Commission, filed on October 29, 2010.

⁵ NYSDEC's water quality certification letter can be viewed in the licensee's filing with the Commission, filed on December 3, 2010.

for new authorized capacity start on the date of commencement of construction of such new capacity.

E. Exhibits

22. The licensee filed a revised Exhibit A reflecting the proposed amendment on June 17, 2010. In response to an August 5, 2010 additional information request, on August 16, 2010, the licensee filed an Exhibit E specific only to the amendment process that does not necessitate approval. Also in response to the additional information request, the licensee filed a revised Exhibit F-2 drawing on September 10, 2010. The licensee did not file Exhibit G drawings because the replacement does not change the existing project boundary. The revised Exhibits A and F accurately reflect the proposed changes to the project, conform to the Commission's rules and regulations, and are approved by this order. The revised Exhibit A is approved as shown in ordering paragraph (D) of this order. The revised Exhibit F drawing is approved in ordering paragraph (E), and in ordering paragraph (F) we are requiring the licensee to file the approved drawing in aperture card and electronic file formats.

Conclusion

23. Based upon the review of the information provided by the licensee, agency comments, and staff's independent analysis, Commission staff concludes that approving the amendment of the license is not a major federal action significantly affecting the quality of the human environment. This order approves the amendment of the license to replace the Unit No. 1 turbine.

The Director orders:

(A) The amendment application for the Carver Falls Hydroelectric Project filed June 17, 2010, and supplemented on August 11, 2010, August 16, 2010, and September 10, 2010, is approved, as provided in this order.

(B) Ordering paragraph (B)(2) of the license is amended in part, by revising the description of the generating units, item (6), as follows:

(2) Project works consisting of: ... (6) a powerhouse containing a 1,451-kW turbine generating unit with a maximum hydraulic capacity of 177 cfs and an 800-kW turbine generating unit with a maximum hydraulic capacity of 92 cfs, for a total installed capacity of 2,251-kW and a total hydraulic capacity of 269 cfs;...

(C) Article 201 of the license is amended to read as follows:

Article 201. The licensee shall pay the United States an annual charge, effective the date of commencement of construction of the additional capacity, for the purpose of reimbursing the United States for the cost of administration of Part I of the Federal Power Act as determined by the Commission. The authorized installed capacity for that purpose is 2,251 kW, effective October 15, 2010, the date of commencement of the Unit No. 1 replacement.

(D) The revised Exhibit A, filed on June 17, 2010, reflecting the Unit No. 1 turbine replacement, is approved and made part of the license.

(E) The following Exhibit drawing for the Carver Falls Project, FERC Project No. 11475, filed on September 10, 2010, is approved and made a part of the license:

Exhibit	Drawing No.	Superseded Drawing No.	Title
F-2	11475-7	11475-2	Powerhouse Plan and Sections

(F) Within 45 days of the date of issuance of this order, the licensee shall file the approved exhibit drawing in aperture card and electronic file formats.

a) Three sets of the approved exhibit drawing shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Project-Drawing Number (i.e., P-11475-7) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-2), Drawing Title, and date of this order shall be typed on the upper left corner of each aperture card. See Figure 1.

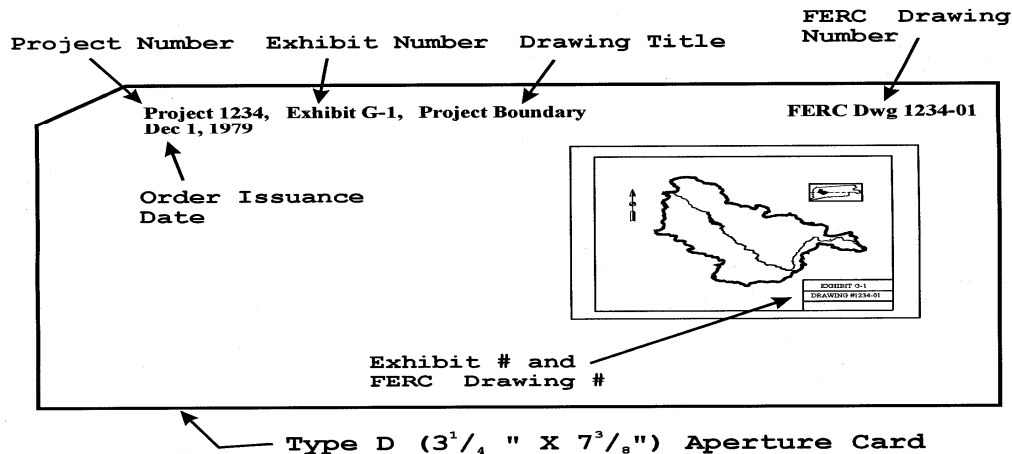


Figure 1 Sample Aperture Card Format

Two of the sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections New York Regional Office.

b) The licensee shall file two separate sets of exhibit drawing in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Atlanta Regional Office. Exhibit F drawings must be identified as **(CEII) material under 18 CFR §388.113(c)**. Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this order, and file extension in the following format [P-11475-7, F-2, Powerhouse Plan and Sections, MM-DD-YYYY.TIF]. Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
 FILE TYPE – Tagged Image File Format, (TIFF) CCITT Group 4
 RESOLUTION – 300 dpi desired, (200 dpi min)
 DRAWING SIZE FORMAT – 24" X 36" (min), 28" X 40" (max)
 FILE SIZE – less than 1 MB desired

(G) Within 90 days of the completion of construction to replace the unit, the licensee shall file with the Commission and the Division of Dam Safety and Inspections – New York Regional Office, photographs of the nameplates of the new turbine and generator units.

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(H) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2010). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

William Guey-Lee
Chief, Engineering & Jurisdiction Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

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