

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
101 FERC * 62,099

Independence County, Arkansas

Project No. 4660-028

ORDER AMENDING LICENSE
(November 13, 2002)

INTRODUCTION

1. On August 8, 2001, Independence County, Arkansas (licensee), the licensee for the licensed, but unconstructed White River Lock and Dam No. 2 Hydroelectric Project No. 4660, filed an application to amend the project license to change the route of the authorized transmission line. No interventions were filed in opposition to licensee's proposal. I find the proposed amendment to be in the public interest and will approve it.

BACKGROUND

2. The White River Lock and Dam No. 2 Hydroelectric Project will be located on White River in Independence County, Arkansas. No federal lands would be affected. The Commission issued the original license to Independence County, Arkansas for the construction, operation, and maintenance of the White River Lock and Dam No. 2 Hydroelectric Project on November 8, 1985.[1] The license authorizes a 13.8-kV transmission line approximately 6 1/2 miles long from the dam to an existing substation located along North 11th Street near Polk Miller Creek in the city of Batesville. The approved transmission line and project facilities are not yet constructed.

3. On October 26, 2001, the Commission issued an Order Granting Stay of License.[2] The stay terminates on the date of Commission action on the licensee's August 8, 2001 amendment application, which is this amendment order.

LICENSEE'S AMENDMENT APPLICATION

4. In the August 8, 2001 filing, the licensee proposes to construct the project's transmission line on a different route to interconnect with the Southwestern Power Administration (Southwestern) transmission line. The currently authorized transmission line would provide interconnection with Arkansas Power and Light (now Entergy), but the current proposed power purchasers are directly or indirectly connected with

Southwestern, and are not customers of or connected to the Entergy System.

5. The licensee proposes to construct a substation two miles east of White River Lock and Dam No. 2 on the north side of the White River, adjacent to and partially within the existing 90 feet of Southwestern's right-of-way. The substation would step-up the voltage from 25 kV to 161 kV, and have a transformer rating of 17.5 kV. To access the substation, the licensee proposes to improve an existing 3,800 foot-long access road and an existing 300 foot-long farm road. Also, beginning at the powerhouse, the licensee proposes to extend a transmission line along the north and east sides of the White River for approximately 2 miles to the proposed substation. The transmission line voltage capacity would be increased from 13.8-kV to 25-kV.

COMMENTS AND INTERVENTIONS

6. The Commission issued public notice for the amendment application on January 29, 2002 and March 7, 2002, soliciting comments, motions to intervene, and protests. The U.S. Department of Interior and Southwestern[3] intervened in the proceeding. Each requested to become a party in all hearings or proceedings in reference to the proposed license amendment. A letter from Barbara Musser, Patrick Crommett, Daniel Crommett, and Mike Crommett Credit Shelter Trust (Crommett/Musser) stated that the proposed transmission line route would deter development of their property and would result in their property being used solely as a transmission line easement. Staff evaluated the effect the transmission line would have on the Crommett/Musser property in the Environmental Assessment (EA) issued July 22, 2002. Staff concluded that the proposed transmission line would limit, but not preclude, the development of housing on the Crommett/Musser property. Housing could not be developed within the transmission right-of-way, but could occur elsewhere, and other developments, such as roads, would not be precluded. Section 4(b) in the EA presents our conclusions in further detail. No entity objected to the proposed transmission line route modifications.

WATER QUALITY CERTIFICATION

7. The Arkansas Department of Environmental Quality (ADEQ) is charged with the compliance responsibility of the Federal Water Pollution Control Act. The licensees requested a Water Quality Certification (WQC) for the amendments to Projects 4204, 4660, and 4659 on March 21, 2001.[4] On April 9, 2001, the ADEQ issued a single WQC without any terms and conditions for the three projects. ADEQ determined that the proposed construction of the transmission line would not physically alter a significant segment of a water body, and would not violate the water quality criteria.

8. On February 1, 2002, the licensee inquired if another WQC was needed for the construction of the proposed substation and access road. In a reply on February 1, 2002, ADEQ stated that the WQC issued on April 9, 2001 was adequate and an additional WQC was not needed.

ENDANGERED SPECIES

9. Section 7(a) of the Endangered Species Act of 1973 (ESA)[5] requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species, or result in the destruction or adverse modification of designated critical habitat. The existing records do not indicate the occurrence of any species listed by the USFWS as Endangered or Threatened within a quarter mile of the proposed transmission line route. However; the federally threatened Bald Eagle does occur along the White River. The USFWS, by letter dated January 23, 2002, concludes that no federally listed or proposed threatened or endangered species occur in the impact area of the project. Therefore, the requirements of Section 7 of the Endangered Species Act have been fulfilled.

10. On April, 5, 2002, the DOI filed a letter requesting that the Commission or licensee work with the USFWS to update the status of the listed scaleshell mussel and pink mucket mussel, both Federally listed as endangered. A freshwater mussel survey of the White River and Lafferty Creek was conducted during May 2002. On June 6, 2002, the licensee filed a progress report that concluded that no living scaleshell mussels or pink mucket mussels were found in the surveyed area. On July 10, 2002, the DOI filed a letter stating that since no live endangered mussels were found during this survey, the projects, as proposed, are not likely to adversely impact any endangered species.

ENVIRONMENTAL ASSESSMENT

A. Transmission Line Route Changes

11. The proposed transmission line route would extend through agricultural lands in Independence County, Arkansas. The average width of the right-of-way would be about 80 feet. For 20 feet on each side of the centerline, the area would be cleared, while the bordering 40 feet (20 feet from each side) would be cleared of all trees that would interfere with the transmission line and maintained in a scrub or herbaceous cover type.

12. In its August 8, 2001 filing, the licensee included a revised exhibit G-1 drawing, showing the proposed revised alignment of the transmission line. In this order, we are approving the revision to the project's transmission line. This order also requires the licensee to file aperture cards of the approved drawing.

B. Environmental Issues

13. On July 22, 2002, the Commission issued an EA for the proposed transmission line route. The following were analyzed in the EA: geological resources, terrestrial resources, threatened and endangered species, land use and aesthetics, cultural resources, and the potential effects of electric and magnetic fields.

14. The licensee's proposed 2-mile-long transmission line will not have a significantly greater environmental impact to the area than the transmission line approved under the original license. Impacts on geological, terrestrial, land use and aesthetics, and cultural resources expected to occur during construction of the amended project would differ from those identified during licensing; however, most of these impacts would be temporary and should not have long-term negative impacts on those resources. The licensee's proposal, with the following staff-recommended measures, would help reduce potential impacts.

15. Minor erosion and sedimentation will result from construction of the transmission line. We are amending the original license to delete Article 35, which required the licensee to file a plan to control dust and erosion within one year after the issuance of the license, because this article does not adequately address the new transmission line, and because it does not require the licensee to file the plan at least 90 days before the start of any land disturbing activities. We are including Article 401, which requires the licensee to file, at least 90 days before the start of any land-disturbing, land-clearing, or spoil-producing activities, an erosion and sediment control plan that does address the new transmission line.

16. Above-ground transmission lines are a potential electrocution hazard to perching raptors unless properly designed. To ensure protection of raptors, we are including Article 402, requiring the licensee to construct the transmission line to meet the guidelines recommended in "Suggested Practices for Raptor Protection on Power lines: The State of the Art in 1996."

17. The proposed transmission line would span wetlands in order to avoid the placement of poles in wetland habitat. As a result, transmission line construction and operation should have no adverse effect on wetlands other than the clearing of trees that could interfere with the line. Article 404 requires the licensee to file a wetland/floodplain management plan for the transmission line corridor. The plan shall contain the identification of sensitive areas, specific location of structures and development of plan-and-profile drawings of the transmission line.

18. Article 403 requires the licensee to develop a wildlife/vegetation management plan for the transmission line corridor and substation area. The plan shall describe how the

disturbed areas would be restored and reseeded, and how the permanent right-of-way will be maintained without the use of herbicides. These measures would adequately mitigate any adverse impacts to grassland areas.

19. To mitigate visual impacts of the proposed transmission line, we are including Article 405, requiring the licensee to develop a visual resource management plan. The plan shall contain measures to use non-reflecting materials and dark colored poles to minimize visual effects.

20. Within the proposed transmission right-of-way there are archeological sites eligible for the National Register of Historic Places, and the construction of the transmission line may affect these sites. On September 10, 2002, the Arkansas State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation and the Commission executed a "Memorandum of Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the Arkansas State Historic Preservation Officer, for the Proposed Change of the Transmission Line Route and the Construction of a Substation and Access Road at the White River Lock and Dam Nos. 1, 2, and 3 Projects." This serves to satisfy the Commission's responsibilities under Section 106 of the National Historic Preservation Act.

The Director orders:

(A) The application for amendment of license for White River Lock and Dam No. 2, Project No. 4660, filed on August 8, 2001 is approved.

(B) The project description in Ordering Paragraph B (2) of the license is revised, in part, to read as follows:

(2) Project works consisting of: (a) an existing concrete and timber crib dam structure, approximately 658 feet long and 29 feet high, with an integral navigation lock, 36 feet wide and 175 feet long on the right side of the dam; (b) a reservoir with a surface area of approximately 1,072 acres and a gross storage capacity of approximately 8,581 acre-feet at the normal maximum pool elevation of 260.2 feet (m.s.l.); (c) a new multilevel intake flume 120 feet long and 100 feet wide to be constructed within the existing navigation lock; (d) a new reinforced concrete powerhouse, 93 feet wide and 116 feet long, containing 3 generating units of 2,360 kW capacity each, for a total capacity of 7,080 kW; (e) a new open flume tailrace, 120 feet long and varying in width from 116 feet to 140 feet; (f) a 25-kV overhead transmission line, approximately 2 miles long; (g) a substation with a step-up capacity from 25 kV to 161 kV, and a voltage rating of 17.5 kV; (h) a substation access road; and (i) appurtenant facilities.

(C) Exhibit G-1, which depicts the transmission line corridor

and was filed on August 8, 2001, is approved and made part of the license.

EXHIBIT LABEL	FERC NO.	TITLE	SUPERSEDES DRAWING
G-1	4660-9	Transmission Line Corridor	4660-1

(D) Drawing 4660-1 also contained the location of the White River Lock and Dam No. 2, but Exhibit G-1 filed on August 8, 2001, did not include this information. Within 90 days, the licensee shall file, for Commission approval, a revised exhibit G drawing which depicts the location of White River Lock and Dam No. 2 as well as the new transmission line facilities approved herein.

(E) Within 90 days of the date of this order, the licensee shall file three sets of aperture cards of the approved drawing. The drawings should be reproduced on silver or gelatin 35 mm microfilm and mounted on Type D (3 1/4" x 7 3/8") aperture cards.

Prior to microfilming, the FERC Drawing Number (4660-9) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number should be typed in the upper right corner of each aperture card. Additionally, the Project Number, FERC exhibit (G-1), Drawing Title, and date of this order should be typed in the upper left corner of each aperture card. See Figure 1.

Figure 1. Sample Aperture Card

Format

Two sets of aperture cards should be filed with the Secretary of the Commission. One set of aperture cards should be filed with the Commission's Atlanta Regional Office.

(F) Article 35 is deleted from the license.

(G) The following articles are added to the license:

Article 401. At least 90 days before the start of any land-disturbing, land-clearing, or spoil-producing activities, the

licensee shall file with the Commission for approval, and with the Atlanta Regional Office, a plan to control erosion, sedimentation, turbidity, and water pollutant effects resulting from construction and operation of the project, including the transmission line, access roads, and spoil disposal areas.

The plan (a) shall encompass all project construction and site restoration activities; (b) shall be based on (i) actual-site geological, soil, slope, and groundwater conditions; and (ii) the final project design for all temporary and permanent project features; and (c) shall contain, at a minimum, the following five items: (1) a description of the actual site conditions; (2) measures proposed to control erosion, to prevent slope instability, and to minimize the quantity of sediment resulting from project construction; (3) detailed descriptions, functional design drawings, and specific topographic locations of all control measures; (4) specific details of site preparation and restoration including grading, reseeding, and fuel storage; (5) a specific implementation schedule and details for monitoring and maintenance programs for project construction and operation.

The licensee shall prepare the plan after consultation with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Natural Resources Conservation Service, and Arkansas Game and Fish Commission.

The licensee shall include with the plan documentation of consultation with the agencies and copies of agency comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the agency comments and recommendations are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and make recommendations prior to filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on geological, soil, and groundwater conditions at the site.

The Commission reserves the right to require changes to the plan. No land-disturbing or land-clearing activities shall begin until the licensee is notified by the Commission that the plan is approved. Upon the Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 402. The licensee shall design and construct the transmission line in accordance with the guidelines set forth in the "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996," consult with the U. S. Fish and Wildlife Service and the Arkansas Game and Fish Commission on the design, and within 90 days before the start of any construction associated with the substation or transmission line, shall file a transmission line design plan that will consider adequate separation of energized conductors, groundwires, and other metal

hardware, adequate insulation, and any other measures necessary to protect raptors from electrocution hazards. Agency comments on the adequacy of the design plan shall be included in the filing. Unless the Director, Office of Energy Projects, within 60 days following the filing instructs otherwise, the licensee may commence transmission line construction at the end of the 60-day period.

Article 403. At least 90 days before the start of any land-disturbing or land-clearing activities at the project associated with substation or transmission line construction, the licensee shall file with the Commission, for approval, a substation/transmission line wildlife/vegetation management plan.

The plan shall provide for, but not be limited to, the following measures: (1) clearing, revegetating, and maintaining the transmission line right-of-way and substation for the benefit of wildlife resources; (2) use of native vegetation; (3) description of plant species used and planting densities; (3) provision for the filing of monitoring reports with the Commission; (4) a description of procedures to be followed if monitoring that revegetating is not successful; and (5) an implementation schedule that provides for the plan to be implemented as soon as practicable after the beginning of land-clearing or land-disturbing activities within the transmission line corridor and lands affected by the substation construction.

The licensee shall prepare the plan taking into account Article 401 of this license, and after consultation with the Arkansas Fish and Game Commission and U.S. Fish and Wildlife Service. The licensee shall include with the plan documentation of consultation with the agencies, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific description of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons based on project specific information.

The Commission reserves the right to require changes to the plan. No land-disturbing activities associated with the substation or transmission line construction shall begin until the licensee is notified by the Commission that the plan is approved. Upon the Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 404. At least 90 days before the start of any land-disturbing or land-clearing activities at the project associated with substation or transmission line construction, the licensee shall file with the Commission, for approval, a wetland/floodplain management plan for the transmission line

corridor. The plan shall provide for, but not be limited to, the following measures: (1) plan and profile drawings for the transmission line; (2) how and when these drawings will be supplied to the construction supervisors before any clearing and earthwork begins; (3) identification of any sensitive areas such as wetlands and floodplains; (4) details of the final design to protect the wetlands or floodplains affected by the project; (5) provision for the filing of monitoring reports with the Commission; (6) a description of procedures to be followed if monitoring reveals that the plan is not having its desired effect; and (7) an implementation schedule.

The licensee shall prepare the plan taking into account Article 401 of this license, and after consultation with the Arkansas Fish and Game Commission and U.S. Fish and Wildlife Service. The licensee shall include with the plan documentation of consultation, copies of agency comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and a specific description of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons based on project specific information.

The Commission reserves the right to require changes to the plan. No land-disturbing activities associated with the substation or transmission line construction shall begin until the licensee is notified by the Commission that the plan is approved. Upon the Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 405. At least 90 days before the start of any land-disturbing or land-clearing activities at the project associated with substation or transmission line construction, the licensee shall file with the Commission, for approval, a visual resource management plan.

The plan shall provide for, but not be limited to, the following measures: (1) blend the transmission lines into the existing landscape character (2); construct the transmission line with non-specular material and dark colored poles; (3) use the minimum vegetation clearing as provided by local regulations; (4) construct the transmission line without glass insulators; (5) a schedule for carrying out the plan.

The Commission reserves the right to require changes to the plan. No land-disturbing activities associated with the substation or transmission line construction shall begin until the licensee is notified by the Commission that the plan is approved. Upon Commission approval of the plan, the licensee shall implement the plan, including any changes required by the

Commission.

Article 406. The licensee shall implement the "Memorandum of Agreement Among the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, and the Arkansas State Historic Preservation Officer, for the Proposed Change of the Transmission Line Route and the Construction of a Substation and Access Road at the White River Lock and Dam Nos. 1, 2, and 3 Projects" executed on September 10, 2002, including but not limited to the Treatment Plan for the project. In the event that the Memorandum of Agreement is terminated, the licensee shall implement the provisions of its approved Treatment Plan. The Commission reserves the authority to require changes to the Treatment Plan at any time during the term of the license. If the Memorandum of Agreement is terminated prior to Commission approval of the Treatment Plan, the licensee shall obtain Commission approval before engaging in any ground disturbing activities or taking any other action that may affect any Historic Properties within the project's area of potential effect.

(H) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the issuance date of this order, pursuant to section 18 C.F.R. * 385.713.

Richard R. Hoffmann, Director
Division of Environmental and Engineering Review

Footnotes

[1]33 FERC * 62,182.

[2]97 FERC *61,114.

[3] Southwestern withdrew their Motion to Intervene on April 24, 2002 to remain a cooperating agency in the proceeding.

[4] The licensees for White River Lock and Dam Nos. 1, 2, and 3 (Projects Nos. 4204, 4659, and 4660) proposed to change the routes of the projects' three transmission lines to create one transmission line which would interconnect with the Southwestern's transmission system.

[5]16 U.S.C. * 1536(a).