

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

24 FEB 1981.021

Before Commissioners: C. M. Butler III, Chairman;
Georgiana Sheldon, J. David Hughes,
A. G. Sousa and Oliver G. Richard III.

Hydro Development Group, Inc.)	Project No. 4636-000
)	4636-001
Mary Jane Ruderman)	Project No. 4908-000
)	4908-001
Crown Zellerbach Corporation)	Project No. 5800-000
)	6694-000
)	6695-000
Long Lake Energy Corporation)	Project No. 5923-000
Climax Manufacturing Company)	Project No. 6368-000

ORDER MODIFYING ORDER VACATING GRANT OF EXEMPTIONS
FROM LICENSING

(Issued July 11, 1983)

On June 7 and 22, 1982 the Commission inadvertently granted by operation of law exemptions from licensing for FERC Project Nos. 4636-001 (Hydro Development Group), 4908-001 (Mary Jane Ruderman Hirschey ["Ruderman"]), and 5800-000 (Crown Zellerbach Corporation ["Crown"]), located on the Black River near Carthage, New York. The Commission vacated these grants of exemption on July 20, 1982. Hydro Development Group, Inc., et al., 20 FERC ¶61,059. The projects are in competition with one or more license applications.

Ruderman and Crown appealed the Commission's July 20 order to the United States Court of Appeals for the District of Columbia Circuit. The court deferred consideration of Crown's appeal until after it ruled on Ruderman's appeal, and considered the Ruderman case on an expedited basis.

On February 25, 1983, the court ruled that the FERC had no authority to vacate Ruderman's exemption, and remanded the case to the FERC with instructions to reinstate the exemption. Hirschey v. FERC, 701 F.2d 215. Shortly thereafter, the Commission asked the court to remand the Crown case so the Commission could conform its decision on Crown's exemption with the court's decision. The court remanded the Crown case to the Commission on May 12, 1983.

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Project No. 4636-000,
et al.

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In accordance with the court's ruling, Ruderman's exemption for Project No. 4908-001 is reinstated. The rationale of the court's ruling compels identical treatment for Project No. 5800-000, and Crown Zellerbach Corporation's exemption for that project is reinstated as well. Both exemptions are reinstated as of the date of this order. In accordance with 18 CFR 4.104(b), Ruderman's application for preliminary permit for Project No. 4908-000 is dismissed.

The Commission orders:

(A) Mary Jane Ruderman's exemption from licensing for Project No. 4908-001 is reinstated.

(B) Crown Zellerbach Corporation's exemption from licensing for Project No. 5800-000 is reinstated.

(C) Mary Jane Ruderman's application for preliminary permit for Project No. 4908-000 is dismissed.

By the Commission.

(S E A L)

Kenneth F. Plumb

Kenneth F. Plumb,
Secretary.