Hoosic River Hydro, LLC
c/o William P. Short III
44 West 62nd Street
P.O. Box 237173
New York, New York 10023-7173
(917) 206-0001; (201) 970-3707
w.shortiii@verizon.net

May 26, 2018

Rhode Island Public Utilities Commission
Attn: Renewable Energy Resources Eligibility
89 Jefferson Boulevard
Warwick, Rhode Island 02888

Re: Application of Pownal Tannery Project for Certification as a Rhode Island New Renewable Energy Resource

Dear Sir:

Attached please find an application for certification by the Rhode Island Public Utilities Commission (the "Commission") of the Pownal Tannery Project (the "Project" or the "Facility") of Hoosic River Hydro, LCC ("Hoosic River Hydro" or the "Applicant") as a Rhode Island New Renewable Energy Resource (the "Application").

For purposes of responding to inquiries regarding the Application, persons should contact the following:

Primary Contact

William P. Short III[1]
Consultant
44 West 62nd Street
P.O. Box 237173
New York, New York 10023-7173
(917) 206-0001 (Office)
(201) 970-3707 (Cell)
w.shortiii@verizon.net

Secondary Contact

William F. Scully
Operating Manager
Hoosic River Hydro, LLC
PO Box 338
North Bennington, Vermont 05257
(802) 379-2469 (Cell)
wfscully@gmail.com

[1] With this Application, Hoosic River Hydro, LLC appoints William P. Short III as its authorized representative.

The Pownal Tannery Project (FERC No. P-6795) is a 0.491 MW exempt from licensing, run-of-river hydro-electric project. A FERC exemption from licensing was issued April 1, 1983 and subsequently amended on April 15, 2016.[2] The Project is currently in compliance with all of its requirements for its exemption from licensing.

Hoosic River Hydro, LLC is a Vermont Limited Liability Company with its principal place of business at 14 Pleasant Street, North Bennington, Vermont 05257.

The Project is located on the Hoosic River at 49 Dean Road in the Town of North Pownal, Vermont. The original powerhouse was built in 1907 to replace two pairs of horizontal B. G. McCormick wheels, which provided power to the Pownal Tanning Company. In 1946-47, the original hydroelectric turbines units were replaced with a used Rodney Hunt Type 80 turbine. Records indicate that over subsequent years the unit did not operate at peak performance.

FERC issued an exemption from licensing for the Pownal Project on April 1, 1983. The Project went off-line in February 1988 due to mechanical problems with its generating equipment. The situation only became more complex when the Pownal Tanning Company filed for bankruptcy in 1988.[3] From 1999 through 2001, the cleanup of hazardous materials at the Pownal Tannery, which included the Project site, was performed under the Environmental Protection Agency Superfund program. The cleanup work included, in part, demolition of a building that served as the Project's powerhouse. A temporary powerhouse was built over the plant in April 2001.

On December 11, 2015, and supplemented on February 3 and 16, 2016, Hoosic River Hydro, LLC, as agent for the Exemptee, filed a proposal to replace the turbine-generator unit at the Project and return the Project to commercial operation. The Exemptee proposed increasing the Project's generating capacity from 400 to 500 KW with the use of more modern, efficient equipment. On April 15, 2016, the FERC, after receiving governmental and non-governmental comments, issued an *Order Amending the Exemption* with a project description that included a nameplate capacity to 500 KW.

On August 29, 2017, the new plant, which included replacement of all major equipment (for example, trash racks, gates, turbine, generator, switchgear) and civil works (for example, penstock, powerhouse except the dam), first generated power. The final commissioning, which included the post-commissioning hydraulic testing,[4] occurred on November 1, 2017, and with the commissioning, Hoosic River Hydro became the Exemptee. After the post-commissioning hydraulic testing, the Exemption was again amended to reflect the confirmed capacity of 491 KW in the FERC *Order Approving As-Built Exhibits A and G and Revising Project Description.*

The final revised project description reads as follows: the Project consists of: (1) a concrete gravity overflow dam, 18 feet high and 153 feet long; (2) a 2.5-foot-high crest gate on the dam crest and 2.5-foot high flashboards on the intake canal; (3) a reservoir with a storage capacity of 490 acre-feet, a surface area of 77 acres, and normal water surface elevation of 516.6

[2] The Exemption was subsequently amended on April 22 and 16, 2016.
[3] *See* https://cumulis.epa.gov/supercpad/SiteProfiles/index.cfm?fuseaction=second.Cleanup&id=0101463#bkground
[4] *See* FERC Order Amending Exemption, June 16, 2016, page 5, paragraph (B).

feet mean sea level; (4) one 8-foot-diameter steel penstock 93 feet long; (5) a powerhouse containing one generating unit with a capacity of 491 KW; (6) a tailrace; and (7) appurtenant facilities.

Hoosic River Hydro, LLC has already self-certified the entire production of the Facility as a Maine Class II renewable resource while the Vermont Public Utility Commission has certified the entire produciton of the Facility as a Vermont Tier I resource. Hoosic River Hydro, LLC intends to qualify in the future some or all of the production from the Facility as being from a Connecticut Class I source, a Maine Class I renewable resource or as either a New Hampshire Class I or Class IV resource.

The Facility's electrical output is read by Green Mountain Power ("GMP"). This information is conveyed to William P. Short III, a Third-Party Meter Reader.[5] Mr. Short, in turn conveys this information directly to APX, Inc. ("APX"), the operator of the NEPOOL Generation Information System ("GIS"). The Facility's NON account number is 117304. The Applicant has authorized APX to disclose to the Commission the Facility's monthly generation production.

Upon your review of our application, if you have any questions on comments, please do not hesitate to contact either William F. Scully or myself.

Sincerely yours,

William P. Short III

attachments

cc: William F. Scully (e-mail only)

[5] Currently, Mr. Short, a Rhode Island Third Party Meter Reader, verifies two other facilities certified by the Rhode Island Public Utilities Commission as Rhode Island New Renewables Energy resources: Toray Plastics, located in North Kingstown, Rhode Island, and Carbon Zero's Vermont Tissue Hydroelectric Project, located in Bennington, Vermont. Upon request, Mr Short will again supply his qualifications as a Rhode Island Third Party Meter Reader to the Commission.

LIST OF ATTACHMENTS

Application for Certification of the Pownal Tannery Project, dated May 26, 2018

FERC Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatt or less, issued April 1, 1983

FERC Order Amending Exemption And Revising Project Description, issued April 15, 2016

FERC Order Amending Exemption, issued April 22, 2016

FERC Order Amending Exemption, issued June 16, 2016

FERC Order Approving As-Built Exhibits A And G And Revising Project Description, issued April 4, 2018

Vermont Public Service Commission Order Certifying the Project as Vermont Tier I, dated March 23, 2018

Monthly Generation Records for the Project for August 2017 to the present[6]

[6] Items marked in **Red and Bold** are considered confidential by the Applicant. Upon request from the Commission and the granting of confidential treatment, the Applicant will provide the Commission with a copy of this information.

RIPUC Use Only	
Date Application Received:	__ __ / __ __ / __ __
Date Review Completed:	__ __ / __ __ / __ __
Date Commission Action:	__ __ / __ __ / __ __
Date Commission Approved:	__ __ / __ __ / __ __

GIS Certification #:

NON-117304

RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM

The Standard Application Form
Required of all Applicants for Certification of Eligibility of Renewable Energy Resource
(Version 8 – December 5, 2012)

STATE OF RHODE ISLAND PUBLIC UTILITIES COMMISSION
Pursuant to the Renewable Energy Act
Section 39-26-1 et. seq. of the General Laws of Rhode Island

NOTICE:
When completing this Renewable Energy Resources Eligibility Form and any applicable Appendices, please refer to the State of Rhode Island and Providence Plantations Public Utilities Commission Rules and Regulations Governing the Implementation of a Renewable Energy Standard (RES Regulations, Effective Date: January 1, 2006), and the associated RES Certification Filing Methodology Guide. All applicable regulations, procedures and guidelines are available on the Commission's web site: www.ripuc.org/utilityinfo/res.html. Also, all filings must be in conformance with the Commission's Rules of Practice and Procedure, in particular, Rule 1.5, or its successor regulation, entitled "Formal Requirements as to Filings."

- **Please complete the Renewable Energy Resources Eligibility Form and Appendices using a typewriter or black ink.**

- **Please submit one original and three copies of the completed Application Form, applicable Appendices and all supporting documentation to the Commission at the following address:**

Rhode Island Public Utilities Commission
Attn: Luly E. Massaro, Commission Clerk
89 Jefferson Blvd
Warwick, RI 02888

In addition to the paper copies, electronic/email submittals are required under Commission regulations. Such electronic submittals should be sent to Res.filings@puc.ri.gov.

- **In addition to filing with the Commission, Applicants are required to send, electronically or electronically and in paper format, a copy of the completed Application including all attachments and supporting documentation, to the Division of Public Utilities and Carriers and to all interested parties. A list of interested parties can be obtained from the Commission's website at www.ripuc.org/utilityinfo/res.html.**

- **Keep a copy of the completed Application for your records.**

- **The Commission will notify the Authorized Representative if the Application is incomplete.**

- **Pursuant to Section 6.0 of the RES Regulations, the Commission shall provide a thirty (30) day period for public comment following posting of any administratively complete Application.**

- **Please note that all information submitted on or attached to the Application is considered to be a public record unless the Commission agrees to deem some portion of the application confidential after consideration under section 1.2(g) of the Commission's Rules of Practice and Procedure.**

- **In accordance with Section 6.2 of the RES Regulations, the Commission will provide prospective reviews for Applicants seeking a preliminary determination as to whether a facility would be eligible prior to the formal certification process described in Section 6.1 of the RES Regulations. Please note that space is provided on the Form for applicant to designate the type of review being requested.**

- **Questions related to this Renewable Energy Resources Eligibility Form should be submitted in writing, preferably via email and directed to: Luly E. Massaro, Commission Clerk at Res.filings@puc.ri.gov.**

SECTION I: Identification Information

1.1 Name of Generation Unit (sufficient for full and unique identification):
Pownal Tannery Project

1.2 Type of Certification being requested (check one):

X Standard Certification ❑ Prospective Certification (Declaratory Judgment)

1.3 This Application includes: (Check all that apply)[1]

- ❑ APPENDIX A: Authorized Representative Certification for Individual Owner or Operator
- **X** APPENDIX B: Authorized Representative Certification for Non-Corporate Entities Other Than Individuals
- ❑ APPENDIX C: Existing Renewable Energy Resources
- ❑ APPENDIX D: Special Provisions for Aggregators of Customer-sited or Off-grid Generation Facilities
- ❑ APPENDIX E: Special Provisions for a Generation Unit Located in a Control Area Adjacent to NEPOOL
- ❑ APPENDIX F: Fuel Source Plan for Eligible Biomass Fuels

1.4 Primary Contact Person name and title: **William P. Short III, Consultant**

1.5 Primary Contact Person address and contact information:
Address: **P.O. Box 237173**
New York, New York 10023

Phone: **(917) 206-0001** Fax: **(917) 206-0001**
Email: **w.shortiii@verizon.net**

1.6 Backup Contact Person name and title: **William F. Scully, Operating Manager**

1.7 Backup Contact Person address and contact information:
Address: **P.O. Box 338**
North Bennington, Vermont 05257

Phone: **(802) 379-2469** Fax: **none**
Email: **wfscully@gmail.com**

[1] Please note that all Applicants are required to complete the Renewable Energy Resources Eligibility Standard Application Form and all of the Appendices that apply to the Generation Unit or Owner or Operator that is the subject of this Form. Please omit Appendices that do not apply.

1.8 Name and Title of Authorized Representative (*i.e.*, the individual responsible for certifying the accuracy of all information contained in this form and associated appendices, and whose signature will appear on the application):

William P. Short III, Consultant

Appendix A or B (as appropriate) completed and attached? X Yes ❑ No ❑ N/A

1.9 Authorized Representative address and contact information:
Address: **P.O. Box 237173**
New York, New York 10023

Phone: **(917) 206-0001** Fax: **(917) 206-0001**
Email: **w.shortiii@verizon.net**

1.10 Owner name and title: **Hoosic River Hydro, LLC**
William F. Scully, Operating Manager

1.11 Owner address and contact information:
Address: **P.O. Box 338**
North Bennington, Vermont 05257

Phone: **(802) 379-2469** Fax: **None**
Email: **wfscully@gmail.com**

1.12 Owner business organization type (check one):
❑ Individual
❑ Partnership
❑ Corporation
X Other: **Vermont Limited Liability Company**

1.13 Operator name and title: **Hoosic River Hydro, LLC**
William F. Scully, Operating Manager

1.14 Operator address and contact information:
Address: **P.O. Box 338**
North Bennington, Vermont 05257

Phone: **(802) 379-2469** Fax: **None**
Email: **wfscully@gmail.com**

1.15 Operator business organization type (check one):
❑ Individual
❑ Partnership
❑ Corporation
X Other: **Vermont Limited Liability Company**

SECTION II: Generation Unit Information, Fuels, Energy Resources and Technologies

2.1 ISO-NE Generation Unit Asset Identification Number or NEPOOL GIS Identification Number (either or both as applicable): **NON-117304**

2.2 Generation Unit Nameplate Capacity: **0.491 MW**

2.3 Maximum Demonstrated Capacity: **0.491 MW**

2.4 Please indicate which of the following Eligible Renewable Energy Resources are used by the Generation Unit: (Check ALL that apply) – *per RES Regulations Section 5.0*

- ❑ Direct solar radiation
- ❑ The wind
- ❑ Movement of or the latent heat of the ocean
- ❑ The heat of the earth
- **X** Small hydro facilities
- ❑ Biomass facilities using Eligible Biomass Fuels and maintaining compliance with all aspects of current air permits; Eligible Biomass Fuels may be co-fired with fossil fuels, provided that only the renewable energy fraction of production from multi-fuel facilities shall be considered eligible.
- ❑ Biomass facilities using unlisted biomass fuel
- ❑ Biomass facilities, multi-fueled or using fossil fuel co-firing
- ❑ Fuel cells using a renewable resource referenced in this section

2.5 If the box checked in Section 2.4 above is "Small hydro facilities", please certify that the facility's aggregate capacity does not exceed 30 MW. – *per RES Regulations Section 3.32*

X ← check this box to certify that the above statement is true

❑ N/A or other (please explain) _____

_____

2.6 If the box checked in Section 2.4 above is "Small hydro facilities", please certify that the facility does not involve any new impoundment or diversion of water with an average salinity of twenty (20) parts per thousand or less. – *per RES Regulations Section 3.32*

X ← check this box to certify that the above statement is true

❑ N/A or other (please explain) _____

_____

2.7 If you checked one of the Biomass facilities boxes in Section 2.4 above, please respond to the following:

A. Please specify the fuel or fuels used or to be used in the Unit: _____

_____

B. Please complete and attach Appendix F, Eligible Biomass Fuel Source Plan.

Appendix F completed and attached? ❑ Yes ❑ No ❑ N/A

2.8 Has the Generation Unit been certified as a Renewable Energy Resource for eligibility in another state's renewable portfolio standard?

X Yes ❑ No If yes, please attach a copy of that state's certifying order.

Copy of State's certifying order attached? X Yes ❑ No ❑ N/A

SECTION III: Commercial Operation Date

Please provide documentation to support all claims and responses to the following questions:

3.1 Date Generation Unit first entered Commercial Operation: **8 / 29 / 17** at the site.

If the commercial operation date is after December 31, 1997, please provide independent verification, such as the utility log or metering data, showing that the meter first spun after December 31, 1997. This is needed in order to verify that the facility qualifies as a New Renewable Energy Resource.

Documentation attached? X Yes ❑ No ❑ N/A

3.2 Is there an Existing Renewable Energy Resource located at the site of Generation Unit?

❑ Yes
X No

3.3 If the date entered in response to question 3.1 is earlier than December 31, 1997 or if you checked "Yes" in response to question 3.2 above, please complete Appendix C.

Appendix C completed and attached? ❑ Yes ❑ No ❑ N/A

3.4 Was all or any part of the Generation Unit used on or before December 31, 1997 to generate electricity at any other site?

❑ Yes
X No

3.5 If you checked "Yes" to question 3.4 above, please specify the power production equipment used and the address where such power production equipment produced electricity (attach more detail if the space provided is not sufficient):

_____

_____

_____

SECTION IV: Metering

4.1 Please indicate how the Generation Unit's electrical energy output is verified (check all that apply):

❑ ISO-NE Market Settlement System
X Self-reported to the NEPOOL GIS Administrator
❑ Other (please specify below and see Appendix D: Eligibility for Aggregations):

Appendix D completed and attached? ❑ Yes X No ❑ N/A

SECTION V: Location

5.1 Please check one of the following that apply to the Generation Unit:

X Grid Connected Generation
❑ Off-Grid Generation (not connected to a utility transmission or distribution system)
❑ Customer Sited Generation (interconnected on the end-use customer side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer)

5.2 Generation Unit address: **49 Dean Road**
North Pownal, Vermont 05260

5.3 Please provide the Generation Unit's geographic location information:

A. Universal Transverse Mercator Coordinates: _____

B. Longitude/Latitude: **73^0 15'49 04" W/42^0 47'44 23" N**

5.4 The Generation Unit located: (please check the appropriate box)

X In the NEPOOL control area
❑ In a control area adjacent to the NEPOOL control area
❑ In a control area other than NEPOOL which is not adjacent to the NEPOOL control area ← *If you checked this box, then the generator does not qualify for the RI RES – therefore, please do not complete/submit this form.*

5.5 If you checked "In a control area adjacent to the NEPOOL control area" in Section 5.4 above, please complete Appendix E.

Appendix E completed and attached? ❑ Yes ❑ No ❑ N/A

SECTION VI: Certification

6.1 Please attach documentation, using one of the applicable forms below, demonstrating the authority of the Authorized Representative indicated in Section 1.8 to certify and submit this Application.

Corporations

If the Owner or Operator is a corporation, the Authorized Representative shall provide **either**:

(a) Evidence of a board of directors' vote granting authority to the Authorized Representative to execute the Renewable Energy Resources Eligibility Form, **or**

(b) A certification from the Corporate Clerk or Secretary of the Corporation that the Authorized Representative is authorized to execute the Renewable Energy Resources Eligibility Form or is otherwise authorized to legally bind the corporation in like matters.

Evidence of Board Vote provided? ❑ Yes ❑ No ❑ N/A

Corporate Certification provided? ❑ Yes ❑ No ❑ N/A

Individuals

If the Owner or Operator is an individual, that individual shall complete and attach APPENDIX A, or a similar form of certification from the Owner or Operator, duly notarized, that certifies that the Authorized Representative has authority to execute the Renewable Energy Resources Eligibility Form.

Appendix A completed and attached? ❑ Yes ❑ No ❑ N/A

Non-Corporate Entities

(Proprietorships, Partnerships, Cooperatives, etc.) If the Owner or Operator is not an individual or a corporation, it shall complete and attach APPENDIX B or execute a resolution indicating that the Authorized Representative named in Section 1.8 has authority to execute the Renewable Energy Resources Eligibility Form or to otherwise legally bind the non-corporate entity in like matters.

Appendix B completed and attached? X Yes ❑ No ❑ N/A

6.2 Authorized Representative Certification and Signature:

I hereby certify, under pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and punishment. My signature below certifies all information submitted on this Renewable Energy Resources Eligibility Form. The Renewable Energy Resources Eligibility Form includes the Standard Application Form and all required Appendices and attachments. I acknowledge that the Generation Unit is obligated to and will notify the Commission promptly in the event of a change in a generator's eligibility status (including, without limitation, the status of the air permits) and that when and if, in the Commission's opinion, after due consideration, there is a material change in the characteristics of a Generation Unit or its fuel stream that could alter its eligibility, such Generation Unit must be re-certified in accordance with Section 9.0 of the RES Regulations. I further acknowledge that the Generation Unit is obligated to and will file such quarterly or other reports as required by the Regulations and the Commission in its certification order. I understand that the Generation Unit will be immediately de-certified if it fails to file such reports.

Signature of Authorized Representative:

SIGNATURE: William P. Short III DATE: May 16, 2018

Consultant to Hoosic River Hydro, LLC
(Title)

GIS Certification #:
NON-117304

APPENDIX B
(Required When Owner or Operator is a Non-Corporate Entity Other Than An Individual)

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISION

RENEWABLE ENERGY RESOURCES ELIGIBILITY FORM
Pursuant to the Renewable Energy Act
Section 39-26-1 et. seq. of the General Laws of Rhode Island

RESOLUTION OF AUTHORIZATION

Resolved: that **William P. Short III**, named in Section 1.8 of the Renewable Energy Resources Eligibility Form as Authorized Representative, is authorized to execute the Application on the behalf of **Hoosic River Hydro, LLC**, the Owner or Operator of the Generation Unit named in section 1.1 of the Application.

SIGNATURE: William F. Scully DATE: 5/23/18

WILLIAM F. SCULLY, OPERATING MANAGER

State: Vermont

County: Bennington

(TO BE COMPLETED BY NOTARY) I, Susan A. Colliano as a notary public, certify that I witnessed the signature of the above named William P Short III and that said person stated that he/she is authorized to execute this resolution, and the individual verified his/her identity to me, on this date: 5.23.18.

SIGNATURE: Susan A. Colliano DATE: 5.23.2018

My commission expires on: 2/10/2019 NOTARY SEAL:

1 FERC - 75 FERC, 23 FERC ¶62,004, Pownal Hydropower Corporation, Project No. 6795-000, Federal Energy Regulatory Commission, (Apr. 1, 1983)

Pownal Hydropower Corporation, Project No. 6795-000

[63,002]

[¶62,004]

Pownal Hydropower Corporation, Project No. 6795-000

Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

(Issued April 1, 1983)

Robert E. Cackowski, Deputy Director, Office of Electric Power Regulation.

The Applicant [1] filed an application for exemption from all or part of Part I of the Federal Power Act (Act) pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (ESA) 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 ESA 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.

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.

[63,003]

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) Pownal Project No. 6795 as described and designated in Pownal Hydropower Corporation application filed on October 25, 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, 18 C.F.R. §4.106 , 45 Fed. Reg. 76115 (November 18, 1980).

-- Footnotes --

[1] Pownal Hydropower Corporation, Project No. 6795, filed on October 25, 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, 18 C.F.R. §375.308 (1982). 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. 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 of any other date specified in this order, except as specifically directed by the Commission.

Appendix A

Notice of Application

(Issued December 22, 1982)

a. Type of Application: 5MW Exemption

b. Project No. 6795-000

c. Date Filed: October 25, 1982

d. Applicant: Pownal Hydropower Corporation

e. Name of Project: Pownal Project

f. Location: Hoosic River, Bennington County, Vermont

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. §§2705 and 2708 as amended, and Part I of the Federal Power Act

h. Contact Person: Peter B. Clark, President, Swift River Company, Inc., 148 State Street, Boston, MA 02109

i. Comment Date: February 7, 1983

j. Description: The proposed project would consist of: (1) an existing concrete gravity overflow dam, 18 feet high and 153 feet long; (2) the replacement of 2.5-foot high flashboards; (3) a reservoir with a storage capacity of 490 acre-feet, a surface area of 77 acres, and normal water surface elevation of 516.6 feet m.s.1.; (4) two existing 8-foot diameter steel penstocks 129 feet long; (5) an existing powerhouse containing one new or rehabilitated generating unit with a capacity of 400 kW; (6) an existing tailrace; and (7) appurtenant facilities. The Applicant estimates the average annual energy production would be 1,800,000 kWh. All project energy would be sold to Central Vermont Public Service Company. All project facilities are owned by the Applicant.

[Note: Remainder of notice omitted in printing.]

155 FERC ¶ 62,037
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Town of Pownal Project No. 6795-019

ORDER AMENDING EXEMPTION AND REVISING PROJECT DESCRIPTION

(Issued April 15, 2016)

1. On December 11, 2015, and supplemented February 3 and 16, 2016, Hoosic River Hydro, LLC (Hoosic), on behalf of the Town of Pownal (exemptee), filed a proposal to replace the turbine-generator unit at the Pownal Hydroelectric Project and return the project to commercial operation. The new unit would increase the project's generating capacity from 400 to 500 kilowatts (kW). The project, which has not operated since 1988, is located on the Hoosic River, in Bennington County, Vermont.

Background

A. Project History and Description

2. The Pownal Hydropower Corporation was issued an exemption from licensing for the Pownal Project on April 1, 1983.[1] The project has not operated since February 1988 due to mechanical problems with its generating equipment. From 1999 through 2001, the cleanup of hazardous materials at the Pownal Tannery, which included the project site, was performed under the U.S. Environmental Protection Agency (EPA) Superfund program. The cleanup work included, in part, demolition of a building that served as the project powerhouse. In April 2001, a new powerhouse was constructed at the same location, approximately 120 feet downstream of the project intake gates and dam.

3. On July 19, 2002, Pownal Hydropower Corporation notified the Commission that the project had been transferred to the Town of Pownal, the current exemptee. On November 19, 2013, the exemptee notified the Commission that it had entered into an options agreement with Hoosic, under which Hoosic would redevelop and operate the project.[2] Planned redevelopment work includes repairs necessary to return the project to

[1] *Pownal Hydro Corporation*, 23 FERC ¶ 62,004 (1983).

[2] Hoosic and the Town of Pownal are collectively referred to as the exemptee in this order.

operation and cleanup of PCB-laden sediment from behind the dam that might be mobilized by project operation. The sediment removal work is being planned under the EPA Brownfields program in coordination with the Vermont Agency of Natural Resources (Vermont ANR). As proposed, the sediment removal work and the work to return the project to operation would overlap in time.

4. The following description of the project facilities is contained in the Commission's December 22, 1982, Notice of Application:[3]

> j. Description: The proposed project would consist of: (1) an existing concrete gravity overflow dam, 18 feet high and 153 feet long; (2) the replacement of 2.5-foot-high flashboards; (3) a reservoir with a storage capacity of 490 acre-feet, a surface area of 77 acres, and normal water surface elevation of 516.6 feel m.s.l.; (4) two existing 8-foot diameter steel penstocks 129 feet long; (5) an existing powerhouse containing one new or rehabilitated generating unit with a capacity of 400 kW; (6) an existing tailrace; and (7) appurtenant facilities. The Applicant estimates the annual average energy production would be 1,800,000 kWh. All energy would be sold to Central Vermont Public Service Company. All project facilities are owned by the Applicant.

B. Exemption Article 2 Terms and Conditions

5. Under standard Article 2 of the exemption, the exemptee must operate the project in compliance with any terms and conditions that federal or state fish and wildlife agencies determine appropriate to prevent loss of, or damage to, fish and wildlife resources. In a letter dated February 3, 1983, the Vermont Agency of Environmental Conservation (Vermont AEC),[4] stating that it is the state agency responsible for managing fish and wildlife, asked the Commission to withhold issuance of the exemption until it issued a water quality certification (WQC) under section 401 of the Clean Water Act saying that its conditions in the WQC would become its terms and conditions for the exemption. On March 4, 1983, Vermont AEC issued its WQC for the project. The conditions include operating the project in an instantaneous run-of-river mode, releasing a minimum instantaneous flow of 56 cubic feet per second (cfs) or inflow over the dam, and spilling all inflows when the project is not operating.

6. In a letter dated March 9, 1983, the U.S. Department of the Interior (Interior) also submitted terms and conditions. Interior required the project to be operated in an

[3] In this order, m.s.l refers to mean sea level and kWh refers to kilowatt-hours.

[4] Vermont AEC is now part of the Vermont ANR.

instantaneous run-of-river mode, required a minimum instantaneous flow of 56 cfs or inflow over the dam, and required an instantaneous discharge of 155 cfs, or project inflow from the project to protect downstream habitat. In addition, Interior stipulated that fish passage facilities be provided when prescribed by its U.S. Fish and Wildlife Service (FWS).

7. In its letter, Interior noted that the structures associated with the project may be eligible for inclusion in the National Register of Historic Places (National Register) and that a determination by the Vermont State Historic Preservation Officer (Vermont SHPO) of the project's eligibility should be made prior to granting the exemption. According to a letter issued by the Vermont SHPO on June 21, 1982, the area of potential effect for the project contained no properties of architectural or historical significance included in, or eligible for inclusion in, the National Register, and the work then proposed, including rehabilitation of the penstock, powerhouse, and other facilities would not affect known or potentially existing archaeological properties.

Exemptee's Plans

A. Repair and Replacement of Project Facilities

8. The exemptee proposes to replace the project's existing non-operable turbine-generator unit. The existing horizontal, double-runner unit would be replaced with a double-regulated Kaplan unit. The existing unit has a rated generating capacity of 400 kW and a hydraulic capacity range of 110 to 350 cfs. The new unit would have a rated generating capacity of 500 kW and a hydraulic capacity range of 66 to 350 cfs. The increased generation capacity would result from a more efficient turbine design and speed increaser, and the fact that the existing generator was undersized for its turbine.

9. In addition to replacing the turbine-generator unit, the exemptee also proposes to repair or replace a number of other project features and elements. This work would include reinstalling the 2.5-foot-high flashboards on the dam, replacing headgate timbers, repairing the project's trashracks as necessary, installing an automated trashrack rake, replacing penstock gates, installing a new penstock, and installing a new draft tube.

B. Revised Project Description

10. In its February 3, 2016 filing, the exemptee proposes revising the project description as follows (revisions are shown in italics):

> j. Description: The proposed project would consist of: (1) an existing concrete gravity overflow dam, 18 feet high and 153 feet long; (2) the replacement of 2.5-foot-high flashboards; (3) a reservoir with a storage capacity of 490 acre-feet, a surface area of 77 acres, and normal water surface elevation of 516.6 feet

m.s.l.; (4) two existing 8-foot diameter steel penstocks, 129 feet long; (5) *an existing powerhouse containing one new or rehabilitated generating unit with a capacity of 500 kW*; (6) an existing tailrace; and (7) appurtenant facilities. *The exemption-holder estimates the average annual energy production would be 3,100,000 kWh. All project energy would be allocated in a Net Metering Group within Green Mountain Power's grid. All project facilities are owned by the current exemption-holder, the Town of Pownal, Vermont.*

C. Sediment Removal and Environmental Protection Measures

11. Sediment removal work would overlap in time with the mechanical project rehabilitation work. Most of the rehabilitation work would be isolated from the river by the presence of project structures such as the headgates, secondary gates, penstock gates, and powerhouse. Sediment removal work would be planned and executed in close cooperation with Vermont ANR. This work would include dredging in the reservoir and intake canal immediately upstream of the headgates and penstocks, and some dredging and reorganizing of the riprap directly upstream of the powerhouse draft tube outlet.

12. While removing sediment, replacing the turbine-generator unit, and rehabilitating other project works, the exemptee would protect water quality by using cofferdams, silt fences, and other best management practices. The exemptee would obtain a section 404 permit from the U.S. Army Corps of Engineers (Corps) prior to any work in the river and would work closely with Vermont ANR to remove sediments as discussed above.

D. Post-Installation Hydraulic Capacity Test

13. The exemptee proposes to perform a Post-Installation Hydraulic Capacity Test to confirm that project operation with the new unit would not alter the historic operating flow regime. The existing unit has a hydraulic capacity range of 110 to 350 cfs. The proposed unit has a hydraulic capacity range of 66 to 350 cfs. Despite being able to operate at lower flows, the exemptee proposes to operate the proposed unit within the 110 to 350 cfs range. The purpose of the Post-Installation Hydraulic Capacity Test is to confirm this operation. This issue is discussed in more detail below.

E. Operation and Flow Management Plan

Normal Project Operation

14. The exemptee notes that the details of its Operation and Flow Management Plan would be determined in consultation with the resource agencies. The project would use a programmable logic controller (PLC) to control project operation based on information collected from three reservoir level sensors. The system would continuously monitor and report reservoir water levels and project operation, and would have a battery backup.

15. The project would operate with flashboards on the spillway, and the PLC would use set points to control generation and maintain reservoir surface elevations adequate to ensure a spill that would maintain the required 56 cfs of minimum flow below the dam. Under normal operation, the PLC would adjust project operation to maintain the reservoir elevations necessary to maintain the required minimum flows. When inflows are less than 166 cfs, the project would cease operation and all water would be spilled.

Ramping and Refill Rates

16. The exemptee included in its draft Operation and Flow Management Plan details on proposed ramping and refill rates. The exemptee says it would ramp flows by limiting changes in generation to 0.1 percent per second, equivalent to 20 cfs per minute, to control changes in downstream flows during planned and unplanned project shutdowns. This operation would be controlled by the project's PLC.

17. When refilling the reservoir following drawdowns for maintenance, replacing flashboards, or other events, the exemptee would release at least 90 percent of instantaneous inflow should the project be operating while refilling.

Abnormal Operation, Monitoring and Reporting

18. For planned changes in normal project operation, for example, inspection and maintenance work, the exemptee indicates that it would notify the agencies before any changes are made. During any such changes from normal operation, the ramping rate protocol above would be followed. Unplanned changes in operation would be handled in one of two ways. In the event of an emergency shutdown, the PLC would override the normal set points and shut down project operation nearly instantaneously. All inflows would be passed over the dam as spill. In the event of a station trip or non-emergency call for project shutdown, the PLC would take the project off line while following the ramping rate protocol discussed above. Again, inflows would pass over the dam as spill.

19. The project PLC would provide continuous, real time flow data for the turbines as well as total station flow, and would record any deviation from normal operations as an alarm. Alarms would be sent out via email instantaneously to project staff and owners, would be displayed in daily reports, and could be accessed in the PLC memory at any time. The PLC would store all operational data indefinitely, and would have a battery backup.

20. For planned actions that could cause deviations, the exemptee would contact Vermont ANR via email or telephone prior to the planned action. A description of the action would be provided, and further information would be supplied if requested. If an unplanned deviation were to occur, for example, an equipment failure or icing, the

exemptee would inform Vermont ANR via email or phone at its earliest convenience. Upon request, the exemptee would also electronically forward a report, no later than the next day, showing the alarms, the resulting flows, and providing a brief description of the occurrence. If applicable, the exemptee would also describe the measures taken to prevent similar occurrences in the future.

Consultation

21. On January 14, 2016, the exemptee notified Vermont ANR, FWS, and the Vermont SHPO of its plans to replace the turbine-generator unit, return the project to operation, and test the new unit to confirm that it would not alter the project's historical flow regime as exempted in 1983. The exemptee indicated that operation of the project with the new unit would be similar to operation with the existing unit and that the project's minimum and maximum hydraulic capacities would not be altered. The exemptee asked for the agencies' concurrence that operation would not violate the terms and conditions of the project exemption. The exemptee received responses from Vermont ANR and FWS, which are the agencies that set fish and wildlife terms and conditions for the project, but did not receive a response from the Vermont SHPO.

22. In a letter dated February 1, 2016, Vermont ANR said the exemptee's proposal would not modify the project's design, intake, or discharge location. Vermont ANR acknowledged that, although the new turbine-generator unit could be operated with flows as low as 66 cfs, the exemptee was only proposing to generate with flows as low as 110 cfs. That would mean the project would not operate until inflows reached a minimum of 166 cfs (110 cfs needed for the unit and 56 cfs needed for minimum flows).

23. Vermont ANR also acknowledged the exemptee's proposal to develop an Operation and Flow Management Plan, subject to agency approval, and recommended the exemptee coordinate its Post-Installation Hydraulic Capacity Test with Vermont ANR and FWS to ensure project operation complies with agency terms and conditions.

24. In a letter dated February 10, 2016, FWS requested more details on the exemptee's proposed project operation, including how the exemptee would ensure the new unit would not operation below 110 cfs. FWS also requested more detail on how and when the agencies would be provided with the results of Post-Installation Hydraulic Capacity Test, including validation of the specified operating range. The FWS indicated that, after it receives the requested information, it would be able to determine whether operation with the new unit would cause the project to violate the terms and conditions of the exemption.

Public Notice and Responses

25. On March 2, 2016, the Commission issued a public notice of the exemptee's application, requesting comments, motions to intervene, and protests. Vermont ANR and the Vermont Natural Resources Council filed motions to intervene on March 14 and March 17, 2016, respectively. Neither organization included comments with their intervention.

26. The Vermont Council of Trout Unlimited (Vermont TU) filed a motion to intervene and comments on March 17, 2016. In its comments, Vermont TU expressed the need for conservation flow releases, ramping rates, maintaining water quality, and minimizing impacts to recreation. Vermont TU says the exemptee provided scant information on how it would comply with the project's terms and conditions, the WQC, and how the exemptee would avoid affecting historic properties. Vermont TU also suggests that more recent information on water quality and aquatic habitat is needed for the action. Finally, Vermont TU expressed concern about the management of contaminated sediment that may be discharged by project operation.

27. On March 23, 2016, the exemptee responded to Vermont TU's intervention and comments as well as issues raised in earlier letters from Vermont ANR and FWS. The exemptee noted that none of the filings protested the proposed changes. The exemptee pointed out that Vermont ANR would have required a new WQC if it believes one was necessary. Further, the exemptee expresses that it has provided all needed information, commensurate with the scope of the amendment application, and that it has addressed all relevant concerns expressed by both Vermont ANR and the FWS.

Discussion and Conclusions

28. The Pownal Project has not operated since 1988 due to mechanical problems with its generating equipment. This order approves the exemptee's proposal to replace the project's turbine-generator unit with a new unit so the project can resume operation. The proposed new unit would increase the project's maximum generating capacity from 400 to 500 kW. This order also revises the project description to reflect the installation of the new unit.

29. The primary issues raised by Vermont ANR, FWS and Vermont TU focus on operating the project within its historical flow regime of 110 to 350 cfs despite the new unit's ability to generate at lower flows. Other concerns from Vermont TU include the amount of information needed to review this matter and project effects to water quality. These concerns are discussed below.

A. Project Operation, Water Quantity and Flows

30. Vermont ANR, FWS, and Vermont TU each expressed concerns regarding project operation and its effects on flows. The two agencies request that the exemptee coordinate its Post-Installation Hydraulic Capacity Test with them once the new unit is installed, and both indicate that the results of the test are necessary for them to determine whether project operation would comply with the terms and conditions of the exemption. Vermont ANR indicates that the exemptee's draft Operation and Flow Management Plan would need to be finalized and would need their approval.

31. So that the Vermont ANR and FWS can determine whether operation of the project with the new unit would comply with the terms and conditions of the project exemption, the exemptee needs to obtain, from both agencies, written approval of the test procedures to be used in the Post-Installation Hydraulic Capacity Test, and agreement from the agencies regarding the results necessary to determine whether the project can be operated in compliance with its terms and conditions. In addition, the exemptee needs to schedule the hydraulic capacity test in cooperation with the agencies so that agency representatives can attend the test if they so choose. Paragraph (D) of this order requires the exemptee to finalize and then complete its Post-Installation Hydraulic Capacity Test in consultation with the agencies. The exemptee must then file a report with its test results along with agency approvals with the Commission before starting commercial operation.

32. Operation of the project using the exemptee's draft Operation and Flow Management Plan would also help ensure compliance with the project's terms and conditions and ensure further protection to downstream resources and recreation through use of appropriate reservoir refill and ramping rates, an issue raised by Vermont TU. In addition, under the draft plan, the exemptee would follow specified monitoring, recording, and reporting protocols. However, the plan has not been finalized with, or approved by the Vermont ANR and FWS. Also, we note that the draft plan is unclear concerning notification of the resource agencies regarding planned reservoir drawdowns, and what information would be included in such notifications. The draft plan should also include a provision for notifying the Commission of planning drawdowns. Therefore, paragraph (E) of this order requires the exemptee to include this information in its final Operation and Flow Management Plan and to file the final plan, with copies of approvals from Vermont ANR and FWS, for Commission approval.

33. Completing the measures described above regarding the Post-Installation Hydraulic Capacity Test and the Operation and Flow Management Plan adequately address resource agency concerns and the concerns expressed by Vermont TU regarding project effects to flows in the Hoosic River. In addition, paragraph (J) specifies requirements the exemptee must follow when reporting any deviations from run-of-river

operation, ramping rates, and refill rates contained in its final Operation and Flow Management Plan.

B. Water Quality

34. In its intervention, Vermont TU expressed concern for management of contaminated sediment and the possibility that the sediments could be discharged by project operation. We understand the significance of these and other environmental issues raised by Vermont TU in this proceeding. In response, we note that the contaminated sediment work would occur prior to project operation and would be planned and executed in coordination with the Vermont ANR. Also, as described under *Sediment Removal and Environmental Protection Measures*, water quality would be protected by using cofferdams, silt fences, and other best management practices. Further, the exemptee would need to follow any requirements contained in a 404 permit from the Corps. Finally, for the work under the Commission's jurisdiction, the exemptee must follow a Soil Erosion and Sediment Control Plan that is determined to be satisfactory by the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer as described in *Administrative Provisions* below and required by paragraph (G) of this order. Compliance with these water quality protection requirements should ensure that actions approved in this order do not result any material adverse impacts on water quality.

C. Historic Resources

35. In its intervention, Vermont TU noted concern for effects to historic properties. In review of this issue, we note that the project features and areas involved in the exemptee's current proposal were disturbed or modified when the project was developed after issuance of the 1983 exemption. Additionally, the project area was again disturbed during the Superfund work in 1999-2001, including demolition of the building that served as the original powerhouse. As noted under *Consultation*, on January 14, 2016, the exemptee notified the Vermont SHPO of its plans to replace the project's turbine-generator unit and return the project to commercial operation, and it has not received any response from Vermont SHPO. Finally, as explained under *Exemption Article 2 Terms and Conditions*, the Vermont SHPO wrote in a letter dated June 21, 1982 that the project area did not contain any properties of architectural or historical significance eligible for inclusion in the National Register and work involving the penstock, powerhouse, and other facilities would not affect any known or potentially existing archaeological properties that may be eligible for inclusion in the National Register.

36. However, to ensure protection of any potentially historic or archaeological resources that may be found during the work, paragraph (F) of this order requires that the exemptee cease all work immediately and contact the Vermont SHPO if any such

resources are encountered while working. This condition prohibits any further work until any necessary mitigation measures are agreed upon with the Vermont SHPO.

D. Administrative Provisions

37. To ensure the exemptee will construct and operate a safe and adequate project, ordering paragraphs (G) and (H) below require the exemptee to provide the Commission's D2SI – New York Regional Engineer, for review and approval prior to the start of construction, contract plans and specifications, and cofferdam construction drawings. The exemptee must not begin construction until the D2SI – New York Regional Engineer has reviewed and commented on the plans and specifications, determined that all preconstruction requirements have been satisfied, and authorized start of construction.

38. Upon completion of the work, the exemptee must file, for Commission approval, revised exhibits as necessary to accurately describe and show project facilities as built.[5] The exemptee must prepare the exhibits in accordance with the Commission regulations at 18 C.F.R. 4.39, 4.41, and 4.107(c). Ordering paragraph (I) requires the filing of these exhibits.

The Director orders:

(A) The Town of Pownal's (exemptee) proposal to replace the turbine-generator unit and perform associated work at the Pownal Hydroelectric Project No. 6795, as filed December 11, 2015 and supplemented February 3 and February 16, 2016, is approved, as provided in this order.

(B) ***Project Description.*** The project description, as contained in the Commission's December 22, 1982 Notice of Application, is revised to read as follows:

> j. Description: The proposed project would consist of: (1) an existing concrete gravity overflow dam, 18 feet high and 153 feet long; (2) the replacement of 2.5-foot-high flashboards; (3) a reservoir with a storage capacity of 490 acre-feet, a

[5] The naming conventions the Commission uses for project exhibits have changed since the exemption was granted for this project. The Exhibit G designation is for general design drawings of principal project features; however, this type of drawing is now referred to as Exhibit F in 18 C.F.R. § 4.41(g). The Exhibit B designation for exhibits depicting maps of the project boundary is now referred to as Exhibit G in 18 C.F.R. § 4.41(h). To be consistent with the original exemption, we will continue to use the exhibit labeling conventions used in the exemption order.

surface area of 77 acres, and normal water surface elevation of 516.6 feel m.s.l.; (4) two existing 8-foot diameter steel penstocks 129 feet long; (5) an existing powerhouse containing one new or rehabilitated generating unit with a capacity of 500 kW; (6) an existing tailrace; (7) appurtenant facilities.

(C) The exemptee must not begin commercial operation at the Pownal Project until the requirements of paragraphs (D) and (E) below are fulfilled. If the exemptee determines that it cannot fulfill the requirements of these paragraphs, the exemptee must not begin commercial operation, and it must file with the Commission, within 30 days of its determination, notice that it intends to develop and file an application to amend the project exemption or take other appropriate actions.

(D) ***Post-Installation Hydraulic Capacity Test.*** The exemptee must perform its Post-Installation Hydraulic Capacity Test and file the results of the test with the Commission. Before performing the test, the exemptee must finalize, with the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS), the test procedures to be used and the results necessary to determine that the operation of the project will violate the terms and conditions of the project exemption. The exemptee must schedule the test in cooperation with Vermont ANR and the FWS so that representatives of those agencies can attend the test if they so choose. The results of the test as filed with the Commission must include copies of approvals from the Vermont ANR and FWS of the test procedures, and evidence that the results of the test are satisfactory to the Vermont ANR and FWS and that these agencies agree that the operation of the project will not result in violation of the terms and conditions of the project exemption.

(E) ***Operation and Flow Management Plan.*** The exemptee must file, for Commission approval, a final version of its Operation and Flow Management Plan, including copies of letters from the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS) commenting on and approving the final plan. The final plan as filed with the Commission must specify that the exemptee will notify the Vermont ANR, FWS, and the Commission at least 30 days prior to any planned reservoir drawdown, and it must specify what information such notifications will provide, to include the reason for the drawdown, schedule, timing, and drawdown rates, and environmental protection measures that would be used.

(F) ***Unanticipated Discoveries.*** If any cultural resources are discovered during work approved in this order, the exemptee must immediately cease all work at the site. The exemptee must consult with the Vermont State Historic Preservation Officer (Vermont SHPO) and any tribes that might attach religious or cultural significance to the cultural resources to determine what steps need to be taken to evaluate the discovered cultural resources. If the resource is found to be eligible for the National Register of Historic Places, the exemptee, in consultation with the Vermont SHPO and tribes, if

applicable, must develop measures to mitigate or to avoid any adverse effects. The licensee must file with the Commission, for approval, a report on the historic property and the effects of the undertaking. If the property would be adversely affected, the report should contain the proposed mitigation measures along with any comments received from the SHPO and tribes on the report. The licensee must allow 30 days for an agency to comment. If there are no comments, the licensee must include its request for comments in the filing to the Commission. The licensee must not resume work in the vicinity of the discovered site until instructed by the Commission.

(G) ***Contract Plans and Specifications.*** At least 60 days prior to start of construction, the exemptee must submit one copy of its final contract plans and specifications and supporting design report to the Commission's Division of Dam Safety and Inspections (D2SI) – New York Regional Engineer, and two copies to the Commission (one of these must be a courtesy copy to the Director, D2SI). The submittal must also include as part of preconstruction requirements: a Quality Control and Inspection Program, Temporary Construction Emergency Action Plan, and Soil Erosion and Sediment Control Plan. The exemptee may not begin construction until the D2SI – New York Regional Engineer has reviewed and commented on the plans and specifications, determined that all preconstruction requirements have been satisfied, and authorized start of construction.

(H) ***Cofferdam and Deep Excavation Construction Drawings.*** Should construction require cofferdams or deep excavations, the exemptee must: (1) have a Professional Engineer who is independent from the construction contractor, review and approve the design of contractor-designed cofferdams and deep excavations prior to the start of construction; and (2) ensure that construction of cofferdams and deep excavations is consistent with the approved design. At least 30 days before starting construction of any cofferdams or deep excavations, the exemptee must submit one copy to the Commission's Division of Dam Safety and Inspections (D2SI) - New York Regional Engineer and two copies to the Commission (one of these copies shall be a courtesy copy to the Commission's Director, D2SI), of the approved cofferdam and deep excavation construction drawings and specifications, and the letters of approval.

(I) ***As-Built Exhibits.*** Within 90 days of completion of construction of the facilities authorized by this order, the exemptee must file, for Commission approval, revised exhibits as necessary to accurately describe and show the project facilities as built.

(J) ***Reporting Deviations.*** If the exemptee determines, or is made aware of, any possible deviations from the flow release or run-of-river requirements of the project's Article 2 terms and conditions, or any possible deviations from the ramping rate and refill requirements that are given in the Operation and Flow Management Plan discussed in paragraph (E) of this order, the exemptee must file a report with the Commission within

30 days of when any such information becomes available. The report must, to the extent possible, identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental impacts resulting from the incident. The report must also include: (1) operational data necessary to assist in determining the exemptee's compliance with the applicable requirements; (2) a description of any corrective measures implemented at the time of the incident, and any measures implemented or proposed to help ensure that similar incidents do not recur; and (3) copies of any comments or correspondence received from resource agencies regarding the incident. A copy of the report must be provided to the Vermont Agency of Natural Resources and the U.S. Fish and Wildlife Service at the same time it is filed with the Commission.

(K) The Commission reserves the right to require changes to project structures or operations based on information from the studies and plans required by this order, or information provided by state or federal resource agencies, to ensure compliance with state and federal regulations at the Pownal Hydroelectric Project.

(L) 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 Federal Power Act, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2015). 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 exemptee's failure to file a request for rehearing shall constitute acceptance of this order.

/for/
Steve Hocking, Chief
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

155 FERC ¶ 62,061
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Town of Pownal Project No. 6795-019

ORDER AMENDING EXEMPTION

(Issued April 22, 2016)

1. On April 15, 2016, the Commission issued an Order Amending Exemption and Revising Project Description (April 15 order) that approved, in part, the installation of a new turbine-generator unit at the Pownal Project. The project is owned by the Town of Pownal (exemptee) and is being redeveloped by Hoosic River Hydro, LLC.[1] The project is located on the Hoosic River in Bennington County, Vermont.

2. On April 18, 2016, the exemptee requested that the April 15 order be further amended to remove a condition that requires the exemptee to complete post-installation hydraulic testing before starting commercial operation. The exemptee says commercial operation must begin in order to complete this testing.

Background

3. The Pownal Project was exempted from licensing on April 1, 1983.[2] The project has not operated since February 1988, due to mechanical problems with its generating equipment. On December 11, 2015, supplemented February 3 and February 16, 2016, the exemptee filed plans to replace the project's turbine-generator unit and to make other repairs necessary to return the project to operation. The project's existing unit has an installed capacity of 400 kilowatts (kW) and a hydraulic capacity range of 110 to 350 cubic feet per second (cfs). The proposed new unit would have an installed capacity of 500 kW and a hydraulic capacity range of 66 to 350 cfs. The exemptee proposes to operate the new unit within the same hydraulic capacity range (110-350 cfs) as the old unit being replaced and proposes to perform a Post-Installation Hydraulic Capacity Test to verify this operation.

[1] As explained in the April 15 order, the Town of Pownal and Hoosic River Hydro, LLC are collectively referred to as the exemptee in this order.

[2] *Pownal Hydro Corporation*, 23 FERC ¶ 62,004 (1983).

4. The April 15 order approved the proposed new unit and revised the project description accordingly. However, paragraph (C) of the order prohibited commercial operation until the Post-Installation Hydraulic Capacity Test had been completed.

Exemptee's Request

5. In its April 18, 2016 filing, the exemptee says it must initiate commercial operation in order to complete the Post-Installation Hydraulic Capacity Test, i.e., the generator must be hooked up and generating power. The exemptee says paragraph (C) misinterprets its proposal and makes it impossible to move forward with redeveloping the project. The exemptee asks the Commission to delete paragraph (C) and says time is of the essence given its schedule for redeveloping the project. The exemptee also requests specific changes to the language in paragraphs (D) and (E) of the order – adding specific due dates for filing test procedures, test results, and the filing of an Operation and Flow Management Plan with the resource agencies and/or the Commission.

Discussion

6. The exemptee's April 18, 2016 filing clarifies that the proposed new unit must be operating under load in order to test the operation of the new unit. Paragraph (C) is therefore misplaced, and should be deleted from the April 15 order. The intent of paragraph (C) was to ensure that testing is done to the satisfaction of the Vermont Agency of Natural Resources and the U.S. Fish and Wildlife Service, who provided terms and conditions for the exemption. This will still be done via the conditions in paragraphs (D) and (E).

7. Concerning the specific changes the exemptee proposes to ordering paragraphs (D) and (E), we do not believe these changes should be made at this time. The exemptee is soliciting comments on these changes from the above resource agencies and from the Vermont Natural Resources Council and Vermont Trout Unlimited. Once the exemptee receives comments and files them with the Commission, the Commission can act on the exemptee's proposed changes to ordering paragraphs (D) and (E).

The Director orders:

(A) The Town of Pownal's April 18, 2016 request to amend the April 15, 2016 Order Amending Exemption and Revising Project Description (April 15, 2016 order) is approved as provided in this order.

(B) Paragraph (C) of the April 15, 2016 order is deleted.

(C) 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 Federal Power Act, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2015). 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 exemptee's failure to file a request for rehearing shall constitute acceptance of this order.

Steve Hocking, Chief
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

155 FERC ¶ 62,219
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Town of Pownal Project No. 6795-019

ORDER AMENDING EXEMPTION

(Issued June 16, 2016)

1. On May 20, 2016, and supplemented May 31, 2016, Hoosic River Hydro, LLC (Hoosic), on behalf of the Town of Pownal (exemptee),[1] filed a request to amend the Commission's Order Amending Exemption and Revising Project Description issued for the exemptee's Pownal Project on April 15, 2016 (April 15 order).[2] The project is located on the Hoosic River in Bennington County, Vermont.

Background

2. The Pownal Project was exempted from licensing on April 1, 1983.[3] As exempted, the project included a single turbine-generator unit with an installed capacity of 400 kilowatts (kW) and a hydraulic capacity range of 110 to 350 cubic feet per second (cfs). The project exemption includes standard Article 2 terms and conditions from the Vermont Agency of Environmental Conservation (Vermont AEC)[4] and the U.S. Department of the Interior (Interior) stipulating that the project be operated in an instantaneous run-of-river mode and that it release specified instantaneous minimum flows both over the dam and downstream of the project. The project has not operated since February 1988, due to mechanical problems with its generating equipment.

3. On December 11, 2015, the exemptee filed plans to replace the project's turbine-generator unit with a new unit possessing a generating capacity of 500 kW and a hydraulic capacity range of 66 to 350 cfs, and to make other repairs necessary to return the project to operation. The exemptee indicated that the new unit would be operated within the project's historic hydraulic range of 110 to 350 cfs to ensure compliance with the project's terms and conditions. The exemptee included a proposal to perform a post-installation hydraulic capacity test (hydraulic test) to confirm that the project could be

[1] These entities are collectively referred to as the exemptee in this order.

[2] *Town of Pownal*, 155 FERC ¶ 62,037 (2016).

[3] *Pownal Hydro Corporation*, 23 FERC ¶ 62,004 (1983).

[4] The Vermont AEC is now part of the Vermont Agency of Natural Resources (Vermont ANR).

operated within that range, and a draft operation and flow management plan to be finalized with Vermont ANR and Interior's U.S. Fish and Wildlife Service (FWS).

4. The Commission's April 15 order approved the installation of the new 500-kW unit and revised the project description accordingly. However, Vermont ANR and FWS, as well as the Vermont Natural Resources Council and the Vermont Council of Trout Unlimited (Vermont TU), who intervened in the proceeding, raised concerns regarding the project's ability to operate within its historic range. To help ensure operational compliance, the April 15 order included paragraphs (D) and (E), as reproduced below, regarding the hydraulic test and the operation and flow management plan. Further, the order's paragraph (C) specified that the exemptee not begin commercial operation at the project until the requirements of paragraphs (D) and (E) are fulfilled.

> (D) ***Post-Installation Hydraulic Capacity Test.*** The exemptee must perform its Post-Installation Hydraulic Capacity Test and file the results of the test with the Commission. Before performing the test, the exemptee must finalize, with the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS), the test procedures to be used and the results necessary to determine that the operation of the project will violate the terms and conditions of the project exemption. The exemptee must schedule the test in cooperation with Vermont ANR and the FWS so that representatives of those agencies can attend the test if they so choose. The results of the test as filed with the Commission must include copies of approvals from the Vermont ANR and FWS of the test procedures, and evidence that the results of the test are satisfactory to the Vermont ANR and FWS and that these agencies agree that the operation of the project will not result in violation of the terms and conditions of the project exemption.
>
> (E) ***Operation and Flow Management Plan.*** The exemptee must file, for Commission approval, a final version of its Operation and Flow Management Plan, including copies of letters from the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS) commenting on and approving the final plan. The final plan as filed with the Commission must specify that the exemptee will notify the Vermont ANR, FWS, and the Commission at least 30 days prior to any planned reservoir drawdown, and it must specify what information such notifications will provide, to include the reason for the drawdown, schedule, timing, and drawdown rates, and environmental protection measures that would be used.

5. On April 18, 2016, the exemptee requested that the April 15 order be amended to remove paragraph (C), stating that commercial operation must be started in order to complete the hydraulic test. The exemptee also requested specific changes to ordering paragraphs (D) and (E).

6. In an order issued April 22, 2016, the Commission determined that the intent of the April 15 order's paragraph (C) would be accomplished through the requirements in paragraphs (D) and (E), and therefore the order's paragraph (C) could be deleted. However, the Commission declined to make the proposed changes to the order's paragraphs (D) and (E), noting that the exemptee was in the process of soliciting comments from Vermont ANR, FWS, Vermont Natural Resources Council and Vermont TU. The Commission indicated that, once the exemptee files comments from those entities, it could act on the proposed changes to those paragraphs.

Exemptee's Request

7. In its May 20, 2016 filing, the exemptee renews its request to amend the April 15 order's paragraphs (D) and (E), indicating that the changes would help coordinate the timing of the hydraulic testing and development of the operation and flow management plan, and provide deadlines for certain actions.[5] Specifically, the exemptee requests the following changes to paragraph (D).

a. Modify the first sentence to clarify that the hydraulic testing is to be performed during the commissioning and testing of the project.

b. Modify the second sentence to specify that the exemptee submit the specified information to the agencies 90 days before project commissioning, rather than before performing the hydraulic test, and that the information be submitted for agency comment, rather than for finalizing with the agencies.

c. Add two sentences before the final sentence, indicated that if, during the hydraulic testing, the exemptee is unable to correct any deviations from operational compliance, that the project be taken off line until it can be brought into compliance, and that documentation of the test and results be submitted to the agencies within 14 days of receipt of the results.

d. Modify the last sentence to specify that the results of the hydraulic test and the specified correspondence from the agencies be filed with the Commission within 7 days of receipt of final comments from the agencies.

8. The exemptee also requests that the first sentence of paragraph (E) be changed to specify that the final version of its operation and flow management plan be filed with the Commission within 90 days of receipt of results of the hydraulic test.

[5] The specific wording changes now requested by the exemptee are slightly different from those identified in its April 18, 2016 request.

Consultation

9. The exemptee included with its May 20, 2016 filing copies of comments from the FWS, Vermont Natural Resources Council, and Vermont TU. In its May 31, 2016 supplement, it provided copies of comments from Vermont ANR.

10. The FWS and the Vermont ANR both support the exemptee's plan for conducting the hydraulic testing and then incorporating the test results into the operation and flow management plan. Both agencies indicated the exemptee must be able to provide assurance that it can operate the project within the requirements of its exemption. The FWS indicated that this assurance should be through a monitoring program using verifiable benchmarks such as head-pond set points and gate settings.

11. The Vermont Natural Resources Council and Vermont TU indicated that they would defer to the resource agencies, but they requested the opportunity to comment on a draft of the operation and flow management plan.

Discussion

12. The exemptee's requested changes to paragraphs (D) and (E) of the April 15 order would clarify that the hydraulic test can occur during the commissioning and testing of the project with the new turbine, and require that the project must be taken off line until any compliance problem identified during testing are corrected. The insertion of specific time frames would help ensure that actions required by the ordering paragraphs are completed in a timely manner. The changes would also help ensure the exemptee's compliance with the project's Article 2 terms and conditions, and the Vermont ANR and FWS have agreed to the changes. Therefore, we find that the requested changes to paragraphs (D) and (E) of the April 15 order should be approved.

13. We note that the exemptee does not address requests from the Vermont Natural Resources Council and Vermont TU for an opportunity to comment on a draft of the operation and flow management plan. Because these entities, who were intervenors in the April 15 order's proceeding, have shown clear interests in the project's operation and compliance, this order requires the exemptee to provide a draft of that plan to these entities for a comment period of not less than 30 days, and to then address any comments received, in the plan filed with the Commission.

The Director orders:

(A) The Town of Pownal's (exemptee) May 20, 2016 request, supplemented May 31, 2016, to amend paragraphs (D) and (E) of the Commission's April 15, 2016 Order Amending Exemption and Revising Project Description (April 15, 2016 order) is approved, as provided in this order.

(B) Paragraph (D) of the April 15, 2016 order is amended to read:

(D) ***Post-Installation Hydraulic Capacity Test.*** The exemptee must perform its Post-Installation Hydraulic Capacity Test during the commissioning and testing of the project and file the results of the test with the Commission. At least 90 days prior to commissioning of the project, the exemptee must submit for comment, to the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS), the test procedures to be used and the results necessary to determine that the operation of the project will not violate the terms and conditions of the project exemption. The exemptee must schedule the test in cooperation with Vermont ANR and the FWS so that representatives of those agencies can attend the test if they so choose. If, during the testing, the exemptee is unable to correct any deviations from operational compliance, the project must be taken off line until such a time as it can be brought into compliance. Documentation of the tests and the results must be filed with Vermont ANR and FWS within 14 days of receipt of the testing results. The results of the test must be filed with the Commission within 7 days of receipt of final comments from Vermont ANR and FWS. The filing must include copies of approvals from the Vermont ANR and FWS of the test procedures, and evidence that the results of the test are satisfactory to those agencies and that those agencies agree that the operation of the project will not result in violation of the terms and conditions of the project exemption.

(C) Paragraph (E) of the April 15, 2016 order is amended to read:

(E) ***Operation and Flow Management Plan.*** Within 90 days of receipt of the results of the Post-Installation Hydraulic Capacity Test discussed in (D) above, the exemptee must file, for Commission approval, a final version of its Operation and Flow Management Plan, including copies of letters from the Vermont Agency of Natural Resources (Vermont ANR) and the U.S. Fish and Wildlife Service (FWS) commenting on and approving the final plan. The final plan as filed with the Commission must specify that the exemptee will notify the Vermont ANR, FWS, and the Commission at least 30 days prior to any planned reservoir drawdown, and it must specify what information such notifications will provide, to include the reason for the drawdown, schedule, timing, and drawdown rates, and environmental protection measures that would be used.

(D) The exemptee must provide a draft of its Operation and Flow Management Plan discussed in (C) above to the Vermont Natural Resources Council and the Vermont Council of Trout Unlimited for a comment period of not less than 30 days. The final version of the plan as filed with the Commission must include copies of, and address any comments received from, these entities.

(E) 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 Federal Power Act, 16 U.S.C. § 825*l* (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2015). 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 exemptee's failure to file a request for rehearing shall constitute acceptance of this order.

Steve Hocking, Chief
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

Document Content(s)