

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

North Hartland, LLC

Project No. 2816-026

ORDER GRANTING REHEARING

(Issued December 31, 2003)

1. In this order we grant Central Vermont Public Service Company's (Central Vermont) request for rehearing of our October 7, 2003 order in this proceeding,¹ which among other things amended the description of the primary transmission line for the North Hartland Hydroelectric Project No. 2816, located at a U.S. Army Corps of Engineers dam on the Ottauquechee River in Windsor County, Vermont. The October 7 Order included as project works the poles to which the project's primary transmission line are attached; this order determines that the poles are not project works.

2. The North Hartland Project was licensed in 1981² and operated until 1996, when the licensee, Vermont Electric Generation & Transmission Cooperative, Inc. (VEGT), ceased project operations and filed for bankruptcy. In 1999, VEGT, by and through its bankruptcy trustee, sold the project to North Hartland, LLC, and in 2000 the Commission approved the transfer of the project license from the trustee to North Hartland.³ The transfer will become effective when title to the properties under license is transferred to North Hartland. For a variety of reasons, North Hartland has not yet obtained title to the project and therefore is not yet the licensee.

3. On July 28, 2003, in response to a request by North Hartland, we amended the Project No. 2816 license, effective when North Hartland becomes the licensee, to include

¹ See 105 FERC ¶ 61,038 (2003).

² As currently licensed, the project comprises an outlet conduit at the federal dam, a penstock leading from the outlet to the project powerhouse, a tailrace, a few thousand feet of primary transmission line, and ancillary facilities.

³ 91 FERC ¶ 62,227 (2000).

as a licensed project work⁴ the entire length of the project's primary line. A primary line is the line that is essential for and used solely to transmit power from the licensed project to a load center.⁵ The North Hartland Project's primary line constitutes roughly one mile of licensee-owned line and a six-mile-long segment of three-phase circuit transmission line owned by Central Vermont and connecting the project to Central Vermont's distribution system at its Quechee substation. The three-phase circuit line segment is attached to Central Vermont transmission poles, to which are also attached Central Vermont's single-phase electrical distribution circuit (Distribution Line 66, serving retail customers).

4. At the end of our October 7, 2003 Order, after we had disposed of the issues on rehearing, we stated: "We also include as project works the poles to which the approximately six miles of three-cycle primary line are attached, since maintenance of the primary line depends in significant part on maintenance of the associated poles."⁶

DISCUSSION

5. On rehearing, Central Vermont asks us to remove the six-mile stretch of poles along its Distribution Line 66 from our definition of the project's primary transmission line works. Central Vermont asserts that North Hartland needs only sufficient rights in the poles to attach the three-phase circuit and to perform necessary maintenance on that circuit. It also notes that these poles are part of its integrated distribution system, and expresses concern that if they are included in the license, its ability to provide reliable and economical service to its retail customers could be seriously compromised.

6. Our experience with jointly used facilities is that their inclusion in a project license does not materially interfere with their non-project use, for the simple reason that the parties' joint-use agreements are careful to preclude such conflicts. However, on reconsideration we conclude that, in the unusual circumstances of this case, the poles at issue need not be included as project works, and therefore the licensee need not acquire any rights to maintain said poles. Fact scenarios of this kind require us to draw a line with respect to where a project under FPA Part I "ends."

⁴ A licensee is required to acquire fee title to, or the right to use in perpetuity, all licensed project property, including the primary line, needed to accomplish all project purposes. *See* 91 FERC ¶ 62,227, ordering para. C(1).

⁵ *See* 104 FERC ¶ 61,151 at P 8.

⁶ 105 FERC ¶ 61,038 at P 16. North Hartland has expressed no view on the need for the poles to be project works.

7. We will grant rehearing and amend our order of October 7, 2003, in this proceeding to reverse the finding that the transmission line poles referenced therein are project works.

The Commission orders:

(A) Central Vermont Transmission Public Service Corporation's November 6, 2003 request for rehearing is granted.

(B) Ordering Paragraph (B)(2), item (7)(c), of the license for the North Hartland Project, 17 FERC ¶ 62,307 at 63,528 (1981), is amended to read as follows:

(c) approximately six miles of 12.5-kV, three-phase line of Central Vermont's Distribution Line (Line 66) along Clay Hill Road, interconnecting with a 12.5-kV common utility line at transfer trip #179 and ultimately connecting to Central Vermont's 46-kV transmission system at the Quechee Substation;

By the Commission.

(S E A L)

Magalie R. Salas
Secretary