

108 FERC ¶ 61,153
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

City of Saxman, Alaska

Project No. 11393-021

ORDER GRANTING STAY OF LICENSE

(Issued August 5, 2004)

1. This order grants the request of the City of Saxman, Alaska (Saxman), licensee for the Mahoney Lake Hydroelectric Project No. 11393, that the license issued for the project in 1998 be stayed until further order of the Commission, consistent with legislation passed on Saxman's behalf.¹

Background

2. On January 22, 1998, Saxman was issued an original license to construct, operate, and maintain the proposed 9.6-megawatt Mahoney Lake Hydroelectric Project.² The project is to be located on Upper Mahoney Lake and Upper Mahoney Creek, near the Community of Ketchikan in Ketchikan Borough, southeast Alaska.

3. Section 13 of the Federal Power Act, 16 U.S.C. § 806, requires that construction of a licensed project be commenced within two years of issuance of the license. Section 13 authorizes the Commission to extend this deadline once, for a maximum additional two years. If project construction has not commenced by this deadline, the Commission is required to terminate the license. Section 13 also authorizes the Commission to extend the deadline for completion of construction when not incompatible with the public interest.

¹ The filing was made by Ketchikan Electric Company in its capacity as Saxman's agent in this matter.

² 82 FERC ¶ 62,041 (1998).

4. Article 301 of the Mahoney Lake Project license required project construction to commence by January 21, 2000, and be completed by January 21, 2002. In 1999, the Commission staff granted the licensee's request for a two-year extension of these deadlines, to January 21, 2002, and January 21, 2004, respectively.³

5. Pub. L. No. 108-7, enacted on February 20, 2003,⁴ provides in pertinent part as follows:

Section 314. Stay and Reinstatement of FERC License No. 11393.

(a) Upon the request of the licensee for FERC Project No. 11393, the Federal Energy Regulatory Commission shall issue an order staying the license.

(b) Upon the request of the licensee for FERC Project No. 11393, but not later than six years after the date that the Federal Energy Regulatory Commission receives written notice that construction of the Swan-Tyee transmission line is completed, the Federal Energy Regulatory Commission shall issue an order lifting the stay and make the effective date of the license the date on which the stay is lifted. . . .

6. When it is completed, the Swan-Tyee transmission line will be a 57-mile-long, 138-kV line connecting the electrical system of Ketchikan Public Utilities (KPU), to which Saxman proposes to sell project power, to the systems of two other public utilities, thereby improving the amount and reliability of energy available to Ketchikan and other communities in the area.⁵

³ Order issued September 27, 1999, by the Chief of the Engineering Compliance Branch, Office of Hydropower Licensing (unreported). Saxman stated that it needed more time to compete power marketing and project design activities.

⁴ See Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7, 117 Stat. 11, February 20, 2003.

⁵ Ketchikan is on Revillagigedo Island, and its power system is isolated from the rest of the state. Ketchikan currently relies for a major portion of its electrical needs on the Four Dam Pool Power Agency's Swan Lake Project No. 2911 (located on the island 22 miles to the northeast of Ketchikan), which is operating near its design capacity. The Swan-Tyee transmission line will give Ketchikan access to surplus energy from the Power Agency's 20-MW Tyee Lake Project No. 3015, located 40 miles southeast of the City of Wrangell, on Wrangell Island, and will increase the reliability and efficiency of electrical service in the region. See U.S. Forest Service, 77 FERC ¶ 62,192 (1996).

Discussion

7. On April 6, 2004, Saxman filed its request for a stay of the Mahoney Lake Project license, pursuant to the terms of section 314(a) of Pub. L. No. 108-7. Accordingly, we are staying the license pending our further order pursuant to the terms of section 314 (b) of that law.

The Commission orders:

The City of Saxman's April 6, 2004 motion for a stay of the license for the Mahoney Lake Hydroelectric Project No. 11393 is granted, and the license is stayed effective April 6, 2004,⁶ pending further order of the Commission.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁶ Commission policy is to grant stays of hydroelectric licenses effective as of the filing date of the stay request. *See, e.g.*, Brookside Hydroelectric Co., 64 FERC ¶ 61,315 (1993).