

138 FERC ¶ 61,116
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Commissioners of Public Works of the City of
Spartanburg, South Carolina

Project No. 4632-035

ORDER GRANTING REHEARING AND CLARIFICATION

(Issued February 16, 2012)

1. The Commissioners of Public Works of the City of Spartanburg, South Carolina (Spartanburg) have filed a request for rehearing or clarification of a December 22, 2011 order accepting Spartanburg's application to surrender the license for the Clifton Mills Project No. 1.¹ As discussed below, we grant Spartanburg's request.
2. The 800-kilowatt Clifton Mills No. 1 Project is located on the Pacolet River, in Spartanburg, South Carolina. The Commission issued a license for the project to Clifton Power Corporation in 1986.²
3. The project became inoperable in 2006, when the powerhouse was vandalized. Commission staff thereafter attempted unsuccessfully to work with the then-licensee to bring the project back into operation.
4. On November 4, 2009, Spartanburg filed an application for involuntary transfer of the project license, explaining that it has acquired the project through a foreclosure auction. Spartanburg stated that it was an experienced owner of dams and operator of

¹ *Commissioners of Public Works of the City of Spartanburg, South Carolina*, 137 FERC ¶ 62,246 (2011).

² *Clifton Power Corp.*, 35 FERC ¶ 61,303 (1986).

hydropower projects, and that it intended to rehabilitate the project.³ The Commission issued an order approving the transfer of the license to Spartanburg on April 20, 2010.⁴

5. On November 30, 2010, Spartanburg filed an application to surrender the project license. Spartanburg explained that “[a]fter a comprehensive review of the conditions at the site, the significant costs required to bring the project back to operations, and the likely flow-related conditions that will be required by state and federal environmental agencies, Spartanburg Water has concluded that the project simply is not economic to operate.”⁵

6. On December 22, 2010, the Commission issued an order accepting, with modifications, the surrender application.

7. On January 23, 2012, Spartanburg filed a request for rehearing, raising only two minor issues.

8. As part of the surrender process, Spartanburg will remove the Tainter gates located at the project dam. In consequence, Ordering Paragraph (C) of the December 22 order requires the licensee to “install new signs on each pier [of the dam] . . . warning recreational boaters of the potential hazards of boating through the project’s Tainter gate openings.” Spartanburg asks to be allowed to place the signs above the piers, because the piers are too narrow to adequately hold the signs and because signs on the piers likely would be washed away during high water events. Spartanburg also explains that signs above the piers will be more visible.⁶ This request is reasonable and we will revise Ordering Paragraph (C) as Spartanburg suggests.

9. Ordering Paragraph (D) of the December 22 order provides that the licensee shall “during the removal of the Tainter gates, remove all structures from the streambed, including any rebars that could snag debris and present a hazard to recreational users.” Spartanburg asks for clarification that it is not required to remove structures within the entire river stretch encompassed within the project boundary, but rather only in the area

³ Spartanburg’s consultants estimated that the cost of bringing the project back into operation would be at least \$1.2 million. *See* Spartanburg filing of June 17, 2010, at Appendix A (June 15, 2010 letter from Paul E. Cyr (Kleinschmidt Associates) to Mr. Ken Tuck (Spartanburg)).

⁴ *Commissioners of Public Works of the City of Spartanburg, South Carolina*, 131 FERC ¶ 62,051 (2010).

⁵ Surrender Application at 1.

⁶ *See* Request for Rehearing at 3.

of the Tainter gates, including areas immediately upstream and downstream of the gates.⁷ We believe that Spartanburg's interpretation of Ordering Paragraph (D) is reasonable and accordingly grant the requested clarification.

The Commission orders:

(A) The request for rehearing and clarification filed by the Commissioners of Public Works of the City of Spartanburg, South Carolina of January 23, 2012, is granted as set forth in this order.

(B) Ordering Paragraph (C) of the December 22, 2011 order modifying and accepting application for surrender of license is revised to read as follows:

The licensee shall install new signs above each pier and one sign approximately 100 feet upstream of the structure warning recreational boaters of the potential hazards of boating through the Tainter gate openings. The licensee shall provide photographic documentation to the Commission by April 18, 2012, showing that the signs have been installed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁷ See *id.* at 4-5.