

153 FERC ¶ 61,201
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Minneapolis Leased Housing Associates IV, Limited Partnership Project No. 14628-006

ORDER GRANTING REQUEST FOR REHEARING

(Issued November 19, 2015)

1. On October 5, 2015, Northern States Power Company-Minnesota d/b/a Xcel Energy, Inc. (Xcel) filed a request for rehearing of Commission staff's September 4, 2015 order¹ issuing an original license to Minneapolis Leased Housing Associates IV, Limited Partnership (Minneapolis Housing Associates) for the 600-kilowatt A-Mill Artist Lofts Hydroelectric Project No. 14628 (A-Mill Project), to be located at the historic Pillsbury "A" Mill on the Mississippi River in the City of Minneapolis, Hennepin County, Minnesota. We grant Xcel's request for rehearing, as discussed below.

Background

2. On September 4, 2015, Commission staff issued an original license to Minneapolis Housing Associates for the construction and operation of the A-Mill Project. The project will be located at the existing Pillsbury "A" Mill building, a historic mill building located on the Mississippi along the east bank of the reservoir of Xcel's 12.4-megawatt St. Anthony Falls Project No. 2056.² As proposed by Minneapolis Housing Associates, the license authorizes the A-Mill Project to operate by withdrawing water from St. Anthony Falls reservoir that is in excess of that required for operation and maintenance of the St. Anthony Falls Project.

¹ *Minneapolis Leased Housing Associates IV, Limited Partnership*, 152 FERC ¶ 62,147 (2015) (September 4 Order).

² The St. Anthony Falls Project was relicensed in 2004. *Northern States Power Company*, 106 FERC ¶ 62,185 (2004).

3. Article 404 of the September 4 Order authorizes Minneapolis Housing Associates to utilize flow from the St. Anthony Falls Project reservoir as a source of water for the A-Mill Project. Article 404 also requires that “the construction activities and operation of the A-Mill Project must be such as not to adversely affect the St. Anthony Falls Project licensee’s ability to comply with its license.”³

4. The St. Anthony Falls Project operates in a manner that provides minimum flows at the project’s main spillway to maintain the aesthetic, recreational, and cultural characteristics of the St. Anthony Falls area. Article 402 of Xcel’s license requires minimum spill flows such that a 2-inch depth across the crest of the main spillway (approximately 100 cubic feet per second) is maintained during certain hours and time periods.⁴

5. On October 5, 2015, Xcel filed a timely request for rehearing of the license order.

Discussion

6. As currently drafted, Article 404 provides:

Article 404. Use of the St. Anthony Falls Reservoir. The licensee for the A-Mill Artist Lofts Hydroelectric Project No. 14628 (A-Mill Project) is authorized to utilize flow from the St. Anthony Falls Project No. 2056 (St. Anthony Falls Project) reservoir as a source of water for the A-Mill Project when operating under this license. Furthermore, the construction activities and operation of the A-Mill Project must be such as not to adversely affect the St. Anthony Falls Project licensee’s ability to comply with its license.

7. On rehearing, Xcel requests that the Commission amend Article 404. According to Xcel, Article 404 requires two modifications.

8. First, Xcel requests that the Commission amend the first sentence of Article 404 to clarify that the A-Mill Project is only authorized to utilize flow from the St. Anthony Falls Project reservoir “that is in excess of that required for operation and maintenance of the St. Anthony Falls Project.”

³ September 4 Order, 152 FERC ¶ 62,147.

⁴ Article 403 requires Xcel to study the adequacy of the flows required by Article 402 and provides for a possible increase in flows should the study data indicate such a need. *Northern States Power Co.*, 106 FERC 64,323-24.

9. Xcel's request is reasonable and is consistent with the intent of the September 4 Order.⁵ As Commission staff explained in its environmental assessment for the A-Mill Project, "operating the A-Mill Project using available flows in excess of those required for operation and maintenance of the St. Anthony Falls Project would ensure that the operation of the St. Anthony Falls Project would not be affected by the proposed project."⁶ The Commission will revise Article 404 accordingly.

10. Second, Xcel requests that the Commission amend the second sentence of Article 404 to make clear that Minneapolis Housing Associates' construction activities or operation must not affect Xcel's ability to operate the St. Anthony Falls Project for generation and other project purposes. Xcel explains that while Article 404 prohibits A-Mill from adversely affecting Xcel Energy's ability to comply with its license, theoretically the A-Mill Project could interfere with the ability of the St. Anthony Falls Project to generate electricity at maximum levels under low-flow conditions. Specifically, Xcel asserts that A-Mill's ability to divert water from the St. Anthony Reservoir could cause the St. Anthony Falls Project to reduce generation or shut down generating units at its project during periods of low inflow in order to continue providing the minimum flows over the main spillway as required by Article 402 of its license. Xcel states that under Article 402, the minimum flows at the main spillway must be provided regardless of flow through the project's turbines.

11. Because Xcel's request to amend the language of Article 404 implements the intent of the September 4 license order, we grant Xcel's request for rehearing and amend Article 404 to include the requested language.

The Commission orders:

(A) The request for rehearing filed October 15, 2015, by Northern States Power Company -Minnesota d/b/a Xcel Energy, Inc. in this proceeding is granted.

(B) Article 404 of the license for A-Mill Artist Lofts Hydroelectric Project No. 14628 is amended to read as follows:

Article 404. *Use of the St. Anthony Falls Reservoir.* The licensee for the A-Mill Artist Lofts Hydroelectric Project

⁵ See September 4 Order, 152 FERC ¶ 62,147 at P 14 "[t]he A-Mill Project will operate using available flows in excess of those required for operation and maintenance of the St. Anthony Falls Project."

⁶September 4, 2015 A-Mill Project Environmental Assessment at 28.

No. 14628 (A-Mill Project) is authorized to utilize flow from the St. Anthony Falls Project No. 2056 (St. Anthony Falls Project) reservoir that is in excess of that required for operation and maintenance of the St. Anthony Falls Project as a source of water for the A-Mill Project when operating under this license. Furthermore, the construction activities and operation of the A-Mill Project must be such as not to adversely affect the St. Anthony Falls Project licensee's ability to operate such project for generation and other project purposes or to comply with its license.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.