

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D. C. 20426

January 24, 2014

OFFICE OF ENERGY PROJECTS

Project No. 10489-013-Wisconsin
River Falls Hydroelectric Project
River Falls, Wisconsin

Brian Hatch, Hydroelectric Facility Operator
River Falls Municipal Utilities
City of River Falls
222 Lewis St
River Falls, WI 54022

Reference: Request to Use the Traditional Licensing Process

Dear Mr. Hatch:

On November 27, 2013, the City of River Falls (City) filed a notice of intent, pre-application document (PAD), and request to use the Traditional Licensing Process (TLP) for the proposed relicensing of its 375-kilowatt (kW) River Falls Hydroelectric Project (River Falls Project or project). The project is located on the Kinnickinnic River in Pierce County, Wisconsin.

On November 28, 2013, the City published notice of its request to use the TLP. The City's notice contains the information required in section 5.3(d)(2) of the Commission's regulations, including a statement requesting that comments on the TLP request be filed with the Commission by December 27, 2013. The U.S. Fish and Wildlife Service (FWS), Kinnickinnic River Land Trust (Trust), Kiap TU Wish. Chapter of Trout Unlimited (TU), Robert W. Chambers, Dan Wilkening, Paul Goudreault, Steven B. Goff, Harry M. Waston, David F. Babcock, Susan Goode, Michael Miller, and Peter H. Dahm responded to the City's TLP request.

City's Support of TLP Request

As required by section 5.3(c)(1)(ii), the City supports its TLP request by addressing: (1) the likelihood of timely license issuance; (2) the complexity of the resource issues; (3) the level of anticipated controversy; (4) the relative cost of the TLP when compared to the Integrated Licensing Process (ILP); and (5) the amount of available information and potential for significant disputes over studies.

The City notes that the River Falls is a small project that has been in operation for over 100 years and the City is not proposing any project expansions. The City also notes that throughout the term of its original 30-year license there has been considerable study of the impact of the project's two dams on local resources and it does not anticipate significant resource issues, controversy, or disputes over studies.

The City believes that the use of the TLP would allow for project licensing in less time than using the ILP, and would be more cost effective for all parties involved. The City commits to offering pre- and post-site visit consultation with stakeholders and interested parties to ensure they are involved in the study process. It also notes that it plans to dedicate additional staff to ensure that process requirements are met, with significant opportunities for stakeholder input.

Commenters' Response to the City's TLP Request

The commenters that responded to the City's TLP request recommend that the City use the ILP instead of the TLP. Some participants prefer the ILP for the project because of greater involvement and leadership from the Commission that may enhance the likelihood of timely issuance due to a perceived lack of experience and capability of the City to lead the process. Also, commenters oppose the use of the TLP, noting concern that collaboration and consultation should take place early and often throughout the licensing process. In addition, commenters believe the ILP provides significantly more up-front stakeholder involvement.

The FWS opposes use of the TLP in this case, arguing that long term operation of a major structure on the river, such as this project, represents potential major impacts to water flow and water temperature that affect fisheries, water quality, recreational, and economic values in the community, watershed and beyond. In addition, FWS states that stakeholder groups have had little or no opportunity to review the PAD, and therefore, resource issues with the Kinnickinnic River cannot be identified as minimal.

In summary, the commenters ask the Commission to deny the City's TLP request given the potential for the proposed project to have major impacts to water, fisheries, recreational, and economic resources, and request significant involvement, collaboration, and consultation for all interested parties on potential environmental studies and effects.

Discussion

After reviewing the City's PAD and supporting documents, we don't anticipate the issues surrounding the proposed relicensing of the River Falls Project to be complex. As proposed, there would be no new construction associated with relicensing the project. The project operates in an instantaneous run-of-river mode and would likely continue to do so. Although the project has two developments, both are small dams with relatively small impoundments, and the only significant resource issue likely associated with relicensing the project is protecting existing water quality and the trout fishery in the project area.

Regarding Commission staff participation, although staff participate in a more limited role during the pre-filing stages of a TLP when compared to the ILP, the TLP provides for dispute resolution if controversies arise over studies. Regarding the likelihood of timely license issuance with the TLP, this is largely dependent upon the complexity of resource issues and the level of anticipated controversy surrounding a project proposal. As noted above, we do not anticipate the resource issues surrounding the River Falls project to be complex, nor do we expect a high level of controversy.

Conclusion

Based on staff's review of the considerations filed by the City and the commenters, we conclude that the TLP is adequate for the proposed River Falls Hydroelectric Project. Therefore, the City's TLP request for this project is approved.

To address the concerns raised about public engagement, however, I want to remind the applicant and participants about the specific TLP steps for public involvement that will need to be carried out during the licensing process (see 18 C.F.R., Part 4). Section 4.38 of the Commission's regulations describes the pre-filing steps that need to be completed when preparing an application for a hydropower license under the TLP, including consultation and conducting necessary studies [18 C.F.R. §4.38(a)-(e)]. Specific steps that will need to be carried out during pre-filing consultation include an initial joint agency/public meeting and site visit [§4.38(b)(3)]; an opportunity for participants to request studies [§4.38(b)(5)]; preparation and participant review of a draft application [§4.38(c)(4)]; and a meeting to resolve any disputes on the draft application [§4.38(c)(6)]. Please note that the initial joint agency/public meeting, is required to be held no sooner than 30 days, nor later than 60 days, from the date of this letter [§4.38(b)(3)(ii)(A)].

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If you have any questions, please contact Bryan Roden-Reynolds at (202) 502-6618 or via email at bryan.roden-reynolds@ferc.gov.

Sincerely,

Vince Yearick
Director
Division of Hydropower Licensing

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