

STATE OF NEW HAMPSHIRE

Intra-Department Communication

DATE: November 5, 2010

AT (OFFICE): NHPUC

FROM: Maureen L. Reno *MLR*
Utility Analyst

SUBJECT: Staff Recommendation Re: DE 10-087 Ampersand Gilman Hydro, LP's Certification Application for Class I and Class IV REC Eligibility of its Gilman Hydroelectric Facility Pursuant to RSA 362-F

TO: Chairman Thomas B. Getz
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius
Debra A. Howland, Executive Director

CC: Jack K. Ruderman, Director, Sustainable Energy Division
Suzanne Amidon, Staff Attorney



Summary

On March 31, 2010, Ampersand Gilman Hydro, LP (AGH) submitted an application requesting that the Commission grant approval of its Gilman hydroelectric facility (Gilman facility) to produce Class I and Class IV Renewable Energy Certificates (RECs) pursuant to RSA 362-F, New Hampshire's Renewable Portfolio Standard law. According to the application, AGH believes that all of the Gilman facility's output qualifies as eligible for Class IV RECs because the project has an operating downstream fish passage, as required by the Federal Energy Regulatory Commission (FERC). AGH also requests that the Commission certify the facility's annual electricity output in excess of its historical generation baseline as eligible for Class I RECs.

Pursuant to RSA 362-F, the Commission, in a non-adjudicative process, is required to issue a determination of whether a facility meets a particular classification within 45 days of receipt of a completed application. AGH was unable to provide five months of the twenty years of historical generation data required under N.H. Code of Administrative Rules Puc 2502.20 (a). On October 4, 2010, the applicant submitted to the Commission a request to waive Puc 2502.20 (a), pursuant to Puc 202.01 (d). If the

Commission were to waive this requirement, the application would have been completed on October 4, 2010.¹

The facility does not meet the eligibility requirements under RSA 362-F:4 as a Class IV facility because it does not have both upstream and downstream fish passages. Based on its review of the application, Staff recommends that the Commission deny the applicant's request that the Gilman hydroelectric facility receive Class IV eligibility, but allow the output in excess of the facility's historical generation baseline to be eligible for Class I RECs. Staff also recommends that the Commission grant the applicant's request for a waiver of Puc 2502.20 (a), pursuant to Puc 201.05 (b) because the applicant's proposed method serves the purpose of the rule and is in the public interest.

Analysis

The Gilman facility is a run-of-river hydroelectric facility located on the Connecticut River at 35 Riverside Drive, Gilman, Vermont. The facility consists of a refurbished concrete dam, a power canal, tailrace channel, a switching facility, a transmission line and entrance intake structure. The facility also includes a powerhouse with four generating units totaling 4.85 megawatts (MW) in gross nameplate capacity. The Gilman facility received its initial FERC license (FERC No. 2392-004) on May 17, 1965. The facility's New England Power Pool Generation Information System facility code is MSS 737.

Pursuant to RSA 362-F: 4, IV, the hydroelectric facility is required to have upstream and downstream diadromous fish passages. In accordance with the new FERC license, issued on April 13, 1994, the licensee only constructed a downstream fish passage at the Gilman facility. Therefore, the Gilman facility fails to meet the upstream diadromous fish passage requirement under RSA 362-F.

Pursuant to RSA 362-F:4, IV, the applicant must demonstrate that it has the requisite state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects. On November 20, 1992, the New Hampshire Department of Environmental Services issued a letter granting a section 401 Water Quality Certification under the Clean Water Act, subject to certain monitoring protocols and conditions.

Pursuant to RSA 362-F:4 I (i), the incremental annual electrical production from a hydropower source greater than its historical generation baseline may be eligible to produce Class I RECs, provided the Commission certifies demonstrable completion of capital investments attributable to the efficiency improvements, additions of capacity or increased renewable energy output. The record indicates that at the time AGH purchased the Gilman facility (August 2008) the four generating units functioned at a generation output of 2.72 MW, far less than its designed, gross nameplate capacity of 4.85 MW. AGH subsequently invested \$398,000 in facility upgrades that increased the functional generational output to 4.30 MW.

¹ On July 29, 2010, the applicant responded to Staff's second set of information requests, which was issued on July 16, 2010.

After the applicant responded to two rounds of Staff information requests, Staff determined that AGH's expenditures were capital investments intended to improve efficiency and increase renewable energy output. AGH has completed repairs, upgrades, and investments necessary to rehabilitate underperforming units. The upgrades and repairs include rebuilding generators, cooling systems and other replacements, which were completed in December 2008.

In addition to demonstrating that its capital investments were intended to increase efficiency or exceed capacity, the applicant must also provide the historical generation baseline, defined in RSA 362-F:2 X (b) as "the average annual electrical production from a hydroelectric facility from the later of January 1, 1986 or the date of first commercial operation through December 31, 2005." However, the applicant was unable to obtain the facility's average annual electrical production from January 1998 through May 1998.²

On October 4, 2010, AGH filed a request to waive Puc 2502.20 (a), pursuant to Puc 202.01 (d). Puc 201.05 (a) states that the Commission shall waive any of its rules, except where precluded by statute, if the Commission finds that the waiver serves the public interest and will not disrupt the orderly resolution of matters before the Commission. In determining the public interest, the Commissions shall waive the rule if compliance with the rule would be onerous or inapplicable or the purpose of the rule would be satisfied by an alternative method. *See* Puc 201.05 (b).

The applicant provided an alternative method to the historical generation baseline by using the monthly average for the proceeding 11 years to derive an estimated output during the five month period for which data was not available. These monthly averages were then included with the remaining historical generation over the 20 year period to derive 20,261 megawatt-hours. Staff believes the applicant's method to be reasonable and conservative considering the low levels of generation in the years proceeding 1998. Therefore, Staff recommends that the Commission finds that this alternative method meets the purpose of the rule and that the waiver is in the public interest. Moreover, Staff also recommends that the Commission approve the generation in excess of the historical generation baseline as eligible for Class I RECs because the applicant has demonstrated capital investments attributable to efficiency improvements, capacity additions or increased renewable output.

Pursuant to Puc 2505.02 (b) (8), the applicant must submit proof that it has "an approved interconnection study on file with the commission, is a party to a currently effective interconnection agreement, or is otherwise not required to undertake an interconnection study." The applicant submitted and Staff verified the facility's

² According to the applicant, when it purchased the facility from Dalton Hydro, LLC it didn't acquire complete records. Both AGH and PUC staff attempted to acquire the missing data by contacting the previous owners of the project, the interconnecting distribution and transmission companies, and the ISO-NE. Unfortunately, all contacted sources were unable to provide the missing data. The current distribution company (CVPS) and the previous distribution company (National Grid) only have net metered data from that period. The ISO-NE does not have generation data from 1998. Only the previous owner would have had the output data recorded from the facility's nine meters.

interconnection agreement with Central Vermont Public Service Corporation, effective June 2008.³

Pursuant to Puc 2505.02 (b) (11), the applicant is required to include a statement as to whether the facility has been certified under another non-federal jurisdiction's renewable portfolio standards and proof thereof. The applicant stated and Staff verified that, on January 27, 2010, 32.3 percent of the generation of the Gilman facility was certified as a Connecticut Class I renewable generation source and 67.7 percent qualifies as a Connecticut Class II renewable generation source.⁴

Recommendation

Staff has reviewed the Gilman facility application and can affirm it is complete pursuant to Puc 2505.01 (a). Staff recommends that the Commission deny the Gilman facility as being eligible for certification as a Class IV facility. However, Staff also recommends that the Commission grant AGH's request for a waiver of Puc 2502.20(a) and certify the facility's generation in excess of its historical generation baseline as eligible to receive Class I RECs effective October 4, 2010.

³ The agreement was initially executed between Central Vermont Public Service Corporation and Dalton Hydro, LLC, but it was transferred to Ampersand Gilman Hydro LP effective December 11, 2008.

⁴ Power from hydropower resources counts as a Connecticut Class I resource if it is produced at a run-of-the-river facility that has a generating capacity of up to five megawatts, does not cause an appreciable change in the riverflow, and began operation after July 1, 2003. The primary difference between Connecticut Class I sources and Class II sources is that Class II sources began operation before July 1, 2003.