

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: June 27, 2008

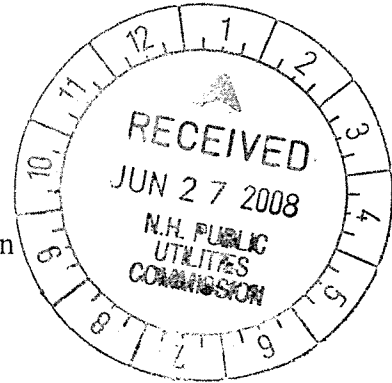
AT (OFFICE): NHPUC

FROM: Maureen L. Reno, *MLR*
Utility Analyst

SUBJECT: Docket Number DE 08-053, PSNH Small Hydroelectric Facilities
Application for Class IV Certification pursuant to RSA 362-F
Staff Recommendation

TO: Commissioners
Debra A. Howland, Executive Director and Secretary

CC: Tom Frantz, Director of the Electric Division
Steve Mullen, Assistant Director of the Electric Division
Suzanne Amidon, Staff Attorney



Summary

On April 2, 2008, Public Service Company of New Hampshire (PSNH) submitted an application requesting the Commission grant approval of eight small hydroelectric facilities in Bow, Bristol, Franklin, Gorham, Hillsborough, Hooksett, Manchester and West Stewartstown (small hydroelectric facilities) to produce Class IV renewable energy certificates (RECs) pursuant to RSA 362-F, New Hampshire's Renewable Portfolio Standard Legislation. Pursuant to RSA 362-F:4, IV, Class IV eligibility requires that a facility: 1) began operation prior to January 1, 2006; 2) has a gross nameplate capacity of 5 MWs or less; 3) has installed upstream and downstream diadromous fish passages that have been required and approved under the terms of its license from FERC or received an exemption from FERC; and 4) when required, has documented applicable state water quality certification pursuant to section 401 of the Clean Water Act.

On May 7, 2008, Granite State Hydropower Association (GSHA) filed a motion to intervene in this docket. According to GSHA, most of the hydroelectric facilities for which PSNH seeks certification fail to qualify for Class IV REC's as they violate the nameplate capacity size limits and/or fish passage requirements of RSA 362-F.

Pursuant to RSA 362-F, the Commission, in a non-adjudicative process, must issue a determination of whether a facility meets a particular classification within 45 days of a completed application. PSNH's small hydroelectric facilities application is currently incomplete as the applicant has not yet responded to Staff's requests for additional

information sent to the applicant on April 30 and May 16, 2008. Despite the incomplete application, Staff has enough information to determine that many of the small hydroelectric facilities do not meet the eligibility requirements as Class IV facilities. Specifically, Staff agrees with GSHA that the Amoskeag, Ayers Island, Eastman Falls and Garvins Falls facilities exceed the 5 MW gross nameplate capacity size requirement. However, Staff disagrees with GSHA's contention that a majority of the small hydroelectric facilities violate the fish passage requirements pursuant to RSA 362-F. Based on my review of its application, I recommend that the Commission deny the Amoskeag, Ayers Island, Eastman Falls and Garvins Falls facilities Class IV eligibility.

Analysis

The applicant's small hydroelectric facilities are run-of-river hydroelectric facilities located in New Hampshire, with the exception of Canaan which is located in Vermont and New Hampshire. The details for each facility are listed in the table below.

Facility	Date In Service	Total Gross Nameplate Capacity	NEPOOL GIS Facility Code	FERC License	River	Station Address
Amoskeag (G-2, G-3)	1924, 1922	10.00 MW	MSS 327	1893	Merrimack	15 Fletcher St Manchester, NH
Ayers Island (G-1, G-2, G-3)	1924	8.40 MW	MSS 330	2456	Pemigewasset	59 Ayers Island Rd Bristol, NH
Canaan	1927	1.10 MW	MSS 861	7528	Connecticut	344 Powerhouse Rd Canaan, VT
Eastman Falls (G-1, G-2)	1937, 1983	6.40 MW	MSS 401	2457	Pemigewasset	215 North Main St Franklin, NH
Garvins Falls (G-1, G-2, G-3, G-4)	1981, 1981, 1925, 1925	12.20 MW	MSS 768	1893	Merrimack	5 Garvins Falls Rd Bow, NH
Gorham (G-1, G-2, G-3, G-4)	1917, 1917, 1923, 1923	2.15 MW	MSS 427	2288	Androscoggin	1 Station Rd Gorham, NH
Hooksett	1927	1.60 MW	MSS 768	1893	Merrimack	73 Merrimack St Hooksett, NH
Jackman	1926	3.20 MW	MSS 449	None	North Branch Contocook	8 Sawmill Rd Hillsborough, NH

According to GSHA, the Amoskeag, Ayers Island, Eastman Falls and Garvins Falls facilities fail to qualify for Class IV RECs because they exceed the 5 MW gross nameplate capacity limit required by RSA 362-F. GSHA further states that RSA 362-F and the NHPUC's interim and proposed final rules governing certification of Class IV

existing small hydroelectric projects require that the total installed nameplate capacity of a “source” pertains to a facility or project, and not to an individual generating unit within a project. According to GSHA, the other criteria -- beginning operation date, installed fish passages and water quality standard for Class IV certification -- refer to the entire project. GSHA also asserts that the transcripts of the April 17, 2007 legislative hearing of the Senate Committee on Energy, Environment and Economic Development (Senate Energy Committee) on House Bill 873 (the bill that was enacted as RSA 362-F) show that the legislative intent was to limit eligibility to small projects with 5 MW or less, and not larger projects that have more than one turbine with a nameplate capacity of 5 MW or less. Staff agrees with this interpretation of the statute. The facilities listed above vary in total gross nameplate capacity and each facility’s size is listed in the table above. The Amoskeag, Ayers Island, Eastman Falls and Garvins Falls facilities all exceed the 5 MW gross nameplate capacity limit in RSA 362-F.

Pursuant to RSA 362-F: 4, IV, the hydroelectric facility must have upstream and downstream diadromous fish passages that have been required and approved under the terms of its license or exemption from the FERC (emphasis added). The table below lists the facilities and whether they have upstream and/or downstream fish passages.

Facility Name	Downstream Passage	Upstream Passage
Amoskeag	Yes	Yes
Ayers Island	Yes	No
Canaan	No	No
Eastman Falls	Yes	No
Garvins Falls	Yes	No
Gorham	No	No
Hooksett	Yes	No
Jackman	No	No

The Amoskeag facility has both downstream and upstream fish passages. Ayers Island, Eastman Falls, Garvins Falls, and Hooksett have downstream fish passages. The Canaan, Gorham and Jackman facilities do not have downstream fish passages as they are exempted by FERC. The Ayers Island, Canaan, Eastman Falls, Garvins Falls, Gorham, Hooksett and Jackman facilities do not have upstream fish passages as they are exempted by FERC. GSHA asserts that these facilities violate the fish passage requirements pursuant to RSA 362-F as they do not have both upstream and downstream fish passages. GSHA contends that the legislation clearly states that facilities must have installed both upstream and downstream fish passages and that testimony presented to the Senate Energy Committee clearly contemplated this requirement. Staff disagrees with this interpretation of RSA 362-F:4, IV as the statute states that the source “has installed upstream and downstream diadromous fish passages that have been required and approved under the terms of its license or exemption” from FERC (emphasis added). This statement clearly allows facilities that are exempted by FERC from installing upstream and/or downstream fish passages to be eligible to produce RECs if they otherwise meet the Class IV requirements.

Recommendation

Staff has reviewed the PSNH small hydroelectric facilities application and finds the application to be incomplete. Although the application is incomplete, Staff believes it has enough information to provide a recommendation. Staff recommends that the Commission deny the Amoskeag, Ayers Island, Eastman Falls and Garvins Falls facilities Class IV eligibility due to their violation of the 5 MW gross nameplate capacity requirement pursuant to RSA 362-F. As for the Canaan, Gorham, Hooksett and Jackman facilities, Staff is awaiting further information and will submit a recommendation upon the completion of those applications.