

STATE OF NEW HAMPSHIRE

Intra-Department Communication

DATE: March 8, 2010

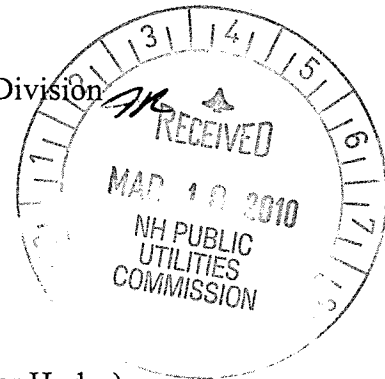
AT (OFFICE): NHPUC

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

SUBJECT: Staff Recommendation Re: DE 10-029, Black Bear Hydro Partners, LLC's Certification Application for Class I Eligibility of the Orono 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 and Secretary

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



Summary

On February 13, 2010, Black Bear Hydro Partners, LLC (Black Bear Hydro) submitted an application requesting that the Commission grant approval of the Orono Hydroelectric facility (Orono facility) to produce Class I Renewable Energy Certificates (RECs) pursuant to RSA 362-F, New Hampshire's Electric Renewable Portfolio Standard law. The Orono facility stopped operating in 1996 due to a catastrophic failure of the facility's penstock. After PPL Maine, LLC (PPL Maine), the predecessor of Black Bear Hydro, made significant capital investments to bring the facility back online, the facility began commercial operation on January 11, 2009. The new capital investments made for the purpose of restoring unusable generation capacity qualify the facility to be certified as a Class I renewable energy source, as defined in RSA 362-F:4 I(j) and the N.H. Code of Admin. Rules Puc 2502.07 (e).

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 receipt of a completed application. On February 23, 2010, Black Bear Hydro complied with Puc 2505.02 by providing all the necessary information, enabling Staff to review its application. Based on its review of the application, Staff recommends that the Commission approve the Orono facility as eligible for Class I RECs.

Analysis

The Orono run-of-river hydroelectric facility is located on the Penobscot River, 18 Water Street, Orono, Maine. The facility began commercial operation as a repowered facility on January 11, 2009 and has a gross nameplate capacity of 2.78 megawatts.¹ The NEPOOL generation information system (GIS) facility code is MSS 14695.

The Orono facility initially commenced operations in 1949, as a 2.33 megawatt facility. Due to a catastrophic failure of the facility's penstock in 1996, the facility ceased operations. On April 1, 1999, the Orono facility's license was transferred from Bangor Hydro-Electric Company to Penobscot Hydro, LLC, which later changed its name to PPL Maine, the predecessor of Black Bear Hydro.² After the Federal Energy Regulatory Commission (FERC) issued a new license (FERC No. 2710) for the Orono facility on December 8, 2005 (FERC Order), PPL Maine replaced the three failed penstocks with one concrete penstock, installed new electrical equipment, rewound the four generators, refurbished the four turbines and installed both upstream and downstream fish passages.

The tax basis of the new capital investments in plant and equipment, excluding real property and intangible assets, is \$5,441,602, which represent 88.4 percent of the facility's total federal income tax basis.³ Given these investments, the applicant has demonstrated completion of capital investments intended to restore generation to the facility and exceeds the 80 percent federal income tax basis threshold for new plants required under RSA 362-F:4, I (j).

The Orono facility is required to have upstream and downstream diadromous fish passages and must demonstrate that it has the respective state water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects pursuant to RSA 362-F:4, IV. In compliance with the FERC Order, PPL Maine installed both upstream and downstream fish passage facilities. The FERC Order also states that the Maine Department of Environmental Protection (DEP) issued a certification for the Orono facility that it meets section 401 of the Clean Water Act.⁴ Therefore, the Orono facility fish passages and Clean Water Act certification meet the requirement of RSA 362-F.

¹ The first two generation units began commercial operation on January 11, 2009 and the other two units were operational on March 3, 2009.

² Black Bear Hydro acquired the Orono facility on November 1, 2009. The applicant provided a copy of the Purchase and Sale Agreement and the FERC Order approving transfer of the FERC license from PPL Maine to Black Bear Hydro.

³ The facility's total federal income tax basis includes \$711,652.92 plus the new capital investments, \$5,441,602, totaling \$6,153,254.92. Dividing the new capital investments (\$5,441,602) by the total federal income tax basis (\$6,153,254.92) yields 88.4 percent.

⁴ The applicant also provided a copy of the Maine DEP Order, dated September 25, 2009, approving the facility's downstream fish passage effectiveness study plans. The order also requires the facility's owner to submit annual upstream and downstream fish passage studies beginning December 31, 2010.

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.” Black Bear Hydro submitted and Staff verified an interconnection agreement between PPL Maine and Bangor Hydro Electric Company, effective December 28, 2008.

Pursuant to Puc 2505.02 (b) (11), the applicant must indicate whether the Orono facility has been certified under another non-federal jurisdiction’s renewable portfolio standard and proof thereof. The Orono facility has been certified in Connecticut and Maine as a Class I renewable generation unit.

Recommendation

Staff has reviewed Black Bear Hydro’s application for the Orono facility and can affirm it is complete pursuant to Puc 2505.02. Staff recommends that the Commission certify the Orono facility as being eligible for Class I RECs effective February 23, 2010.