FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426
May 31, 2019

OFFICE OF ENERGY PROJECTS

Project No. 7189-014 – Maine
Green Lake Project
Green Lake Water Power Company

Ms. Caroline Kleinschmidt
Green Lake Water Power Company
120 Hatchery Way
Ellsworth, ME 04605

RE: Response to Request to Use the Traditional Licensing Process

Dear Ms. Kleinschmidt:

On April 1, 2019, Green Lake Water Power Company (Green Lake Power) filed a notice of intent, pre-application document (PAD), and request to use the Traditional Licensing Process (TLP) to prepare a subsequent license application for the existing Green Lake Project (project), located on Green Lake and Reeds Brook in Hancock County, Maine.

Pursuant to section 5.3 of the Commission's regulations, a potential license applicant requesting authorization to use the TLP must address the following considerations: (1) likelihood of timely license issuance; (2) complexity of the resource issues; (3) level of anticipated controversy; (4) relative cost of the TLP compared to the default Integrated Licensing Process (ILP); (5) the amount of available information and potential for significant disputes over studies; and (6) other factors believed by the applicant to be pertinent.[1]

In support of its request to use the TLP, Green Lake Power states that timely license issuance is likely with the use of the TLP because: (1) Green Lake Power is not proposing to change existing project facilities or operation; and (2) the resource agencies that will be involved in the licensing process for the project have substantial knowledge of the river basin, are aware of the issues that are likely to be raised during licensing, and are aware of existing information needs at the project.

Green Lake Power states that: (1) the complexity of resource issues is low

[1] 18 C.F.R. § 5.3 (2018).

because the issues likely to be raised during licensing (including water quality; rare, threatened, and endangered species; and cultural resources) have been addressed at other projects that have undergone licensing in the Union River basin and are common to hydroelectric projects in the state of Maine; (2) the level of anticipated controversy is low because the cooperative relationship between Green Lake Power, the U.S. Fish and Wildlife Service (FWS), and the Green Lake Association has been generally positive and any significant controversy during the licensing process could most likely be overcome with the TLP; (3) baseline information already exists for environmental resources in the Union River basin; and (4) Green Lake Power will work with resource agencies and stakeholders on data collection efforts to address resource concerns.

Green Lake Power also references certain project-specific issues in its TLP request, including lake management and the need to provide water to the FWS's Green Lake National Fish Hatchery.[2]

Pursuant to section 5.3(d) of the Commission's regulations,[3] notice of the TLP request was published in the *Ellsworth American* on March 28, 2019. On April 29, 2019, the National Marine Fisheries Service (NMFS) filed a motion opposing the use of the TLP based on the complexity of the resource issues at the project and the potential for significant disputes over studies. NMFS states that the resource issues are complex because: (1) the project, which lacks fish passage, is located within the range of the federally endangered Gulf of Maine distinct population segment of Atlantic salmon, and occurs within the designated critical habitat for Atlantic salmon; and (2) other diadromous fish species (including alewife, blueback herring, American shad, sea lamprey, and American eel) use the habitat within the Union River watershed for a portion of their life cycles. NMFS expects to submit study requests to inform the licensing process and states that the TLP is not well suited for working out complex resource studies, which could lead to inefficiencies and unresolved issues during the licensing process. Based on the amount of available information and potential for significant disputes over studies, NMFS does not expect the TLP to be adequate for the project.

Fish passage has been raised as an issue at the project in the past and is likely to be controversial. While NMFS references the lack of fish passage at the project, the Commission's April 5, 1984 license order required the installation of fish passage barriers to prevent out-migration of adult salmonids from Green Lake.[4] In addition, the

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[2] The project occupies approximately two acres of the Green Lake National Fish Hatchery.

[3] 18 C.F.R. § 5.3(d) (2018).

[4] *See Green Lake Water Power Company*, 27 FERC ¶ 62,023 (1986).

U.S. Department of Interior did not recommend fish passage when the project was originally licensed because of the possibility of alewife-borne diseases being introduced into Green Lake and contaminating water withdrawn for the Green Lake National Fish Hatchery.

According to information provided in the PAD, additional potentially complex/controversial resource issues at the project include: (1) the effects of the project on Arctic char in Green Lake, which includes 1 of the 14 remaining populations of Arctic char in the U.S.; (2) the effects of fluctuating water levels on smallmouth bass spawning from June 5 to July 5; (3) the potential impact to the residential fishery in Green Lake if an upstream fishway were to be constructed at the project, including the potential for largemouth bass to access Green Lake; (4) the effects of low water levels on the use of boats and docks, and the local economy in September; and (5) the effects of high water levels in the winter on the shoreline of Green Lake and loon nesting areas.[5]

In its Final Rule on the ILP,[6] the Commission stated that the more likely it appears that an application will have relatively few issues, little controversy, can be expeditiously processed, and can be processed less expensively under the traditional process, the more likely the Commission is to approve a request to use the TLP.

Based on a review of the information contained in the TLP request, PAD, and letter responding to the TLP request, the proceeding will likely involve complex and controversial resource issues that could lead to significant study disputes and affect the timely issuance of a license. Therefore, Green Lake Power's request to use the TLP is denied, and Green Lake Power must use the ILP.

If you have any questions, please contact Dr. Nicholas Palso at (202) 502-8854 or nicholas.palso@ferc.gov.

Sincerely,

Vince Yearick
Director
Division of Hydropower Licensing

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[5] *See* Appendix F of the PAD.

[6] *See Hydroelectric Licensing under the Federal Power Act*, Order No. 2002, 68 Fed. Reg. 51,070 (Aug. 25, 2003), FERC Stats. & Regs. ¶ 31,150, 104 FERC ¶ 61,109 at P 48 (2003).