

UNITED STATES OF AMERICA  
FEDERAL POWER COMMISSION

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr.,  
Carl E. Bagge, and John A. Carver, Jr.

North Central Power Company, Inc. ) Project No. 2684

ORDER ISSUING LICENSE (MINOR)

(Issued June 3, 1969)

Application was filed on August 5, 1968 and supplemented on September 16, 1968, February 26, March 17, and May 9, 1969 by North Central Power Company, Inc. (Applicant) of Grantsburg, Wisconsin for a license under Section 4(e) of the Federal Power Act (Act) for Project No. 2684, known as the Arpin Dam Project, located on the East Fork of the Chippewa River near the Village of Radisson, in Sawyer County, Wisconsin. No lands of the United States are affected by the project.

The project, presently partly constructed, includes a dam and partially completed power canal constructed during 1912 and 1913. No powerhouse was ever built and no gates were installed to hold a pool until 1937. In that year Sawyer County leased the facilities to develop a pond for recreational purposes and obtained authorization from the Wisconsin Public Service Commission to install stop logs to raise the pool level about ten feet. Over the years the condition of the dam deteriorated so that presently it is in need of repair. In 1967 Applicant entered into an agreement to purchase the dam, canal and land rights contingent upon the issuance of all necessary authorizations to develop the project. Applicant proposes to make the necessary repairs to the existing facilities, to complete excavation of the power canal, to construct a powerhouse and appurtenant facilities and to install one 250 kw and two 600 kw generating units. In addition to furnishing power for Applicant's public utility system the proposed development will insure the continued

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maintenance of the reservoir and dam, important factors in protecting the important muskellunge fishery upstream from invasion by northern pike.

The Corps of Engineers, Department of the Army, has reported that the plans of the project structures affecting navigation are satisfactory insofar as the interests of navigation are concerned.

The Department of the Interior, in reporting on the application, recommended for inclusion in any license for the project, terms and conditions in the interests of fish and wildlife and recreation as are set forth herein. The Department has advised that there are no historic properties listed in the National Register under the provisions of Public Law 89-665 (80 Stat. 915) in the vicinity of the project. The Department also reported that its Bureau of Sports Fisheries and Wildlife and the Wisconsin Department of Natural Resources cooperated with the Applicant in the preparation of the Exhibit S plan for the conservation of fish and wildlife resources and that it accurately reflects the agreement reached by the parties. The Department further reported that its Bureau of Outdoor Recreation found the recreation plan outlined on the Exhibit K generally adequate to meet present recreation requirements associated with the project but recommended that the Applicant designate a tract of approximately 29 acres owned in fee west of the dam site for future recreation development and suggested that sanitation facilities be constructed at the boat landing site to be provided by the Village of Radisson. The Department's recommendations are provided for by the license articles, in particular by Article 18.

Applicant has outlined some general plans for recreation development on its Exhibit K drawing (FPC No. 2684-1). These include existing picnic facilities on one of the islands joined by the dam, other picnic facilities in an area immediately southwest of the dam, and a public boat landing on the eastern shore to be provided by the Town (Township) of Radisson. An additional public boat landing has been designated for development by the Applicant on the western side of the reservoir near the dam. As noted above, the

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Department of the Interior recommended that the parcel of land consisting of about 29 acres immediately west of the dam, to be owned in fee by the Applicant, be reserved for future recreation development. The Village of Radisson has agreed to lease this parcel and to maintain it as a recreation area. We have no objection to this arrangement provided that the instrument of conveyance reserve to the Applicant, its successors and assigns, the right to use the lands for project purposes and that it contain a condition that the use of land will not endanger health, create a nuisance or otherwise be incompatible with overall project recreation use. However, in the event the Village fails to provide adequate recreation facilities, this arrangement is not to be construed to relieve Applicant of its obligation to provide or arrange for the provision of recreational facilities as designated on the Exhibit K map (FPC No. 2684-1) and such other recreational facilities as may be found necessary and desirable by the Commission in order to provide for optimum public utilization of the project area reasonably consistent with the primary purpose of the project, as provided in Article 18. Additional recreation facilities are presently provided by several privately operated resorts located adjacent to the reservoir. A service road to be constructed from the headworks to the powerhouse will be made available for a canoe portage. Considering the Department of Interior recommendations, the fact that this is a minor project with limited lands available, and the adequacy of the Exhibit S as discussed below, we feel that the filing of a formal Exhibit R for the project is not necessary and that the reasonable recreational needs can be provided for by Article 18 and by approving the Exhibit K (FPC No. 2684-1) insofar as it describes the existing and proposed recreation facilities and development at the project.

As noted above, Applicant has cooperated with the U.S. Fish and Wildlife Service and the Wisconsin Department of Natural Resources in developing its fish and wildlife conservation plan filed as Exhibit S. In order to maintain the reservoir pool for a fishery, fluctuations will be limited to one foot below maximum pool level throughout the year except during the period between April 1 and June 1 when fluctuations will be restricted to six inches in order to

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protect spawning and hatching fish. In order to preserve the reservoir and the upstream Chippewa basin as one of the prime muskellunge fisheries in the midwest by preventing upstream migration of northern pike which normally become dominant when in competition with muskellunge, the dam will be maintained as a physical barrier and, during the repair process, if it becomes necessary to lower the water level so that upstream migration may be possible, an electric barrier will be installed.

Applicant has sought and obtained approval from the Wisconsin Public Service Commission and the Wisconsin Department of Natural Resources for the acquisition of the existing project properties and the proposed program for construction and operation.

The East Fork of the Chippewa River has been found by the Commission to be navigable waters of the United States as far upstream as points in its headwaters beyond Snaptail Rapids at river mile 189 in an order dated April 21, 1953 amending the license for Project No. 2064 (12 FPC 59, 62). Arpin Dam is located at about river mile 169.6 and is on this navigable reach of the river.

In our order on rehearing issued February 17, 1965, in Wisconsin Power & Light Company, Project No. 2347, et al., (33 FPC 275) we stated that we will, if the Applicant so wishes, issue licenses for minor projects without waiving Sections 14 and 15 of the Federal Power Act and the other provisions of the Act necessary to the effectuation of those sections, provided the minor project applications are timely supplemented pursuant to Section 4.50 of our Regulations under the Act (18 CFR § 4.50), which relates to applications for major projects. In the event the Applicant herein wishes a license in which those provisions of the Act are not waived it should so advise us within 30 days from the date of issuance of this order and file its supplemental application within 30 additional days thereafter.

The Commission finds:

(1) Project No. 2684 is located upon navigable waters of the United States.

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(2) Applicant is a corporation organized under the laws of the State of Wisconsin, and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(3) Public notice of the filing of the application has been given. No protests or petitions to intervene or notices of intervention have been received. No conflicting application is before the Commission.

(4) The project does not affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(5) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes.

(6) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 1930 horsepower, and the amount of annual charges, based on such capacity, to be paid under the license for the project, for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(7) It will be in the public interest to waive, pursuant to Section 10(i) of the Act the terms and conditions contained in the following Sections of Part I of the Act:

Sections 4(b), except the second sentence thereof; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army and to public notice; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act which are hereinafter waived; 10(c), insofar as it relates to depreciation reserves;

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10(d); 10(f); and 14, except insofar as the power of condemnation is reserved; 15; 19; 20; 22; and 23(a), insofar as it relates to the determination of fair value.

The Commission orders:

(A) This license is hereby issued to North Central Power Company, Inc. of Grantsburg, Wisconsin (Licensee) under Sections 4(e) and 10(i) of the Federal Power Act, for a period of 50 years effective as of May 1, 1969 for the further construction, operation and maintenance of Appin Dam Project No. 2684, located on the Chippewa River in Sawyer County, Wisconsin, subject to the terms and conditions of the Act, insofar as not expressly waived herein, which Act is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) Project No. 2684 consists of:

(i) all lands constituting the project area and enclosed by the project boundary or limits which are otherwise defined;

(ii) project works consisting of: (1) a stone masonry dam in three sections, each about 12 feet high and about 1,466 feet long in the aggregate, each section having an overflow spillway section and two stop-log sections (one section of the dam contains an opening for the passage of a minimum flow of 40 cfs), and a service bridge and headgate structure at the east end of the three section dam; (2) a reservoir with surface area of about 294 acres at maximum elevation 1227.32 feet (U.S.G.S. datum); (3) a canal about 3,200 feet long carrying water from the headgate section at the dam to the powerhouse forebay; (4) a powerhouse containing one 250 kw and two 600 kw generators; (5) appurtenant facilities; the location, nature and character of which are more specifically shown and described by the exhibits which form part of the application for license and which are designated and described as follows:

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<u>Exhibit L</u>	<u>FPC No.</u>	<u>Showing</u>
Sheet 1 of 1	2684-2	Plan and Elevation of Dam, Headworks and Power-plant and Cross Section of Canal
Sheet 1 of 1	2684-3	Cross Section of Dam Structures

(iii) all other structures, fixtures, equipment or facilities which are located in the project area and are useful in the maintenance and operation of the project; and all rights and interests the possession of which is necessary or appropriate in the maintenance and operation of the project.

(C) This license is also subject to the following terms and conditions:

Article 1. The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms and conditions of the license.

Article 2. Except when emergency shall require for the protection of life, health, or property, no substantial alteration or addition shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made thereafter be subject to such modification and change as the Commission may direct.

Article 3. The project, including its operation and maintenance and any work incident to additions or alterations authorized by the Commission shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and of any such alteration thereof, and shall

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notify him of the date upon which work with respect to any alteration will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties.

Article 4. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may in appropriate circumstances be subject to payment of rent to the Licensee in a reasonable amount: Provided that the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property and provided further, that the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities. These facilities are in addition to the facilities which with the Licensee may construct and maintain as required by the license.

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Article 5. Insofar as any material is dredged or excavated in the prosecution of any work authorized under the license, or in the maintenance of the project, such material shall be removed and deposited so it will not interfere with navigation, and will be to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 6. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 7. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing the Licensee shall modify the project operation as may be prescribed by the Commission, reasonably consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provision of this

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article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 8. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without replacement, or shall abandon or discontinue good faith operation of the project for a period of three years, or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address to the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license, and not less than 90 days after public notice may in its discretion terminate the license.

Article 9. Upon abandonment of the project the Licensee shall remove all buildings, equipment and power lines to a condition satisfactory to the Commission's authorized representative and shall fulfill such other obligations under the license as the Commission may prescribe.

Article 10. The right of the Licensee and of its transferees and successors to use or occupy navigable waters of the United States under the license for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless a new license is issued pursuant to the then existing laws and regulations.

Article 11. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly waived in the license.

Article 12. No substantial change shall be made in the maps, plans, and statements described and designated as exhibits and approved by the Commission in its order as part of the license, until such change shall have been approved by the Commission: Provided, however, that if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental,

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or additional exhibit or exhibits covering the proposed change which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 13. The project area and project works shall be in conformity with the approved exhibits referred to in Article 12 hereof. If the Licensee shall contemplate any substantial alteration in or addition to the project area or project works shown and described by the approved exhibits referred to in Article 12 herein, the Licensee shall submit to the Commission for approval amended, supplemental, or additional exhibits under the provisions of said article covering such alteration or addition, together with a statement in writing setting forth the reasons which necessitate or justify such alteration or addition. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in the project works or divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgement have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 14. The Licensee shall pay to the United States the following annual charge effective May 1, 1969:

For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, \$96.50 per annum.

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Article 15. The Licensee shall, in connection with the construction of the Arpin Dam project include the repairs, testing, and additions as prescribed below:

- (1) An investigation shall be made of foundation materials at the canal intake, penstock intake, and powerhouse, and the permeability of soil within the existing canal. A report on the results of such investigation shall be submitted to the Commission. Such report shall include topographic and geologic maps and a map showing location of permeability tests and foundation exploratory work.
- (2) Rehabilitation of existing structures and appurtenances shall include:
  - (a) Repair mortar joints and replace loose stones in dam structure;
  - (b) Replace timber facing of stoplog slots and stoplogs;
  - (c) Clear canal of trees and brush, and
  - (d) Remove debris in and around reservoir and dam.
- (3) If the investigations made under item (1) of this article find it necessary, provisions shall be made for an adequate cutoff at the penstock intake, canal intake, and powerhouse.

Article 16. Licensee shall furnish the Commission within one month from the date of issuance of this license a proposed construction schedule including a detailed description of the repairs to existing structures.

Article 17. Licensee shall commence construction and repairs of the Arpin Dam Project No. 2684 within one year from the effective date of the license and shall thereafter in good faith and with due diligence prosecute and complete such construction and repairs of project works within three years from the effective date of the license.

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Article 18. Licensee shall construct, maintain and operate or arrange for the construction, maintenance and operation of recreational facilities as shown on the Exhibit K map (FPC No. 2684-1) and such other recreational facilities at the project as agreed to with the Village of Radisson or which may be found necessary in the recreational development of the tract of land of approximately 29 acres lying west of, and contiguous with the dam site, such tract being reserved for future recreational development, in order to provide for optimum utilization of the project lands and waters. Licensee shall file for Commission approval within one year following the issuance of this order a schedule showing the estimated completion date of all proposed recreational development and facilities at the project, and any plans which, following consultation with the appropriate State, Federal and local conservation and recreation agencies, may be developed for clearing stumps from the reservoir.

(D) The exhibits designated and described in paragraph (B) above are hereby approved as part of this license.

(E) Exhibit K (FPC No. 2684-1) is hereby approved as part of the license only insofar as it describes the existing and proposed recreation facilities and developments at the project.

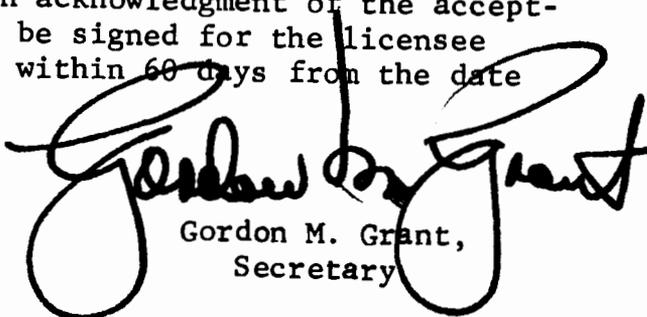
(F) Exhibit S, consisting of three typewritten pages filed with the Commission August 5, 1968, is hereby approved as part of the license.

(G) The terms and conditions of the Act, which it has been found to be in the public interest to waive, are hereby excluded from this license.

(H) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.

( S E A L )



Gordon M. Grant,  
Secretary

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IN TESTIMONY of its acknowledgment of acceptance of all of the provisions, terms and conditions of this license North Central Power Company, Incorporated, this \_\_\_\_ day of \_\_\_\_\_, 1969, has caused its corporate name to be signed hereto by \_\_\_\_\_ its \_\_\_\_\_ President, and its corporate seal to be affixed hereto and attested by \_\_\_\_\_ its \_\_\_\_\_ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the \_\_\_\_ day of \_\_\_\_\_, 1969, a certified copy of the record of which is attached hereto.

NORTH CENTRAL POWER COMPANY, INCORPORATED

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

(Executed in quadruplicate)

Document Content(s)

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