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FEDERAL POWER COMMISSION

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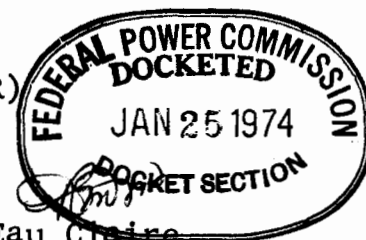


Before Commissioners: John N. Nassikas, Chairman;
Albert B. Brooke, Jr., Rush Moody, Jr.,
and William L. Springer.

Northern States Power Company) Project No. 2639

ORDER ISSUING LICENSE (MAJOR)

(Issued December 26, 1973)



The Northern States Power Company of Eau Claire, Wisconsin, filed an application for a major license with this Commission on December 13, 1972, as supplemented March 15, 1973. Public notice of the filing was given with March 28, 1973, as the last date for the filing of protests or petitions to intervene. The application was noticed in the Federal Register on February 15, 1973.

The project is located in the City of Cornell and in the vicinity of Eau Claire in Chippewa County, Wisconsin, on the Chippewa River. The application proposes the redevelopment of an existing unlicensed development which consists of a dam, reservoir, and powerhouse having 2,160 kw of 25-hertz electric generating capacity and 4,700 hp in hydromechanical units. The dam develops a head of about 3.8 feet and provides a pond area of about 800 acres, at a normal reservoir elevation of 1,002 feet msl.

Applicant plans to replace the existing powerhouse and install 30,750 kilowatts of new capacity at 60-hertz to be used as a part of its system generating facilities.

The Applicant has submitted a water quality certificate, filed along with its application for major license, which was filed with the Wisconsin Department of Natural Resources on December 13, 1972. This certificate was forwarded to the Environmental Protection Agency on February 8, 1973.

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The Applicant, an electric utility operating in the State of Wisconsin, in support of its financial ability to carry out the project redevelopment, cites its Annual Report (SEC Form No. 1) for the year ending December 31, 1971, filed with the Commission. The Applicant proposes to finance the cost of the redevelopment, estimated to be about \$10 million, by use of general corporate funds and long-term debt and equity financing.

Numerous departments and agencies have commented on the redevelopment proposal submitted to the Commission. The Department of the Army, Corps of Engineers, in a letter dated May 8, 1973, reported that the project is not in conflict with any existing or proposed Corps project. Further, the Corps states that the proposed reconstruction of the power plant is not expected to adversely affect navigation either the Chippewa or the Mississippi Rivers. The plans for the structure are satisfactory insofar as the interests of navigation are concerned.

The Department of the Interior, in a letter dated May 24, 1973, stated that the project will not impact on any existing or proposed units of the National Park System nor will it affect any registered National Historic, Natural or Environmental Education Landmarks. The project will not conflict with any Bureau of Sport Fisheries and Wildlife lands or interests. It was recommended that the standard terms and conditions relating to fish, wildlife, and recreation resources be included in any license issued for the project. Also, reconstruction will not adversely affect the mineral resources or mineral industry in the area.

The Environmental Protection Agency, in letters dated April 27, 1973, and May 11, 1973, stated that it is not aware of any conflicts with projects that should be or have been constructed by the United States. EPA recommended that the license contain a condition providing for possible future modification of the project operation or facilities

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in the interest of maintaining or improving water quality. The Commission's authority to order possible modification of project operation or facilities as may be found desirable in the future in the interest of water quality is reserved under Articles 10 and 13 of the license issued herein. This has been made clear in other orders by the Commission (see, e.g., Moreau Manufacturing Corporation, 40 FPC 201).

The Department of Transportation, U. S. Coast Guard, stated in a letter dated May 4, 1973, that it had no objection to the licensing of the project.

The Wisconsin Department of Natural Resources in a letter dated May 8, 1973, commented with respect to minimum flows through the Cornell dam and power plant and with respect to fluctuation of water levels in the Cornell pond. The provisions for minimum flows and fluctuation of water levels, pending any further order of the Commission, are included in Article 13 of the license issued herein.

The Wisconsin Department of Business Development, in letter dated October 17, 1973, urged early approval of application since the availability of the Cornell capacity would conserve an equivalent 8.3 million gallons of fuel oil annually.

The City of Cornell by letter of June 18, 1973 and the City of Eau Claire by letter of March 8, 1973, endorsed and supported the redevelopment of the Cornell project.

The Wisconsin Public Service Commission in a letter dated February 20, 1973, stated that because of the possible jeopardy to system reliability during the peak load period in the summer of 1975 without the project, that Commission requests that the licensing be expedited so that Applicant's proposed redevelopment schedule can be met.

Wisconsin Department of Health & Social Services in letter dated June 5, 1973, stated that after reviewing the material related to the application for license of the constructed Cornell Hydro Project No. 2639; it is their conclusion that redevelopment would not result in a significant impact to the environment.

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We believe that licensing the reconstruction of the powerhouse and spillway and the continued operation of the Cornell Project is not a major federal action having a significant effect on the quality of the human environment. The project dam was completed in 1913 and the reservoir and its fishery have stabilized due to the period of time involved since the impounding of the river; no inundation of additional lands is proposed; the reconstruction will take place within cofferdams and any impacts caused by reconstruction will be short-term and minor; the reservoir will have limited fluctuations in water level, and water flow conditions through the project will be improved by providing minimum flow release; and the project will operate in tandem with Applicant's upstream Holcombe project, with water being discharged through the powerhouse instead of flowing over the project dam as is the case now.

No new facilities for the development or enhancement of fish and wildlife are proposed, nor are such facilities necessary at this time. Reconstruction of the existing dam and powerhouse would require drawing down the project reservoir for a short time in the off-peak recreation season. Subsequent to refilling, no similar drawdowns are anticipated other than as necessitated for operational maintenance. A minimum flow of 236 cfs will be maintained through the project dam at all times for the protection of fish spawning areas below the dam. Water level fluctuations of the reservoir will be limited to one foot for the period of noon through 6:00 p.m. from June 1st through Labor Day and fluctuations will be limited to two feet during the remainder of the time.

Northern States Power Company would continue to cooperate with local, State and Federal agencies in the maintenance and enhancement of recreation, fish and wildlife resources of the project.

Accordingly, in view of the foregoing approval of the application for license does not require an Environmental

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Impact Statement pursuant to Section 102(2)(c) of the National Environmental Policy Act and Commission Order No. 415-C.

A petition to intervene was filed out of time on November 7, 1973, by The Lac Courte Oreilles Band of Lake Superior Chippewa Indians. On December 12, 1973, the Commission granted this petition. In its petition the intervenor asserts that if redevelopment of Project No. 2639 is authorized before action on the recommendations for takeover of the upstream Project No. 108, the Commission should exclude from consideration in the proceeding on Project No. 108 any claim for severance damages resulting from redevelopment of Project No. 2639. In response the Applicant, who is also the licensee for Project No. 108, agreed to the proposal of Intervenor and suggested a license condition for Project No. 2639 to that effect. This provision is included in the license issued herein.

Project No. 2639 is not now operating to produce power. The development had been leased to the Cornell Wood Products Company and its successor, St. Regis Paper Company. The arrangement with St. Regis Paper Company was terminated effective December 30, 1972. As stated above the Applicant proposes to redevelop the facilities to provide capacity of 60-hertz to be used as a part of its system generating facilities. In the circumstances, we will issue a license for the redeveloped project for a term of fifty years effective as of the first day of the month in which the license is issued.

The application for license includes as part of the proposed redeveloped project the 7.2 kv generator leads, one step-up 7.2/115 kv transformer and a new single circuit 115 kv transmission line about 1200 feet in length to the existing 115 kv Holcombe-Jim Falls transmission line. The existing Holcombe-Jim Falls line should be included as a part of the project inasmuch as it will be used to transmit project power and will be a primary line. In the license issued herein we therefore require the inclusion of the existing line as part of the project and the appropriate revision of exhibits to reflect its inclusion.

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The Commission finds:

(1) The Cornell Hydro Project No. 2639 would affect navigable waterways of the United States.

(2) The Applicant, Northern States Power Company, is a corporation incorporated 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 purpose of a license for the project.

(3) Public notice of the filing of the application was given. Late intervention by The Lac Courte Oreilles Band of Lake Superior Chippewa Indians has been granted.

(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) The installed horsepower capacity of the redeveloped project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 41,000 horsepower, and the amount of annual charge based on such capacity to be paid under the license for the project for the cost of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(6) No conflicting application is before the Commission.

(7) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway 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.

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(8) The Exhibits designated and described in paragraph (B) shall conform to the Commission's Rules and Regulations and shall be approved, to the extent indicated herein, as part of the license for the project. Revised or additional Exhibits F, K and M should be filed to include the existing 5 kv Holcombe-Jim Falls transmission line as part of the project.

(9) The estimated cost of redevelopment of the project compared to the estimated cost of suitable alternatives is reasonable.

(10) The Applicant has demonstrated satisfactory evidence that it has the necessary financial capabilities to undertake the redevelopment and operation of the proposed redevelopment of the Cornell Hydro Project.

As Commission orders:

(A) This license is hereby issued to the Northern States Power Company (Licensee) of Eau Claire, Wisconsin, under Section 4(e) of the Federal Power Act for a period of 50 years commencing on the first day of the month in which the license is issued, for the redevelopment, operation, and maintenance of the Cornell Hydro Project No. 2639, located on the Chippewa River in the City of Cornell, Chippewa County, Wisconsin, which affects navigable waters of the United States. Further, the Licensee is subject to the terms and conditions of the Act, which is incorporated herein 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) The Cornell Hydro Project No. 2639 consists of:

(i) All lands constituting the project area and enclosed by the project boundary, the limits of which are otherwise defined, and/or interests in such lands

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necessary or appropriate for the purposes of the project, such project area and project boundary being shown and described by certain exhibits which form part of the application for license and which are designated and described as follows:

<u>Exhibit</u>	<u>Sheet</u>	<u>FPC No. 2639</u>	<u>Showing</u>
J	1	-9	General Map of Project area
J	2	-10	General Map of Transmission System
J	3	-11	General Map of Project Area
K	1	-12	Detail Map-North Section
K	2	-13	Detail Map-South Section

(ii) Project works as redeveloped including:

(1) a dam structure developing a nominal head of about 38 feet, on the Chippewa River with an overall length of 862 feet comprising a 91-foot long earth embankment section with an interior concrete core wall, a 210-foot ungated concrete spillway surmounted by 46-inch high flashboards, a 292-foot long concrete gravity gated spillway having twelve 16 x 20-foot wide radial gates, a 10-foot wide concrete log sluice and fishway section to be abandoned, a new gated spillway structure 85 feet long adjacent to a new intake and powerhouse structure 131 feet in length, and a 43-foot long concrete intake section;

(2) a reservoir with a surface area of about 800 acres at a normal full pond elevation of 1,002 feet (msl); (3) a new powerhouse containing three identical horizontal tube type turbine-generator units, each turbine rated at 13,900 horsepower and directly connected to a 10,000 kilowatt generator; a small fourth unit to utilize the minimum continuous flow release of 236 cfs consisting of a vertical shaft propeller-type water turbine directly connected to a 750 kilowatt generator for an overall total installed capacity of 30,750 kilowatts;

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(4) transmission facilities including the 7.2 kv generator leads, the step-up 7.2/115 kv transformer, the single circuit 115 kv transmission line from the project to the existing Holcombe-Jim Falls line, and the existing 115 kv Holcombe-Jim Falls line; (5) recreation facilities; and (6) other appurtenant facilities the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also form part of the application for license and which are designated and described as follows:

<u>Exhibit</u>	<u>Sheet</u>	<u>FPC No. 2639</u>	<u>Showing</u>
L	1	-14	Plan and Elevation
L	2	-15	West Embankment and East Bank Wall
L	3	-16	Spillway-Section and Rating Curve
L	4	-21	New Powerhouse - Plan and Sections

Exhibit M: Consists of 5 typewritten pages and 1 page showing a "one line Diagram" entitled, "General Description of Project Equipment", filed with the Commission on December 13, 1972.

Exhibit R consisting of:

- (1) 13 pages of text (pages 3 through 15), and
- (2) two maps (FPC Nos. 2639-18 and -19).

Portions of Exhibits S as follows:

- (1) page 3 paragraph 4, through page 5 paragraph 1, and
- (2) page 10 paragraph 2, through page 11 paragraph 1

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Portions of Exhibit V as follows:

- (1) a drawing entitled "Transmission Line Plan and Profile" (FPC No. 2639-20), and
- (2) 14 pages of typewritten text (pages 17 through 30).

Note: Exhibits K and M are to be revised to include as part of the project the existing 115-kv Holcombe-Jim Falls transmission line. A provision is included herein under Article 33.

(iii) All of the structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the following terms 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. No substantial change shall be made in the plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have

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

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any non-project use of project property; and any emergency alteration, addition, or use 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, in an adverse environmental impact, 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 judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct. Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together

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1 a statement in writing setting forth the reasons which
the opinion of the Licensee necessitated or justified
iations in or divergence from the approved exhibits.
1 a revised exhibits shall, if and when approved by the
mission, be made a part of the license under the pro-
ions of Article 2 hereof.

Article 4. The construction, operation, and maintenance
the project and any work incident to additions or altera-
ns shall be subject to the inspection and supervision of
Regional Engineer, Federal Power Commission, in the
ion wherein the project is located, or of such other
icer or agent as the Commission may designate, who shall
the authorized representative of the Commission for such
poses. The Licensee shall cooperate fully with said
representative and shall furnish him a detailed program of
pection by the Licensee that will provide for an adequate
qualified inspection force for construction of the
object. Construction of the project works or any feature
ereof shall not be initiated until the program of inspection
of the project works or any such feature thereof has been
proved by said representative. The Licensee shall also
nish to said representative such further information as
may require concerning the construction, operation, and
aintenance of the project, and of any alteration thereof,
d shall notify him of the date upon which work will begin,
far in advance thereof as said representative may reasonably
ecify, and shall notify him promptly in writing of any
spension of work for a period of more than one week, and
its resumption and completion. The Licensee shall allow
n and other officers or employees of the United States,
owing proper credentials, free and unrestricted access to,
rough, and across the project lands and project works in
e performance of their official duties. The Licensee shall
mply with such rules and regulations of general or special
plicability as the Commission may from time to time prescribe
r the protection of life, health, or property.

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Article 5. The Licensee within five years from date of issuance of the license shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance and operation of the project. The Licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will be responsible for and will make good any defect in title to or of right of occupancy and use in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the

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licensee, for the purpose of transferring the project to the United States or to a new Licensee, to acquire any different title to or right of occupancy and use in any of such project property than was necessary to acquire for its own purposes as Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Act and the Commission's rules and regulations thereunder.

Article 8. After the first 20 years of operation of the project under the license, six percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10(d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of six percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below six percent per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission.

Article 9. For the purpose of determining the stage and flow of the stream or streams on which the project is located the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the

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requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make turn of such records annually at such time and in such form as the Commission may prescribe.

Article 10. The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 11. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

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Article 12. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvements of the United States the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the costs of making the determinations pursuant to the then current Commission Regulations under the Federal Power Act.

Article 13. 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. Pending further order by the Commission on its own motion or at the request of others, after notice and opportunity for hearing, the Licensee shall:

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(a) Discharge a minimum flow of 236 cfs downstream of Cornell dam for the purpose of protecting the aquatic habitat and fish spawning areas of the Chippewa River: Provided that, such flows may be modified temporarily if required by operating emergencies beyond the control of the Licensee, and for short periods for fishery management purposes upon mutual agreement between the Licensee and the State of Wisconsin Department of Natural Resources;

(b) Operate the project dam and powerhouse in such a manner that reservoir water level fluctuations will be limited to the following:

- (1) From June 1st through Labor Day during the hours of 12:00 noon to 8:00 P. M., the reservoir elevation shall be maintained and operated between elevations 1001 and 1002 feet msl.
- (2) At all other times, the reservoir elevation will be maintained and operated between elevations 1000 and 1002 msl.

Article 14. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region, for water supply, or for the purpose of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation, at least full reimbursement for any damages or expenses which the joint use causes him to incur, for use of its reservoir or other project properties or parts

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proof for such purposes, any such compensation to be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of why such evidence cannot be concurrently submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 15. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires blocking or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

Article 16. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such reasonable facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

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Article 17. 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 interest 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 reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this 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 18. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such reasonable recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, and shall comply with such reasonable modifications of the project structures and operations as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing.

Article 19. 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 water for navigation and for outdoor recreational purposes, including fishing and hunting; Provided, that the Licensee may reserve from public access,

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ch portions of the project waters, adjacent lands, and object facilities as may be necessary for the protection of life, health, and property. Licensee, in the interests of promoting optimum recreational use and protecting the scenic values of project lands and waters, may to a reasonable extent grant permits to individuals or groups of individuals for landscape plantings on project lands, or for the construction of access roads, wharves, landings, and other similar facilities, the occupancy of which may, under appropriate circumstances, be subject to the payment of rent in a reasonable amount; Provided, that Licensee, in granting such permits, shall require that permittees provide for multiple occupancy and use of such facilities, where feasible, and shall ensure that such facilities are constructed and maintained in such a manner so as to be consistent with shoreline aesthetic values; provided further, that the Licensee's consent to the construction of access roads, wharves, landing, 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 that the Licensee may construct and maintain as required by the license.

Article 20. The Licensee shall be responsible for and shall take reasonable measures to prevent soil erosion on lands adjacent to the stream(s) and to prevent stream siltation or other forms of water or air pollution resulting from construction, operation or maintenance of the project. The Commission upon request, or upon its own motion may order the Licensee to take such measures as the Commission may find to be necessary for these purposes after notice and opportunity for hearing.

Article 21. The Licensee shall consult with the appropriate State and Federal agencies and within one year of the date of issuance of this license shall submit for Commission approval a plan for clearing the reservoir area. Further, Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all

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temporary structures, unused timber, brush, refuse, or other needed material resulting from the clearing of lands or on the maintenance or alteration of the project works. In addition, all trees along the periphery of reservoirs which may die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and the disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 22. 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 in such a manner that it will reasonably preserve the project environmental values and so it will not interfere with traffic, both land and water. Dredging and filling in a navigable water of the United States will be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 23. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete and maintain such navigation facilities.

Article 24. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

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Article 25. The Licensee shall furnish free of cost to the United States power for the operation and maintenance of navigation facilities at the voltage and frequency required by such facilities and at a point adjacent thereto whether said facilities are constructed by the Licensee or by the United States.

Article 26. The Licensee shall for the protection of navigation, construct, maintain and operate at its own expense such lights and other signals on fixed structures in or over navigable waters of the United States as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 27. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate 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 of 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 28. Upon abandonment of the project or retirement of all power facilities, the Commission may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and take any such other action necessary to restore the project stream(s) and property to a condition satisfactory to the Commission's authorized representative, or provide for the continued operation and maintenance of non-power facilities and fulfill such other obligations under the license as the Commission may prescribe.

Article 29. The right of the Licensee and of its transferees and successors to use or occupy waters, over which the United States has jurisdiction, under the license

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the purpose of maintaining the project works or otherwise, all absolutely cease at the end of the license period, unless Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 30. The Licensee shall, during the redevelopment and operation of the project, continue to consult and cooperate with the Bureau of Sport Fisheries and Wildlife the Department of the Interior, the Wisconsin Department of Natural Resources, and other appropriate environmental agencies for the protection and development of the natural sources and values of the project area.

Article 31. Licensee shall in the design, construction, and maintenance of the project works including transmission lines, follow the Commission's "Guidelines for the Protection of Natural, Historic, Scenic and Recreational values in the Design and Location of Rights-of-Way and Transmission Facilities" of Commission Order No. 414 and other recognized engineering and landscaping practices as may be needed to protect and preserve the environmental values of the project.

Article 32. The Licensee shall pay the United States the following annual charge, effective as the first day of the month in which the license is issued:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purposes is 41,000 horsepower.

Article 33. The Licensee shall file, in accordance with the Commission's Rules and Regulations, revised Exhibits A, K, and M, within one year after commencement of operation of the project, to show and describe the existing 115 kv Polcombe-Jim Falls transmission line as a part of the project facilities.

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Article 34. The Licensee shall commence redevelopment of the project within one year from the effective date of the license and shall thereafter in good faith and with due diligence prosecute such construction and shall complete construction of such project works within three years after the effective date of the license.

Article 35. 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 set forth herein.

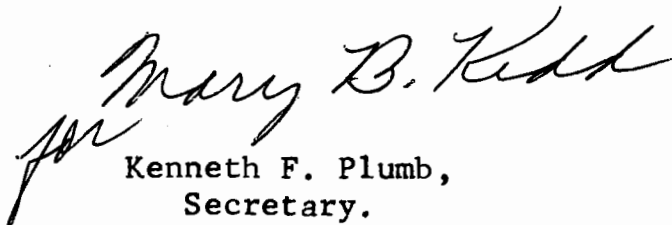
(D) The Exhibits designated and described in Paragraph (B) above are hereby approved to the extent indicated and made a part of this license.

(E) The Licensee shall not assert any claim for severance damages in the separate pending proceeding on relicensing of Project No. 108 insofar as such claim for severance damages results from redevelopment of Project No. 2639.

(F) 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 acknowledgement 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)


Kenneth F. Plumb,
Secretary.

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In Testimony of its acknowledgement of acceptance of all provisions, terms and conditions of the foregoing order, Northern States Power Company, this 21st day of January, 1974, has caused its corporate name to be signed hereto by W N Marx, President of the Northern States Power Company (Wisconsin) and its Corporate Seal to be affixed hereto and attested by G J Frank, its Secretary, pursuant to a resolution of its Board of Directors adopted on the 4th day of January, 1974, a certified copy of the record of which is attached hereto.

By


President
Northern States Power Company
(Wisconsin)

test:


Secretary

Executed in Quadruplicate)

I, G J FRANK, do hereby certify that I am Secretary of Northern States Power Company, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin; that as such Secretary I have access to all original records of said corporation; and I do hereby further certify that the Board of Directors of said corporation on the 4th day of January 1974, duly adopted the following resolution:

BE IT AND IT IS HEREBY RESOLVED by the Board of Directors of Northern States Power Company, a Wisconsin corporation, that this Company does hereby accept the provisions, terms and conditions of the Federal Power Commission license for Cornell Hydro Project No. 2639, which license is for a period of 50 years commencing on December 1, 1973 and was issued pursuant to Federal Power Commission order bearing date of December 26, 1973 and hereby authorizes its President and Secretary to forthwith sign and affix the corporate seal to an acceptance of the same.

That the foregoing is a full, true and correct copy of said resolution as it appears on the records of said corporation; that the same has not been altered, amended or repealed and is now in full force and effect; and that I am one of the duly authorized and proper officers of said corporation to make certified copies of its records in its behalf.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said corporation this 21st day of January, 1974.

CORPORATE
SEAL)


Secretary

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