

34 FERC ¶ 62,290

THIS DOCUMENT CONTAINS
FOUR QUALITY PAGES

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northern States Power Company

Project No. 9002-000

ORDER GRANTING EXEMPTION FROM LICENSING OF
SMALL HYDROELECTRIC PROJECT OF 5 MW OR LESS

(Issued February 5, 1986)

The Applicant 1/ filed an application for exemption from all or part of Part I of the Federal Power Act (Act) pursuant to 18 C.F.R. Part 4 Subpart K (1980) implementing in part Section 408 of the Energy Security Act (ESA) of 1980 for a project as described in the attached public notice. 2/

Notice of the application was published in accordance with Section 408 of the ESA and the Commission's regulations and comments were requested from interested Federal and State agencies including the U.S. Fish and Wildlife Service and the State Fish and Wildlife Agency. All comments, protests and motions to intervene that were filed have been considered. No agency has any objection relevant to issuance of this exemption.

Standard Article 2, included in this exemption, requires compliance with any terms and conditions that Federal or State fish and wildlife agencies have determined appropriate to prevent loss of, or damage to, fish and wildlife resources. The terms and conditions referred to in Article 2 are contained in any letters of comment by these agencies which have been forwarded to the Applicant in conjunction with this exemption. 3/

Should the Applicant contest any terms or conditions that were proposed by Federal or State agencies in their letters of comment as being outside the scope of Article 2, the Commission shall determine whether the disputed terms or conditions are outside the scope of Article 2.

-
- 1/ Applicant Northern States Power Company, Project No. 9002-000 and filing date March 6, 1985.
- 2/ Pub. Law 96-294, 94 Stat. 611. Section 408 of the ESA amends inter alia, Sections 403 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 552703 and 2708).
- 3/ An exemption from licensing granted by this Commission does not serve as any basis for restricting hunting and fishing access to the waterway involved except to the extent required for public safety purposes.

FERC - DOCKET
C-1
FEB 5 1986

9602070236

DC-A-4

-2-

Based on the terms and conditions required by Federal and State fish and wildlife agencies, the environmental information in the application for exemption, other public comments, and staff's independent analysis, issuance of this order is not a major Federal action significantly affecting the quality of the human environment. 4/

The Director orders:

(A) Apple River Hydro Project No. 9002-000 as described and designated in Northern States Power Company's application filed on March 6, 1985, is exempted from all of the requirements of Part I of the Federal Power Act, including licensing, subject to the standard articles in §4.106 of the Commission's regulations attached hereto as Form E-2, 18 C.F.R. §4.106, 45 Fed. Reg. 11658 (March 25, 1985).

(B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order. Failure to file a petition appealing this order to the Commission shall constitute acceptance of this order.

Don Garber

Kenneth M. Pusateri
Acting Director, Office of
Hydropower Licensing

4/ Environmental Assessment, Apple River Hydro Project, FERC Project No. 9002-000, Division of Environmental Analysis, Office of Hydropower Licensing, Federal Energy Regulatory Commission, January 3, 1986. This document is available in the Division of Public Information and in the Commission's public file associated with the proceeding.

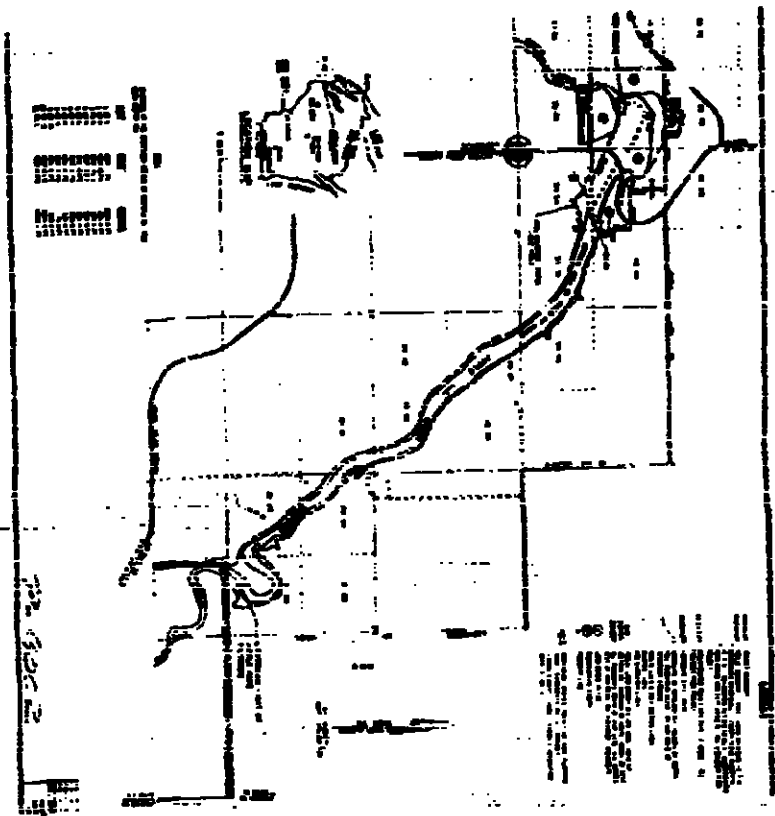
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application filed with the Commission

See Form that the following Hydroelectric application
was filed with the Federal Energy Regulatory Commission
and is available for public inspection:

- 1. Type of Application: 3-PM exemption
- 2. Project No.: 4087-000
- 3. Date Filed: March 6, 1985
- 4. Applicant: Northern States Power Company
- 5. Name of Project: Apple River Hydro
- 6. Location: Apple River, St. Croix County, Wisconsin
- 7. Filed Pursuant to: Section 408 of the Energy Policy Act of 1980, 16 U.S.C. §§3708 and 701
- 8. Contact Person: Mr. Anthony G. Schuster, Vice President
Northern States Power Company
100 North Barstow Street
P.O. Box 8
Sauvage, WI 54702
- 9. Contact Person: OCT 1, 1985
- 10. Summary Description: The project would consist of a dam of approximately 245 feet long and 27 feet high. It is situated on the Apple River, a tributary of the Wisconsin River, about 1/2 mile upstream from a bridge over the river and a grain storage facility on the east bank. The dam would be a concrete gravity dam with a crest length of 245 feet. It would have a powerhouse with a net capacity of 3 MW and a generating unit with a name plate capacity of 3 MW. The water would be released from the dam through a spillway with a crest length of 1700 feet. An existing tailrace, approximately 245 feet long and 6 feet deep, would be used to discharge the water from the dam. The dam would be constructed of concrete and would be situated on a bedrock foundation. The project would be situated on a 1700-foot wide area of land. The dam would be situated on a 1700-foot wide area of land. The dam would be situated on a 1700-foot wide area of land.

This notice also contains the following standard paragraphs: N1, N2, N3, and E36.



§ 4.106 Standard terms and conditions of exemption from licensing

Any exemption from licensing granted under this subpart for a small hydroelectric power project is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt project. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or to otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years, or has not been completed within four years from the date on which this exemption was granted. If an exemption is revoked under this article, the Commission will not accept from the prior exemptor holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) Article 4. This exemption is subject to the navigation servitude of the United States if the project is located on navigable waters of the United States.

(e) Article 5. This exemption does not confer any right to use or occupy any Federal lands that may be necessary for the development or operation of the project. Any right to use or occupy any Federal lands for those purposes must be obtained from the administering federal land agencies. The Commission may accept a license application by any qualified license applicant and revoke this exemption, if any necessary right to use or occupy Federal lands for those purposes has not been obtained within one year from the date on which this exemption was granted.

Attachment
E-2 Para

-2-

(f) Article 6. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(g) Article 7. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(h) Article 8. Any exempted small hydroelectric power project that utilizes a dam that is more than 33 feet in height above streambed, as defined in 18 CFR 12.31(c) of this chapter, impounds more than 2,000 acre-feet of water, or has a significant or high hazard potential, as defined in 33 CFR Part 222, is subject to the following provisions of 18 CFR Part 12, as it may be amended:

- (1) Section 12.4(b)(1)(i) and (ii), (b)(2)(i) and (iii), (b)(iv), and (b)(v);
- (2) Section 12.4(c);
- (3) Section 12.5;
- (4) Subpart C; and
- (5) Subpart D.

For the purposes of applying these provisions of 18 CFR Part 12, the exempted project is deemed to be a licensed project development and the owner of the exempted project is deemed to be a licensee.

(i) Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

Document Content(s)

13887994.tif.....1-6