

149 FERC ¶ 62,090
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northern States Power Company

Project No. 2610-009

ORDER EXTENDING TERM OF LICENSE

(November 6, 2014)

I. INTRODUCTION

1. On July 18, 2014, Northern States Power Company (Northern States) filed a request to extend the expiration date of its license for the Saxon Falls Project No. 2610.¹ The project is located on the Montreal River in Iron County, Wisconsin and in Gogebic County, Michigan.

II. BACKGROUND

2. On December 22, 1989, the Commission issued a minor license to Northern States for the 1.5-megawatt (MW) Saxon Falls Project for a period of 30 years, terminating December 31, 2019.² Approximately five years later, on January 19, 1995, the Commission issued a major license to Northern States for the 1.65-MW Superior Falls Project, located 3.5 miles downstream of the Saxon Falls Project, for a period of 30 years, terminating December 31, 2024.³

3. In its July 18 request for extension, Northern States requests that the Commission extend the expiration date of the Saxon Falls license term by five years - from December 31, 2019, to December 31, 2024 - in order to coordinate its expiration date with that of the Superior Falls license. Northern States claims that coordinating the expirations of the two license terms would increase the efficiency of the relicensing proceedings and reduce

¹ *Northern States Power Company*, 49 FERC ¶ 62,269 (1989).

² *Id.*

³ *Northern States Power Company*, 70 FERC ¶ 62,029 (1995).

the consultation and participation burden on agencies, tribes, the Commission, and other stakeholders.

4. On August 4, 2014, Commission staff issued a notice accepting Northern States' application for extension and setting September 3, 2014 as the deadline for comments, protests, or motions to intervene. On September 3, 2014, American Whitewater filed a timely motion to intervene and comments. On September 4, 2014, the Department of the Interior (Interior), on behalf of the National Park Service (NPS), sought to intervene after the comment deadline,⁴ and on September 5, 2014, NPS filed late comments. On September 29, 2014, Northern States filed a reply to American Whitewater and NPS' comments.

III. DISCUSSION

A. Recreation Facilities

5. NPS and American Whitewater both state that they support Northern States' proposed license extension in order to coordinate relicensing with the Superior Falls Project, but request that the Commission, as a condition of granting the license extension, require Northern States to improve access at the Saxon Falls Powerhouse for recreational use and provide additional information on project operations and hydrology in order to improve recreation at the project; provide improved access to real-time flow information; and provide additional information on the costs of improving river access for recreational uses.

6. Northern States replies that it would be contrary to the public interest for the Commission to condition granting the requested license term extension on requiring Northern States to provide recreational enhancements for a small constituency of recreational boaters. It maintains that the Commission generally does not require extensive recreational facilities for minor projects such as the Saxon Falls Project,⁵ and that the project already provides adequate recreational amenities including a boat ramp, access gate, and parking area. In Northern States' opinion, requiring additional recreational enhancements would inappropriately favor a small group of recreational users over the project's proposed power values, contrary to the Commission's policy of "balancing power and non-power values and competing resource interests."⁶

⁴ Interior's intervention request was granted by notice issued September 24, 2014.

⁵ See *Northern States Power Company*, 130 FERC ¶ 61,038, at P 16 (2010).

⁶ *Id.*

7. This order does not impose the additional recreation conditions requested by American Whitewater and NPS. In 1994, the Commission stated its policy to “coordinate the expiration dates of licenses to the maximum extent possible, to maximize future considerations of cumulative impacts in contemporaneous proceedings at relicensing.”⁷ The reasoning advanced by the licensee for extending the term of the license for the Saxon Falls Project is sound and in the public interest. Combining relicensing activities for the Saxon Falls and Superior Falls Projects would assist the licensee, resource agencies, interested stakeholders, and Commission staff in participating in and reviewing both projects contemporaneously, and would allow the Commission to avoid use of its reserved authority for cumulative impacts.⁸

8. As a minor license generating only 1.5 MW, the Saxon Falls Project contains adequate recreational amenities, including a boat ramp and access road, under its current license for a project of its size.⁹ American Whitewater and NPS’ requests involving recreational facilities, project operations, and instream flows would be more appropriately examined in the context of the relicense proceeding, where all aspects of the project’s developmental and environmental impacts will be examined in a comprehensive manner.

B. Acceleration of Superior Falls License Term

9. NPS also requests that, instead of extending the Saxon Falls license by five years to expire on December 31, 2024, the Commission accelerate Northern States’ Superior Falls license by five years, so that both licenses would expire on December 31, 2019. American Whitewater acknowledges that it is not possible to shorten the license for the Superior Falls Project because the Federal Power Act (FPA) disallows license terms of less than 30 years, but requests that the Commission evaluate whether there is “any flexibility in this regard.”

⁷ See *Central Maine Power Company*, 83 FERC ¶ 61,349, at p. 2 (1998) (citing *Policy Statement on Use of Reserved Authority in Hydropower Relicenses to Ameliorate Cumulative Impacts*, 59 Fed. Reg. 66,714 (December 28, 1994)); 18 C.F.R. § 2.23 (2014).

⁸ *Policy Statement on Use of Reserved Authority in Hydropower Relicenses to Ameliorate Cumulative Impacts*, 59 Fed. Reg. 66,714 (December 28, 1994); 18 C.F.R. § 2.23 (2014).

⁹ See 49 FERC ¶ 62,269, License Article 407.

10. American Whitewater is correct in noting that Section 15(e) of the FPA prohibits the issuance of new license terms for less than 30 years.¹⁰ Because the Superior Falls license was issued a new license in 1994 for the minimum term of 30 years, we are statutorily prohibited from accelerating the expiration of the license prior to its expiration in 2024. Therefore, in order to coordinate expiration of the Saxon Falls and Superior Falls Projects, the only option is to extend the term of the Saxon Falls license.

IV. CONCLUSION

11. For the reasons discussed above, this order extends the license term of the Saxon Falls Project until December 31, 2024.

The Director orders:

(A) The license for the Saxon Falls Project No. 2610 is amended to extend the term of the license to December 31, 2024.

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¹⁰ 16 U.S.C. § 808(e) (2012).

Document Content(s)

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