

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. P-2785-091
Sanford Hydroelectric Project
Boyce Hydro Power, LLC
April 5, 2016

Frank O. Christie, P.E.
General Manager
6000 S. M-30 (PO Box 15)
Edenville, Michigan, 48620

Subject: Production Tax Credit Certification Request

Dear Mr. Christie:

On March 21, 2016, you filed with the Commission, a request for certification of incremental hydropower production for the Boyce Hydro Power, LLC., Sanford Hydroelectric Project. You state the incremental hydropower production is due to the replacement of generating Unit No. 3, which the Commission had previously authorized on September 9, 2013.¹ The filing was made pursuant to Internal Revenue Code section 45.² The project is located on the Tittabawassee River in the Village of Sanford, Midland County, Michigan.

Background

Section 45 of the Internal Revenue Code of 1986³ provides a renewable energy production tax credit to the owners or operators of electric generating facilities that produce electricity from “qualified energy sources” at “Qualified facilities” placed into service by certain dates.

Section 1301(c) of the Energy Policy Act of 2005 (EPAAct)⁴ amended section 45 to apply the tax credit to incremental production gains from efficiency improvements or

¹ *Boyce Hydro Power, LLC*, 144 FERC ¶ 62,220 (2013).

² I.R.C. § 45 (2000).

³ 26 U.S.C. § 45 (1994).

⁴ Pub. L. No. 109-58 § 1301, 119 Stat. 594, (2005), Pub. L. No. 109-432 Title II, § 201, 120 Stat. 2922, (2006), Pub. L. No. 110-343, Div. B, Title I, (2008), and Pub. L. No. (Continued ...)

capacity additions to existing hydroelectric facilities placed in service after August 8, 2005, and before January 1, 2017.⁵

Under EPCRA section 1301(c), the Commission is required to certify the “historic average annual hydropower production” and the “percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity” placed in service during that time period. The incremental hydropower production may not be based on operational changes unless they are directly associated with the efficiency improvements or additions of capacity.

Your Request

According to the filing: (a) the project operates with a required water release of 210 cubic feet per second (cfs) or more at all times; (b) to develop the base year of existing production, you averaged the actual generation years 1999 through 2014 and chose 2014 as the year closest to the average. Then you used 2014 water year to estimate the increased hydropower production due the capacity and efficiency increases of the replaced Unit No. 3; and (3) the average existing baseline generation is 8,501,574 kilowatts hour (kWh) and generation with improvements is 11,854,723 kWh, for an incremental increase of 3,353,149 kWh.

Review

Based on our review of the filing and project records, we have the following comments:

(1) The required water release for the project under license article 401 is 650 cfs during the walleye spawning period of March 15 through April 30 and 210 cfs during the rest of the year. It is not clear from your filing that the 650 cfs flow release requirement is included in your calculations.

111-5, Div. B, Title I, §1101, (2009), and Pub. L. No. 112-240, Title IV, §407, (2013).

⁵ Section 407 (a)(3)(E) of Pub. L. No. 112-240, amended IRC § 45 (d), paragraph (9), such that an efficiency improvement or addition to capacity shall be treated as placed in service before January 1, 2014, if the construction of such improvement or addition begins before such date. Pub. L. No. 113-295, Div. A, Title I, Subtitle C, §155, extended the deadline to before January 1, 2015. Pub. L. No. 114-113, Div. Q, Title I, Subtitle C, §187, extended the deadline to before January 1, 2017.

(2) Instead of using the 2014 year of actual hydropower production as a baseline, please use the same water flow information (flow records) in estimating the average annual generation for pre- and post- efficiency improvements. For the baseline, estimate the average annual hydropower production based on average daily flow for the period 1999 through 2014, and the design characteristics of the authorized existing units and license requirements. After establishing the baseline, please estimate the average annual hydropower production at the improved facility using the same water flow information used to establish the baseline. This approach is in accordance with the requirements of Code section 45 as amended under section 1301 of the Energy Policy Act of 2005.

(3) Finally, the amendment of license order that authorized the replacement of Unit No. 3, shows the estimated average annual generation before upgrading Unit No. 3 is 8,260,591 kWh and after the upgrade is 9,210,000 kWh, for an incremental increase of 949,410 kWh. Please, explain why the hydropower generation estimates in the current filing are different from those in the 2013 amendment of license order.

Within 45 days from the date of this letter, please provide a revised estimate of the hydropower production for pre- and post- efficiency improvements based on the above comments. Please, include an electronic copy of your calculations in a spreadsheet format.

The Commission strongly encourages electronic filing. Please file the requested information using the Commission's eFiling system at <http://www.ferc.gov/docsfiling/efiling.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426. The first page of any filing should include docket number P-2785-091.

Thank you for your cooperation. If you have any questions regarding this letter, please contact me at (202) 502-8759 or mo.fayyad@ferc.gov.

Sincerely,

M. Joseph Fayyad
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

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