

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of
Okanogan County, Washington

Project No. 12569-001

ORDER GRANTING EXTENSION OF TIME PURSUANT TO ARTICLE 301

(Issued July 31, 2015)

1. On March 19, 2015, the Public Utility District No. 1 of Okanogan County, Washington (Okanogan PUD), licensee for the 9-megawatt Enloe Hydroelectric Project No. 12569, filed a request for an extension of time to commence project construction pursuant to Article 301 of the license.¹ The project is located on the Similkameen River at river mile 8.8 near the city of Oroville in Okanogan County, Washington. The project will occupy federal lands administered by the U.S. Bureau of Land Management.

Background

2. Article 301 of the license requires the licensee to commence construction of the project works within two years from the issuance date of the license and to complete construction of the project within five years from the issuance date of the license. The licensee's extension request discusses two primary reasons for the request based on pending litigation and project financing. Over the last two years, the licensee sought to resolve ongoing legal challenges to its water rights and Clean Water Act Section 401 water quality certification. Additionally, Okanogan PUD cites conflicting internal and budgetary constraints, which caused it to defer proceeding with construction-related license requirements. Therefore, the licensee is requesting a two-year extension of time to commence construction in Article 301.²

¹ *Public Utility District No. 1 of Okanogan County, Washington*, 144 FERC ¶ 62,018 (2013).

² The licensee's filing only requests an extension of time to commence construction and wishes to revisit the completion deadline once it develops a more definitive plan and schedule for construction activities.

Review

3. Currently, Okanogan PUD water rights are pending litigation in the Thurston County Superior Court and are expected to be resolved in 2015. The Okanogan PUD asserts it is making progress towards starting construction, however requests an additional two years to provide enough time to resolve water rights issues and secure project financing. The licensee filed the request for an extension of time prior to the deadline and the reasons advanced by the licensee are reasonable and justify the extension of time request.

4. We remind the licensee that pursuant to section 13 of the Federal Power Act (FPA),³ the deadline for starting construction may only be extended once, for a period not exceeding two additional years. Therefore, the Commission cannot grant any further extensions of time for the commencement of project construction.

5. Additionally, the licensee must satisfy all outstanding pre-construction requirements of its license prior to receiving authorization to start construction. The following is a list of outstanding pre-construction license requirements: Article 206-Documentation of Project Financing; Article 302-Cofferdam and Deep Excavation Construction Drawings; Article 303-Contract Plans and Specifications; Article 401-Spill Prevention Control and Countermeasures Plan; Article 401-Blasting Plan; Article 401-Tailrace Barrier Net Plan; Article 402- Spoils Disposal Plan; and Article 409-Wildlife Management Plan.⁴ The licensee shall not commence project construction until the Division of Dam Safety and Inspections – Portland Regional Engineer authorizes the start of construction.

The Director orders:

(A) The deadline to commence construction required by Article 301 of the license for the Enloe Hydroelectric Project No. 12569 is extended to July 9, 2017.

³ 16 U.S.C. § 806 (2012)

⁴ The licensee filed the Wildlife Management Plan pursuant to Article 409 of the license on April 10, 2015, which is currently under review in a separate proceeding.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2014). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

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