

FEDERAL ENERGY REGULATORY COMMISSION

Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 10854-066--Michigan
Cataract Hydroelectric Project
Upper Peninsula Power Company

Mr. Terry P. Jensky
Assistant Vice President – Energy Supply Operations
Upper Peninsula Power Company
P. O. Box 19001
Green Bay, WI 54301-9001

NOV 21 2006

Reference: Article 401 Run-of-River Deviation

Dear Mr. Jensky:

We received your letter filed October 18, 2006, providing notification of deviations from the requirements of Article 401 for the Cataract Hydroelectric Project No. 10854, located on the Middle Branch Escanaba River, in Marquette County, Michigan.

Article 401 of the license¹ requires the licensee to operate the project in a run-of-river mode for the protection and enhancement of water quality and aquatic resources in the Middle Branch Escanaba River. As part of this requirement, when project inflows are greater than 55 cubic feet per second (cfs) and less than 415 cfs, the Cataract Reservoir is to be maintained at a target surface elevation of 1,173.5 feet mean sea level (msl), with an operating range of +/- 0.25 feet. Run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement among the licensee, the Michigan Department of Natural Resources (MDNR), and the U.S. Fish and Wildlife Service (FWS). If the flow is so modified, the licensee shall notify the Commission, MDNR and FWS as soon as possible, but no later than 10 days after each such incident.

You reported that on September 24, 2006, precipitation in excess of 1 inch fell within a 24-hour period. As a result, the elevation at Cataract Reservoir rose above the license maximum. An operator raised unit load from 12% to 42%. Later that afternoon the elevation had decreased to 1,173.80 feet msl, but additional rain was forecasted and the load was left at 42%.

¹ 78 FERC ¶62,100 (1997).

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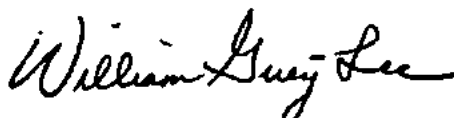
On September 25, 2006, the elevation had decreased to 1,173.30 feet, and the unit load was reduced to 26%. Later the same day, the load was further reduced to 20%. Finally, on October 2, 2006, the elevation observed was 1,173.52 feet and flow was 99 cfs. Notification of these events was reported to the MDNR and FWS on September 25, 2006.

Conclusion

Based upon our review of the available information, we have determined that the deviations from run-of-river operation which occurred do not constitute violations of Article 401 of your license. The deviations were the result of precipitation in excess of 1 inch falling within a 24-hour period and beyond your control.

Thank you for your cooperation in this matter. If you have any questions regarding this letter, please contact Patricia W. Gillis at (202) 502-8735.

Sincerely,



William Guey-Lee
Chief, Engineering and Jurisdiction Branch
Division of Hydropower Administration
and Compliance