

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 906-030 – Virginia
Cushaw Hydroelectric Project
Cushaw Hydro, LLC

VIA Electronic Mail

February 8, 2021

Mr. Mark Fendig
Managing Partner
Cushaw Hydro, LLC
mfendig@web-o.net

Subject: Denial of Request to Amend Authorized Installed Capacity

Dear Mr. Fendig:

This letter concerns your October 8, 2019, as supplemented on June 8 and October 19, 2020, request to amend the authorized installed capacity for the Cushaw Hydroelectric Project No. 906. Based on the information in the record, we must deny your request.

On June 13, 2008, the Commission issued a new license for the project. As licensed, the project has an authorized installed capacity of 7,500 kilowatts (kW), comprised of five 1,500-kW generating units.¹

Amendment Request

In your October 8, 2019 filing, you requested an amendment to reduce the authorized installed capacity from 7,500 kW to 5,000 kW. To support your request, you stated that “Cushaw has been operating the project for the past 10 months. With all units in operation the maximum generation capacity of the project has been 5 [megawatts] MW under various James River flow conditions, not the 7.5 MW nameplate rating when the capacity of all units is summed.” The filing did not include any information or data to support the requested amendment.

Following discussions with Commission staff, you filed additional information on June 8, 2020. In your June 8, 2020 filing, you request an amendment of the project’s authorized installed capacity from the licensed 7,500 kW to 6,000 kW based on modifications to the turbines and the hydraulic circumstances at the project. You state

¹ *Virginia Electric Power Company*, 123 FERC ¶ 62,222 (2008).

that in 1998 the previous owner of the project converted the “Francis turbines to fixed blade units ... [that are] less efficient but have certain operating benefits.” You also state that “when river flows are at the hydraulic capacity of the plant (i.e., 4150 [cubic feet per second] cfs or 830 cfs per unit), maximum project output is 6.3 [megawatts].” You then provide a series of calculations that result in an installed capacity of 6,000 kW; however, you state that you do “not have efficiency curves for the overhauled turbines.” Commission staff issued an additional information request on July 31, 2020, seeking further clarification and documentation of the project’s installed capacity.

In response to the additional information request, your October 19, 2020 filing indicates the work you completed following your acquisition of the project in 2018² was maintenance needed to “resume normal operations” and that “all units were fully serviced to ensure optimum operations and reliability.” Your filing includes photographs of what appear to be one unit’s original turbine and generator nameplates showing an installed capacity of 1,500 kW, which is consistent with the project’s current authorized installed capacity of 7,500 kW for the five units.

Review

The Commission’s regulations define ‘authorized installed capacity’ as “the lesser of the ratings of the generator or turbine units ... [and] the turbine’s capacity in horsepower (hp) [is] at best gate (maximum efficiency point) opening under the manufacturer’s rated head.”³ Further, the regulations provide “[i]f the generator or turbine installed has a rating different from that authorized in the licensee ... , or the installed generator is rewound or otherwise modified to change its rating, the licensee ... must apply to the Commission to amend its authorized installed capacity to reflect the change.” The 1995 rulemaking amending the annual charge regulations provided “[t]he capacity would be based on the actual power of the equipment in question.”⁴ The

² *Virginia Electric Power Company and Cushaw Hydro, LLC*, 161 FERC ¶ 62,104 (2017). The transfer was contingent upon the transfer of all properties, files, and license instruments to Cushaw Hydro, LLC, and Cushaw Hydro, LLC acknowledging acceptance of the transfer order and its terms and conditions. Cushaw Hydro, LLC filed the instruments of conveyance and signed acceptance sheets on January 9, 2019, indicating the transfer was finalized on November 20, 2018.

³ 18 C.F.R. § 11.1(i) (2020).

⁴ Charges and Fees for Hydroelectric Projects, Order No. 576, 60 Fed. Reg. 15,040 (March 22, 1995), FERC Stats. & Regs. ¶ 31,016 (March 15, 1995). The “rating on the generator’s nameplate at licensing will be deemed to be the capacity of the generator

rulemaking also provided “[w]e will not, however, adjust the total capacity of the turbines at a multi-unit powerhouse to reflect the peculiar hydraulics of the site. That is precisely the sort of potentially contentious complexity we seek to avoid.”

You state the units were modified by the previous owner of the project; however, the previous owner did not seek a modification of the project’s authorized installed capacity at the time the modifications are purported to have occurred. Additionally, a new license for the project was issued approximately 10 years after you state the modifications occurred, and the previous licensee did not seek a modified installed capacity during the relicensing process. You also state you do not have documentation showing how the modification affected the turbines’ installed capacity. Furthermore, the calculations you provided to support the amended installed capacity are based on your statements of the units’ current capabilities and the specific hydraulics of the site.

Your filings do not provide adequate justification and supporting information to warrant a change to the project’s authorized installed capacity. Therefore, consistent with section 11.1 the Commission’s regulations, precedent, and the 1995 rulemaking, Commission staff must deny your request to amend a project’s authorized installed capacity.⁵

This letter constitutes final agency action. Requests for rehearing must be filed within 30 days of the date of issuance of this letter, pursuant to 18 C.F.R. § 385.713 (2020). If you have any questions, please contact Christopher Chaney at (202) 502-6778 or Christopher.Chaney@ferc.gov or Kelly Houff at (202) 502-6393 or Kelly.Houff@ferc.gov.

Sincerely,

CarLisa Linton
Director
Division of Hydropower Administration
and Compliance

unless the generator has been modified or rewound subsequent to licensing such that the nameplate no longer accurately describes the generator’s actual capacity.” *Id.* ¶ 31,304.

⁵ *California Dep’t of Water Res.*, 164 FERC ¶ 62,127, at P 4–6 (2018); *see also S. Starrett Company*, 130 FERC ¶ 61,112, at P 6 (2010); *Nekoosa Packaging Corp.*, 73 FERC ¶ 61,291, at 61,811 (1995).