



BILLING CODE 6717-01-P  
DEPARTMENT OF ENERGY  
Federal Energy Regulatory Commission

[Project No. 2368-000]

Algonquin Power and Utilities Corporation;

Notice Of Existing Licensee's Failure To File  
Notice Of Intent To File A New License Application, Soliciting Pre-Application  
Documents And Notices Of Intent To File A License Application

The current license for Algonquin Power and Utilities Corporation's (Algonquin) Squa Pan Hydroelectric Project No. 2368 was issued on December 4, 1991, for a term of 30 years, ending December 3, 2021.<sup>1</sup> The 1.5-megawatt (MW) project is located on Squa Pan Stream in Aroostook County, Maine. The project does not occupy federal land.

The principal project works consist of: (1) a 35-foot-high, 60-foot-long reinforced concrete dam; (2) a 45-foot-high embankment dam, consisting of a 330-foot-long northern section and a 370-foot-long southern section; (3) a 24-foot-wide, 13.5-foot-high radial gate; (4) a 5,043-acre reservoir at a normal maximum water surface elevation of 603.2 feet National Geodetic Vertical Datum of 1929; (5) a 26-foot-wide, 67-foot-long concrete powerhouse with a single 1.5-MW turbine-generator unit; and (6) a 7.6-mile-long transmission line.

The project is subject to section 15 of the Federal Power Act (FPA),<sup>2</sup> which states that an existing licensee must "notify the Commission whether the licensee intends to file an application for a new license or not ... at least 5 years before the expiration of the license."<sup>3</sup> Section 5.5(d) of the Commission's regulations provides that an existing licensee must file its notice of intent (NOI) no later than five years before the existing license's expiration and section 5.6(a) of the Commission's regulations requires a potential applicant to file a pre-application document (PAD) with its NOI. And, while the integrated licensing process (ILP) is the default pre-filing process, section 5.3(b) of the Commission's regulations allows a potential license applicant to request to use alternative licensing procedures when it files its NOI.

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<sup>1</sup> See *Maine Public Service Company*, 57 FERC 62,178 (1991).

<sup>2</sup> See ordering paragraph (D) of the license.

<sup>3</sup> 16 USC 808(b)(1) (2012).

Pursuant to FPA section 15 and 18 CFR 16.9, any application for a new license for this project must be filed with the Commission at least 24 months prior to the expiration of the existing license. Because the current license expires on December 3, 2021, all applications for license for this project must be filed by December 3, 2019.

Because the existing license expires on December 3, 2021, the NOI, PAD, and any request to use alternative licensing procedures were due to be filed no later than the close of business on December 5, 2016.<sup>4</sup> No entity filed a timely NOI and PAD. However, Algonquin filed an NOI on December 8, 2016, along with a request for an extension until August 2017 to file the PAD and any request to use alternative licensing procedures.<sup>5</sup>

Pursuant to 18 CFR 16.23(a), an existing licensee subject to section 15 of the FPA that fails to file a an NOI at least 5 years before the existing license expires shall be deemed to have filed a notice indicating that it does not intend to file an application for new license. Additionally, pursuant to 18 CFR 16.24(a), an existing licensee that informs the Commission that it does not intend to file an application, may not file an application for a new license for the project, either individually or in conjunction with an entity or entities that are not currently licensees of the project.

The Commission is not taking action on Algonquin's late-filed NOI at this time;<sup>6</sup> however, Algonquin's request to delay filing the PAD or any request to use an alternative licensing process until August, 2017 is denied because the requested delay would

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<sup>4</sup> The Commission's Rules of Practice and Procedure provide that, if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is closed for business, the filing deadline "does not end until the close of . . . business on the next business day . . ." 18 CFR 385.2007(a)(2) (2016). The filing deadline was December 3, 2016, which fell on a Saturday. Thus, the filing deadline was the close of business on Monday, December 5, 2016.

<sup>5</sup> Algonquin's December 8, 2016, filing indicates it is working to finalize the sale of the project to another entity by the end of the first quarter of 2017 and the additional time would "allow" the potential purchaser time to prepare a PAD and select a licensing process. We note however that any transfer of ownership would require Commission approval. *See* FPA Section 8, 16 USC 801 (2012) and 18 CFR Part 9 (2016).

<sup>6</sup> Algonquin indicates that its NOI was late due to "administrative oversight." However, Commission staff sent letters reminding Algonquin of the NOI deadline on April 1, 2015, and February 10, 2016. In addition, Commission staff contacted Algonquin via email on August 16, 2016 and September 27, 2016 and via phone on March 15, 2016 and December 5, 2016, to remind it of the NOI deadline. Algonquin suggests that due to a "telecommunications failure," it did not receive these messages.

unreasonably shorten the time available for preparation of a license application and/or conducting necessary studies. Instead, this notice sets a deadline of 120 days from the date of this notice for Algonquin and competing applicants to file NOIs, PADs, and requests to use an alternative licensing process.

To the extent that Algonquin or any competing applicant elects or is required to use the Commission's ILP, a process plan will be issued within 180 days of this notice that accelerates the steps of the ILP to allow for filing a new license application by the December 3, 2019, deadline.

Questions concerning this notice should be directed to John Baummer at (202) 502-6837 or John.Baummer@ferc.gov.

Dated: January 5, 2017

Kimberly D. Bose,  
Secretary.

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