

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION
OF MOTHER ANN LEE HYDROELECTRIC
STATION FOR CERTIFICATION AS AN
ELIGIBLE OHIO RENEWABLE ENERGY
RESOURCE GENERATING FACILITY.

CASE NO. 14-403-EL-REN

FINDING AND ORDER

Entered in the Journal on February 21, 2018

I. SUMMARY

{¶ 1} The Commission approves this application for certification as an eligible Ohio renewable energy resource generating facility.

II. APPLICABLE LAW

{¶ 2} R.C. 4928.64 and 4928.645 contain the renewable energy resource requirements for electric utility and electric services companies providing electric retail generation in Ohio. R.C. 4928.01(A)(37) defines the types of renewable energy resource generating facilities that qualify in meeting the statutory mandates.

{¶ 3} Pursuant to R.C. 4928.64 and 4928.645, in order to qualify as a certified eligible Ohio renewable energy resource generating facility, a facility must demonstrate in its application that it has satisfied all of the following criteria:

- (a) The generation produced by the renewable energy resource generating facility can be shown to be deliverable into the state of Ohio, pursuant to R.C. 4928.64(B)(3).
- (b) The resource to be utilized in the generating facility is recognized as a renewable energy resource pursuant to R.C. 4928.64(A)(1) and 4928.01(A)(37), or a new technology that may be classified by the Commission as a renewable energy resource pursuant to R.C. 4928.64(A)(2).

- (c) The facility must satisfy the applicable placed-in-service date, delineated in R.C. 4928.64(A)(1).

{¶ 4} R.C. 4928.645(B)(2) provides that renewable energy resource generating facilities should be registered with an approved attribute tracking system for the facility's renewable energy credits to be used for compliance with Ohio's renewable energy portfolio standards.

{¶ 5} Ohio Adm.Code 4901:1-40-04(F) specifies the process for the filing of an application for certification of a facility as an eligible renewable energy resource generating facility for the state of Ohio that satisfies the requirements of R.C. 4928.64 and 4928.645. Ohio Adm.Code 4901:1-40-04(F)(2) provides for automatic approval of an application for certification unless the Commission suspends the application within 60 days.

{¶ 6} Ohio Adm.Code 4901:1-40-01(I) provides that generation is deemed to be deliverable into the state of Ohio if the facility is connected to the electric grid within a state contiguous to Ohio. Electricity originating from other locations may also be deemed to be deliverable into the state of Ohio, based upon a demonstration that the electricity could be physically delivered to the state.

III. PROCEDURAL HISTORY

{¶ 7} On March 19, 2014, Lock 7 Hydro Partners, LLC (Applicant), filed this application for certification of the Mother Ann Lee Hydroelectric Station (Facility), in Harrodsburg, Kentucky, as an eligible Ohio renewable energy resource generating facility under R.C. 4928.01. According to the application, the Facility has three generating units facility located on the Kentucky River with an aggregate generating capacity of 2.04 megawatts.

{¶ 8} On March 25, 2014, the attorney examiner issued an entry suspending the automatic approval of this application under Ohio Adm.Code 4901:1-40-04(F)(2).

{¶ 9} The Applicant filed supplemental information in response to Staff interrogatories on April 1, and May 6, 2014.

{¶ 10} On February 26, 2016, Staff filed a report of its review of the application and supplemental information, indicating that the facility appears to satisfy the statutory requirements for certification as a renewable energy facility, and recommending that the application be approved.

IV. DISCUSSION

{¶ 11} First, pursuant to R.C. 4928.64(B)(3), the Commission considers whether the facility is located in this state or whether the resource can be shown to be deliverable into this state. Staff reports that the Facility is grid-connected and located in Kentucky, which is a state that is contiguous to Ohio. Accordingly, the Commission finds that the application satisfies the first criterion.

{¶ 12} Second, the Commission considers whether the resource to be utilized by the generating facility is recognized as a renewable energy resource by Ohio law. Staff reports that the Applicant has indicated that the Facility satisfies the eight statutory standards specific to hydroelectric facilities under R.C. 4928.01(A)(37), and that during its review, Staff found no evidence to the contrary. Therefore, the Commission finds that the second criterion is satisfied.

{¶ 13} Third, the Commission considers whether the facility meets the placed-in-service requirement in R.C. 4928.64(A)(1). Under this provision, the Facility must meet one of the following criteria:

(a) The Facility has a placed-in-service date on or after January 1, 1998;

(b) The Facility is a run-of-the-river hydroelectric facility that has an in-service date on or after January 1, 1980;

(c) The Facility is a small hydroelectric facility;

(d) The Facility is created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998; or

(e) The Facility is a mercantile customer-sited renewable energy resource.

{¶ 14} Staff reports that the original facility at this location, named the Lock No. 7 Project, was owned by Kentucky Utilities Company (KUC), and was placed into service in 1927, but retired in 1999. In 2005, the Applicant purchased the Lock No. 7 Project from KUC together with the operational license (FERC License No. 539) for the facility. Staff notes that after refurbishments at the site at a cost in excess of \$2 million, the three generating units were returned to service between March 2007 and December 2008.

{¶ 15} With respect to R.C. 4928.64(A)(1)(d), Staff contends that the statute requires modification or retrofit to create a renewable energy resource that did not previously exist. Staff asserts that this provision is not applicable to the Facility in this case since the previously existing facility at this location, was a hydroelectric facility both prior to and after its retirement and extensive renovations. Accordingly, Staff reasons, that a renewable energy resource was not created by modification or retrofit in this case.

{¶ 16} Further, the application indicates that the Applicant is not a mercantile customer, so as to allow the Facility to qualify under R.C. 4928.64(A)(1)(e). Moreover, Staff reports that, due to its location and size, the Facility does not qualify as a run-of-the-river facility as defined by R.C. 4928.01(A)(37)(a)(v). However, Staff concludes that the Facility, as it currently exists, should be viewed as a new facility having a placed-in-service date of December 2008, thereby satisfying the first statutory placed in-service provision under R.C. 4928.64(A)(1)(a). Although the current Facility occupies the same area and makes use of much of the same equipment as the Lock No. 7 Project, and is also operating under the same 1992 FERC license, Staff contends that the Facility should be considered a new facility in light of the retirement of the previous facility, the lengthy period of inactivity, and the extensive rebuilding necessary to make the Facility operational.

{¶ 17} Upon review of the application, supplemental filings, and Staff recommendations, we find, under the unique circumstances of this case, that the Facility satisfies the placed-in-service requirement under R.C. 4928.64(A)(1). As such, the Commission finds that the application meets the third criterion.

{¶ 18} In addition to satisfying the above-cited criteria, R.C. 4928.645(B)(2) provides that renewable energy resource generating facilities should be registered with an approved attribute tracking system for the facility's renewable energy credits to be used for compliance with Ohio's alternative energy portfolio standards. The application indicates that the Facility is registered with an approved attribute tracking system.

{¶ 19} Accordingly, the Mother Ann Lee Hydroelectric Station will be certified as an eligible Ohio renewable energy resource generating facility. In the event of any substantive changes in the facility's operational characteristics, or significant changes in the information provided in the application, the Applicant or any subsequent owner of the Facility must notify the Commission within 30 days of such changes. Failure to do so may result in revocation of this certification.

V. ORDER

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That the application be approved. It is, further,

{¶ 22} ORDERED, That the Commission's Docketing Division issue the Applicant a certificate as an eligible Ohio renewable energy resource generating facility. It is, further,

{¶ 23} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

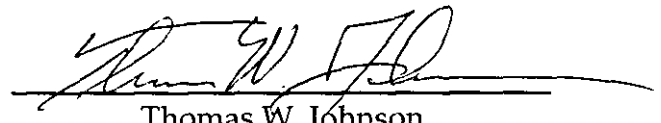
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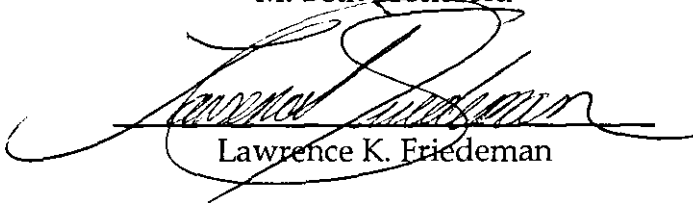
Asim Z. Haque, Chairman



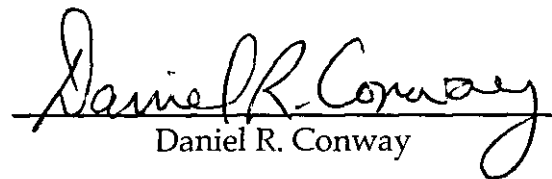
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