

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Safe)
Harbor Water Power Corporation for) Case No. 13-0707-EL-REN
Certification as an Eligible Ohio Renewable)
Generating Facility)

Review and Recommendation Submitted on Behalf of
The Staff of the Public Utilities Commission of Ohio

On March 20, 2013, Safe Harbor Water Power Corporation (Applicant) filed an application in this proceeding seeking certification of the Safe Harbor Water Power Corporation hydroelectric generation facility (Facility) as an eligible Ohio renewable energy generation facility. According to the application, this is a 417.5 megawatt run-of-the-river facility on the Susquehanna River in Conestoga, Pennsylvania. Comprised of a total of fourteen generators, the individual generating units were placed in-service over time with the earliest coming on-line in 1931 and the most recent being placed in-service in 1986. The facility has been certified in several other states, and it is currently registered with the PJM EIS Generation Attribute Tracking System (GATS).

The application was automatically approved on the sixty-first day after the application was filed, consistent with 4901:1-40-04(F)(2), OAC. The Staff issued the certificate with an effective date of May 20, 2013, and assigned this facility the Ohio certification number of 13-HYD-PA-GATS-0402.

STAFF REVIEW

Although Staff's review indicates that the facility satisfies the resource/technology and deliverability requirements necessary for certification, Staff concludes that the facility does not satisfy the statutory placed in-service requirement. Of the 14 generator units at the facility, none have a more recent placed in-service date than 1986. Table 1 below shows the years in which the generators were placed in-service.

Table 1

Year Placed in-Service	Number of Generating Units
1931	4
1932	2
1933	1
1934	1
1940	1
1985	3
1986	2
Total	14

Source: Section I.1 of application

The Applicant indicated in its application that it is not a mercantile customer. As such, the facility must satisfy one of the following statutory provisions to satisfy the placed in-service requirement for a qualified renewable energy resource:

- Has a placed in-service date of January 1, 1998, or after; or
- Is a renewable energy resource created on or after January 1, 1998, by the modification or retrofit of any facility placed in service prior to January 1, 1998.¹

As indicated by the contents of Table 1 above, all of the generating units came on-line prior to 1998 and, therefore, the facility does not satisfy the initial placed in-service provision.

With respect to the second placed in-service provision, the Applicant indicated to Staff that it has invested significant dollars into the ongoing maintenance and rehabilitation of the generators. Such activities were detailed in the Applicant's supplemental information provided in response to Staff questions.² However, Staff interprets this particular section of the statute as requiring that the retrofits create a renewable energy resource and the record in this case is clear that this facility was a hydroelectric facility prior to the retrofits. Therefore, Staff concludes that the Applicant's rehabilitation efforts are for an existing renewable energy resource rather than creating a renewable energy resource.

Staff believes that this application raises questions similar to those previously considered by the Commission in response to an application submitted in *In the Matter of the Application for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility for the Auglaize Hydroelectric Plant*, Case No. 09-1062-EL-BGN (Feb. 24, 2010). There, the Commission certified 2 of 6 units at a hydroelectric facility. The 4 units that were denied certification were found not to have satisfied the placed in-service requirement. Specifically the Commission indicated the following in its decision:

¹ ORC 4928.64(A)(1)

² Applicant responses filed on February 12, 2014

“However, these modifications did not result in the creation of a renewable energy resource; the hydroelectric generating facility was already in existence prior to January 1, 1998.”³

In addition to the Auglaize decision, the Commission recently rendered its decision in *In the Matter of the Application of Glen Ferris Development for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility*, Case No. 12-2730-EL-REN. The Commission’s decision in that case included consideration of such factors as the facility’s extended period of inactivity which coincided with the enactment of R.C. 4928.64, significant renovations undertaken at the facility, and an increase in the facility’s capacity factor. Based on the Safe Harbor application and its supplemental information, Staff concludes that the facility does not satisfy the “unique circumstances” identified in the Commission’s Glen Ferris decision. While acknowledging the substantial rehabilitation activities, the capacity factor did not change nor did the outages generally correspond with the enactment of 4928.64, R.C. In addition, the outages did not entail a complete shutdown of the facility for multiple years.

As a result of its analysis of the statutory language and the Commission’s previous decisions in other hydroelectric certification proceedings, Staff believes that the Safe Harbor Water Power Corporation facility does not satisfy the statutory placed in-service provision.

STAFF RECOMMENDATION

Staff recommends that the Commission revoke this certificate on the basis that the facility does not satisfy the statutory placed in-service date requirement for a qualified renewable energy resource.

In the event that the Commission revokes certificate 13-HYD-PA-GATS-0402, Staff believes it would be appropriate to recognize for compliance purposes the RECs associated with electricity generated during the time the facility was certified. RECs generated outside that time period should not be recognized for Ohio compliance purposes under the alternative energy portfolio standard. Such treatment would be consistent with the Commission’s Entry on Rehearing in Case No. 08-888-EL-ORD, where it indicated the following:

“In the case of certificate revocation, the Commission clarifies that it would recognize otherwise-qualified RECs from a facility up to the point of revocation.”⁴

³ Commission Finding and Order, p. 3; 2/24/10

⁴ Entry on Rehearing, p. 35; 6/17/09

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Summary: Staff Review and Recommendation electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff