

**143 FERC ¶ 62,218**  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Brookfield Smoky Mountain Hydropower, LLC

Project No. 2169-078

ORDER APPROVING REVISED ENDANGERED SPECIES MANAGEMENT PLAN

(Issued June 27, 2013)

1. On April 30, 2013, Brookfield Smoky Mountain Hydropower, LLC (licensee) filed a revised endangered species management plan (plan) pursuant to ordering paragraph (C) of the Order Modifying and Approving Endangered Species Monitoring Plan Pursuant to Article 407, for the Smoky Mountain Hydroelectric Project.<sup>1</sup> The project is located on the Little Tennessee and Cheoah Rivers in Graham and Swain Counties, North Carolina, and Blount and Monroe Counties, Tennessee. Part of the project (387 acres) occupies federal lands within the Nantahala National Forest, which is administered by the U.S. Forest Service (FS).
2. Ordering paragraph (C) of the 2008 order requires the licensee to file, for Commission approval, revisions to the endangered species management plan every five years beginning December 31, 2012.<sup>2</sup> Revisions to the plan are to be prepared in consultation with the appropriate resource agencies.
3. In a March 18, 2013 email, the licensee provided a draft revised plan for comment to the U.S. Forest Service (FS), U.S. Fish and Wildlife Service (FWS), Great Smoky Mountains National Park (NPS), North Carolina Department of Environment and Natural Resources (NCDENR), North Carolina Division of Water Resources (NCDWR), North Carolina Wildlife Resources Commission (NCWRC), Tennessee Department of Environment and Conservation (TDEC), and Tennessee Wildlife Resources Agency (TWRA). On March 22, 2013, and April 10, 2013, respectively, the FWS and NCWRC each provided comments on the revised plan. The FS, NCDWR, and NCDENR each responded with no comments or opposition to the proposed changes, and the NPS, TDEC, and TWRA did not respond.

<sup>1</sup> 122 FERC ¶ 62,216 (issued March 4, 2008).

<sup>2</sup> On February 1, 2013, the licensee notified the Commission of its intention to update the plan and consult with several natural resource agencies regarding the content of the update.

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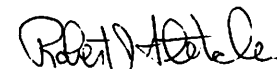
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4. The revised plan incorporates minor comments provided to the licensee by the FWS and NCWRC. The majority of the changes made to the plan were editorial corrections, and a few changes were made to clarify or give further detail to certain elements of the plan (e.g., providing summaries of results from prior monitoring efforts, clarifying that some monitoring and reporting had already been completed, etc.). No material changes to the plan were made. The revised plan satisfies the requirements of ordering paragraph (C) of the above March 2008 order, and should be approved. However, we note that the revisions to the plan are to be filed every five years beginning December 31, 2012. The licensee first notified the Commission on February 1, 2013 that it would make its filing by April 30, 2013. Both this initial notification and the revised plan were filed well past this due date. The licensee is reminded that it is required to make timely filings, and warned that late filings may in the future be considered a violation of the project license. In the future, requests for extension of time should be filed in advance of a due date in order to allow Commission staff adequate time to respond.

The Director orders:

(A) The revised endangered species management plan filed on April 30, 2013, pursuant to ordering paragraph (C) of the Order Modifying and Approving Endangered Species Monitoring Plan Pursuant to Article 407 for the Smoky Mountain Hydroelectric Project, is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2012). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.



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