

114 FERC ¶ 61,034
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Fall Line Hydro Company, Inc.

Project No. 11301-013

ORDER DENYING REHEARING AND TERMINATING LICENSE

(Issued January 19, 2006)

1. Fall Line Hydro Company, Inc. (Fall Line) has requested rehearing of Commission staff's unpublished October 5, 2005 Order denying Fall Line's request for an extension of time for the commencement of construction of the Carters Reregulation Dam Project and issuing notice of probable termination of the project license. Because the Federal Power Act (FPA) does not permit the requested extension, we deny rehearing and terminate the license for the Carters Reregulation Dam Project.

Discussion

2. On July 30, 2001, the Commission issued a new license to Fall Line for the proposed 4,500-kilowatt Carters Reregulation Dam Hydroelectric Project No. 11301 to be located at the U.S. Army Corps of Engineers' (Corps) Carters Reregulation Dam and Reservoir on the Coosawattee River near the town of Calhoun, in Murray County, Georgia.¹

3. Section 13 of the FPA² states that a licensee must commence the construction of project works within the time fixed in the license, which shall not be more than two years from the date thereof, and that the Commission may extend the deadline for the commencement of project construction once, for no longer than two additional years. If construction is not timely commenced, the Commission is to terminate the license.

¹ 96 FERC ¶ 62,091.

² 16 U.S.C. § 806 (2000).

4. Article 301 of the Project No. 11301 license required Fall Line to begin project construction within two years of license issuance, that is, by July 29, 2003.³ On July 17, 2003, the Commission, at Fall Line's request, extended the deadline for commencement of construction the allowed maximum of two years until July 29, 2005.⁴
5. On April 27, 2005, Fall Line filed a request for another extension of the deadline, arguing that more time was needed for the Corps to review the project design and make repairs to the existing Corps dam before the Corps could authorize Fall Line to commence construction of its project. Commission staff denied the request in an unpublished June 8, 2005 Order, citing section 13's bar against further extensions of the deadline.⁵
6. On September 7, 2005, Fall Line filed another request for an extension of the deadline, on the same grounds as its previous request, again asking that the deadline be extended for an indefinite period until at least two years after any Corps grant of permission for Fall Line to begin project construction.
7. On October 5, 2005, reiterating the FPA bar against a further extension of time, the Commission staff denied Fall Line's third request for an extension of time and issued notice of probable termination of license.
8. Fall River requests rehearing of that order. It does not dispute that construction has not begun, but rather reiterates the arguments made in its previous requests for a second of extension of time, and asserts that it will suffer undue hardship and financial loss if an extension is not granted.⁶

³ 96 FERC at 64,180.

⁴ Unpublished.

⁵ On July 29, 2005, the Commission rejected as untimely Fall Line's request for rehearing of the June 8 Order.

⁶ The only supporting correspondence Fall Line submitted with the rehearing request is the same letter from the Corps, which is more than two years old, that it submitted with its September 7, 2005 extension request.

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9. Fall Line's request for rehearing may not be granted, notwithstanding any of Fall Line's arguments. Fall Line has already received the maximum statutory extension. No further extensions may be granted.⁷

The Commission orders:

(A) Fall Line Hydro Company, Inc.'s request for rehearing of the October 5, 2005 Order denying extension of time to commence construction and issuing notice of probable termination of license in this proceeding is denied.

(B) The license for the Carters Regulation Dam Project No. 11301 is terminated effective 30 days after the issuance date of this order unless that day is a Saturday, Sunday, part-day holiday that affects the Commission, or legal public holiday as described in 18 C.F.R. §385.2007, in which case the effective date is the first business day following that day.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁷ See *Daniel C. Merrill*, 43 FERC ¶ 61,264 (1988).