

192 FERC ¶ 61,071  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;  
David Rosner, Lindsay S. See,  
and Judy W. Chang.

Lock +™ Hydro Friends Fund XLII, LLC

Project No. 13739-007

ORDER GRANTING STAY

(Issued July 24, 2025)

1. On February 7, 2025, Lock +™ Hydro Friends Fund XLII, LLC (Hydro Friends), the licensee for the Braddock Locks and Dam Hydroelectric Project No. 13739 (Braddock Project), filed a request for a stay of the commencement and completion of construction deadlines established in Article 301 of the project license. The unconstructed project will be located at the U.S. Army Corps of Engineers' (Corps) Braddock Locks and Dam facility on the Monongahela River, in the Borough of West Mifflin and the City of Duquesne, Pennsylvania. The project will occupy federal land administered by the Corps. As discussed below, we grant the request.

**I. Background**

2. On June 4, 2015, Commission staff issued an original license to Hydro Friends to construct, operate, and maintain the 5.25-megawatt Braddock Project.<sup>1</sup> Consistent with section 13 of the Federal Power Act (FPA),<sup>2</sup> Article 301 of the license requires the licensee to commence construction of the project works within two years from the issuance date of the license (June 4, 2017) and complete construction of the project within five years from the issuance date of the license (June 4, 2020).<sup>3</sup>

---

<sup>1</sup> *Lock +™ Hydro Friends Fund XLII*, 151 FERC ¶ 62,161 (2015). The license for the Braddock Project authorized the construction of: (a) a steel powerhouse containing seven horizontal modular bulb turbine/generator units with a total capacity of 5.25 MW; (b) a trash rack at the powerhouse intakes; (c) an approach channel; (d) a tailrace channel; (e) a transmission line; (f) a switchyard; (g) an upstream waterway barrier; and (h) appurtenant facilities. *Id.* P 11.

<sup>2</sup> 16 U.S.C. § 805 (2021).

<sup>3</sup> *Lock +™ Hydro Friends Fund XLII*, 151 FERC ¶ 62,161 at P 59.

**A. Previous Extensions of Time**

3. On March 3, 2017, Hydro Friends filed a request for extension of the deadlines to commence and complete construction due to delays in negotiating with the Corps as required by certain license articles.<sup>4</sup> On March 10, 2017, Commission staff granted Hydro Friends' request, extending the deadline to commence construction to June 4, 2019, and the deadline to complete construction to June 4, 2022.<sup>5</sup>

4. On October 23, 2018, Congress enacted the America's Water Infrastructure Act of 2018,<sup>6</sup> which, in part, amended section 13 of the Federal Power Act to allow the Commission to grant extensions of time for the commencement of construction for up to eight years.<sup>7</sup>

5. On March 1, 2019, Hydro Friends filed a request to extend the construction deadlines for an additional four years due to delays in securing financing which delayed negotiations and permitting processes with the Corps. On March 21, 2019, Commission staff granted a two-year extension, extending the deadlines to commence and complete construction to June 4, 2021, and June 4, 2024, respectively.<sup>8</sup>

6. On May 13, 2021, and April 10, 2023, respectively, Commission staff granted Hydro Friends two additional extensions due to delays in the Corps permitting process and in the PJM interconnection process, respectively, ultimately extending the deadline to commence construction to June 4, 2025 (the maximum permitted under the FPA), and the deadline to complete construction to June 4, 2028.<sup>9</sup>

---

<sup>4</sup> See, e.g., Article 311 (requiring the licensee, within 90 days of license issuance, to enter an agreement with the Corps to coordinate plans for access to and site activities on lands administered by the Corps).

<sup>5</sup> *Hydro Friends*, Project No. 13739-002 (Mar. 10, 2017) (delegated order).

<sup>6</sup> America's Water Infrastructure Act of 2018, Pub. L. No. 115-270, § 3001, 132 Stat. 3765, 3862 (2018).

<sup>7</sup> 16 U.S.C. § 805.

<sup>8</sup> *Hydro Friends*, Project No. 13739-002 (Mar. 21, 2019) (delegated order). Staff explained that a two-year was reasonable in light of the progress Hydro Friends was making and that the licensee could apply for another extension if one was needed.

<sup>9</sup> *Hydro Friends*, Project No. 13739-002 (May 13, 2021) (delegated order); *Hydro Friends*, Project No. 13739-002 (April 10, 2023) (delegated order).

**B. Request for Stay**

7. On February 7, 2025, Hydro Friends filed a request to stay the commencement and completion of construction deadlines in Article 301 of the license for four years.<sup>10</sup> Hydro Friends maintains that it has worked diligently to develop the project, but that delays in the Corps section 408 permitting process and the PJM interconnection process have hindered its ability to commence construction.<sup>11</sup>

8. Hydro Friends states that it submitted its permit application under section 408 of the Clean Water Act to the Corps over five years ago, on November 19, 2019, and has been continually working to make progress in meeting its license requirements.<sup>12</sup> Hydro Friends also asserts that it met with the Corps on December 5, 2022, regarding its pending application and has had numerous phone calls with the Corps during this process. Hydro Friends states that it submitted 30% designs to the Corps on April 2, 2022, 45% designs on May 18, 2022, and 60% designs on April 19, 2023.<sup>13</sup> Hydro Friends also notes that it completed a metes and bounds survey of the project area and submitted it to the Corps in January 2023 to support drafting a real estate agreement. Hydro Friends explains that it is currently working on the Corps' probable failure mode analysis and semi-quantitative risk analysis and will submit updated drawings and project reports to both the Commission and the Corps for 100% review after the analyses are complete. Hydro Friends estimates that the Corps will complete the section 408 permitting process in the next 2-3 years, assuming no further delays.

9. Hydro Friends also asserts that it has experienced delays in interconnecting to PJM. Hydro Friends explains that it submitted its interconnection request to PJM on February 21, 2021,<sup>14</sup> but that shortly thereafter PJM paused processing of interconnection applications to reform its generation interconnection process.<sup>15</sup> Hydro Friends states that

---

<sup>10</sup> Request for Stay at 2.

<sup>11</sup> *Id.* at 2-3.

<sup>12</sup> *Id.* at 3. Hydro Friends states that the COVID-19 pandemic paused the Corps' processing of section 408 applications due to the stay-at-home orders in Pennsylvania. *Id.*

<sup>13</sup> Commission staff provided comments on the 60% design progress report on November 7, 2023.

<sup>14</sup> The project's PJM queue number is AG2-150.

<sup>15</sup> Request for Stay at 3.

PJM recently started processing its request and that the interconnection process is expected to be complete by the end of 2026.<sup>16</sup>

10. U.S. Senator Tommy Tuberville, Pennsylvania State Senator Greg Rothman, U.S. Congresswoman Summer Lee, U.S. Senator John Fetterman, and U.S. Senator David H. McCormick filed comments in support of the request to stay the deadlines to commence and complete construction.<sup>17</sup> The commenters note the importance of hydropower in generating clean, reliable energy and creating jobs in their communities. No comments opposing the request were filed.

## II. Discussion

11. The Commission grants equitable stays of the commencement and completion of construction deadlines in a hydroelectric license where justice so requires.<sup>18</sup> The Commission has explained that it will grant a request for a stay beyond the time limits specified in FPA section 13 where the licensee did not cause the delay in project development<sup>19</sup> or where doing so is necessary to further the purposes of the FPA.<sup>20</sup> It is Commission policy to grant requests for such stays only in narrowly circumscribed circumstances where doing so is in the public interest.<sup>21</sup> Such circumstances may occur where there are obstacles to project construction that are beyond a licensee's control, but

---

<sup>16</sup> *Id.*

<sup>17</sup> See Senator Tuberville February 20, 2025 Comments; Senator Rothman March 12, 2025 Comments; Congresswoman Lee April 25, 2025 Comments; Senator John Fetterman May 23, 2025 Comments; Senator John Fetterman and Senator David H. McCormick June 3, 2025 Joint Comments.

<sup>18</sup> See *Pub. Util. Dist. No. 1 of Okanogan Cnty., Wash.*, 162 FERC ¶ 61,040, at P 13 (2018) (explaining that the Commission has elected to utilize the standard set forth in section 705 of APA, 5 U.S.C. § 705, to determine whether a stay is justified).

<sup>19</sup> See, e.g., *Horseshoe Bend Hydroelectric Co.*, 43 FERC ¶ 61,315, at 61,880 (1988) (granting equitable stay due to delays in project development caused by circumstances outside licensee's control).

<sup>20</sup> See, e.g., *City of Seattle, Wash.*, 28 FERC ¶ 61,015 (1984) (stating that granting an equitable stay is "necessary to effectuate the purposes of Part I of the Federal Power Act for developing our nation's water resources.").

<sup>21</sup> See, e.g., *Jordan Hydroelectric Ltd. P'ship*, 180 FERC ¶ 61,019, at P 14 (2022).

which appear likely to be resolved within a definitive timeframe.<sup>22</sup> These include situations in which the interconnecting utility refuses to expand its transmission line to accommodate project power,<sup>23</sup> the Commission concludes that further study or analysis is required,<sup>24</sup> other federal or state agency authorizations are pending beyond the licensee's control,<sup>25</sup> or where construction of a licensed project at a federal dam is delayed due to a federal agency at the dam.<sup>26</sup>

12. The nature of Hydro Friends' circumstances justifies an exercise of our equitable stay authority. Hydro Friends has demonstrated that it is diligently pursuing development of the project and that the delays in the Corps' section 408 permitting process and the PJM interconnection process are outside of its control. Hydro Friends has communicated with the Corps throughout the process and has provided estimated timelines for the remaining 408 process and PJM interconnection. We find that this is sufficient proof that Hydro Friends, for reasons beyond its control, will not be able to timely commence or complete project construction.

---

<sup>22</sup> See *City of Broken Bow, OK*, 142 FERC ¶ 61,118, at P 8 (2013); *Gallia Hydro Partners*, 65 FERC ¶ 61,274, at 62,260 (1993).

<sup>23</sup> E.g., *Dr. Daniel C. Merrill*, 43 FERC ¶ 61,264 (1988).

<sup>24</sup> E.g., *Weyerhaeuser Co.*, 32 FERC ¶ 61,458 (1985); *El Dorado Irrigation Dist.*, 30 FERC ¶ 61,105 (1985); *City of Seattle*, 28 FERC ¶ 61,015.

<sup>25</sup> See *Red River Hydro, LLC*, 161 FERC ¶ 61,182 (2017) (stay granted pending Corps final review and approval of design plans); *Gull Indus., Inc.*, 70 FERC ¶ 61,253 (1995) (stay granted pending completion of Endangered Species Act (ESA) consultation and receipt of dredge and fill permit); *Cogeneration Inc.*, 70 FERC ¶ 61,184 (1995) (stay granted pending ESA consultation, resolution under section 401 of the Clean Water Act, and receipt of dredge and fill permit); *Western Hydro Electric, Inc.*, 67 FERC ¶ 61,201 (1994) (stay granted pending receipt of U.S. Forest Service special use permit); *E.R. Jacobson*, 68 FERC ¶ 61,054 (1994) (stay granted pending receipt of dredge and fill permit and Commission re-consultation with U.S. Fish and Wildlife Service).

<sup>26</sup> See *Solia 6 Hydroelectric, LLC*, 189 FERC ¶ 61,203 (2024) (stay granted because the Corps initiated an upgrade project at its dam that precluded the licensee from starting construction); *City of Broken Bow, OK*, 142 FERC ¶ 61,118 (stay granted because the Corps' proposed safety studies on the dam would prevent project construction); *City of Marion, Ky.*, 59 FERC ¶ 61,375, at 62,433 (1992) (temporary stay granted because the Corps withheld approval of the project construction plans due to conflicts with the Corps' proposed construction on the dam).

13. Hydro Friends has executed an interconnection agreement, secured a power purchase agreement for the sale of the project's power, and signed final engineering agreements with a turbine manufacturer.<sup>27</sup> Since Commission staff's last extension of time order,<sup>28</sup> Hydro Friends has submitted a 100% design report to the Corps and annual water quality reports to the Commission.<sup>29</sup> Therefore, we find that staying the construction deadlines an additional four years is appropriate to allow Hydro Friends to complete the section 408 permitting process and the PJM interconnection process.

### **III. Conclusion**

14. For the above reasons, we grant Hydro Friends' requested stay. Consistent with Commission practice, we are making the stay effective on February 7, 2025,<sup>30</sup> the date Hydro Friends filed its stay request. Hydro Friends will have until June 4, 2029, to commence construction and until June 4, 2032, to complete construction of the project. We remind Hydro Friends that it must satisfy all preconstruction requirements of the license prior to beginning construction. We are staying only Article 301, rather than the entire license, to require Hydro Friends to continue project development during the term of the stay.

#### **The Commission orders:**

(A) The motion for stay of the commencement and completion of construction deadlines filed by Lock +<sup>TM</sup> Hydro Friends Fund XLII, LLC, on February 7, 2025, is granted as set forth below.

---

<sup>27</sup> Request for Stay at 3-4.

<sup>28</sup> See *Hydro Friends*, Project No. 13739-002 (April 10, 2023) (delegated order).

<sup>29</sup> See April 19, 2023 60% Final Design filing, February 27, 2024 Annual Water Quality Report, March 10, 2025 Annual Water Quality Report, and July 17, 2025 Request to Expedite Approval of Stay of Commencement and Completion of Construction Deadlines under License Article 301.

<sup>30</sup> See, e.g., *Solia 6 Hydroelectric*, 189 FERC ¶ 61,203 at P 9; *Red River Hydro, LLC*, 161 FERC ¶ 61,182 at P 9; *City of Marion, Ky.*, 85 FERC ¶ 61,401, at 62,537 (1998) (stating "[i]t is Commission practice to make the stay of a license (or license article) effective as of the date the stay request was filed, unless there is a clear showing that, once the stay is lifted, the licensee cannot commence construction in the time remaining before the statutory deadline.").

(B) License Article 301 for Project No. 13739 is stayed, effective February 7, 2025, for four years. Upon expiration of the stay, the licensee will have until June 4, 2029, to commence construction and June 4, 2032, to complete construction.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,  
Secretary.