



FRONTLINES

FOREST RESIDENTS OPPOSING NEW TRANSMISSION LINES

January 11, 2018

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426
Electronic submittal of 3 pages

Subject: Comments by Forest Residents Opposing New Transmission Lines Regarding "Deficiency of License Application and Request for Additional Information" Letter Issued by the Commission to The Nevada Hydro Company Dated January 3, 2018.

Reference: Docket P-14227

Dear Secretary Bose;

Forest Residents Opposing New Transmission Lines ("FRONTLINES") respectfully submits the attached comments on the "Deficiency of License Application and Request for Additional Information" ("Deficiency Notice") that the Commission prepared pursuant to the Lake Elsinore Advanced Pumped Storage ("LEAPS") License Application filed by The Nevada Hydro Company ("TNHC") in Docket P-14227.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jacqueline Ayer', is written over a horizontal line.

Jacqueline Ayer
On behalf of FRONTLINES

Forest Residents Opposing New Transmission Lines ("FRONTLINES") is disappointed by the "Deficiency Notice" issued on January 3, 2018 pursuant to License Application P-14227 submitted by the Nevada Hydro Company for the Lake Elsinore Advanced Pumped Storage ("LEAPS") Project. Specifically, and as set forth below, FRONTLINES notes deficiencies in at least two areas of the LEAPS License Application that were not identified in the Commission's "Deficiency Notice".

The LEAPS Application does not comply with 18 CFR 4.41(a)(5)(i)

18 CFR Chapter 1 Subchapter B Part 4 Subpart E § 4.41(a)(5)(i) and (ii) require the applicant to identify the "The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power..." and "The steps which the applicant has taken, or plans to take, to comply with each of the laws..". FRONTLINES notes that, in the "Initial Statement" portion of the LEAPS License Application, there is a statement which addresses the "beds and banks" and (to some extent) the "appropriation, diversion and use of water" issues mandated 18 CFR Chapter 1 Subchapter B Part 4 Subpart E § 4.41(a)(5)(i). However, the Application fails to identify the California laws pertaining to "the right to engage in the business of developing, transmitting and distributing power" and it fails to state the manner in which the Applicant (TNHC) has complied or will comply with such laws.

FRONTLINES notes that the certification required by 18 CFR Chapter 1 Subchapter B Part 4 Subpart E § 4.41(a)(5)(i) is a foundational element that is explicitly mandated by the Federal Powers Act [16 U.S. Code § 802 (a)(2)] thus it is not an incidental or extraneous element that can be ignored or discounted by either the Applicant or the Commission. The omission of this mandatory element from the LEAPS License Application renders the Application itself patently deficient. Correspondingly, FRONTLINES respectfully requests that the Applicant (TNHC) be compelled to immediately identify the California statutory and regulatory requirements pertaining to the "right" to engage in the business of developing, transmitting, and distributing power, and state the manner and extent to which TNHC has acquired or will acquire such "right". FRONTLINES further asks that the Commission refrain from taking any further action on the LEAPS License Application until such information is provided in a manner consistent with adopted law.

The LEAPS Application does not comply with 18 CFR 4.41(e)(8)

18 CFR Chapter 1 Subchapter B Part 4 Subpart E § 4.41(e)(8) requires Exhibit D of the application to include "A statement specifying the sources and extent of financing and annual revenues available to the applicant to meet the costs identified in paragraphs (e) (1) and (4) of this section". FRONTLINES notes that the "Exhibit D" portion of the LEAPS License Application states the expected project costs are at least \$1.83 billion¹, however it

omits a statement specifying the source and extent of financing and annual revenues that are available to the applicant to cover these costs. In fact, the Application merely identifies that funding is expected to be "a combination of debt and equity"; it fails to identify the amount of debt liability that will be assumed and from whom, and it fails to identify the source(s) and extent of capital that will be provided in exchange for equity position(s) in the project. The utter lack of demonstrated financial wherewithal is a material deficiency in the LEAPS License Application which must be rectified immediately before more government resources and "public time and effort" are wasted in the consideration of a project that has *no demonstrated financial backing whatsoever*.

The Commission is further advised that, pursuant to 36 CFR §251.54(d)(3), the U.S. Forest Service ("USFS") will require TNHC to demonstrate that it has the financial capability to fully construct, operate, maintain, and terminate the LEAPS project in its entirety before it will process the "Special Use Permit" application that is required for LEAPS. In fact, in accordance with 36 CFR §251.54(e)(5), the USFS is compelled to "screen out" and reject any application that fails to provide the fiscal information required to demonstrate that the applicant is financially capable of constructing and operating the project. Equally important, the USFS is barred from participating in the NEPA process until it receives a complete and valid SUP Application (which includes mandated "financial capability" information) for the LEAPS project. Given these facts, it is imperative that the Applicant (TNHC) be compelled to immediately provide the "financial capability" information that is **required** by both the Commission and the USFS, and that the Commission refrain from taking any further action on the LEAPS License Application until such information is provided in a manner consistent with adopted law.

FRONTLINES continues to review the LEAPS License application, and will notify the Commission regarding further deficiencies as they are identified in future.

Sincerely and respectfully submitted;

/S/ Jacqueline Ayer

Jacqueline Ayer

On behalf of FRONTLINES