



July 16, 2009

Ms. Kimberly Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

FILED ELECTRONICALLY

Subject: Chakachamna Hydroelectric Project (FERC No. 12660) Notice of Intent, Preliminary Application Document and Request to Use the Traditional Licensing Process

Dear Ms. Bose,

TDX Power, Inc. (TDX) is pleased to submit its Notice of Intent (NOI) and Preliminary Application Document (PAD) for the Chakachamna Hydroelectric Project (FERC No. 12660). The proposed Chakachamna Hydroelectric Project is bordered by the Alaska Mountain Range on the west and Upper Cook Inlet on the east, and is approximately 40 miles west of the Native Village of Tyonek in the Kenai Peninsula Borough.

In conjunction with this filing, TDX is requesting that the Federal Energy Regulatory Commission (Commission or FERC) designate it as the Commission's non-federal representative for the purposes of consultation, pursuant to Section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402, Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and the implementing regulations at 50 CFR 600.920 and Section 106 of the National Historic Preservation Act and the implementing regulations at 50 CFR § 600.920.

This submittal is being electronically filed with the Commission. As required, two courtesy copies are being mailed, simultaneously, to the Commission.

In accordance with 18 CFR § 4.32, we are also submitting paper and/or CD copies of this NOI and PAD to the entities on the attached Distribution List. The entities include those resource agencies, Indian tribes, Native corporations, Native villages, non-governmental organizations, and members of the public that have participated in TDX's pre-formal consultation or have otherwise expressed interest in the relicensing proceedings. The distribution list also includes other entities that TDX has identified as having potential interest in the proceedings. Also pursuant to the Commission's regulations, a notice will be published in local newspapers, and the public portions of the PAD will be made available at our relicensing website, www.chakachamna-hydro.com.

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Also included within our NOI is TDX's request to FERC for authorization to use the Traditional Licensing Process (TLP). TDX conducted a significant outreach effort regarding its desire to use a modified TLP for this project. Documentation of these efforts, including comments from resource agencies, Indian tribes, Native corporations, Native villages, and members of the public, along with a proposed communications protocol, is located in attachments to the PAD.

Interested organizations and members of the public may file comments regarding TDX's request to utilize the TLP directly with FERC within 30 days of the filing date of this request, and should reference the Chakachamna Hydroelectric Project (FERC No. 12660).

If you have any questions regarding this filing, please contact Eric Yould at (907) 242-0487.

Sincerely,

A handwritten signature in black ink that reads "Nich Goodman". The signature is written in a cursive, slightly slanted style.

Nicholas Goodman
TDX Power, Inc.

Cc: Distribution list (see attached)

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† Service for this list was via email and US mail. Where noted with an *, an email address was unavailable and recipients received notification via US mail; where noted with **, the recipient was notified via email only.

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

TDX Power

Project No. 12660

NOTICE OF INTENT OF TDX POWER TO FILE AN APPLICATION FOR AN ORIGINAL LICENSE FOR THE CHAKACHAMNA HYDROELECTRIC PROJECT (FERC NO. 12660)

Pursuant to 18 CFR § 5.5, TDX Power, Inc. (TDX) hereby notifies the Federal Energy Regulatory Commission (Commission) of its intent to file an application for an original license for the Chakachamna Hydroelectric Project (FERC No. 12660). Simultaneously TDX is filing its Pre-Application Document (PAD) with the Commission. TDX proposes to license the project utilizing an enhanced Traditional Licensing Process (TLP).

TDX requests that all correspondence and service of documents related to this notification and subsequent proceedings be addressed to:

Nicholas Goodman
Chief Executive Officer
TDX Power, Inc.
4300 B Street, Suite 402
Anchorage, AK 99503-5946

Eric Yould
Chakachamna Lake Project Licensing Manager
TDX Power, Inc.
4300 B Street, Suite 402
Anchorage, AK 99503-5946

Finlay Anderson
Long View Associates, Inc.
4022 NE 8th Ave
Portland, OR 97212

The following information is provided consistent with the regulations of 18 CFR § 5.5.

Applicant's name and address:

TDX Power, Inc.
4300 B Street, Suite 402
Anchorage, AK 99503-5946

Project number: P-12660

License expiration date, if any:

Not applicable. Project does not possess a license and involves the construction of new facilities.

An unequivocal statement of the applicant's intention to file an original license:

TDX unequivocally intends to file an application for an original license for this proposed project.

Type of principal project works licensed, if any, such as dam and reservoir, powerhouse, or transmission lines:

Not applicable. This is a Notice of Intent (NOI) for an unconstructed project.

Project location by state, county and stream, and when appropriate, by city or nearby city:

State: Alaska

County: Kenai Peninsula Borough

Stream: Chakachatna and McArthur Rivers; Chakachamna Lake

City: Approximately 40 miles west of the Native Village of Tyonek; approximately 82 miles west of Anchorage

Installed plant capacity (if any):

Not applicable. Proposed installed capacity is 300 megawatts.

Names and addresses of:

- (1) Every county in which any part of the project is located, and in which any federal facility that is used by the project is located:**

Kenai Peninsula Borough

- (2) Every city, town, or similar local political subdivision:**

- i. In which any part of the project is to be located and any federal facility that is or is to be used by the project is located, or**
- ii. That has a population of 5,000 or more people and is located within 15 miles of the proposed project dam,**

None

- (3) Every irrigation district, drainage district, or similar special purpose political subdivision:**

- i. In which any part of the project is located and any federal facility that is or is proposed to be used by the project is located, or**
- ii. That owns, operates, maintains, or uses any project facility or any federal facility that is or is proposed to be used by the project; and**

None

- (4) Every other political subdivision in the general area of the project that there is reason to believe would be likely to be interested in, or affected by, the notification; and**

None

- (5) Affected Indian tribes.**

Several federally recognized tribes were identified as having potential interests within the Project region that may be affected by the Chakachamna Project licensing, based on location of traditional tribal territories and after seeking comments from tribal representatives. These tribes are as follows:

- Native Village of Tyonek
- Kenaitze Indian Tribe
- Knik Tribe

Request to Use the Traditional Licensing Process

TDX is requesting Commission approval to use the Traditional Licensing Process (TLP). The regulations in 18 CFR § 5.3 require that an application for authorization to use the TLP include justification for the request and any existing written comments on the potential applicant's proposal and a response thereto.

The proposed Chakachamna Project (Project) is a large new conventional hydropower project that would be located in an area containing important resource values for which there is relatively little existing resource information; moreover, TDX is working to synchronize the development of the Project with a Regional Integrated Resources Plan (RIRP) process that has been initiated by the Alaska Energy Authority (AEA), which will result a 50-year, long-range plan that will identify combinations of generation and transmission (G&T) capital improvement projects in the Railbelt Region of Alaska. TDX anticipates that the RIRP, currently scheduled for issuance near year end 2009, will influence the role of the Project in meeting future energy needs of the Railbelt.

Given these unique circumstances, the licensing process must accommodate a significant data collection and impact assessment effort to support the final design of the Project and development of the license application, but do so in a measured manner that does not pre-judge the RIRP process thereby putting TDX at significant financial exposure in the licensing process. Based on feedback received from an outreach effort to agencies and other interested stakeholders and its own evaluation of the Integrated Licensing Process (ILP), TDX believes that a TLP, enhanced by a number of provisions designed to address specific concerns identified in its outreach efforts, is the preferred process for the pre-filing consultation and study efforts for the Project. In addition, use of the TLP will provide the needed flexibility to undertake a phased

study program that allows TDX to initiate essential study efforts in 2010, including hydrologic data collection, aerial mapping and imagery, and bathymetric surveys. The balance of study planning for specific technical evaluations would be deferred until after the RIRP is complete, with implementation starting in 2011.

The following information addresses the specific considerations found in 18 CFR § 5.3(c)(1)(ii):

A. Likelihood of timely license issuance

Unlike a relicensing effort for an existing project there is no regulatory deadline for the filing of the license application for the Project. Instead, TDX must effectively manage the schedule of its licensing, studies and engineering/design efforts to allow the Project to be constructed and power brought on line in an expeditious and cost effective fashion. Flexibility in the regulatory requirements is necessary to allow TDX, in consultation with agencies and other stakeholders, to make adjustments to the timeframes of various components of the licensing process to best utilize available time. This flexibility is lacking in the ILP, which is generally designed to complete pre-filing consultation within the window of time from the NOI to the expiration of an existing license. The enhanced TLP proposed by TDX for the Project allows for this flexibility while adopting a number of key ILP process elements.

B. Complexity of the resource issues

As noted in the PAD, a significant study program is envisioned to generate the needed information to support the development of the license application; to date, 43 specific studies have been identified to address identified environmental issues; there will be additional engineering and feasibility studies conducted as well. Some of the more complex issues include potential effects of the Project on ground and surface water hydrology due to the diversion of water from Chakachamna Lake to the McArthur River, the provisions for up and downstream fish passage from the Chakachatna River to Chakachamna Lake, maintenance of appropriate flows in the Chakachatna River and potential resource effects of reservoir operations. A complete list of identified resource issues and how these would be addressed in the study program is included in Appendix 5-1 of the PAD.

C. Level of anticipated controversy

A significant level of interest is anticipated during the pre-filing consultation period. During the outreach effort conducted by TDX regarding the use of the TLP, agencies and other stakeholders have identified the need for a significant study program to develop the information needed for impact assessment as well as to provide the baseline for evaluating post-construction protection, mitigation and enhancement measures that may be required. Concerns have been expressed regarding the tight timeframes of the ILP, particularly with regard to review of the proposed study plans and study reports over the course of the pre-filing study program. Additionally, TDX believes that unnecessary controversy regarding the need for the Project can be avoided by phasing its study program such that the bulk of the study program follows the issuance of the RIRP. TDX believes that the flexibility that will be available for making adjustments to review time frames, when appropriate, while not endangering the overall Project schedule and effective

use of available field time, will provide an important tool for making engagement in the study program as effective as possible. While TDX understands that there is significant interest in developing adequate information to assess potential Project impacts and that these issues will be complex in nature, consultation to date has not indicated that the Project has opposition, or is considered highly controversial.

D. Relative cost of the traditional process compared to the integrated process

TDX anticipates that it will engage agencies and other stakeholders in a substantial consultation process and conduct a comprehensive study program under either licensing process. However, substantial efficiencies are expected from utilizing the enhanced TLP that is proposed due to the flexibility that will exist for TDX, in consultation with agencies and other stakeholders, to make adjustments to deadlines and timeframes where possible to accommodate differences among resource areas and study proposals. Thus, in terms of effective use of available time, TDX believes that the TLP provides advantages over the ILP. Given the commitments that TDX is making to substantial engagement with agencies and other stakeholders over the course of the pre-filing period, the monetary cost difference between utilizing the enhanced traditional process, as proposed by TDX and the integrated licensing process may not be significant.

E. The amount of available information and potential for significant disputes over studies

Some resource information is available for the Project area from studies conducted in the 1980s. While TDX plans to take full advantage of this information in designing its study program, significant new information will be required to support development of the license application. It is TDX's intent to conduct its pre-filing consultation in a manner that addresses and resolves, to the extent possible, any differences of opinion with regard to the design and implementation of the study program. TDX is also requesting that the Commission approve the integration of the formal study dispute resolution provisions of the ILP into the TLP that TDX is proposing to use for this Project. In this way there will be a clear path for resolving any disputes which might arise in a timely fashion.

F. Other factors believed by the applicant to be pertinent

TDX has made a considerable effort to consult with potentially interested agencies, tribes, native corporations, and non-governmental organizations regarding its desire to utilize the TLP. Documentation of the public meetings, conference calls and other communications is included in the PAD. One of the key messages that TDX received during this outreach was that many of the agencies that would be involved in the pre-filing consultation efforts were concerned with the inflexibility of timeframes and tight schedule of activities under the ILP. As noted above, given the size and complexity of the anticipated study program, the agencies expressed their concern that inadequate time would be available for meaningful consultation. TDX views this as a legitimate concern and believes that its proposed enhanced TLP can provide some level of flexibility to make adjustments to the specific elements of the pre-filing process (e.g., time allotted for review and comment on particularly complex study plans) which is not readily available in the ILP.

Moreover, the ongoing RIRP process conducted by the AEA creates an environment where a phased approach to environmental studies is most appropriate. TDX proposes that the formal study plan developed in support of the licensing process be conducted in two phases. Phase 1 will be implemented in 2010 (planning to begin in the fall of 2009) and will generate essential data (e.g., hydrologic, imagery, bathymetry) to design the balance of the environmental studies that will be initiated in 2011. This will allow Phase 2 to be developed in 2010 for implementation in 2011, following completion of the RIRP. Such a two-phased approach will allow TDX to manage the substantial financial exposure that would result from initiating the full study program prior to completion of the RIRP. This approach to the formal pre-filing consultation and study program, with effective opportunities for stakeholder input participation is not possible under the ILP.

Finally, the TLP provides additional flexibility over the ILP through provisions 18 CFR § 4.38(c)(1)(ii) and CFR § 4.38(c)(1)(iii) that expressly provide for continuing studies, under certain conditions, after submittal of the license application and after a license is issued. Given the complex nature of the Project area and the lack of existing information, TDX may elect to pursue such a post filing study program.

As part of its outreach efforts, TDX drafted a proposed communications protocol to guide its interactions with agencies and other stakeholders under its proposed enhanced TLP. The protocol was distributed to agencies and other stakeholders as both an initial and revised draft for review and comment. The current version of the proposed protocol is included as an appendix to the PAD. As of the filing date of this NOI, TDX has received responses from the U.S. Fish and Wildlife Service, the National Park Service, the Department of Interior Office of Environmental Policy and Compliance and the Alaska Department of Fish and Game with regard to the last draft protocol issued on May 29.

The U.S. Fish and Wildlife Service, in a June 12 e-mail stated that:

“the Service would like to go on record as having ‘no comment’ at this time. We look forward to reviewing the PAD and reserve comment until more information is made available through the FERC process.”

The other two offices within the Department of Interior provided concurring e-mails.

The Alaska Department of Fish and Game, in a June 15 e-mail from Jim Ferguson, Statewide Hydropower Coordinator, stated that is “OK with the [protocol] language as proposed”. The e-mail continued that “at least some studies will require review (by agencies) and revision (by TDX) for longer periods than those set out in the ILP”. The e-mail also stated that “Agreement to allow additional time for study development and review, where needed, is an extremely important step in licensing the project”.

Complete copies of these e-mails are included in the consultation record in Appendix 6-1 of the PAD.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Anchorage, Alaska this 16th day of July 2009.

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