

1.0 INTRODUCTION

1.1 APPLICATION

On March 15, 2004, South Carolina Public Service Authority (SCPSA), filed an application with the Federal Energy Regulatory Commission (Commission or FERC) for a new license under Part I of the Federal Power Act (FPA), to continue operating its existing 134.5-megawatt (MW) Santee Cooper Hydroelectric Project (FERC Project No. 199), located on the Santee and Cooper rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter counties, South Carolina (figure 1, appendix A). There are no federal lands located within the project boundary.⁶ SCPSA filed a Letter of Intent of Settlement with the Commission on May 24, 2007, which includes final settlement agreement (FSA) terms and conditions that SCPSA, FWS, and South Carolina Department of Natural Resources (SCDNR) recommended be made conditions of a new license.

1.2 PURPOSE OF ACTION AND NEED FOR POWER

1.2.1 Purpose of Action

The Commission, under the authority of the FPA, may issue licenses for up to 50 years for the construction, operation, and maintenance of non-federal hydroelectric projects. The current license was issued on May 9, 1979, and expired on March 31, 2006. In the interim, the project operates under an annual license, which will continue until the Commission has made a decision on a new license.

The Commission must decide whether to issue a new license for the project and what conditions to place on any license issued. When licensing a hydroelectric project, the Commission must ensure that the project will be best adapted to a comprehensive plan for improving or developing a waterway. In addition to the power and developmental purposes for which licenses are issued (e.g., flood control, irrigation, water supply), the Commission must give equal consideration to the purposes of energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; and the preservation of other aspects of environmental quality. This final environmental impact statement (EIS) assesses the environmental and economic effects

⁶The U.S. Fish and Wildlife Service (FWS) leases 914 acres of land located within the project boundary from SCPSA, and approximately 5,000 acres of land underlying the waters of Lake Marion, as part of the operations of the Santee National Wildlife Refuge (Santee NWR). By letter filed May 17, 2006, FWS submitted five preliminary 4(e) conditions, claiming the project occupies federal lands. Subsequently, FWS became a signatory to the FSA, which includes a provision, in Section III.A of the FSA, to withdraw all 4(e) conditions. In its comments on the draft EIS, the U.S. Department of the Interior (Interior) concurs with the FWS's withdrawal of the 4(e) conditions.

of (1) the proposed action (SCPSA’s proposal); (2) the FSA measures; (3) state and federal agency and nongovernmental organization recommendations outside of the FSA (signatory and non-signatory entity recommendations); (4) a staff alternative that includes most of the measures in the FSA, along with additional measures recommended by staff; and (5) no-action (continued operation as required by the existing license).

1.2.2 Need for Power

The Santee Cooper Project has an installed capacity of 134.5 MW that produces a net average of about 224,027 megawatt-hours (MWh) of electric energy per year that is used by municipally owned electric systems, rural electric cooperatives, and industrial customers throughout South Carolina. The power sold through municipally owned electrical systems, rural cooperatives, and private utilities is passed along to residential customers at cost. SCPSA states that, in total, through power produced by fossil fuel, hydro, nuclear, and landfill methane gas, it directly serves about 131,000 customers in all 46 counties of the state, primarily consisting of residential, commercial, and small industrial customers.

The project is located in the Virginia/Carolinas sub-region of Southeastern Electric Reliability Council (SERC), which is one of eight regional reliability councils of the North American Electric Reliability Council. The peak demand for the SERC region is projected to grow at an average annual rate of 2.08 percent over the planning period from 2006 through 2015 (SERC, 2006).

The power from the project would continue to be useful in meeting a part of the regional need for power. The project would displace some of the fossil-fueled electric power generation the regional utilities now use, and thereby conserve nonrenewable resources and reduce the emission of noxious byproducts caused by fossil fuel combustion.

1.3 CONSULTATION

1.3.1 Scoping

Staff conducted three public scoping meetings on May 17, 18, and 19, 2005, at the Holiday Inn Express in Moncks Corner, South Carolina, and at the Clarendon County Hospital Center, in Manning, South Carolina. Scoping Document 1 was distributed on April 20, 2005, and the deadline for filing scoping comments was June 20, 2005. In addition to comments received at the scoping meetings, the following entities provided written comments:

<u>Commenting Entity</u>	<u>Date Filed</u>
U.S. Department of the Interior, Bureau of Indian Affairs	May 11, 2005
John W. Matthews and Brad Hutto, South Carolina Senate and Jerry Govan, Jr., Harry Ott, Jr., Thomas Rhoad, and Gilda Cobb Hunter, South Carolina House of	June 6, 2005

<u>Commenting Entity</u>	<u>Date Filed</u>
Representatives	
Senator John C. Land, III, and Representative C. Alex Harvin, III, South Carolina	June 7, 2005
Phil P. Leventis, South Carolina Senate	June 8, 2005
Harry Ott Jr., South Carolina House of Representatives	June 13, 2005
Shirley R. Hinson, South Carolina House of Representatives	June 14, 2005
National Marine Fisheries Service	June 6, 2005 and June 17, 2005
U.S. Department of the Interior, Fish and Wildlife Service	June 13, 2005
South Carolina Department of Natural Resources	June 20, 2005
South Carolina Public Service Authority	June 20, 2005
South Carolina Coastal Conservation League and American Rivers	June 20, 2005
U.S. Department of Agriculture, Forest Service	June 20, 2005
South Carolina Congressional Delegation, U.S. Congress	June 23, 2005
Margaret and Reed Thompson	June 29, 2005

1.3.2 Interventions

On July 26, 2005, the Commission issued a notice accepting SCPSA's application to relicense the project and requesting motions to intervene and protest. The deadline for filing protests and motions to intervene was September 23, 2005. The following entities filed interventions, none in opposition.

<u>Entity</u>	<u>Date Filed</u>
National Marine Fisheries Service	September 23, 2005
U.S. Department of the Interior	September 26, 2005
South Carolina Coastal Conservation League and American Rivers	November 2, 2005*

* Motion for late intervention

1.3.3 Comments on the Application

On February 7, 2006, the Commission issued a notice that the application was ready for environmental analysis (REA) and solicited comments, terms and conditions, recommendations, and prescriptions. The following entities filed comments:

<u>Entity</u>	<u>Date Filed</u>
National Marine Fisheries Service	May 5, 2006
U.S. Fish and Wildlife Service	May 8, 2006
U.S. Department of the Interior	May 8, 2006
South Carolina Coastal Conservation League and American Rivers	May 8, 2006
South Carolina Department of Natural Resources	May 8, 2006
U.S. Department of Agriculture, Forest Service	May 8, 2006

On June 22, 2006, SCPSA filed its response to the above comments, terms and conditions, recommendations, and prescriptions. In addition, on June 7, 2006, SCPSA filed an alternative proposal for fishways and a request for trial-type hearing with Interior and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), in accordance with provisions of the Energy Policy Act of 2005. SCPSA withdrew its requests for a trial-type hearing and alternative fishway measures upon filing of the draft settlement agreement and subsequent FSA.

1.3.4 Settlement Agreement

On May 24, 2007, SCPSA filed a Letter of Intent of Settlement with the Commission, which included the FSA signed by SCPSA, FWS, and SCDNR. The FSA describes measures for fish passage, minimum flows, and enhancement of the Santee NWR. The FSA modifies Interior’s preliminary section 18 fishway prescription and section 10(j) recommendations, and withdraws FWS’s section 4(e) conditions (see section III.A of the FSA and Interior’s letter filed May 17, 2007). The FSA also modifies section 10(j) recommendations for fish passage and minimum flows previously submitted by SCDNR. By letter filed August 10, 2007, FWS provides additional justification for the FSA and the instream flow provisions of the FSA. NMFS is not a party to the FSA and states that it cannot be a signatory agency to the agreement until a final biological opinion (BO) and incidental take statement are issued for the project.

On May 30, 2007, the Commission issued a public notice of the FSA and solicited comments. Several agencies and other entities filed comments in response, as follows:

<u>Entity</u>	<u>Date Filed</u>
South Carolina Public Service Authority (Signatory Parties’ Explanatory Statement)	June 18, 2007
American Rivers and the South Carolina Coastal Conservation League	June 18, 2007
South Carolina Public Service Authority	July 3, 2007
U.S. Department of the Interior, Fish and Wildlife Service	July 9, 2007 and August 14, 2007

1.3.5 Comments on the Draft Environmental Impact Statement

On March 23, 2007, the Commission staff issued its draft EIS for the relicensing of the Santee Cooper Project. Comments on the draft EIS were due on May 22, 2007. On May 2, 2007, Commission staff held a public meeting in Moncks Corner, South Carolina, for the purpose of summarizing staff's recommendation in the draft EIS and discussing and receiving comments on the draft EIS. The meeting was transcribed and is part of the public record. The following entities and individuals filed comments on the draft EIS:

<u>Entity</u>	<u>Date Filed</u>
South Carolina Department of Archives and History	April 27, 2007
U.S. Department of the Interior, Office of Environmental Policy and Compliance	May 17, 2007
South Carolina Public Service Authority	May 22, 2007
National Marine Fisheries Service	May 22, 2007
American Rivers/South Carolina Coastal Conservation League	May 22, 2007
U.S. Environmental Protection Agency	May 25, 2007
South Carolina Department of Natural Resources	May 29, 2007

Additional letters filed after the due date for letters commenting on the draft EIS include:

<u>Entity</u>	<u>Date Filed</u>
U.S. Department of the Interior, Fish and Wildlife Service (modified section 18 prescription)	July 20, 2007
National Marine Fisheries Service (modified 10(j) recommendations and modified section 18 prescription)	July 20, 2007
U.S. Department of the Interior, Fish and Wildlife Service (T&E species consultation concluded)	August 7, 2007
South Carolina Public Service Authority	August 8, 2007
South Atlantic Fishery Management Council	September 6, 2007

All comments filed are addressed in the appropriate sections of this FEIS and are summarized in appendix B. Some of the comments address jurisdictional and legal issues, which we do not address in this FEIS. As appropriate, these issues would be addressed in any order issuing a license for the Santee Cooper Project.

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