

UNITED STATES OF AMERICA 105 FERC ¶ 62,197  
FEDERAL ENERGY REGULATORY COMMISSION

Universal Electric Power Corporation

Project No. 12461-000

## ORDER ISSUING PRELIMINARY PERMIT

(Issued December 17, 2003)

On July 8, 2003, Universal Electric Power Corporation (permittee) filed an application for a three-year preliminary permit under Section 4(f) of the Federal Power Act (FPA)<sup>1</sup> to study the proposed 8.6-megawatts (MW) Allegheny Lock and Dam #3 Project No. 12461. The project would be located on the Allegheny River, in Allegheny County, Pennsylvania. It would use the existing Allegheny Lock and Dam #3 administered by the U.S. Army Corps of Engineers. The proposed project would consist of: (1) ten proposed 60-foot-long, 6-foot-diameter steel penstocks, (2) a proposed powerhouse containing ten generating units with a total installed capacity of 10 megawatts, (3) a proposed 1-mile-long, 14.7 kilovolt transmission line, and (4) appurtenant facilities. The project would have an annual generation of 61 gigawatt-hours and would be sold to a local utility.

Public notice of the application was issued on August 7, 2003, establishing October 7, 2003, as the deadline for filing comments and motions to intervene. No motions to intervene were filed. Comments were filed by the U.S. Department of the Interior stating that they had no comments.

The purpose of a preliminary permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if the project is found to be feasible, prepares an acceptable development application. The permit confers no authority on the permittee to undertake construction of the proposed project or any part thereof,<sup>2</sup> or to occupy or use lands or other property of the United States or of any other entity or individual.

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<sup>1</sup>16 U.S.C. ' 797(f). Three years is the maximum term for a preliminary permit. See FPA Section 5, 16 U.S.C. ' 798.

<sup>2</sup>Issuance of this preliminary permit is thus not a major federal action significantly affecting the quality of the human environment.

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A preliminary permit is not transferable. The named permittee is the only entity entitled to the priority of application for license afforded by this preliminary permit. In order to invoke permit-based priority in any subsequent licensing competition, the named permittee must file an application for license as the sole applicant, thereby evidencing its intent to be the sole licensee and to hold all proprietary rights necessary to construct, operate, and maintain the proposed project. Should any other parties intend to hold during the term of any license issued any of these proprietary rights necessary for project purposes, they must be included as joint applicants in any application for license filed. In such an instance, where parties other than the permittee are added as joint applicants for license, the joint application will not be eligible for any permit-based priority. See City of Fayetteville, 16 FERC & 61,209 (1981).

Should the permittee file a development application, notice of the application will be published, and all interested persons and agencies will have an opportunity to intervene and to present their views concerning the project and the effects of its construction and operation.

The Director orders:

(A) A preliminary permit is issued for this project to Universal Electric Power Corporation, for a period effective the first day of the month in which this permit is issued, and ending either 36 months from the effective date or on the date that a development application submitted by the permittee has been accepted for filing, whichever occurs first.

(B) This preliminary permit is subject to the terms and conditions of Part I of the Federal Power Act and related regulations. The permit is also subject to Articles 1 through 4, set forth in the attached standard form P-1.

(C) This order is issued under authority delegated to the Director and constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of issuance of this order, pursuant to 18 C.F.R. 385.713.

Hossein Ildari  
Division of Hydropower  
Administration and Compliance

Form P-1 (Revised March 2000)

## FEDERAL ENERGY REGULATORY COMMISSION

### TERMS AND CONDITIONS OF PRELIMINARY PERMIT

**Article 1.** The purpose of the permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if said project is found to be feasible, prepares an acceptable application for license. In the course of whatever field studies the Permittee undertakes, the Permittee shall at all times exercise appropriate measures to prevent irreparable damage to the environment of the proposed project. All test sites shall be restored as closely as possible to their original condition and to the satisfaction of the Commission's authorized representative or, where federal lands are affected, to the satisfaction of the agency administering such lands.

**Article 2.** The permit is not transferable and may, after notice and opportunity for hearing, be canceled by order of the Commission upon failure of the Permittee to prosecute diligently the activities for which a permit is issued, or for any other good cause shown.

**Article 3.** The priority granted under the permit shall be lost if the permit is canceled pursuant to Article 2 of this permit, or if the Permittee fails, on or before the expiration date of the permit, to file with the Commission an application for license for the proposed project in conformity with the Commission's rules and regulations then in effect.

**Article 4.** At the close of each six-month period from the effective date of this permit, the permittee shall file four copies of a progress report with the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426; and shall serve a copy on the interveners in this proceeding. The report shall describe, for that report period, the nature and timing of what the permittee has done under the pre-filing requirements of 18 CFR 4.38 and other applicable regulations; and, where studies require access to and use of land not owned by the permittee, the status of the permittee's efforts to obtain permission therefor.