

Hydroelectric License Regulations

Post-Forum Stakeholder Meeting
December 10, 2002

Federal Energy Regulatory Commission
Office of Energy Projects
Office of the General Counsel

Today's Agenda

- ▶ Welcome and Introductions
- ▶ Public, Tribal Forums & Comments
 - ▶ What did we hear?
 - ▶ Where are we going?
- ▶ Discussion of General Issues
- ▶ Introduction to Post-Forum Stakeholder Drafting Sessions

Events to Date

- ▶ September 12, 2002 - Notice of Public & Tribal Forums
 - ▶ Milwaukee, WI, Atlanta, GA, Washington, DC, Bedford, NH, Sacramento, CA, Tacoma, WA
 - ▶ Comments due December 6, 2002
- ▶ December 2002 – Stakeholder meeting & drafting sessions

What We Heard

Public/Tribal Forums

- ▶ General agreement that a new process needed. Key issues to consider:
 - ▶ Early FERC involvement
 - ▶ Public participation
 - ▶ Schedules and deadlines
 - ▶ Study development and dispute resolution
 - ▶ Integration of pre-filing consultation/ study development with NEPA and federal/state agency, and tribal info needs
 - ▶ Accommodation of settlement negotiations

What We Heard

Information Development (Studies)

- ▶ Widespread support for:
 - ▶ Early FERC involvement
 - ▶ Early consultation with all parties
 - ▶ Pre-NOI letter from FERC
 - ▶ Better coordination of federal/state agency and tribal study needs
 - ▶ Clear study criteria
 - ▶ Effective dispute resolution

What We Heard

Information Development (Studies)

- ▶ Differences on:
 - ▶ What study criteria should be
 - ▶ Need for site-specific data
 - ▶ Post-application AIRs
 - ▶ Basin-wide studies
 - ▶ Baseline for studies

What We Heard

Study Dispute Resolution

- ▶ Much dissatisfaction with current DR process but some support.
- ▶ Differences on a new process:
 - ▶ Who should be allowed to initiate dispute resolution
 - ▶ Whether a “panel with neutral” is appropriate
 - ▶ Whether dispute resolution should bind the parties

What We Heard

Study Dispute Resolution (cont.)

- ▶ Differences on a new DR process:
 - ▶ Whether formal dispute resolution should be preceded by informal process
 - ▶ How information should be provided to decisional entity
 - ▶ Finality vs. interlocutory appeals

What We Heard

Time Periods

- ▶ Firm schedules and deadlines
- ▶ Flexibility to accommodate:
 - ▶ Settlements
 - ▶ Data gathering
 - ▶ Basin-wide studies
 - ▶ Human and financial resource constraints
 - ▶ State/Tribal processes
 - ▶ Intra-agency appeals of mandatory conditions

What We Heard

State Processes

- ▶ Greater accommodation of 401/CZMA data & process needs
- ▶ FERC/State coordination on water quality data gathering
- ▶ FERC support for state data requests

What We Heard

Tribal Roles and Responsibilities

- ▶ Recognition of tribal sovereignty and government-to-government relations
- ▶ Early direct consultation with FERC
- ▶ Early education of tribes regarding process
- ▶ Consideration of limited tribal resources and unique decision-making processes
- ▶ FERC designation of tribal liaison
- ▶ Funding of tribal participants

What We Heard

Process Options

- ▶ No agreement on whether to adopt a separate integrated process
- ▶ No agreement on retaining/deleting/modifying Traditional and ALP processes if integrated process implemented
- ▶ Licensees generally favor multiple processes with option of choosing

What We Heard

Process Options

- ▶ NGOs and some states want one flexible process
 - ▶ Multiple processes confusing to public
- ▶ Some recommend modifications to Traditional and ALP processes
 - ▶ Early FERC participation
 - ▶ Early NEPA scoping
 - ▶ ALP roles clarified
 - ▶ Dispute resolution in all processes

What We Heard

Settlements

- ▶ Specific provisions for:
 - ▶ Flexible timelines
 - ▶ Flexible content
 - ▶ Guidance on acceptable content

General Issues

“Big Picture” Questions

- ▶ Should FERC adopt an integrated licensing process?
- ▶ If FERC adopts a new licensing process, what in the current regulations should it change and/or what should it keep?
- ▶ Should an integrated licensing process apply to relicenses and original licenses?
- ▶ How should FERC cooperate with other federal agencies on NEPA documents?

General Issues

“Big Picture” Questions

- ▶ Should the licensing process begin before the 5 to 5.5 year deadline for filing the Notice of Intent?
- ▶ How should a new licensing process accommodate settlements?

What's Next?

- ▶ February 2003 - Notice of Proposed Rulemaking
- ▶ March, April 2003 - Technical Conferences
 - ▶ Portland, OR, Sacramento, CA, Milwaukee, WI, Charlotte, NC, Manchester, NH, Washington, DC
- ▶ April 2003 – Stakeholder drafting sessions
- ▶ July 2003 - Final Rule

Introduction to Post-Forum Stakeholder Drafting Sessions

- ▶ Not a negotiation with FERC staff
- ▶ Look for common ground and identify areas of agreement or disagreement
- ▶ Groups should address all process steps
- ▶ No attribution
- ▶ Only Drafting Group final reports on record
- ▶ Drafting Group final reports will be considered along with other information in the record
- ▶ Be creative