



Hydropower Regulatory Efficiency Act of 2013

Item No: A-3
January 16, 2014

[Cleo] Good morning Madam Chairman and Commissioners. Today we are here to provide an overview of the Hydropower Regulatory Efficiency Act of 2013 and to report on some of the actions we have taken so far in compliance with the Act. We will also look ahead at the expected relicensing workload over the next few years.

Hydropower Regulatory Efficiency Act

(August 9, 2013)

- Section 2: Findings
- Section 3: 10-MW Small Hydropower Exemptions
- Section 4: Conduit Hydropower Projects
- Section 5: Two-Year Permit Extensions
- Section 6: Two-Year Licensing Process

[Cleo] On August 9, 2013, the Hydropower Regulatory Efficiency Act was signed into law. Hydropower is the largest source of clean, renewable electricity in the United States, and provides nearly 7 percent of the Nation's electricity and about 100,000 megawatts of the Nation's electric capacity. In section 2 of the Act, Congress finds that there is substantial potential for adding hydropower generation to non-powered dams given that only 3 percent of the 80,000 dams in the United States generate electricity.

The Act affects hydropower development in four ways.

For projects at existing dams that qualify for a small hydropower exemption, Section 3 of the Act amended PURPA by increasing the maximum allowable capacity for such projects from 5 MW to 10 MW.

Section 4 provides that conduit hydropower facilities with an installed capacity that does not exceed 5 MW and which meets the Act's other qualifying criteria, are not required to be licensed under the Federal Power Act. It also increases the maximum installed capacity from 15 MW to 40 MW for a privately developed hydropower facility that qualifies for a conduit exemption. Previously, the 40-MW maximum was available only to municipal projects.

Section 5 of the Act provides the Commission with the authority to extend preliminary permits for up to 2 additional years beyond the 3 years previously allowed under Section 5 of the Federal Power Act.

Lastly, section 6 requires the Commission to investigate the feasibility of a 2-year licensing process for hydropower development at non-powered dams and closed-loop pumped storage projects.

Implementation Status Under the Act

- Website Guidance
 - Conduit and 10-MW Small Hydropower Exemptions
 - Qualifying Conduits
 - Preliminary Permit Terms
- Two-Year Licensing Process
 - Workshop
 - Pilot Projects

[Cleo] We are well into implementing the Act. Soon after the Act was passed, we updated our website to provide guidance on how to apply for conduit and 10-MW small hydropower exemptions, qualifying conduits, and preliminary permit term extension. To date, we've received no applications by a private developer for a 40-MW conduit exemption, and we've received no applications for a 10-MW small hydropower exemption, but have approved requests for a number of qualifying conduits and preliminary permit term extensions.

In addition, staff has begun investigating a two-year licensing process in compliance with Section 6 of the Act. Staff held an initial workshop, solicited written comments on the process, and issued a Notice soliciting projects to test a two-year process.

Chris Chaney is now going to discuss the qualifying conduit program. Tim Konnert will then provide an overview of the preliminary permit term extension requests, as well as more information on the two-year licensing process. Tim is also going to speak about the anticipated increase in relicensing workload.

Qualifying Conduit Processing

- Notice of Intent
- Initial Determination
- 45-Day Public Notice
- Final Determination

[Chris] As Cleo noted, under Section 4 of the Act, certain qualifying conduit hydropower facilities up to 5 MW are no longer required to be licensed under the Federal Power Act.

The Act requires those wishing to take advantage of this provision to file a Notice of Intent to Construct a Qualifying Conduit Hydropower Facility with the Commission. Within 15 days of receiving such a Notice, the Commission makes an initial determination on whether the facility meets the qualifying criteria. If the facility meets the criteria, the Commission issues a public notice for 45 days. The Commission then issues a letter approving the facility unless it receives comments contesting the action.

Staff prepared guidance on these procedures, including a template for the Notice of Intent. This is on the Commission's website, as well as a table showing the status of the Notice of Intent requests.



[Chris] To date, 18 Notices of Intent to Construct Qualifying Conduit Facilities have been filed: 16 have been approved, 1 was rejected because it did not meet the criteria, and 1 is pending.

The approved projects ranging in size from 10 kW to 4.8 MW and projected to produce about 31,000 MWh annually are mostly located in the Western United States. The one project that was rejected was proposed to be located in Maryland and the pending project is located in Utah.

Currently, the average processing time from the filing of the Notice of Intent to the Final Determination is 63 days

Staff expects to see a significant number of these filings in the future based on industry inquiries and comments.

Preliminary Permit Term Extension Process

- Application
 - Extension Amount
 - Statement of Activities under Permit
- Commission Action

[Tim] As Cleo noted, Section 5 of the Act authorizes the Commission to extend the term of preliminary permits for one 2-year period beyond the 3 years previously permitted by the Federal Power Act.

Any permittee wishing to extend the term must file an application with the Commission at least 30 days prior to the expiration date of the permit. In its application, the applicant should specify the requested term of the extension and describe how it has carried out activities under its permit in good faith and with reasonable diligence.

The process ends with Commission action on the extension request.

Preliminary Permit Term Extensions

- 270 Preliminary Permits
- 7 Applications for Permit Term Extensions
 - 2 Granted
 - 3 Denied
 - 2 Pending

[Tim] Currently, there are 270 issued preliminary permits. Staff has received 7 applications for extensions of permit terms. Of these permit term extension applications, 2 were granted, 3 were denied due to lack of diligence during the three-year initial permit term, and 2 are currently pending.

Two-Year Licensing Process

- October 22, 2013: Initial Workshop
- January 6, 2014: Notice Inviting Pilot Projects
- February 5 – May 5, 2014: Due date for pilot project applications

[Tim] Pursuant to Section 6 of the Act, staff conducted a workshop on October 22, 2013, to solicit input on the feasibility of a two-year licensing process for projects that are located at existing, non-powered dams or are closed-loop pumped storage projects.

In addition to testimony received at the meeting, 16 comment letters were filed after the workshop by interested developers, licensees, federal and state resource agencies, trade groups, and other interested parties.

Based on the workshop testimony and written comments, staff developed a two-year process and issued a Notice on January 6, 2014, soliciting prospective license applicants to file a request to test it.

As directed by the Act and informed by the workshop, staff developed criteria that a prospective applicant should follow in the development of a pilot project. These criteria require that: the project must cause little to no change to existing surface and groundwater flows and uses, the project must be unlikely to adversely affect federally listed threatened and endangered species, and for a closed loop pumped storage project, the project must not be continuously connected to a naturally-flowing water feature.

The Notice also states staff's expectation that prospective applicants will propose projects that are developed and well defined. In addition, the Notice requires that the prospective applicant, prior to filing its request, consult with the affected federal and state resource agencies, Indian tribes, non-governmental organizations, and the public regarding its project. They must also provide a summary of verbal comments and copies of any written comments received in response to the meetings with its request to test a process.

Pursuant to the Notice, the window for filing a request to test a process begins on February 5, 2014, which, under the Act, is the date the Commission is required to implement pilot project testing; the filing window ends on May 5, 2014.

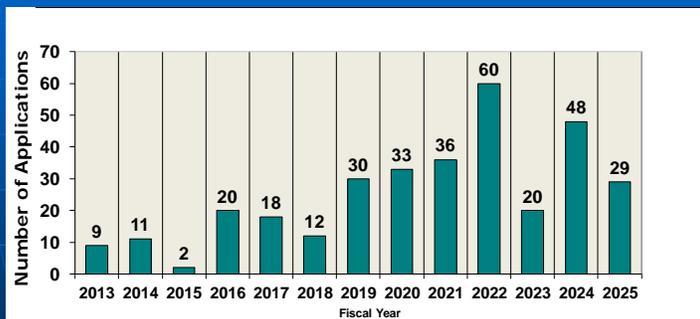
Two-Year Licensing Process – Next Steps

- Spring/Summer 2014: Testing Begins
- February 5, 2017: Hold Final Workshop
- April 6, 2017: Report to Congress

[Tim] If the Commission receives and grants a request to test a pilot project, testing will begin in the Spring to Summer of 2014 and continue through the Spring to Summer of 2016.

Pursuant to the Act, the Commission will hold a final workshop to solicit public comment on the effectiveness of each pilot project by no later than February 5, 2017, and submit a report of its findings to Congress by no later than April 6, 2017.

Relicensing Workload



[Tim] At this point, I'd like to switch gears and provide you with an overview of the projected relicensing workload over the next few years. We are anticipating a substantial increase in the filing of relicensing applications beginning in 2019 and continuing through 2025.

Together, these relicense applications represent over 9,500 megawatts of installed hydroelectric capacity.

Preparation of a license application under the default integrated licensing process requires early and intensive participation by Commission staff up to 3.5 years prior to the license application filing deadline. Even though the first of the relicense applications are not due to be filed until 2019, staff anticipates experiencing the effects of this workload as early as the latter half of 2015.



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Questions?

[Tim] This concludes our presentation and we are happy to answer any questions.