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Docket No. RM11-6-000

FERC proposes revision to annual charges for use of federal lands

The Federal Energy Regulatory Commission (FERC) today issued a proposal to revise the methodology for calculating rental rates for the use of government lands by hydropower projects. FERC-regulated hydropower licensees must compensate the U.S. government for the use of federal lands through payment of an annual charge.

Today's Notice of Proposed Rulemaking proposes to adopt the U.S. Bureau of Land Management's (BLM) formula for calculating an annual charge. However, FERC proposes to create its own fee schedule of per-acre rental rates using the BLM formula, subject to one change in the land value component. The Commission would use actual county land values from a national census, rather than assign counties to zones. The fee schedule will be updated every five years with new land values, and adjusted annually for inflation. The Commission also proposes to stop doubling the per-acre rental rate for non-transmission line lands.

Today's proposal stems from a February 2011 Notice of Inquiry seeking public comments on publicly available indices to calculate rental rates for use of government lands. It addressed a Jan. 4, 2011, decision by the U.S. Court of Appeals for the District of Columbia Circuit vacating the Commission's earlier attempt to implement the fee schedule. The court said the Administrative Procedure Act requires FERC to seek notice and comment on the methodology used to calculate annual charges because the fee schedule is based on the 1987 BLM formula, and BLM made changes to the formula.

Comments are due 45 days after publication in the *Federal Register*.

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