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Docket No. RM11-6-000

FERC Issues Final Rule on Annual Charges for Federal Lands

The Federal Energy Regulatory Commission (FERC) today issued a final rule revising 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.

The final rule adopts a fee schedule, to be updated annually, based on a formula with the following components: a per-acre land value by county or geographic area; an encumbrance factor; a rate of return that converts the land value to a rental value; and an annual inflation adjustment.

The per-acre land value is derived from a publicly-available index that is published by the U.S. National Agricultural Statistics Service, and reduced by a state-specific percentage to remove the value of irrigated lands on a state-by-state basis, plus a 7 percent reduction to remove the value of buildings or other improvements.

Today's final rule stems from 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 previous fee schedule was based on the 1987 BLM formula, and BLM made changes to the formula.

The rule will become effective 30 days after publication in the *Federal Register*.

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