

1 BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION

2 Commission Meeting

3 Thursday, June 18, 2015

4 Washington, DC

5 Hearing Room 2C

6 888 First Street N.E.

7 Washington, DC 20426

8 The Commission met in open session, pursuant
9 to notice, at 10:00 a.m., when were present:

10 COMMISSIONERS:

11 NORMAN C. BAY, Chairman

12 TONY CLARK, Commissioner

13 COLETTE D. HONORABLE, Commissioner

14 CHERYL A. LAFLEUR, Commissioner

15 PHILLIP D. MOLLER, Commissioner

16 FERC STAFF:

17 KIMBERLY D. BOSE, Secretary

18 DAVID ANDREJCAK, OEIS

19 MICHAEL BARDEE, Director, OER

20 ANN MILES, Director, OEP

21 DAVID MORENOFF, General Counsel

22 LARRY PARKINSON, Director, OE-417

23 ARNOLD QUINN, Director, OEPI

24 JAMIE SIMLER, Director, OEMR

25

1 Discussion Items:

2 CONSENT - ELECTRIC:

3 E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-10,
4 E-11, E-12, E-14, E-15, E-16, E-17, E-19 and E-20.

5 CONSENT - HYDRO:

6 H-2 and H-3

7 CONSENT - CERTIFICATES:

8 C-1

9 DISCUSSION ITEMS:

10 H-1

11 NO STRUCK ITEMS.

12 PRESENTERS:

13 H-1 (Soldier Canyon Filter Plant)

14 Cleo Deschamps, OGC

15 Chris Chaney, OEP

16 Tim Konnert (OEP)

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24 Court Reporter: Kim M. Brantley, Ace-Federal

25 Reporters, Inc.

1 P R O C E E D I N G S

2 (10:00 a.m.)

3 SECRETARY BOSE: Good morning. The
4 purpose of the Federal Energy Regulatory
5 Commission's Open Meeting is for the Commission to
6 consider the matters that have been duly posted in
7 accordance with the Sunshine Act.

8 Members of the public are invited to
9 observe, which includes attending, listening and
10 taking notes, but does not include participating
11 in the meeting or addressing the Commission.

12 Actions that purposely interfere or
13 attempt to interfere with the commencement or
14 conducting of the meeting or inhibit the
15 audience's ability to observe or listen to the
16 meeting, including any attempts by the audience
17 members to address the Commission while the
18 meeting is in progress, are not permitted.

19 Any persons engaging in such behavior
20 will be asked to leave the building. Anyone who
21 refuses to leave voluntarily will be escorted from
22 the building.

23 Additionally, documents presented to
24 the Chairman, Commissioners or Staff during the
25 meeting will not become part of the official

1 record of any Commission proceeding, nor will they
2 require further action by the Commission.

3 If you wish to comment on an ongoing
4 proceeding before the Commission, please visit our
5 website for more information.

6 Thank you for your cooperation.

7 CHAIRMAN BAY: Good morning, everybody.
8 This is the time and the place that has been
9 noticed for the Open Meeting of the Federal Energy
10 Regulatory Commission to consider the matters that
11 have been duly posted in accordance with the
12 government and the Sunshine Act.

13 Please join us in the Pledge of
14 Allegiance.

15 (Pledge of Allegiance recited.)

16 CHAIRMAN BAY: You know the words of
17 the Pledge of Allegiance close with the thought
18 that this is a country devoted to "liberty and
19 justice for all," and in that spirit I would ask
20 for a moment of silence because of what happened
21 in Columbia, South Carolina. Our heart goes out
22 to the victims of that terrible shooting and to
23 their families and to all the members of the
24 community in South Carolina that have been
25 effected by this terrible tragedy.

1 (Moment of silence.)

2 CHAIRMAN BAY: I'm pleased to say that
3 since the May 14th meeting the Commission has had
4 a very busy month. We have issued eighty-two
5 notational orders since the May Open Meeting. It
6 was one of the busiest and most productive days
7 we've ever had.

8 I have one announcement with respect to
9 my office. I'm sorry to say that one of my
10 advisors, Tatyana Kramskya, will be leaving my
11 office, though she will be going to the Office of
12 Energy Policy and Innovation. Tatyana has been a
13 wonderful advisor to me and I'm going to miss
14 working with her though I know that OP is very
15 much looking forward to working with her going
16 forward.

17 I'm replacing Tatyana with Max Minzner.
18 Max formerly worked at FERC for a year. He's
19 currently on a leave of absence from the
20 University of New Mexico School of Law where he is
21 a member of the faculty.

22 Colleagues, other announcements?

23 COMMISSIONER MOELLER: Mr. Chairman, I
24 just want to welcome Max as well because he was
25 extraordinarily productive in his year here

1 helping you with enforcement and providing some
2 clarification on I believe the Brady language, the
3 penalty guidelines and a couple other issues, and
4 it's great to have him back.

5 So, Max, welcome.

6 CHAIRMAN BAY: Thank you, Phil.

7 Cheryl?

8 COMMISSIONER LAFLEUR: Yes, well I'd
9 also like to welcome Max and congratulate Tatyana
10 and I have several announcements about my own
11 office. All of my folks are huddled on the bench
12 back there and I'd ask them to stand up when I
13 introduce them.

14 First, just to note that Kurt Longo,
15 who was in my office for four years, first as
16 technical advisor and then as co-chief of staff,
17 has moved on to become the director of the east
18 region in the Office of Energy Market Regulation,
19 a position for which he is eminently qualified,
20 and we're very happy for him and for OMR.

21 But I'm happy to announce that Becky
22 Robinson has joined my office as a technical
23 advisor. She's been an economist in OB since
24 2010. She's a native of Alabama and graduated
25 from Williams College in economics and the

1 University of Cambridge, the one in England, not
2 the -- the real one in Cambridge, Massachusetts,
3 and she worked for Commissioner Moeller for a
4 period of time in 2014.

5 We're very happy to have her market and
6 transmission expertise in the office, and also in
7 her spare time she's a gentlemen woman farmer who
8 keeps chickens and pigs, and so we would never
9 tease her about that.

10 Andrew Holliman has started this month
11 as my confidential assistant replacing Kim Shannon
12 who went on to the Office of Energy Projects as
13 the management and program analyst and who is a
14 graduate of the University of Louisiana, Lafayette
15 with a degree in business management. He was most
16 recently a legislative aide to Senator Mary
17 Landrieu and he is responsible for scheduling and
18 coordination but will also be working on speeches
19 and communication and other projects.

20 If you haven't been in our office
21 lately he is letting his Louisiana roots show with
22 a real alligator head as well as a huge flag that
23 declares the New Orleans Saints Superbowl
24 champions... although I don't believe they're
25 actually the reigning Superbowl champions.

1 And I also want to mention and thank
2 Tracy Empson who had filled in as my confidential
3 assistant for two months and was wonderful,
4 through the generosity of Anton Porter.

5 Finally, Hannah Davinroy is going to be
6 at FERC is this month and next month as an intern
7 through the Princeton Internships and Civic
8 Service Program, which is financing her summer.
9 She's a native of Colorado majoring in physics
10 with a concentration in energy, so we hope to give
11 her some interesting exposure, and she also
12 manages a bike repair co-op. So we have all kinds
13 of extra skills in our office.

14 So thank you, Mr. Chairman.

15 CHAIRMAN BAY: Thank you, Cheryl.

16 Tony.

17 COMMISSIONER CLARK: Just good morning
18 and thanks and best wishes to all of those who are
19 leaving us on 11/4 and congratulations and welcome
20 to all who are joining us.

21 CHAIRMAN BAY: Colette?

22 COMMISSIONER HONORABLE: Thank you, Mr.
23 Chairman. I would follow Tony, he's so efficient,
24 but in my southern way I must acknowledge them by
25 name.

1 Tatyana, it's really been a pleasure to
2 work with you. Congrats to you.

3 Kurt, wherever you are, I have often
4 joked and said that Cheryl really allowed Kurt to
5 kind of be my advisor too when he joined and I
6 really appreciated working with him.

7 I'm delighted to welcome back Max,
8 although he was here even before I was; heard so
9 much about you and I know so many people,
10 including the Chairman, are delighted that you
11 have returned. Congrats to you, thank you.

12 And Hannah, that's an incredible resume
13 that you have.

14 I'm also very pleased to see how many
15 of you are bringing on board more of my SEC
16 colleagues, so we look forward to both football
17 and basketball season. So it will be a great time
18 on the 11th floor.

19 Thank you.

20 CHAIRMAN BAY: Thank you, Colette.

21 Madame Secretary, I think we're ready
22 to proceed to the consent agenda.

23 SECRETARY BOSE: Good morning, Mr.
24 Chairman, and good morning Commissioners.

25 Since the issuance of the Sunshine Act

1 notice on June 11th, 2015, no items have been
2 struck from this morning's from.

3 Your consent agenda is as follows...

4 Electric items: E-1, E-2, E-3, E-4,
5 E-5, E-6, E-7, E-8, E-9, E-10, E-11, E-12, E-14,
6 E15, E16, E17, E19, and E20.

7 Hydro Items: H-2 and H-3.

8 Certificate items: C-1.

9 As required by law, Commissioner
10 Honorable is not participating in consent items
11 E-11, E15, E17 and E20.

12 As to E-6, Commissioner Moeller is
13 concurring with a separate statement. As to E15,
14 Commissioner Moeller is dissenting with a separate
15 statement.

16 As to H-3, Commissioner LaFleur is
17 dissenting with a separate statement.

18 We are now ready to take a vote on this
19 morning's consent agenda. The vote begins with
20 Commissioner Honorable.

21 COMMISSIONER HONORABLE: Thank you
22 Madame Secretary.

23 Noting my recusal on items E-11, E-15,
24 E-17 and E-20, I vote aye.

25 SECRETARY BOSE: Commissioner Clark?

1 CHAIRMAN BAY: Aye.

2 SECRETARY BOSE: Commissioner LaFleur?

3 COMMISSIONER LAFLEUR: Noting my
4 dissent on item H-3, I vote aye.

5 SECRETARY BOSE: Commissioner Moeller?

6 COMMISSIONER MOELLER: Noting my
7 concurrence on E-6 and my dissent on E-15, I vote
8 aye.

9 SECRETARY BOSE: And Chairman Bay?

10 CHAIRMAN BAY: I vote aye.

11 SECRETARY BOSE: We're now ready to
12 move on to the presentation and discussion item
13 for this morning which is E-20. It's concerning
14 docket number CD 15-18-001 and an update on the
15 Hydropower Regulatory Efficiency Act of 2013.

16 There will be a presentation by Cleo
17 Deschamps from the Office of the General Counsel,
18 and Chris Chaney and Tim Konnert from the Office
19 of Energy Projects. There will be a Power Point
20 presentation on this item.

21 (Slide 1)

22 MR. CHANEY: Good morning, Mr. Chairman
23 and Commissioners. Today we are here to provide a
24 brief summary of H-1 and an update on our
25 implementation of the Hydropower Regulatory

1 Efficiency Act of 2013.

2 (Slide 2)

3 H-1 addresses the applicability of the
4 Hydropower Regulatory Efficiency Act's qualifying
5 conduit provisions to Soldier Canyon Filter
6 Plant's proposed project. The proposed 100
7 kilowatt Soldier Canyon Micro Hydro Facility would
8 be located along an existing municipal raw water
9 supply pipeline at the Soldier Canyon Filter Plant
10 near Fort Collins, Colorado.

11 The order explains that small conduit
12 facilities and qualifying conduits simply generate
13 hydroelectricity by using the water within a
14 conduit that is operated through the distribution
15 of water through agricultural, municipal, or
16 industrial consumption and not primarily for the
17 generation of electricity. Whether the conduit's
18 ability to generate hydropower is due to the
19 conduit's gradient or the head from an upstream
20 dam is not relevant. The order finds that Soldier
21 Canyon's proposed project meets the criteria for a
22 qualifying conduit.

23 Cleo will now begin our update on the
24 Hydropower Regulatory Efficiency Act of 2013.

25 (Slide 3)

1 MS. DESCHAMPS: By way of background,
2 the Hydropower Regulatory Efficiency Act was
3 signed into law on August 9th, 2013.

4 The Act affected hydropower development
5 in four ways.

6 For projects at existing dams that
7 qualify for a small hydropower exemption, Section
8 3 of the Act amended PURPA by increasing the
9 maximum allowable capacity for such projects from
10 five megawatts to 10 megawatts.

11 Section 4 provided that conduit
12 hydropower facilities with installed capacity that
13 does not exceed five megawatts and which meets the
14 Act's other qualifying criteria are not required
15 to be licensed under the Federal Power Act. It
16 also increased the maximum installed capacity from
17 15 megawatts to 40 megawatts for a privately
18 developed hydropower facility that qualifies for a
19 conduit exemption. Previously, the 40-megawatt
20 maximum was available only to municipal projects.

21 Section 5 of the Act provided the
22 Commission with the authority to extend
23 preliminary permits for up to two additional years
24 beyond the three years previously allowed under
25 Section 5 of the Federal Power Act.

1 And lastly, Section 6 required the
2 Commission to investigate the feasibility of a
3 two-year licensing process for hydropower
4 development at non-powered dams and closed-loop
5 pump storage projects.

6 (Slide 4)

7 We have been implementing the Act for
8 nearly two years. Soon after the Act was passed,
9 we updated our website to provide guidance on how
10 to apply for conduit and 10-megawatt small
11 hydropower exemptions, qualifying conduits, and
12 preliminary permit term extensions. The
13 Commission subsequently, in Order 800 revised its
14 regulations to conform them to the changes brought
15 about by the Act.

16 We have received notices of intent to
17 construct 58 qualifying conduit facilities, 30
18 applications for extensions of permit terms, and
19 one 10-megawatt or less small hydropower exemption
20 application for a project greater than five
21 megawatts.

22 Of the 58 proposed qualifying conduit
23 facilities, 43 facilities have been qualified,
24 eight were rejected because they did not meet the
25 criteria set forth in the Act, and the remaining

1 seven are pending.

2 Of the 30 applications for permit
3 extensions, 15 were granted and 14 were denied due
4 to lack of diligence, and one is pending.

5 In addition, staff is testing a
6 two-year licensing process in compliance with
7 Section 6 of the Act, which Tim will discuss next.

8 (Slide 5)

9 MR. KONNERT: Pursuant to Section 6 of
10 the Act, staff conducted a workshop on October
11 22nd, 2013 to solicit input on the feasibility of
12 the two-year licensing process for projects that
13 are located at existing non-powered dams or are
14 closed-loop pumped storage projects.

15 Based on the workshop testimony and
16 written comments, staff developed a two-year
17 process and issued a notice on January 6th, 2014
18 soliciting prospective license applicants to file
19 a request to test it, or in the alternative, to
20 test a two-year process plan and schedule
21 developed by the prospective license applicant.

22 As directed by the Act and informed by
23 the workshop, staff developed criteria that a
24 prospective applicant should follow in the
25 development of a pilot project.

1 Pursuant to the Notice, the window for
2 filing a request to test a process began on
3 February 5th, 2014 which, under the Act, is the
4 date the Commission was required to implement
5 pilot project testing. The filing window closed
6 on May 5th, 2014.

7 I did forget to mention, as directed by
8 the Act and informed by the workshop, staff also
9 developed criteria that was included in the Notice
10 that a prospective applicant should follow in the
11 development of a pilot project.

12 In response, two pilot project
13 proposals were filed: The Wildflower Water Pumped
14 Storage Project Number 13842, and Kentucky River
15 Lock & Dam Number 11 Hydroelectric Project Number
16 14276. Both filings were timely.

17 Commission staff rejected the proposal
18 to test the pilot process for the Wildflower
19 Project on May 27th, 2014 because the project did
20 not meet the criteria specified in the January
21 6th, 2014 notice.

22 The Commission noticed the proposal for
23 the Kentucky River Project on June 3rd, 2014, and
24 Commission staff held a technical conference with
25 the applicant and interested parties on June 19th,

1 2014, to discuss the project's proposed two-year
2 process plan and schedule.

3 On August 4th, 2014, Commission staff
4 approved the proposal to test the two-year process
5 for the project, including a proposed license
6 application due date of May 5th, 2015.

7 The prospective applicant filed a
8 license application for the project on April 16th,
9 2015, and supplemented the application on May 6th,
10 2015. Commission staff requested additional
11 environmental information on the application on
12 June 12th, 2015, and is currently reviewing
13 engineering and safety information that was filed
14 by the applicant on June 10th, 2015.

15 Once the application is complete,
16 Commission staff will issue a notice that is ready
17 for environmental analysis, soliciting stakeholder
18 comments and recommendations, and then prepare and
19 issue an environmental document that evaluates the
20 potential effects of the proposed project and
21 recommends mitigation measures to be incorporated
22 into any license issued. After a comment period
23 on the environmental document, the Commission will
24 act on the application.

25 Pursuant to the Act, the Commission

1 will hold a final workshop to solicit public
2 comment on the effectiveness of the pilot project
3 by no later than February 5th, 2017, and submit a
4 report of its findings to Congress by no later
5 than April 6th, 2017.

6 This concludes our presentation and we
7 would be happy to answer any questions that you
8 may have.

9 CHAIRMAN BAY: Thank you, Chris, Cleo
10 and Tim, and thank you for everyone on the team
11 who worked on H-1 and on today's presentation.

12 I also wish to thank my colleague, Phil
13 Moeller, for calling this item for presentation
14 and for his long time interest, indeed his passion
15 for hydropower. Hydropower is the largest source
16 of renewable electricity in the United States,
17 providing about seven percent of the nation's
18 electricity.

19 Phil?

20 COMMISSIONER MOELLER: Thank you, Mr.
21 Chairman.

22 I called this item because it does
23 provide some clarification which hopefully with a
24 little more attention will help us focus the
25 enormous potential of the small hydropower

1 projects throughout the country.

2 I have a couple of questions for staff,
3 and before I ask the questions, this is a good
4 example. This was bipartisan legislation which
5 was adopted unanimously by the House and the
6 Senate, we can work together for a common good,
7 and I think our staff has been very productive in
8 implementing the Act. But my question relates to,
9 for those of us from the west, and there's even
10 some potential in Mexico, we think of the west as
11 being the focus of these kind of conduit
12 exemptions, but are there other regions of the
13 country where there is some potential?

14 MR. CHANEY: What I'll say is, yeah,
15 you're correct. Over eighty percent of the
16 applications that we have seen for these have been
17 from the west. The other twenty percent have been
18 spread out throughout the country.

19 What we see in the west is much larger
20 irrigation districts, so a lot more potential out
21 there, also steeper terrain.

22 In the east what we see is usually
23 smaller projects of the type of municipal water
24 supply systems.

25 COMMISSIONER MOELLER: Well, we last

1 had an update in January of 2014. I think there
2 were fourteen projects at the time. As you noted
3 there are 58 that have been received in the mean
4 time. Are you seeing generally any trends that
5 are worth identifying?

6 MR. CHANEY: As far as trends,
7 initially when it was first enacted we saw an
8 initial pulse of applications. Since that time
9 we've seen a relatively steady stream of
10 applications averaging somewhere between two and
11 three projects per month.

12 COMMISSIONER MOELLER: Well, again,
13 thank you for allowing me to call this item.
14 Hopefully it gives further attention to an area of
15 the country or an area of potential energy
16 production that can be further captured again with
17 carbon-free emissions and usually at a very
18 competitive price.

19 So, again, Mr. Chairman, thank you.

20 CHAIRMAN BAY: Thank you, Phil.

21 Cheryl?

22 COMMISSIONER LAFLEUR: Thank you,
23 Norman, and thank you, Chris, Cleo and Tim, and
24 thank you, Phil, for calling the item. I am very
25 pleased to support today's order because I believe

1 it furthers the purposes of the Hydropower
2 Regulatory Efficiency Act.

3 It's been noted that more of the
4 qualifying conduit facilities are in the western
5 part of the United States, but small dams without
6 hydroelectric generation sets are ubiquitous in
7 all fifty states and have a tremendous amount of
8 potential as sources of new cleaner renewable
9 power, and obviously the Act was intended to
10 foster that and the work of Commission staff both
11 in the Office of Energy Projects and the Office of
12 General Counsel is intended to help streamline our
13 processes as much as we can to help small hydro
14 come online.

15 So I appreciate your work on it and
16 your presentation. Thank you.

17 CHAIRMAN BAY: Thank you, Cheryl.
18 Tony?

19 COMMISSIONER CLARK: Thanks to the
20 team. I have a couple of questions. Phil, you
21 actually caught one of mine which was, I was
22 curious about the regional nature of the
23 development of the projects.

24 I do have a second, though, which is
25 you identified that there were a number of

1 facilities, conduit facilities that have been
2 qualified, 43 indicated.

3 Do you have a sense for if we're
4 talking about total megawatts, what are we looking
5 at in terms of the projects that have gone through
6 so far?

7 MR. CHANEY: For total projects that we
8 have found qualified, it's somewhere around twenty
9 megawatts.

10 COMMISSIONER CLARK: Great, thank you.
11 That's all I have. Thanks for your work.

12 CHAIRMAN BAY: Thank you, Tony.
13 Colette?

14 COMMISSIONER HONORABLE: Thank you, Mr.
15 Chairman.

16 I'd like to thank the team. Thank for
17 the well-done presentation, for the work that
18 you've undertaken, and more importantly for the
19 work that you will undertake.

20 I'd like to thank Commissioner Moeller
21 for calling this item and certainly Commissioner
22 LaFleur also referenced the Act. This work is
23 important because it demonstrates our ability to
24 move these projects forward that are in the public
25 interest, not only in furtherance of the Act, but

1 in light of the Clean Power Plan, as well.

2 So we need all of these resources,
3 particularly those that have no carbon emissions,
4 and I'm delighted to hear the progress.

5 Thank you.

6 SECRETARY BOSE: We will now take a
7 vote on H-1 of this presentation. The vote begins
8 with Commissioner Honorable.

9 COMMISSIONER HONORABLE: Aye.

10 SECRETARY BOSE: Commissioner Clark?

11 COMMISSIONER CLARK: Aye.

12 SECRETARY BOSE: Commissioner LaFleur?

13 COMMISSIONER LAFLEUR: Aye.

14 SECRETARY BOSE: Commissioner Moeller?

15 COMMISSIONER MOELLER: Aye.

16 SECRETARY BOSE: And Chairman Bay?

17 CHAIRMAN BAY: Aye.

18 Thank you. With that this meeting is
19 adjourned.

20 (Whereupon at 10:23 a.m. the Commission
21 Meeting was adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

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I, KIM M. BRANTLEY, the officer before whom the foregoing meeting was taken, do hereby certify that the proceedings were taken by me in stenotype and thereafter reduced to typewriting under my direction; that said meeting is a true record of the proceedings; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this meeting was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

KIM M. BRANTLEY

Notary Public in and for
the District of Columbia

My Commission expires: October 31, 2019