USSD Workshop: The Challenges of Dams in Cold Climates

Policies and Regulations Affecting New Hydro Development

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Topics

- Pending hydropower legislation
- FERC license term Notice of Inquiry
- Two year pilot license process
- Alaska federal lands rulemaking
Pending Hydropower Legislation

- H.R. 3043 and S. 1460 licensing reform bills
- If enacted, these bills would result in significant improvements for new hydropower development:
  - Centralized scheduling by FERC of all authorizations required under federal law
  - FERC would be lead agency for environmental review under NEPA
  - Requires mandatory conditioning agencies (FPA §§ 4(e), 18) to give “equal consideration” to developmental and non-developmental values
  - Directs greater use of existing studies and data
  - Extends length of preliminary permit terms
    - Currently: FERC allows only up to 5 years total
    - Bills: Authorize terms up to 8 years, with an opportunity to extend or seek a new permit.
  - Authorizes FERC to extend start of construction date for 8 additional years (instead of the 2-year extension currently authorized).
- New provision (S. 1460 only) regarding Indian Tribes and municipal preference
Other Notable Hydro Bills

- **H.R. 2872 (Promoting Hydropower Development at Existing Non-Powered Dams Act):** Bill provides that FERC may grant an exemption for qualifying hydropower facilities at non-powered dams operated for control, release, or distribution of water for agricultural, municipal, navigational, industrial, commercial, environmental, recreational, aesthetic, or flood control purposes.

- **H.R. 2880 (Promoting Closed-Loop Pumped Storage Hydropower Act):** Bill would establish focused licensing requirements for the expeditious review of license applications for closed-loop pumped storage projects.

- **S. 1029 (Exemptions for Small Dams Act):** Bill would authorize FERC to issue exemptions to certain small, existing hydroelectric power projects that otherwise would need to obtain a new license from FERC.

- **H.R. 2786 (Qualifying Conduits):** Bill would eliminate 5 MW limit and reduce time for FERC to make a qualifying conduit determination decision for certain conduit facilities.
November 2016 Notice of Inquiry (NOI) on whether FERC’s existing license term policy should be modified.

Current policy provides for license term of 30 to 50 years based on proposed redevelopment, new capacity, and environmental measures.

Among the options proposed was a default license term of 50 years or consideration for measures implemented under the prior license.

FERC received over 40 comments, including industry, environmental community, federal and state resource agencies, and others. Commenters’ advocated for a range of solutions; no consensus.

With quorum now, restored, FERC may move forward with addressing the NOI in the future.
Two-Year Pilot License Process

- May 2017 FERC report to Congress on two-year pilot license process.
- Two-year licensing / small hydro exemption process feasible under current regulations.
- Site-selection, well-defined proposal, thorough pre-filing consultation, complete application necessary.
- Certain design, environmental characteristics increase likelihood of two-year process.
Alaska Federal Lands Rulemaking

- NOPR was issued in response to petition for rulemaking filed by group of Alaska hydropower licensees.
- Proposes to use statewide average per-acre land value, rather than regional per-acre land values based on data published in NASS Census.
- Statewide average would be calculated using average of Kenai Peninsula and Fairbanks per-acre land values.
- Comments due October 30, 2017.
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