



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.

FERC License Term Notice of Inquiry



- 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

- August 2017: FERC Notice of Proposed Rulemaking (NOPR) to revise methodology for calculating annual charges for use of government lands in Alaska.
- 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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