

## § 16.4

### § 16.4 Acceleration of a license expiration date.

(a) *Request for acceleration.* (1) A licensee may file with the Commission, in accordance with the formal filing requirements in subpart T of part 385 of this chapter, a written request for acceleration of the expiration date of its existing license, containing the statements and information specified in §16.6(b) and a detailed explanation of the basis for the acceleration request.

(2) If the Commission grants the request for acceleration pursuant to paragraph (c), the Commission will deem the request for acceleration to be a notice of intent under §16.6 and, unless the Commission directs otherwise, the licensee shall make available the information specified in §16.7 no later than 90 days from the date that the Commission grants the request for acceleration.

(b) *Notice of request for acceleration.* (1) Upon receipt of a request for acceleration, the Commission will give notice of the licensee's request and provide a 45-day period for comments by interested persons by:

(i) Publishing notice in the Federal Register;

(ii) Publishing notice once in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated; and

(iii) Notifying appropriate Federal, state, and interstate resource agencies and Indian tribes by mail.

(2) The notice issued pursuant to paragraphs (1) (i) and (ii) and the written notice given pursuant to paragraph (1)(iii) will be considered as fulfilling the notice provisions of §16.6(d) should the Commission grant the acceleration request and will include an explanation of the basis for the licensee's acceleration request.

(c) *Commission order.* If the Commission determines it is in the public interest, the Commission will issue an order accelerating the expiration date of the license to not less than five years and 90 days from the date of the Commission order.

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### § 16.5 Site access for a competing applicant.

(a) *Access.* If a potential applicant for a new license, subsequent license, or nonpower license for a project has complied with the first stage consultation provisions of §16.8(b)(1) and has notified the existing licensee in writing of the need for and extent of the access required, the existing licensee must allow the potential applicant to enter upon or into designated land, buildings, or other property in the project area at a reasonable time and under reasonable conditions, including, but not limited to, reasonable liability conditions, conditions for compensation to the existing licensee for all reasonable costs incurred in providing access, including energy generation lost as a result of modification of project operations that may be necessary to provide access, and in a manner that will not adversely affect the environment, for the purposes of:

(1) Conducting a study or gathering information required by a resource agency under §16.8 or by the Commission pursuant to §4.32 of this chapter;

(2) Conducting a study or gathering information not covered by paragraph (a)(1) but necessary to prepare an application for new license, subsequent license, or nonpower license; or

(3) Holding a site visit for a resource agency under §16.8.

(b)(1) *Disputes.* Except as specified by paragraph (b)(2), disputes regarding the timing and conditions of access for the purposes specified in paragraphs (a) (1), (2), or (3) of this section and the need for the studies or information specified in paragraph (a)(2) may be referred to the Director of the Office of Hydropower Licensing for resolution in the manner specified in §16.8(b)(5) prior to the providing of access.

(2) Disputes regarding the amount of compensation to be paid the existing licensee for access may be referred to the Director of the Office of Hydropower Licensing for resolution in the manner specified in §16.8(b)(5) after the access has been provided.