

the Commission will consider the factors enumerated in sections 15(a)(2) and (a)(3) of the Federal Power Act.

(b) If there are only insignificant differences between the final applications of an existing licensee and a competing applicant after consideration of the factors enumerated in section 15(a)(2) of the Federal Power Act, the Commission will determine which applicant will receive the license after considering:

(1) The existing licensee's record of compliance with the terms and conditions of the existing license; and

(2) The actions taken by the existing licensee related to the project which affect the public.

(c) An existing licensee that files an application for a new license in conjunction with an entity or entities that are not currently licensees of all or part of the project will not be considered an existing licensee for the purpose of the insignificant differences provision of section 15(a)(2) of the Federal Power Act.

Subpart C—Takeover Provisions for Projects Subject to Sections 14 and 15 of the Federal Power Act

§ 16.14 Departmental recommendation for takeover.

(a) A Federal department or agency may file a recommendation that the United States exercise its right to take over a hydroelectric power project with a license that is subject to sections 14 and 15 of the Federal Power Act. The recommendation must:

(1) Be filed no earlier than five years before the license expires and no later than the end of the comment period specified by the Commission in:

(i) A notice of application for a new license, a nonpower license, or an exemption for the project; or

(ii) A notice of an amendment to an application for a new license, a nonpower license, or an exemption;

(2) Be filed in accordance with the formal requirements for filings in subpart T of part 385 of the Commission's regulations and be served on each relevant Federal and state resource agency, all applicants for new license,

nonpower license or exemption, and any other party to the proceeding;

(3) Specify the project works that would be taken over by the United States;

(4) Describe the proposed Federal operation of the project, including any plans for its redevelopment, and discuss the manner in which takeover would serve the public interest as fully as non-Federal development and operation;

(5) State whether the agency intends to undertake the operation of the project; and

(6) Include the information required by §§ 4.41, 4.51, or 4.61 of this chapter, as appropriate.

(b) A department or agency that files a takeover recommendation becomes a party to the proceeding.

(c) An applicant or potential applicant for a new license, a nonpower license, or an exemption that involves a takeover recommendation may file a reply to the recommendation, within 120 days from the date the takeover recommendation is filed with the Commission. The reply must be filed with the Commission in accordance with part 385 of the Commission's regulations and a copy of such a reply must be served on the agency recommending the takeover and on any other party to the proceeding.

§ 16.15 Commission recommendation to Congress.

Upon receipt of a recommendation from any Federal department or agency, a proposal of any party, or on the Commission's own motion, and after notice and opportunity for hearing, the Commission may determine that a project may be taken over by the United States, issue an order on its findings and recommendations, and forward a copy to Congress.

§ 16.16 Motion for stay by Federal department or agency.

(a) Within 30 days of the date on which an order granting a new license or exemption is issued, a Federal department or agency that has filed a takeover recommendation under § 16.14 may file a motion under § 385.212 of this