

## Federal Energy Regulatory Commission

## § 4.30

### § 4.23 Time for filing protest.

Thirty days after service thereof will be allowed to such licensee within which to file a protest to such reports. If no protest is filed within the time allowed, the Commission will issue such order as may be appropriate. If a protest is filed, a public hearing will be ordered in accordance with subpart E of part 385 of this chapter.

[Order 141, 12 FR 8485, Dec. 19, 1947, as amended by Order 225, 47 FR 19056, May 3, 1982]

### § 4.24 Determination of cost.

The Commission, after receipt of the reports, or after the conclusion of the hearing if one is held, will determine the amounts to be included in the electric plant accounts of the licensee as the cost of the property and the accrued depreciation thereon.

### § 4.25 Findings.

(a) *Commission determination.* Final action by the Commission will be in the form of an order served upon all parties to the proceeding. One copy of the order shall be furnished to the Secretary of Treasury by the Commission.

(b) *Adjustment to licensee's books.* The licensee's books of account for the project shall be adjusted to conform to the actual legitimate cost as revised by the order of the Commission. These adjustments and the project may be audited by Commission representatives, as scheduled.

[Order 53, 44 FR 61949, Oct. 29, 1979]

## Subpart D—Application for Preliminary Permit, License or Exemption: General Provisions

AUTHORITY: Federal Power Act, as amended, 16 U.S.C. 792–828c; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

### § 4.30 Applicability and definitions.

(a) (1) This subpart applies to applications for preliminary permit, license, or exemption from licensing.

(2) Any potential applicant for an original license for which prefilings consultation begins on or after July 23,

2005 and which wishes to develop and file its application pursuant to this part, must seek Commission authorization to do so pursuant to the provisions of part 5 of this chapter.

(b) For the purposes of this part—

(1)(i) *Competing development application* means any application for a license or exemption from licensing for a proposed water power project that would develop, conserve, and utilize, in whole or in part, the same or mutually exclusive water resources that would be developed, conserved, and utilized by a proposed water power project for which an initial preliminary permit or initial development application has been filed and is pending before the Commission.

(ii) *Competing preliminary permit application* means any application for a preliminary permit for a proposed water power project that would develop, conserve, and utilize, in whole or in part, the same or mutually exclusive water resources that would be developed, conserved and utilized by a proposed water power project for which an initial preliminary permit or initial development application has been filed and is pending before the Commission.

(2) *Conduit* means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. The term *not primarily for the generation of electricity* includes but is not limited to a conduit:

(i) Which was built for the distribution of water for agricultural, municipal, or industrial consumption and is operated for such a purpose; and

(ii) To which a hydroelectric facility has been or is proposed to be added.

(3) *Construction of a dam*, for the purposes of provisions governing application for exemption of a small conduit hydroelectric facility, means any construction, repair, reconstruction, or modification of a dam that creates a new impoundment or increases the normal maximum surface elevation or the normal maximum surface area of an existing impoundment.

(4)(i) *Dam*, for the purposes of provisions governing application for license