

## Federal Energy Regulatory Commission

## § 16.4

project with an existing minor license or minor part license not subject to the provisions of sections 14 and 15 of the Federal Power Act because those sections were waived pursuant to section 10(i) of the Federal Power Act.

(c) Any potential applicant for a new or subsequent license for which the deadline for the notice of intent required by §16.6 falls 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.

[Order 513, 54 FR 23806, June 2, 1989, as amended by Order 2002, 68 FR 51139, Aug. 25, 2003]

### § 16.2 Definitions.

For purposes of this part:

(a) *New license* means a license, except an annual license, for a water power project that is issued under section 15(a) of the Federal Power Act after an original license expires.

(b) *New license application filing deadline*, as provided in section 15(c)(1) of the Federal Power Act, is the date 24 months before the expiration of an existing license.

(c) *Nonpower license* means a license for a nonpower project issued under section 15(b) of the Federal Power Act.

(d) *Subsequent license* means a license for a water power project issued under Part I of the Federal Power Act after a minor or minor part license that is not subject to sections 14 and 15 of the Federal Power Act expires.

[Order 513, 54 FR 23806, June 2, 1989, as amended by Order 513-A, 55 FR 15, Jan. 2, 1990; Order 533, 56 FR 23154, May 20, 1991]

### § 16.3 Public notice of projects under expiring licenses.

In addition to the notice of a licensee's intent to file or not to file an application for a new license provided in §16.6(d), the Commission will publish, in its annual report and annually in the FEDERAL REGISTER, a table showing the projects whose licenses will expire during the succeeding six years. The table will:

(a) List the licenses according to their expiration dates; and

(b) Contain the following information: license expiration date; licensee's

name; project number; type of principal project works licensed, *e.g.*, dam and reservoir, powerhouse, transmission lines; location by state, county, and stream; location by city or nearby city when appropriate; whether the existing license is subject to sections 14 and 15 of the Federal Power Act; and plant installed capacity.

### § 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.

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(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.

### § 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 Energy Projects 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 Energy

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Projects for resolution in the manner specified in § 16.8(b)(5) after the access has been provided.

### Subpart B—Applications for Projects Subject to Sections 14 and 15 of the Federal Power Act

#### § 16.6 Notification procedures under section 15 of the Federal Power Act.

(a) *Applicability.* This section applies to a licensee of an existing project subject to sections 14 and 15 of the Federal Power Act.

(b) *Requirement to notify.* In order to notify the Commission under section 15 of the Federal Power Act whether a licensee intends to file or not to file an application for new license, the licensee must file with the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at <http://www.ferc.gov> a letter, that contains the following information:

(1) The licensee's name and address.

(2) The project number.

(3) The license expiration date.

(4) An unequivocal statement of the licensee's intention to file or not to file an application for a new license.

(5) The type of principal project works licensed, such as dam and reservoir, powerhouse, or transmission lines.

(6) Whether the application is for a power or nonpower license.

(7) The location of the project by state, county and stream, and, when appropriate, by city or nearby city.

(8) The installed plant capacity.

(9) The location or locations of all the sites where the information required under § 16.7 is available to the public.

(10) The names and mailing addresses of:

(i) Every county in which any part of the project is located, and in which any Federal facility that is used by the project is located;

(ii) Every city, town, or similar local political subdivision:

(A) In which any part of the project is located and any Federal facility that is used by the project is located, or