

Delaware River Basin Commission

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in control of the transferee corporation; that is, they own 80 percent of the voting stock and 80 percent of all other stock of the corporation; or

(2) Where such transfer is merely a result of a change of the name, identify, internal corporate structure or place of organization of a corporate holder of a certificate of entitlement and does not affect ownership and/or control.

[42 FR 13544, Mar. 11, 1977, as amended at 59 FR 64571, Dec. 15, 1994]

§ 420.32 Measurement and billing of water taken.

(a) The quantity and volume of waters used by each person shall be determined by meters, or other methods approved by the Commission, installed, maintained and read by or on behalf of the taker. Meters or other methods of measurement shall be subject to approval and inspection by the Commission as to installation, maintenance and reading.

(b) Each user of surface water who is not exceeding the quantity specified in his "certificate of entitlement" shall annually, on or before January 31, file with the Commission, on a form to be prescribed by the Executive Director, a report of the user's physical capability, as defined, permit limitations, and the volume of water used during the preceding year.

(c) Each user of surface water who is taking a quantity of water greater than the amount specified in his "certificate of entitlement" shall report his usage to the Commission on or before April 30, July 31, October 31 and January 31, of each year covering the next preceding calendar quarter, respectively, on forms to be prescribed by the Executive Director. The amount due for water usage in excess of the legal entitlement for each of the first three quarters of a calendar year shall be computed and paid by the user, together with the report.

(d) The Commission will render a statement of the net amount due based on the fourth quarter report, including a negative or positive adjustment, so that the net total billing and payment for four quarters will equal the total water used during the four quarters

less the user's legal entitlement, if any.

§ 420.33 Payment of bills.

The amount due for each quarter shall bear interest at the rate of 1 percent per month for each day it is unpaid beginning 30 days after the due date of the quarterly report for the first three quarters and 30 days after the bill is rendered for the fourth quarter.

CHARGES; EXEMPTIONS

§ 420.41 Schedule of water charges.

The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

(a) \$80 per million gallons for consumptive use; and

(b) \$.80 per million gallons for non-consumptive use.

[42 FR 13544, Mar. 11, 1977, as amended at 43 FR 56655, Dec. 4, 1978; 76 FR 10234, Feb. 24, 2011]

§ 420.42 Contracts; minimum charge.

Subject to the exclusions for certificates of entitlement and exempt uses, the Executive Director may require contracts for any taking, use, withdrawal or diversion of waters of the basin. Each contract shall provide for a minimum annual payment in accordance with an estimated annual demand schedule, regardless of use, withdrawal or diversion. The failure of any person to execute a contract under this section shall not affect the application of other requirements of this resolution.

§ 420.43 Exempt use.

The following uses shall be exempt from charge:

(a) Non-consumptive uses of less than 1,000 gallons during any day, and less than 100,000 gallons during any quarter.

(b) Ballast water used for shipping purposes.

(c) Water taken, withdrawn or diverted from streams tributary to the river master's gauging station at Montague.

(d) Water taken, withdrawn or diverted below R.M. 38 (the mouth of the Cohansey River) and such proportion of

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waters taken, diverted or withdrawn above R.M. 38 and below R.M. 92.4 (the mouth of the Schuylkill River) as the Executive Director may determine, on the basis of hydrologic studies, would have no discernible effect upon the maintenance of the salt front below the mouth of the Schuylkill River.

§ 420.44 Cooling water.

Water used exclusively for cooling purposes which is returned to the stream in compliance with the effluent requirements of applicable water quality standards, shall be charged at the non-consumptive use rate except that losses due to in-stream evaporation caused by cooling uses will be charged as consumptive use.

§ 420.45 Historical use.

A person who or which could not for any reason use, take, withdraw or divert waters of the basin from the place in question on March 31, 1971, shall not be entitled to a certificate of entitlement.

HYDROELECTRIC POWER WATER USE CHARGES

§ 420.51 Hydroelectric power plant water use charges.

(a) *Annual base charges.* Owners of conventional run-of-river hydroelectric power plants that benefit from water storage facilities owned or partially owned by the Commission shall pay an annual base charge to the Commission. The amount of the base annual charge shall be one dollar per kilowatt of installed capacity.

(b) *Annual variable charges.* In addition to the base charge established in (a) of this section, annual charges based on power generated at each facility will be assessed as follows:

(1) Owners of hydroelectric power plants that benefit from increased hydraulic head available to the hydroelectric project as a result of investments by the Commission shall be

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charged one mill per kilowatt-hour of energy produced.

(2) Owners of hydroelectric power plants that derive additional benefits from increased flows available to the hydroelectric project that would not have been available without the Commission-sponsored project shall be charged one-half mill per kilowatt-hour of energy produced. No charges for increased flows will be required when charges for increased hydraulic head are in effect.

(3) Charges for the use of any facilities such as pipe conduits, outlet works, and so on, installed in, on or near a Commission-sponsored project that benefit the hydroelectric project in any way will be determined on a case-by-case basis as approved by the Commission.

(c) *Credits.* The owner of any hydroelectric generating facility shall receive a credit against the current year water use fee otherwise payable to the Commission for any amount which the Commission receives from the U.S. Army Corps of Engineers or from the Federal Energy Regulatory Commission for each calendar year.

(d) *Exemptions.* No payment will be required when hydroelectric power facility water use charges would amount to less than \$25 per year. Retroactive charges will not be assessed for facilities which have already obtained Commission approval pursuant to Section 3.8 of the Delaware River Basin Compact. All hydroelectric generating projects that do not benefit from storage owned or partially owned by the Commission are exempt from these Commission water charges.

(e) *Payment of bills.* The amount due each year shall bear interest at the rate of 1% per month for each day it is unpaid beginning 30 days after the due date. Payments are due within 30 days of the end of each calendar year. Annual base charges will be prorated for periods less than a year.

[53 FR 45260, Nov. 9, 1988]