

### § 11.3

### 18 CFR Ch. I (4–1–15 Edition)

(2022). Each subsequent ten year adjustment will be made in the same manner.

(d) The annual charge for the use of Government lands for 2013 will be reduced by 25 percent for all licensees subject to this section.

(e) The minimum annual charge for the use of Government lands under any license will be \$25.

[Order 774, 78 FR 5265, Jan. 25, 2013]

#### § 11.3 Use of government dams, excluding pumped storage projects.

(a) *General rule.* (1) Any licensee whose non-Federal project uses a Government dam or other structure for electric power generation and whose annual charges are not already specified in final form in the license must pay the United States an annual charge for the use of that dam or other structure as determined in accordance with this section. Payment of such annual charge is in addition to any reimbursement paid by a licensee for costs incurred by the United States as a direct result of the licensee's project development at such Government dam.

(2) Any licensee that is obligated under the terms of a license issued on or before September 16, 1986 to pay specified annual charges for the use of a Government dam must continue to pay the annual charges prescribed in the project license pending any readjustment of the annual charge for the project made pursuant to section 10(e) of the Federal Power Act.

(b) *Graduated flat rates.* Annual charges for the use of Government dams or other structures owned by the United States are 1 mill per kilowatt-hour for the first 40 gigawatt-hours of energy a project produces, 1½ mills per kilowatt-hour for over 40 up to and including 80 gigawatt-hours, and 2 mills per kilowatt-hour for any energy the project produces over 80 gigawatt-hours.

(c) *Information reporting.* (1) Except as provided in paragraph (c)(2) of this section, each licensee must file with the Commission, on or before November 1 of each year, a sworn statement showing the gross amount of energy generated during the preceding fiscal year and the amount of energy provided free of charge to the Government. The de-

termination of the annual charge will be based on the gross energy production less the energy provided free of charge to the Government.

(2) A licensee who has filed these data under another section of part 11 or who has submitted identical data with FERC or the Energy Information Administration for the same fiscal year is not required to file the information described in paragraph (c)(1) of this section. Referenced filings should be identified by company name, date filed, docket or project number, and form, number.

(d) *Credits.* A licensee may file a request with the Director of the Office of Energy Projects for a credit for contractual payments made for construction, operation, and maintenance of a Government dam at any time before 30 days after receiving a billing for annual charges determined under this section. The Director, or his designee, will grant such a credit only when the licensee demonstrates that a credit is reasonably justified. The Director, or his designee, shall consider, among other factors, the contractual arrangements between the licensee and the Federal agency which owns the dam and whether these arrangements reveal clearly that substantial payments are being made for power purposes, relevant legislation, and other equitable factors.

[Order 379, 49 FR 22778, June 1, 1984, as amended by Order 379-A, 49 FR 33862, Aug. 27, 1984. Redesignated at 51 FR 24318, July 3, 1986; Order No. 469, 52 FR 18209, May 14, 1987; 52 FR 33802, Sept. 8, 1987; 53 FR 44859, Nov. 7, 1988; Order 647, 69 FR 32438, June 10, 2004]

#### § 11.4 Use of government dams for pumped storage projects, and use of tribal lands.

(a) *General Rule.* The Commission will determine on a case-by-case basis under section 10(e) of the Federal Power Act the annual charges for any pumped storage project using a Government dam or other structure and for any project using tribal lands within Indian reservations.

(b) *Information reporting.* (1) Except as provided in paragraph (b)(2) of this section a Licensee whose project includes pumped storage facilities must file