

## § 16.5

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.

(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.

## 18 CFR Ch. I (4–1–16 Edition)

(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 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

(B) That has a population of 5,000 or more people and is located within 15 miles of the project dam,

(iii) Every irrigation district, drainage district, or similar special purpose 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

(B) That owns, operates, maintains, or uses any project facility or any Federal facility that is used by the project;

(iv) Every other political subdivision in the general area of the project that there is reason to believe would be likely to be interested in, or affected by, the notification;

(v) Affected Indian tribes.

(c) *When to notify.* (1) Except as provided in paragraph (c)(2) of this section, if a license expires on or after October 17, 1992, the licensee must notify the Commission as required in paragraph (b) of this section at least five years, but no more than five and one-half years, before the existing license expires.

(2) The requirement in paragraph (c)(1) of this section does not apply if a licensee filed notice more than five and one-half years before its existing license expired and before the effective date of this rule.

(d) *Commission notice.* Upon receipt of the notification required under paragraph (c) of this Section, the Commission will provide notice of the licensee's intent to file or not to file an application for a new license by:

(1) If the notification is filed prior to July 23, 2005;

(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 the appropriate Federal and state resource agencies, state water quality and coastal zone management consistency certifying agencies, and Indian tribes, by electronic means if practical, otherwise by mail.

(2) If the notification is filed on or after July 23, 2005, pursuant to the provisions of §5.8 of this chapter.

[Order 496, 53 FR 15810, May 4, 1988. Redesignated and amended by Order 513, 54 FR 23807, June 2, 1989; Order 2002, 68 FR 51139, Aug. 25, 2003; Order 653, 70 FR 8724, Feb. 23, 2005; Order 737, 75 FR 43403, July 26, 2010]

**§ 16.7 Information to be made available to the public at the time of notification of intent under section 15(b) 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 make information available.* A licensee must make the information specified in paragraph (d) of this section reasonably available to the public for inspection and reproduction, from the date on which the licensee notifies the Commission pursuant to §16.6(b) of this part until the date any relicensing proceeding for the project is terminated.

(c) *Requirement to supplement information.* A licensee must supplement the information it is required to make available under the provisions of paragraph (d) with any additional information developed after the filing of a notice of intent.

(d) *Information to be made available.* (1) A licensee for which the deadline for filing a notification of intent to seek a new or subsequent license is on or after July 23, 2005 must, at the time it files a notification of intent to seek a license pursuant to §5.5 of this chapter, provide a copy of the pre-application document required by §5.6 of this chapter to the entities specified in that paragraph.

(2) A licensee for which the deadline for filing a notification of intent to seek a new or subsequent license is