

Sponsors: Chelan County Public Utility District; Northwest Public Power Association; Douglas County Public Utility District; Grant County Public Utility District; Idaho Falls Power; Missouri River Energy Services; Northern California Power Agency; Snohomish Public Utility District; Washington Public Utility Districts Association; New York Association of Public Power; Trinity Public Utilities District; Lewis County Public Utility District

In Support of Improving the Hydropower Licensing Process

1 The licensing of a new hydropower facility or the relicensing of an existing hydropower project is an
2 opportunity to responsibly enhance the use of our nation’s premier carbon dioxide-free, renewable and
3 reliable baseload energy source. Despite hydropower’s environmental benefits, it can take up to 10 years
4 or more to complete a hydropower licensing process – even as permits or licenses for other energy
5 sources are approved in a fraction of the time.

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7 Under the Federal Power Act, the Federal Energy Regulatory Commission (FERC) issues and renews
8 licenses for non-federal hydropower projects. When considering a license, FERC must evaluate whether
9 a hydropower project is “best adapted” to a comprehensive plan for improving or developing a waterway.
10 It must weigh power and development purposes while giving equal consideration to fish and wildlife,
11 energy conservation, irrigation, flood control, water supply, recreation, and other aspects of
12 environmental quality. FERC considers a license applicant’s entire package of investments for a
13 project—including the amount of redevelopment, new construction, new capacity, or proposed protection,
14 mitigation and enhancement measures—before determining whether the project deserves a license term of
15 between 30 and 50 years. Under current policy, any new FERC-approved actions taken early by a
16 licensee to improve a project *prior* to relicensing are not given credit in a new license term.

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18 Before FERC issues a project license, numerous federal and state authorizations are carried out by
19 resource agencies, including state water quality certifications and federal biological opinions under the
20 Endangered Species Act. Further, resource agencies may submit to FERC mandatory conditions pursuant
21 to Section 4(e) or prescriptions pursuant to Section 18 that FERC is required to include as a condition of
22 the license. The timing and coordination of these authorizations, in addition to carrying out numerous
23 licensing studies, can result in duplicative and uncoordinated reviews and potential delay in license
24 issuance. Even for simple license amendments with minimal or no environmental impact, the FERC
25 approval process can be significant.

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27 The Energy Policy Act of 2005 (EPAct05) intended to improve some elements of the hydropower
28 licensing process, including allowing license applicants and other stakeholders to seek a trial-type hearing
29 on critical issues of material fact supporting mandatory conditions, and to propose alternative mandatory
30 conditions and prescriptions that provide equal protection of the resource at less cost. Unfortunately, in

practice, neither of these reforms authorized in EAct05 have resulted in improved decision making by resource agencies when imposing mandatory conditions and prescriptions. In addition, federal agencies have generally not carried out another obligation required in EAct05, which is to document that they have given equal consideration to energy supply, flood control, navigation, water supply, and air quality when developing their mandatory conditions and prescriptions.

NOW, THEREFORE, BE IT RESOLVED: That the American Public Power Association (APPA) supports an efficient and streamlined process for upgrading or expanding existing Federal Energy Regulatory (FERC)-licensed projects, consistent with environmental protection requirements of federal and state law; and

BE IT FURTHER RESOLVED: That APPA supports modernizing the hydropower licensing process to ensure licensees are credited for taking beneficial actions in advance of license renewal by having FERC recognize these “early actions” when setting the next license term; and

BE IT FURTHER RESOLVED: That APPA supports reducing the 10-year hydropower licensing process by requiring FERC to lead a consultation with agencies and tribes to set forth a schedule in each licensing proceeding for submission of all permits and authorizations required under federal law; and

BE IT FURTHER RESOLVED: That APPA supports improvements to the licensing study process, including a collection of existing studies and data to reduce duplication of existing information; and

BE IT FURTHER RESOLVED: That APPA supports the availability of trial-type hearings and alternatives whenever an agency exercises mandatory conditioning authority during a license term, and a hearing process that is fair for all parties, that requires each party to bear the burden of proof for conditions it seeks, and that is presided over by FERC’s expert administrative law judges; and

BE IT FURTHER RESOLVED: That APPA supports clarifying agencies’ statutory requirement to document how they have equally considered other public purposes of a project when setting conditions; and

BE IT FURTHER RESOLVED: That APPA supports the establishment of expedited license amendment procedures that are commensurate with the scope of a proposed amendment.

As adopted June 14, 2016, by the membership of the American Public Power Association at its annual meeting in Phoenix, Arizona.