



**Northeast  
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Chair, Council on Environmental Quality  
Executive Office of the President  
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Washington, DC 20503

Attention: Task Force on Energy Project Streamlining

Gentlemen:

Northeast Utilities Service Company ("NUSCO"), on behalf of Northeast Generating Company ("NGC"), Holyoke Water Power Company ("HWP"), Western Massachusetts Electric Company ("WMECO") and Public Service Company of New Hampshire ("PSNH"), submits these comments to the White House Interagency Task Force regarding improving federal agency review of permits for energy-related facilities.

Our companies have been actively engaged in the FERC relicensing process for hydroelectric generating facilities for several years. WMECO relicensed the Gardner's Falls Project (FERC Project No. 2334) and PSNH relicensed the J. Brodie Smith and Gorham Projects (FERC Project Nos. 2287 and 2288) in the early 90's. A new license was issued to HWP for the Holyoke/Hadley Falls Project (FERC Project No. 2004-073) in August 1999, and a relicense application was filed by NGC that same month. NGC is seeking to relicense five developments on the Housatonic River in Connecticut (FERC Project Nos. 2576 and 2597). PSNH recently filed a Notice of Intent to relicense the three dam Amoskeag Project (FERC Project 1893).

There is general agreement that the hydropower relicensing process is complex, and often costly and time consuming. It is our belief that such complexity is aggravated by a process that makes the full exercise of FERC's intended balancing authority nearly impossible. Perhaps the most effective way to ensure greater efficiency in the licensing process is to provide legislative clarification that allows FERC to balance all public interest concerns, without allowing other resource agencies to superimpose conditions outside of that balancing process.

All segments of the hydropower community are well aware that the current licensing procedures lack a central decisionmaker. Multiple federal and state agencies in addition to FERC can exercise direct, final license conditioning authority as to each project. Mandatory conditions are generally imposed under sections 4(e) and 18 of the Federal Power Act, as well as under provision of the Clean Water Act and the Endangered Species Act. These conditions are often costly and thus threaten the energy value and economic return of a project.

The impact of such multiple conditioning authority is magnified by the fact that the prescriptive agencies are currently under no obligation to evaluate the effect of their recommendations on project economics or on project benefits, such as irrigation, flood control and recreation. At a minimum, these agencies need to take the power and non-power factors into account in setting license condition, and requirements should be in place to ensure that agencies provide an adequate record and an appropriate review process.

For certain agency conditions, the only recourse open to license applicants is judicial appeal in the federal court system. Hydropower licensees, and even the FERC, have no opportunity to effectively appeal, or even question, the basis of most mandatory conditions set by the agencies, except through litigation. Again, this increases both the time and expense of the relicensing process. In testimony on March 30, 2000, before the House Committee on Commerce Subcommittee on Energy and Power, both former FERC Chairmen Hoecker and Hebert agreed that having the resource agencies consider a range of public interest factors in developing mandatory condition would lead to more informed decisionmaking. Likewise, they agreed that requiring resource agencies to document their decisionmaking is essential for due process.

We support ongoing efforts by the FERC to encourage a collaborative process to resolve issues in the relicensing cases. This effort, however, is likewise impacted by the prescriptive power of certain participants. Although all parties may genuinely share a goal to reach consensus, it is not realistic to ignore the fact that one or more participants ultimately have the ability to veto an otherwise broad-based solution. Again, legislative action to place mandatory conditioning authority under FERC's balancing obligation, would ensure more equal status for all participants in the collaborative process. Because this should improve the possibilities for settlement, it provides another opportunity to reduce the cost and complexity of the licensing process.

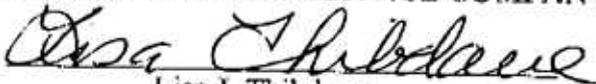
Hydropower projects nationally, including both FERC-licensed and various non-licensed federal, state, and other projects, provide approximately 10 percent of our country's generating capacity. At a time when operating margins of electric supply in some regions of the country are razor thin, this hydro capacity is extremely important. The management of the nation's grid depends upon fast, flexible generation sources like hydropower to meet peak power demand and to restore service in the event of outages.

Certainly, any responsible project owner recognizes the need to consider the significant environmental and broad public interest factors that are present in the relicensing process. And clearly the separate agencies are effective and important advocates for the respective resources they are responsible to protect. At the same time, there is a need for one entity to balance the competing interests and to consider the role that hydropower will play in our national energy policy.

Many projects have been around for so long, providing clean and relatively inexpensive power, along with recreation, flood control, water supply and a variety of other benefits, that the communities they serve assume those projects will be there forever. If hydropower is to survive, however, and to address adequately its environmental responsibilities in a competitive marketplace, it is absolutely critical that the regulatory process be as fair and rational as possible. Absent some reform, the current scheme threatens to eliminate certain projects as a generation source.

Thank you for the opportunity to provide comments. We welcome further dialogue with CEQ, FERC and other interested entities as you work to complete this study report.

Respectfully submitted,  
NORTHEAST UTILITIES SERVICE COMPANY

By: 

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