

§ 4.202

the application is filed, is not constructed and is proposed to have a total installed generating capacity of 1.5 MW or less—Exhibits E, F, and G under § 4.61 of this chapter;

(3) For amendment of a license for a water power project that, at the time the application is filed, is not constructed and is proposed to have a total installed generating capacity of 5 MW or less, but more than 1.5 MW—Exhibits F and G under § 4.61 of this chapter, and Exhibit E under § 4.41 of this chapter;

(4) For amendment of a license for a water power project that, at the time the application for amendment is filed, has been constructed, and is proposed to have a total installed generating capacity of 5 MW or less—Exhibit E, F and G under § 4.61 of this chapter;

(5) For amendment of a license for a water power project that, at the time the application is filed, has been constructed and is proposed to have a total installed generating capacity of more than 5 MW—Exhibits A, B, C, D, E, F, and G under § 4.51 of this chapter.

(c) *Required exhibits for non-capacity related amendments.* Any application to amend a license for a water power project that would not be a capacity related amendment as described in paragraph (b) of this section must contain those exhibits that require revision in light of the nature of the proposed amendments.

(d) *Consultation and waiver.* (1) If an applicant for license under this subpart believes that any exhibit required under paragraph (b) of this section is inappropriate with respect to the particular amendment of license sought by the applicant, a petition for waiver of the requirement to submit such exhibit may be submitted to the Commission under § 385.207(c)(4) of this chapter, after consultation with the Commission's Division by Hydropower Licensing.

(2) A licensee wishing to file an application for amendment of license under this section may seek advice from the Commission staff regarding which exhibit(s) must be submitted and whether the proposed amendment is con-

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sistent with the scope of the existing licensed project.

[Order 184, 46 FR 55943, Nov. 13, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 48 FR 4459, Feb. 1, 1983; 48 FR 16653, Apr. 19, 1983; Order 413, 50 FR 11689, Mar. 25, 1985; Order 533, 56 FR 23154, May 20, 1991]

§ 4.202 Alteration and extension of license.

(a) If it is determined that approval of the application for amendment of license would constitute a significant alteration of license pursuant to section 6 of the Act, 16 U.S.C. 799, public notice of such application shall be given at least 30 days prior to action upon the application.

(b) Any application for extension of time fixed in the license for commencement or completion of construction of project works must be filed with the Commission not less than three months prior to the date or dates so fixed.

[Order 184, 46 FR 55943, Nov. 13, 1981]

Subpart M—Fees Under Section 30(e) of the Act

SOURCE: Order 487, 52 FR 48404, Dec. 22, 1987, unless otherwise noted.

§ 4.300 Purpose, definitions, and applicability.

(a) *Purpose.* This subpart implements the amendments of section 30 of the Federal Power Act enacted by section 7(c) of the Electric Consumers Protection Act of 1986 (ECPA). It establishes procedures for reimbursing fish and wildlife agencies for costs incurred in connection with applications for an exemption from licensing and applications for licenses seeking benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended, for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion.

(b) *Definitions.* For the purposes of this subpart—

(1) *Cost* means an expenditure made by a fish and wildlife agency:

(i) On or after the effective date of this regulation for an application filed

on or after the effective date of this regulation; and

(ii) Directly related to setting mandatory terms and conditions for a proposed project pursuant to section 30(c) of the Federal Power Act.

(2) *Cost statement* means a statement of the total costs for which a fish and wildlife agency requests reimbursement including an itemized schedule of costs including, but not limited to, costs of fieldwork and testing, contract costs, travel costs, personnel costs, and administrative and overhead costs.

(3) *Mandatory terms and conditions* means terms and conditions of a license or exemption that a fish and wildlife agency determines are appropriate to prevent loss of, or damage to, fish and wildlife resources pursuant to section 30(c) of the Federal Power Act.

(4) *New dam or diversion license applicant* means an applicant for a license for a project that would impound or divert the water of a natural watercourse by means of a new dam or diversion, as defined in section 210(k) of the Public Utility Regulatory Policies Act of 1978, as amended.

(5) *PURPA benefits* means benefits under section 210 of the Public Utility Regulatory Policies Act of 1978, as amended.

(6) *Section 30(c) application* means an application for an exemption from licensing or a new dam or diversion license application seeking PURPA benefits.

(c) *Applicability*. Except as provided in paragraph (d) of this section, this subpart applies to:

(1) Any application for exemption filed on or after the effective date of these regulations for costs incurred by fish and wildlife agencies after the effective date of these regulations;

(2) Any new dam or diversion license application seeking PURPA benefits filed on or after April 16, 1988;

(3) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, but before April 16, 1988, if the applicant fails to demonstrate in a monetary resources petition filed with the Commission pursuant to §292.208 of this chapter that, before October 16, 1986, it had committed substantial monetary resources directly related to

the development of the proposed project and to the diligent and timely completion of all requirements of the Commission for filing an acceptable application; and

(4) Any new dam or diversion license application seeking PURPA benefits filed after the effective date of this regulation, if the application is not accepted for filing before October 16, 1989.

(d) *Exceptions*. (1) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits if the moratorium described in section 8(e) of ECPA is in effect. The moratorium will end at the expiration of the first full session of Congress following the session during which the Commission reports to Congress on the results of the study required under section 8(d) of ECPA.

(2) This subpart does not apply to any new dam or diversion license application seeking PURPA benefits for a project located at a Government dam, as defined in section 3(10) of the Federal Power Act, at which non-Federal hydroelectric development is permissible.

§4.301 Notice to fish and wildlife agencies and estimation of fees prior to filing.

(a) *Notice to agencies*—(1) *New dam or diversion license applicants*. During the initial stage or pre-filing agency consultation under §4.38(b)(1), a prospective new dam or diversion license applicant must inform each fish and wildlife agency consulted in writing with a copy to the Commission whether it will seek PURPA benefits.

(2) *Exemption applicants*. During the initial stage of pre-filing agency consultation under §4.38(b)(1), a prospective exemption applicant must notify each fish and wildlife agency consulted that it will seek an exemption from licensing.

(b) *Estimate of fees*. Within the comment period provided in §4.38(b)(2)(iv), a fish and wildlife agency must provide a prospective section 30(c) applicant with a reasonable estimate of the total costs the agency anticipates it will incur to set mandatory terms and conditions for the proposed project. An agency may provide an applicant with