

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
401 9TH STREET, N.W. - SUITE 1000
WASHINGTON, D.C. 20004-2134
www.troutmansanders.com
TELEPHONE: 202-274-2950

Fred Springer, C.E> Direct Dial: 202-274-2836
fred.springer@troutmansanders.com
Fax: 202-654-5733

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November 2004 ILP Update

The National Hydropower Association's Regulatory Affairs Committee will begin providing monthly updates to the ILP listserv concerning those hydro projects going through FERC's ILP relicensing process. The goal of this update is to keep interested members informed as to how FERC, the licensees, and other interested parties are treating and reacting to the new ILP regulations. Please provide any updating information to me so we can use it in future issues. Following is the first monthly update:

Morgan Falls:

As the company the farthest along in the relicensing process, Georgia Power (GP) continues to pioneer through the new ILP regulations. Following publication of the new rules in July 2003, GP had approximately six months until the filing deadline for its Notice of Intent and Pre-Application Document (NOI/PAD). Since filing on January 15, 2004, GP has undergone the NEPA scoping process, submitted a Proposed Study Plan (PSP), and received comments on that proposal.

After receipt of those comments, GP filed its Revised Study Plan (RSP) on October 26, 2004 as required by § 5.13. Agencies have fifteen days to respond to the revised plan under § 5.13(b), and during this window, Georgia Department of Natural Resources, U.S. Department of the Interior, Florida Department of Environmental Protection, and the Upper Chattahoochee River Keepers and American Rivers each filed comments with FERC.

Now, FERC is required to issue its Study Plan Determination no later than Friday, November 26, 2004. At that point, U.S. Department of the Interior, as a mandatory conditioning agency under § 5.14, may file notice of a study dispute in response.

Mystic Lake:

Montana PPL filed its PAD on July 1, 2004. Although the ILP regulations do not require pre-filing collaboration, the company took an assertive approach to stakeholder inclusion. Prior to filing, the company developed a Communications Protocol with interested stakeholders, which is available on the project's relicensing website, www.mysticlakeproject.com. The website also provides an explanation of the ILP process, all filings, issuances, and other correspondences, and the company's plans and tentative schedule. Interested parties can register online to join one of various stakeholder "resource groups," with whom Montana PPL has held resource-specific public meetings. The groups include the fisheries, aquatic habitat and water quality group, the

wildlife and terrestrial habitat group, the recreation, land use and aesthetics group, and the cultural resources group.

FERC has received comments and study requests on Montana PPL's PAD and the first scoping document issued by the Commission, and last month FERC informed Montana PPL it will not be issuing a second scoping document. On November 1, 2004, Montana PPL submitted a PSP for Mystic Lake, and has scheduled PSP Meetings for December 1 and 2, 2004. To date, no comments have been filed at the Commission concerning the PSP.

Canaan:

Public Service Company of NH (PSCNH) filed its NOI/PAD on August 2, 2004. The company has held scoping meetings and received a relatively large number of comments on its PAD. Tribal consultation was held in concert with the scoping meetings, September 20-21, 2004. PSCNH is required to file its PSP with FERC no later than December 6, 2004.

DeSabra-Centerville:

PG&E filed its NOI/PAD on October 4, 2004. Prior to filing, PG&E did a significant amount of stakeholder outreach. The company developed a PAD questionnaire which it sent to 105 individuals identified as "likely to be interested in the relicensing proceeding." This group included representatives from local, state, and federal government agencies, as well as Indian Tribes and private interest groups and companies. Beginning in August of 2003, PG&E also conducted five public "Outreach Meetings" near the project, each specific to a different aspect of the upcoming re-licensing.

PG&E's PAD contained a high level of detail concerning potential resource impacts from the relicensing of DeSabra. The document contains an overarching rubric to apply to all resources, in an attempt to determine the adequacy of existing PG&E measures relative to the desired conditions for a given resource. The PAD then contains both detailed descriptions of potential issues by resource and potential studies and information that remains to be gathered on each of these issues.

On October 29, 2004, FERC issued its first Scoping Document. PG&E noticed its scoping meetings in filings separate from the NOI/PAD filing, and those meetings took place November 17 and 18, 2004. All comments on the DeSabra PAD and SD1 must be received by FERC no later than February 1, 2005, at which point PG&E will have until March 18, 2005 to file its PSP.

Smith Mountain:

On October 25, 2004, Appalachian Electric Power Co. filed its NOI/PAD. The filing is available on the project's website, www.smithmtn.com. AEP's actual filing deadline would have been March 31, 2005.

Prior to filing its PAD, AEP met with stakeholders to develop both a Document Distribution Protocol and a Communications Protocol. AEP also sent out numerous requests for information to potentially interested parties, asking for any data the parties thought missing from AEP's list of data from which to draft a PAD. Additionally, AEP circulated a draft PAD among interested

stakeholders six months before filing the NOI/PAD with FERC, and received several sets of comments from that circulation.

Packwood Lake:

Energy-Northwest filed its NOI/PAD on November 1, 2004. The ensuing public scoping meeting is planned for January 13, 2005.

Energy-Northwest held its FERC-approved site visit prior to filing its NOI/PAD, on August 27, 2004. Since the scoping process is now taking place during the winter months, weather may preclude or impair a planned site visit at this point. FERC published notice of this meeting in the July 21, 2004 Federal Register.

Tacoma-Ames:

The Public Service Company of Colorado has yet to file its NOI/PAD. The company has until June 30, 2005 to make its filing.

On July 29, 2004, FERC issued an invitation to the Southern Ute Tribal Council, Ute Mountain Tribal Council, and Unitah Ouray Tribal Business Committee inviting them to participate in the ILP relicensing process, by expressing interest no later than August 31, 2004.