

UNITED STATES OF AMERICA
Before the
FEDERAL ENERGY REGULATORY COMMISSION

Policy Statement on Hydrokinetic Projects)

Docket No. PL08-1-000

COMMENTS OF THE NATIONAL HYDROPOWER ASSOCIATION
ON THE POLICY STATEMENT ON CONDITIONED LICENSES FOR
HYDROKINETIC PROJECTS

On November 30, 2007, the Federal Energy Regulatory Commission (“FERC” or “Commission”) issued a “Policy Statement on Conditioned Licenses for Hydrokinetic Projects” in Docket No. PL08-1-000 (“Policy Statement”) [72 FR 68877 (November 30, 2007)]. In the Policy Statement, the Commission determined that it may issue licenses for certain hydrokinetic projects where the Commission has completed the processing of a license application, though other authorizations from other agencies remain outstanding. Such licenses would contain conditions precluding construction activities until the licensee has obtained the needed authorizations.

The National Hydropower Association¹ (“NHA” or “Association”) expresses its appreciation to the Commission for its continued work to promote a positive regulatory environment for the development of new hydrokinetic technologies. This Policy Statement is yet another example that demonstrates FERC’s commitment to expediting the regulatory process to allow these

¹ NHA is the national trade association committed exclusively to representing the interests of the hydroelectric power industry, including the new ocean, tidal or instream hydrokinetic technologies.

More than 30 member companies participate in NHA’s Ocean, Tidal and New Technologies Council – the purpose of which is to share information and focus expertise toward the removal of impediments to development of these new technologies, including issues related to financing and economic incentives, research and development, permitting and licensing.

technologies to get in the water to test, collect data, determine potential impacts, and generate clean, renewable energy.

In response to the Commission's proposed licensing process for hydrokinetic pilot projects and the October 2nd technical conference, NHA highlighted its concern about the need for coordination between FERC and the participating federal and state resource agencies. Several agency representatives spoke at the technical conference and expressed doubts as to whether they would be able meet their statutory obligations under the proposed timeframes of the pilot process.

In our earlier comments, NHA stated that the proposed FERC pilot process is one in which we believe the federal and state agencies can participate in a manner that allows the testing of pilot projects to move forward while also meeting their statutory mandates. By its actions in this Policy Statement, the Commission has taken yet another step to accommodate the needs of the agencies while also assisting licensees to move forward in site and technology investigation.

Additionally, the Commission has done what it can in an environmentally responsible manner by restricting construction activities under these conditioned licenses until the federal and state agencies have exercised their independent authorities under the licensing scheme.

By preventing the licensing process from locking up in delays over authorizations, licensees will at least be able to pursue non-construction activities while they work with the agencies to finalize any outstanding permitting issues. However, in the end, the Commission can only do so much to

keep the process moving forward, and its success remains in the hands of the agencies and their ability to respond to license applications in a timely manner.

NHA once again applauds the Commission for the leadership it has taken on this issue. The Association continues to work to address policy impediments to the development of new ocean, tidal and instream hydrokinetic technologies. We look forward to further discussions with the Commission and with the federal and state resource agencies as these projects move ahead in the process, and to address the issues raised by NHA in response to the Commission's October technical conference (e.g. competition, project boundary, and transition issues).

Respectfully submitted,

NATIONAL HYDROPOWER
ASSOCIATION

By 

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