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December 2004 ILP Update

MORGAN FALLS (P-2237)

For the first time under the new ILP rules, FERC issued a Study Plan Determination (SPD) pursuant to § 5.13 to Georgia Power in the Morgan Falls relicensing process. The determination, issued on November 26th, contained only a small number of modifications to Georgia Power's Revised Study Plan (RSP). Out of the 35 recommendations from all non-FERC commenting parties on all issue-areas, as categorized by the Commission in the SPD, FERC supported Georgia Power's RSP, as submitted, for 32 recommendations, including acceptance of the Water Resources and Threatened and Endangered Species Study Plans almost completely.

Changes the Commission did make included increasing the size of the study area from the project boundaries to project impact area for the wildlife and botanical resources and the wetlands and riparian plans, modifying the methodology for the fish study plan, and making minor changes to both the recreation and cultural resources plans. The SPD comes as good news to Georgia Power and provides, perhaps, insight into FERC's approach to the submittal of future RSPs.

In response to the Commission's SPD, however, the Department of the Interior, as a mandatory conditioning agency, has filed a study dispute pursuant to § 5.14. As this is the first SPD FERC has issued, this is also the first study dispute. The Commission will now initiate the formal dispute resolution process under § 5.14. To meet the first requirement under the process, FERC must appoint, no later than January 5, 2005, one or more three-person Dispute Resolution Panels to handle the dispute, each consisting of one Commission Staff Member, one representative from the Department of Interior otherwise not involved in the proceedings, and a resource-area expert chosen by the other two panel members. The applicant has until January 10, 2005, to submit written comments to the Panel(s). A technical session(s), convened by the Panel, would follow. Based on the study dispute filing, FERC and/or the panel will have to carefully apply the new rule.

CANAAN (P-7529)

Public Service Company of New Hampshire (PSCNH) filed its Draft Study Plans on December 2, 2004. Comments on the plan must be filed with FERC no later than March 2, 2005. An initial study plan consultation meeting was to take place in December; PSCNH has not filed anything with FERC indicating the outcome of these planned meetings.

DE SABLE-CENTERVILLE (P-803)

FERC noticed PG&E's NOI/PAD this month. On November 17th and 18th, PG&E and FERC held two scoping meetings in Chico, California. In addition to FERC and PG&E representatives, 37 individuals representing federal and state agencies, tribes, and citizen organizations attended at least one of the meetings. Additionally, consistent with its attempts at confronting potential issues early in the relicensing process, PG&E has requested FERC engage in early consultation with NOAA Fisheries concerning potential impacts of the relicensing on the Central Valley spring-run Chinook salmon and Central Valley Steelhead. NOAA Fisheries has submitted a letter in support of early consultation outlining the information PG&E and FERC must provide to the Agency to commence the process.

MYSTIC LAKE (P-2301)

Since PPL Montana filed its Proposed Study Plan (PSP) on November 1st, the Forest Service is the only party to comment on the PSP. The Forest Service wrote to formally propose a study request about safety at the project, which had earlier been incorporated into its original set of study requests, and also had been the subject of an informal phone conversation between Montana PPL and the Commission.

PACKWOOD LAKE (P-2244)

This month, FERC granted Energy-Northwest's request to initiate consultation on the Commission's behalf under the National Historic Preservation Act. On December 7, 2004, Energy-Northwest filed a revised PAD, containing only minor changes to the original filing. Information on the Packwood re-licensing project is available at <http://www.energy-northwest.com/gen/packwood/relisce.html>.

SMITH MOUNTAIN (P-2210)

After filing its NOI/PAD with FERC, Appalachian Power Co. noticed the filing by publishing it in 9 different Virginia newspapers on October 27, 2004. The Virginia Department of Public Resources filed notice of its receipt with FERC and its lack of objection to the relicensing project, noting the applicant's responsiveness throughout the process to date.

TACOMA-AMES (P-400)

The Public Service Company of Colorado has yet to file its NOI/PAD with FERC, and is required to do so prior to June 30, 2005.