

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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Annual Charges for Use of)	
Government Lands)	Docket No. RM11-6-000
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)	

COMMENTS OF THE EDISON ELECTRIC INSTITUTE

The Edison Electric Institute (EEI) is submitting these comments in response to the notice of inquiry (NOI) issued by the Federal Energy Regulatory Commission (FERC or the Commission) in this docket on February 17, 2011, and published at 76 Fed. Reg. 10811 on February 28, 2011. In the NOI, the Commission seeks public comment on the appropriate approach to use in assessing fees for use of federal lands at FERC-licensed hydropower projects, taking a variety of specific factors into account. The Commission is seeking this input because the Bureau of Land Management (BLM) and U.S. Forest Service (Forest Service or USFS) have modified their linear right-of-way rent schedules, on which FERC has relied in recent years in setting the hydro federal land use fees, and the U.S. Court of Appeals for the D.C. Circuit has determined that the change was significant enough to warrant a more deliberative process before the Commission adjusted its own fees.

EEI is the association of the nation’s shareholder-owned electric utilities, international affiliates, and industry associates worldwide. Our members represent approximately 70 percent of the U.S. electric power industry and serve 95 percent of the

ultimate customers in the shareholder-owned segment of the industry. EEI members include the vast majority of owners and operators of hydropower projects licensed by the Commission, and many of these projects encompass federal lands for which the companies pay annual federal land use fees. Therefore, EEI and its members have a direct interest in this proceeding.

EEI has reviewed comments that have been filed in this docket by Idaho Power Company, Pacific Gas and Electric Company (PG&E), and Southern California Edison (SCE), all three of which are EEI members. In addition, we have reviewed comments submitted by the National Hydropower Association (NHA) and a draft of comments that will be submitted by the Federal Land Use Charges Group (FLG), to which a number of EEI members belong. EEI endorses these five sets of comments as reasonable requests aimed at ensuring that Commission fees for use of federal lands by FERC-licensed hydropower projects are reasonable and well founded.

In brief, Idaho Power, PG&E, SCE, NHA, and FLG have filed complementary comments asking the Commission to use more reasonable measures of federal land use values and fees at hydro projects than simply assessing fees based on the current BLM-USFS linear right-of-way per-acre schedules and a 100% encumbrance factor. In particular, the three companies and two groups have asked the Commission to take into account such factors as: (1) the rural, unfarmed, undeveloped, and often rugged nature of the terrain at FERC-licensed hydro projects; (2) the local nature of land values; (3) the modest encumbrance of land by hydro facilities, in particular taking into account the immense public benefits typically provided by the projects; (4) changes in land value year to year, especially as land values have decreased since the 2007-2008 time frame

reflected in the most recent BLM-USFS schedules; (5) use of reasonable long-term discount rates; and (6) the need to allow project owners to seek an adjustment in schedule-based fees if out-of-line for their facilities. NHA also opposes assessing fees based on gross sales or per kilowatt-hour rates, an approach that Congress in the Energy Policy Act of 2005 effectively precluded the BLM and Forest Service from using for linear rights-of-way. EEI endorses these requests.

EEI has advocated in past BLM, Forest Service, and FERC land use fee proceedings, and in Congressional federal land use fee deliberations including in the context of the Energy Policy Act, that fees for use of federal lands should be based on a fair and accurate representation of local land values, the nature of the use, and the degree of actual encumbrance of the land by utility facilities. The comments filed by the three companies and two groups are consistent with EEI positions on these matters.

If the Commission has any questions about these comments or needs additional information, please contact me at hbartholomot@eei.org or (202) 508-5622 or Rick Loughery at rloughery@eei.org or (202) 508-5647.

Respectfully submitted,



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