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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

May 15, 1984

RESOURCES, COMMUNITY
AND ECONOMIC DEVELOPMENT
DIVISION

B-200490

The Honorable Richard L. Ottinger
Chairman, Subcommittee on Energy
Conservation and Power
Committee on Energy and Commerce
House of Representatives

RELEASED

Dear Mr. Chairman:

Subject: Information on Relicensing Cases at the Federal
Energy Regulatory Commission (GAO/RCED-84-116)

Your April 13, 1984, letter requested that we provide information on whether the public benefits when competing applications are filed for relicensing existing nonfederal hydroelectric facilities. You also asked that we provide information on whether the Federal Energy Regulatory Commission (Commission), which reviews applications and issues the licenses, can serve as a surrogate for competition when no competing application is filed. You asked that this information be provided in time to use for May 17, 1984, hearings.

In regard to the first issue, we found that in five of the nine competitive licensing cases we examined, the licensee submitted an amendment to upgrade the project after a competitive application was filed. In examining 10 noncompetitive licensing cases with respect to the second issue, we noted that in some cases the Commission has required licensees to make improvements to facility operations. The following sections briefly describe the Commission's licensing role; our objectives, scope, and methodology; and detailed results of our review.

COMMISSION'S LICENSING ROLE

The Commission is authorized, among other matters, to issue licenses to nonfederal entities for building and operating hydroelectric facilities for the development of the Nation's water resources. The licenses, issued for a period up to 50 years, require that any hydroelectric project be adapted to a comprehensive plan (prepared by the applicant) for developing and using water resources, not only for power development, but also for other purposes such as recreation, water quality, irrigation, fish and wildlife enhancement, and overall environmental effect. The Commission is required to give preference to states and

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municipalities, over a privately-owned utility, whenever the two entities file equally well-adapted plans for the same project.

At the expiration of a license, the Commission is authorized to grant a new license. To obtain a new license, the existing licensee must file an application for relicense no later than 3 years before its existing license expires. A new license is not automatic and is subject to competition. Many of the licenses originally issued to privately-owned utilities have expired and the utilities have applied for relicenses. In some instances, public agencies have also filed competing applications for the license.

Between August 1970 and April 1984, the Commission had issued 95 new licenses to existing licensees in uncontested cases and 1 new license to the existing licensee in a contested case. In addition, the Commission is currently in the process of relicensing 32 other projects. Competing applications have been filed for 11 of these projects currently licensed to privately-owned utilities. Nine of the competing applicants are municipalities, one is two Indian tribes, and one is a rural electric cooperative.

OBJECTIVES, SCOPE, AND METHODOLOGY

One objective of our review was to obtain information concerning whether the public benefits when competing applications are filed for the existing nonfederal hydroelectric facilities. To do this we reviewed the applications and correspondence on file at the Commission for the nine contested cases involving municipalities (listed in enclosure I) to see if the private utilities had filed amended applications containing more actions after their relicense applications had been contested.

We reviewed these files at the Commission's headquarters in Washington, D.C. We interviewed cognizant officials within the Commission; reviewed and extracted relevant information from the application case files; and examined applicable federal regulations.

The second objective was to obtain information on uncontested applications and relicenses to see if the Commission had issued the relicense contingent upon further actions being taken by the applicants. We selected 10 uncontested cases (listed in enclosure II) from the universe of 116 cases. The 10 selected were chosen to provide a broad geographic coverage and to reflect different project sizes. We selected five cases where the Commission had issued the licenses and five cases that are pending. In the five issued cases, we reviewed the license to see if the Commission had ordered additional actions. In the five pending cases, we reviewed the proceedings to see if the Commission had requested additional actions.

The 19 case files reviewed were voluminous and because of the time constraints of the request, we were able to perform only a cursory review of each. Consequently, we may not have extracted all the relevant case file information.

As you requested, we did not obtain agency comments. Except as noted above, we made our review in accordance with generally accepted government auditing standards. Our work was conducted from April 16, 1984, through May 10, 1984.

RELICENSING CASES WITH COMPETITION

We reviewed nine competitive relicensing cases and observed that, in five cases, amendments to the original applications were submitted after competing applications had been filed for the same project. No amendments were found on the remaining four cases. The Commission has not issued a license on any of these nine cases.

In three of the five cases with amendments, we noted that the private utilities upgraded power operation plans after the competing license applications had been filed:

- In one of these three cases, a private utility, in its initial application, stated that the existing project made full use of all the water available for power production at that point of the river, and it knew of no further development of the project that would be economically attractive. However, two public utilities individually filed competing applications: one proposed to increase the project's capacity¹ by 25,516 kilowatts (kw); the other did not propose any increase in capacity. The private utility then amended its application and proposed an additional \$56 million investment for power development which would increase the capacity by 46,100 kw. Subsequently, the two competing public utilities filed a consolidated application for this project, at which time they proposed to increase the capacity by 66,080 kw.
- In the second case, a private utility amended its application to increase the project's dependable capacity by 14,000 kw. This amendment was submitted after a competing application was filed that would have increased the project's capacity.
- In the third case, the private utility amended its application to expand the capacity of the project by about 34,600 kw after the competing applicant proposed to increase the capacity of the project.

¹Capacity is the capability of the power generator, expressed in kilowatts.

In the two other cases where amendments were submitted after competing applications had been filed, we noted that the recreational plans were upgraded. One private utility did not include any plans for recreational facilities in its initial application for a relicense. In a competing application, a municipality proposed recreational improvements, including a sports area, a fishing deck accessible to the handicapped, and adequate parking. The private utility subsequently amended its application to also provide recreational facilities, including the construction of day-use areas, pathways, fishing decks, and parking areas. In the second case, the private utility also amended its initial relicense application to include major recreational improvements after a competing application was filed which contained recreational improvements.

In addition to the above five cases, we noted that a competing applicant proposed improvements to a project's environmental plan that were not in the licensee's application. In its original relicense application, a private utility had stated that since no significant changes were to be made in the project's operation, there would be no changes in the fish, wildlife, or botanical resources in the project area. However, a public entity submitted a competing license application laying out ways to enhance the project's recreational and fisheries facilities where possible. The plan called for changes in the operating plan to capture and release water in order to enhance conservation of the resource. This would release water at a more uniform rate each month of the year consistent with safety from flooding and ability to capture and utilize as much natural flow as possible. The private utility has not submitted an amended application.

RELICENSING CASES NOT
INVOLVING COMPETITION

We reviewed 10 uncontested cases, (5 pending and 5 issued) and observed that the Commission did require improvements to the operations of existing facilities during the relicensing proceedings. Based on our cursory review, we did not find where the applicants had filed any amendments to their applications. The discussion that follows presents some examples from the case files where the Commission required improvements.

We noted that in issuing the new licenses, the Commission placed stipulations on the licensees that they incorporate certain improvements to the projects. For example, in three of the five issued licenses, the licensees were directed by the Commission to take the following types of actions.

- Prepare a detailed fish and wildlife plan describing the current programs and future enhancement and protective measures.

- Prepare an amended recreational plan which shall include an assessment of the need for additional public access to the project.
- Determine the minimum stream flow requirements at the dam site needed to protect the downstream aquatic habitat.
- Prepare a report on potential adverse environmental impacts concerning flood plain management.
- Amend a recreational plan.
- Conduct a water temperature monitoring program.

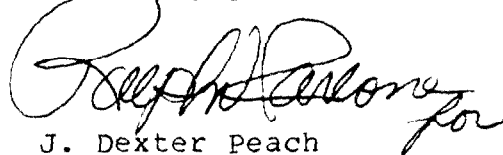
We also noted that, during its review of the five pending license applications, the Commission requested additional information from two of the applicants. For example, the Commission requested that:

- A water management plan be prepared to ensure protection and enhancement of water quality, fish and wildlife resources, and recreational resources.
- A comprehensive cultural resource management plan be prepared for historical preservation purposes.
- Information be provided on the safety measures that were needed if a boat launching site was developed upstream from the dam site.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days from its issue date. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,



J. Dexter Peach
Director

Enclosures

COMPETING LICENSE APPLICATIONS REVIEWED BY GAO

<u>Project/applicant^a</u>	<u>Project no.</u>	<u>Date filed</u>
Weber (2,500 kw, Weber River, Utah)		
Utah Power & Light Co.	P-1744	6/69
City of Bountiful, Utah	P-2747	7/74
Mokelumne (190,800 kw, Mokelumne River, Calif.)		
Pacific Gas & Electric Co.	P-137	12/72
City of Santa Clara	P-2745	4/74
Olmsted (12,700 kw, Provo River, Utah)		
Utah Power & Light Co.	P-596	4/75
City of Bountiful, Utah	P-4040	1/81
Utah Municipal Power Agency	P-4029	1/81
Shawano (640 kw, Wolf River, Wisc.)		
Wisconsin Power & Light Co.	P-710	11/76
City of Shawano	P-2865	8/78
Rock Creek-Cresta (182,000 kw, North Fork Feather River, Calif.)		
Pacific Gas & Electric Co.	P-1962	9/79
Northern California Power Agency	P-3223	6/80
Sacramento Municipal Utility District	P-3177	12/80
Phoenix (1,600 kw, Stanislaus River, Calif.)		
Pacific Gas & Electric Co.	P-1061	12/79
Tuolumne Water District	P-4039	3/81
Rush Creek (8,400 kw, Rush Creek, Calif.)		
Southern California Edison Co.	P-1389	12/81
June Lake Public Utility District	P-6930	12/82
Poole (10,000 kw, Lee Vining Creek, Calif.)		
Southern California Edison Co.	P-1388	12/81
City of Vernon, Calif.	P-7263	5/83
Haas-Kings River (179,100 kw, Kings River, Calif.)		
Pacific Gas & Electric Co.	P-1988	3/82
Sacramento Municipal Utility District	P-6729	9/82

^aOriginal licensee is listed first; competing applicant follows.

UNCONTESTED APPLICATIONS REVIEWED BY GAO

<u>Project/applicant</u>	<u>Project No.</u>	<u>Date license application was filed</u>	<u>Date license issued</u>
Green Island (6,000 kw, Hudson River, New York) Niagara Mohawk Power Corp.	P-13		2/77
Balch (133,200 kw, North Fork Kings River, California) Pacific Gas and Electric Co.	P-175		4/80
Soda (14,000 kw, Bear River, Idaho) Utah Power & Light Co.	P-20		7/80
Carpenter-Rommel (10,000 kw, Ouachita River, Arkansas) Arkansas Power & Light Co.	P-271		7/80
Conowingo (474,480 kw, Susquehanna River, Maryland) Susquehanna Power & Philadelphia Electric Power Companies	P-405		8/80
Lundy (3,000 kw, Mill Creek, California) Southern California Edison Co.	P-1390	12/81	
Buzzard Roost (15,000 kw, Saluda River, South Carolina) Greenwood County, South Carolina	P-1267	12/81	
Yates Project (32,000 kw, Tallapoosa River, Alabama) Alabama Power Co.	P-2407	9/82	
Thurlow Project (58,000 kw, Tallapoosa River, Alabama) Alabama Power Co.	P-2408	9/82	
Millville Hydro Station (2,840 kw, Shenandoah River, West Virginia) Potomac Edison Co.	P-2343	9/82	