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February 10, 2026

Via eFiling: Docket Number: RM 26-3-000

Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: Docket No. RM 26-3-000
NORTHWEST HYDROELECTRIC ASSOCIATION
COMMENTS ON FERC NOTICE OF INQUIRY: POST-LICENSING
ACTIVITIES AT HYDROELECTRIC PROJECTS

Dear Ms. Reese:

On November 20, 2025, the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Inquiry (NOI) seeking input on how certain post-licensing activities at hydroelectric projects should be managed.¹ Specifically, the NOI seeks input regarding the types of post-license activities that may occur without case-specific authorization from the Commission under Part I of the Federal Power Act (FPA). FERC also seeks comment on the changes that should be made to the authorization process (if authorization is required) for such post-licensing activities. This is an important issue that impacts the ability of hydropower licensees to timely take the actions necessary to ensure safe, affordable and efficient operation of their projects. The Northwest Hydropower Association (NWA) supports the Commission's

¹ Authorizations for Certain Post-Licensing Activities at Hydroelectric Projects, 193 FERC ¶ 61,140 (2025).

review of this issue, and appreciates the opportunity to provide input on how to streamline and improve the authorization process for such activities.

NWHA is a non-profit trade association that represents and advocates on behalf of the Northwest hydroelectric industry. NWHA has over 145 members from all segments of the industry, including electric utilities, water districts, and other hydroelectric project owners and operators. NWHA is dedicated to the promotion of the Northwest region's waterpower as a clean, efficient energy source while protecting the fisheries and environmental quality that characterize the Northwest region. A combined 37% of total U.S. hydropower capacity comes from Washington and Oregon alone.

NWHA has reviewed and endorses the comments of the National Hydropower Association (NHA) submitted in response to FERC's NOI. NWHA supports the establishment of a blanket authorization program that recognizes licensees' independent rights and responsibilities established by Congress in FPA section 10 to undertake certain post-licensing activities. The Commission's adoption of expanded blanket authorization would not in any way diminish the scope of the Federal Power Act and FERC's role as licensing agency for hydropower projects. Rather, a well-designed blanket authorization program, such as that outlined in NHA's comments, would be consistent with Congressional intent. It would also reflect the realities of operating infrastructure over the course of a lengthy license term, reduce regulatory burden on both licensees and FERC staff, and allow for more timely implementation of such activities. The suggested reforms are intended to streamline internal processes while preserving coordinated and consistent federal oversight. NWHA's comments provide some additional context for the need for a streamlined process for post-licensing activities, with a particular emphasis on maintenance, repair, and replacement work.

Maintenance/Repair/Replacement Activities are Inherent in All Licenses Issued by the Commission

Section 4(e) of the Federal Power Act (FPA) directs the Commission to issue licenses “for the purpose of constructing, operating, and *maintaining* dams, water conduits, reservoirs, power houses, transmission lines, or other project works”² Section 10(c) of the FPA also expressly directs licensees to “maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power,” and to “make all necessary renewals and replacements.”³ Thus, inherent in the Commission’s licensing of a project is the recognition that the facility will be maintained over time.

In recognition of this fact, FERC includes Standard Articles 2 and 3 in every FERC hydropower license. These articles recognize that a licensee is empowered to make certain modifications to the project without first obtaining a license amendment or other FERC approval.⁴ Only actions that (1) constitute a change to a project, and (2) are “substantial,” require prior Commission approval. Thus, the fact that maintenance and repair projects will be necessary during the course of a license term is fully contemplated and statutorily mandated to occur without additional approvals from FERC. FERC’s requirements, procedures and guidance should be consistent with these provisions.

² 16 U.S.C. § 797(e) (emphasis added).

³ *Id.* § 803(c).

⁴ *Georgia Power Co.*, 74 FERC ¶ 62,146, at p. 64,510 (1996).

Requiring FERC Approval for Routine Activities Creates Duplicative, Lengthy and Unnecessary Federal and State Agency Reviews

The FERC licensing process is lengthy, detailed and thorough. It involves review by not only FERC, but also federal and state agencies, tribes and the public. The FPA provides a comprehensive framework that includes conditioning authorities for federal agencies, and a robust public participation process. Additionally, FERC licensing triggers Endangered Species Act (ESA)⁵ consultation, National Environmental Policy Act (NEPA)⁶ review, Clean Water Act (CWA) 401 certification⁷, and consultation under section 106 of the National Historic Preservation Act (NHPA).⁸

As noted above, the FPA and license articles implementing statutory requirements require that licensees maintain their hydropower projects to ensure they continue to generate power and meet public safety requirements. FERC licenses require licensees to develop detailed plans to address the management and maintenance of the hydropower project throughout the term of the license. Such plans include operation and maintenance plans, shoreline management plans, species management plans, cultural resource plans, protection, mitigation and enhancement measures, etc. These plans outline the types of inspection and maintenance that will occur over the term of the license, as well as the protective measures that will be applied when such maintenance activities take place.

Requiring additional approvals to undertake maintenance and repair activities that were already considered during license issuance, and addressed in project-specific plans that have also

⁵ 16 U.S.C. § 1536.

⁶ 42 U.S.C. § 4321 *et seq.*

⁷ 33 U.S.C. § 1341.

⁸ 54 U.S.C. § 306108.

been reviewed and approved, results in duplicative reviews. A formal FERC approval is a federal action. As such, it triggers the very same reviews that occurred during licensing, such as ESA consultation, NEPA review and CWA Section 401 certification. Such reviews are lengthy, often unnecessarily delaying the needed maintenance. In addition to the delays caused by this process, these reviews provide an opportunity for federal and state agencies to add additional operational requirements that further deplete the ability of these facilities to operate economically and in the public interest. In many ways, triggering these reviews for maintenance and repair work invites agencies, states, tribes and the public to revisit their previous approvals. This creates confusion and regulatory uncertainty. It is also counter to the established framework for such reviews – which are intended to identify the environmental considerations, project impacts and mitigation measures as part of license issuance, and not to create a continuous evaluation process throughout a project’s lifespan. That is particularly true for maintenance/repair and replacement projects that fall within the ambit of the actions necessary to continue project operations in accordance with the issued license.

Thank you again for the opportunity to provide input on this important issue. NWAHA looks forward to continuing to work with the Commission to address management of post-license functions such as routine maintenance/repair/replacement activities. Adopting a blanket authorization program such as that outlined in the NHA comments, and revising the Commission’s regulations and policies to align with FPA section 10, will ensure that such activities can occur in a safe, timely and effective manner. It will also remove the uncertainties associated with unnecessary additional reviews on actions already considered and inherent in all licenses issued by the Commission.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenna Vaughn". The signature is fluid and cursive, with the first name being more prominent.

Brenna Vaughn
Executive Director, NWHHA
Northwest Hydroelectric Association
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