

✓ INCLOSURE 5385

FROM
FEDERAL POWER COMMISSION

FEDERAL POWER COMMISSION

WASHINGTON, D. C.



PRELIMINARY PERMIT

Project No. 217, California

Ed. Fletcher



SECRETARY OF WAR, CHAIRMAN
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE

O. C. MERRILL, EXECUTIVE SECRETARY

ADDRESS REPLY TO
EXECUTIVE SECRETARY
AND REFER TO

FEDERAL POWER COMMISSION
WASHINGTON

December 11, 1922.

E

Projects, Cal. (No. 217),
Fletcher, Ed.

Mr. Ed. Fletcher,
920 - 8th St.,
San Diego, Cal.

Dear Sir:

I am inclosing herewith the original copy of the preliminary permit for your Boulder Creek project No. 217.

In accordance with Article 3 of the permit Mr. H. D. McGlashan, District Engineer, U. S. Geological Survey, 328 Custom House, San Francisco, Cal., will have supervision over the stream-gaging operations to be carried on under the permit. Mr. P. G. Redington, District Forester, Forest Service, Ferry Bldg., San Francisco, Cal., will act as the district representative of the Commission. All correspondence pertaining to the permit should be addressed to these gentlemen.

Very truly yours,



Executive Secretary.

Inclosure 5385.

I, W. Kelly, Chief Engineer of the Federal Power Commission, do hereby certify that the following is a true and correct copy from the record of the proceedings of the Commission in my custody of that portion of the minutes of the fortieth meeting of the Commission, held on the 10th day of October, 1922, which refers to the action of the Commission on the application of Ed Fletcher, of San Diego, California Project No. 217).

"In the matter of the application of Ed Fletcher of San Diego, California (Project No. 217) for a preliminary permit and license for a power project on Boulder Creek and on lands of the United States partly within the Cleveland National Forest, in San Diego County, California, consisting of a diversion dam, conduit and power house in T. 14 S., R. 3 E., San Bernardino Meridian: Notice of said application having been given and published as required by Section 4 of the Federal Water Power Act, full opportunity having been given for all interested parties to be heard, and no application for said project or in conflict therewith having been filed by any State or municipality; and it appearing that said project can be developed into and adapted to a comprehensive scheme of improvement and utilization for the purposes of water-power development and of other beneficial public uses, and that neither the permit nor the license applied for will interfere or be inconsistent with the purpose for which any reservation affected thereby was created or acquired; it was voted that preliminary permit be issued for a period of eighteen (18) months, subject to the provisions of said Act, to the rules and regulations of the Commission pursuant thereto, and to the following special condition: The permit shall not be construed as affecting or intending to affect the present status of water rights on San Diego River and its tributaries."

Witness my hand and seal of the Federal Power Commission at Washington, D. C., this 30th day of October, 1922.



Chief Engineer.

In the absence of the Executive Secretary.



THE FEDERAL POWER COMMISSION

Preliminary Permit

Project No. 217, California

Ed Fletcher

WHEREAS, by Act of Congress, approved June 10, 1920 (41 Stat., 1063) designated therein as "The Federal Water Power Act" and hereinafter called "the Act," the Federal Power Commission, hereinafter called "the Commission," is authorized and empowered, inter alia, to issue preliminary permits for the purpose of enabling applicants for a license under the Act to secure the data and to perform the acts required of such applicants by section 9 of the Act; and

WHEREAS, Ed Fletcher, hereinafter called "the Permittee," whose business address is 920 Eighth Street, San Diego, California, is an applicant for a license under the Act, and, in order to maintain priority of application therefor while securing the data and performing the acts aforesaid and to comply with the rules and regulations of the Commission with respect to applications for license, filed in due form with the Commission on the 13th day of May, 1921, an application for a preliminary permit for a proposed power project, designated as Project No. 217 on the records of the Commission, located in the vicinity of San Diego, in the County of San Diego, State of California, and involving certain lands of the United States, all as hereinafter described; and

WHEREAS, the Permittee has submitted satisfactory evidence of citizen-

ship, of right to perform within said State of California the acts necessary for the purposes of this permit; and

WHEREAS, notice of said application has been given and published by the Commission as required by section 4 of the Act; full opportunity has been given all interested parties to be heard; and no application for said proposed project, or in conflict therewith, has been filed by any State or municipality; and

WHEREAS, it appears that said proposed project, as hereinafter described can be developed into and adapted to a comprehensive scheme of improvement and utilization for the purposes of water-power development and of other beneficial public uses; and that neither the permit nor the license applied for will interfere or be inconsistent with the purpose for which any reservation affected thereby was created or acquired; and

WHEREAS, the Permittee on the 20th day of November 1922, accepted in writing the terms and conditions of this permit;

NOW, THEREFORE, the Permittee is hereby granted a preliminary permit for the sole purpose of maintaining priority of application for a license under the terms of the Act while making examinations and surveys, preparing maps, plans, specifications, and estimates, and making financial arrangements; said permit being subject to all the terms and conditions of the Act, to the rules and regulations of the Commission pursuant thereto, which said rules and regulations are hereto attached and made a part hereof, and to the following express conditions, to wit:

Article 1. The priority granted hereunder shall be for a period of eighteen (18) months from the date of issuance hereof, and for a proposed

project consisting of a diversion dam, conduit and power house on Boulder Creek in Township 14 South, Range 3 East, S. B. M., all as located and described by certain maps and data filed with and made a part of said application for preliminary permit;

Article 2. The Permittee shall on or before the first day of January, 1924, file with the Executive Secretary of the Commission at Washington, District of Columbia, or with such other officer or agent of the Commission, or at such place, as may be designated by the Commission, and in the manner prescribed by said rules and regulations, an application for a license for said proposed project and for the use and occupancy of such lands or other property of the United States as may be required in the construction, maintenance or operation thereof.

Article 3. The Permittee shall make such engineering and other investigations, secure such data and perform such acts as will enable him to submit to the Commission on or before the date named in Article 2 hereof, such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project; and shall supply for the use of the Commission correct copies of engineering reports and of any other information secured in connection with such investigations when and as they are submitted to the Permittee. In carrying out the requirements of this article, the Permittee shall-

A. Install as soon as practicable and thereafter maintain stream-gages and stream-gaging stations at such places as may be necessary to determine the stage and available flow of Boulder Creek; and the amount of water held in and drawn from

storage in Cuyamaca Reservoir on Boulder Creek, shall provide for periodic or daily readings of such gages and for the adequate rating of the said stream-gaging stations. The exact location, design and time of installation of gages and stations, the ratings of said stations, and the determination of the flow thereat, shall be made in cooperation with the United States Geological Survey and under the supervision of its District Engineer having charge of stream-gaging operations in the region of said project; and the Permittee shall reimburse the said United States Geological Survey for expenses incurred in such cooperation and supervision, or for such part thereof as said District Engineer may deem equitable in the circumstances. The Permittee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, shall make return of such records at the time of filing application for license as aforesaid, and at such other times as the Commission may require, and in such form as the Commission may prescribe.

Article 4. License will be issued for said proposed project only if it appears that the scheme of development proposed in said application for license will be best adapted to the improvement and utilization of the site for purposes of water-power development and of other beneficial public uses. In reaching decision thereon, the Commission will consider:

A. Whether the maps, plans, and specifications are such:

(1) That full, practicable utilization will be made of the water, storage possibilities, and the

head at the site to be developed.

(2) That the structures will be safe and in accordance with good engineering practice.

(3) That all unnecessary energy losses, whether in hydraulic works or in mechanical or electrical equipment, will be avoided.

B. Whether in relation to existing or probable future projects upon the same or adjacent streams, the fullest practicable utilization of the water, storage possibilities, and head available will be made possible.

C. Whether said project will be in general accord with the most beneficial utilization of the water for navigation, water power, irrigation, or other beneficial public uses, and for aiding flood control, reclamation, and similar developments.

D. Whether proper provision is made for present or future electrical interconnection with other projects or systems in order to take advantage of diversity of stream flow and of power demands.

E. Whether the use to which the power will be devoted, is, in general, in accord with the needs of the community and of the public welfare.

F. Whether the applicant is financially able to carry out the development.

G. Whether the construction, maintenance, and operation of the proposed project works will interfere or be inconsistent with the purpose for which any reservation was created or acquired.

Article 5. The priority granted hereunder will be lost if the Permittee fails to fulfill the requirements of this permit, if the permit is cancelled by order of the Commission, or if in the course of consideration by the Commission of said application for license, the Permittee shall not on or before the expiration of the period hereof, or such later date as may be fixed by the Commission:

A. File data required by the Commission in addition to that contained in or furnished with said application; or

B. Present satisfactory evidence of ability to carry out the plan as set forth in said application, or as required to be modified by the Commission; or

C. Accept the conditions of the proposed license; or

D. Modify his plans as may be required by the Commission if the project adopted as disclosed in said plans is not such as in the judgment of the Commission, based upon the considerations set forth in Article 4 hereof, will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses.

Article 6. The Permittee shall keep accurate and dependable records of all expenditures made for the purposes authorized herein; and

in the event that a license is issued for said proposed project covered in whole or in part by this permit, any and all items properly includible in the actual legitimate cost of said project, representing expenditures made before the date of the license, shall be supported by proper vouchers or other records, the same as would have been required of a licensee had no preliminary permit been issued; and any such vouchers or records, or certified copies thereof, in support of any item properly includible in the cost of said project shall become a part of the records of said project and shall be kept and retained by the Permittee in the manner required by the Commission. A report of all such expenditures, in such detail as the Commission may require, shall be submitted promptly when called for by the Commission.

Article 7. If license is issued for said proposed project it shall be subject to the rules and regulations of the Commission in force at the date of issuance hereof; and shall, subject to the provisions of Sections 13, 16, and 26 of the Act and of the last proviso of Section 14 of the Act, be for a period of fifty (50) years.

Article 8. This permit shall not be construed as affecting or intending to affect the present status of water rights on San Diego River and its tributaries.

Article 9. This permit confers no authority upon the Permittee to occupy or use lands or other property of the United States for purposes of construction unless specific permission is given by the Commission for such occupancy or use; and neither the granting of such authority nor the performance of construction work whether with or without such authority

shall be deemed to have created any equities or to have established any rights with respect to issuance of license, beyond what would have been created or established had such authority not been given or such work not been performed.

Article 10. This permit is not transferable and may be cancelled by order of the Commission upon failure of the Permittee in good faith to begin or diligently to prosecute the investigations contemplated herein, or to comply with any other conditions hereof.

IN WITNESS WHEREOF, the Federal Power Commission has caused its name and seal to be hereto signed and affixed by O. C. Merrill, its Executive Secretary, this 11th day of December, 1922.

FEDERAL POWER COMMISSION

By O. C. Merrill
Executive Secretary

In testimony of acceptance of all the terms and conditions of the Federal Water Power Act of June 10, 1920, and of the further conditions imposed in the foregoing license, the Permittee, this 28th day of November, 1922, has subscribed his name hereto.

E. J. Hutchins

Witnesses:

K. L. May

A. Hedgcock

FEDERAL POWER COMMISSION

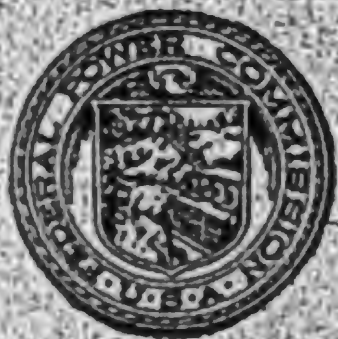
RULES AND REGULATIONS

AS AMENDED BY ORDER No. 11
OF JUNE 6, 1921

GOVERNING THE ADMINISTRATION OF
THE FEDERAL WATER POWER ACT

WITH COPIES OF THE ACT, OF
AMENDMENT THERE TO, AND OF
ORDERS Nos. 1 TO 11, INCLUSIVE

FIRST REVISED ISSUE
EFFECTIVE JUNE 6, 1921



WASHINGTON
GOVERNMENT PRINTING OFFICE
1921

FEDERAL POWER COMMISSION

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The SECRETARY OF THE INTERIOR, The SECRETARY OF AGRICULTURE

O. C. MERRILL, *Executive Secretary*.

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DICTION OF THE FEDERAL POWER COMMISSION.

he commission has jurisdiction over all projects involving construction, operation, and maintenance of dams, water conservoires, power houses, transmission lines, or other project for the development, transmission, and utilization of power (as noted in paragraph B below) which affect—

Navigable waters of the United States, as defined in the Federal Power Act and in these regulations.

Other waters of the United States over which Congress has jurisdiction under its authority to regulate commerce with foreign or among the several States, when the commission finds that interests of interstate or foreign commerce will be affected. Any person proposing to build a project on waters over which the jurisdiction of the commission doubtful should file a Declaration of Intent under Regulation 7. The commission will thereupon conduct an investigation and determine whether the proposed project affects the interests of interstate or foreign commerce. If the commission finds that such interests will be affected, the project is under its jurisdiction and can not lawfully proceed except under a permit or license issued by the commission. If the commission does not so find, the act authorizes the project to proceed upon compliance with State laws.

Public lands or reservations,¹ including lands for which patent has been issued with an express reservation therein under section 24 of the act, or for which locations, entries, selections, or filings have been made and approved or patent under and subject to the limitations and conditions contained in section 24 of the act.

Permits or valid rights of way granted prior to and existing on October 3, 1920, remain in force unaffected by the provisions of the Federal Water Power Act, but any person, association, corporation, or municipality holding or possessing any such permit, right or authority may apply for a license under said act, and the provisions of the act will apply to the applicant as a licensee thereunder.

¹ National monuments and national parks. See amendment to The Federal Water Power Act, page 76.

RULES AND REGULATIONS.

REGULATION 1—GENERAL DEFINITIONS.

[As amended June 6, 1921.]

The words defined in this regulation shall have the following meaning for the purposes of these rules and regulations:

SECTION 1. "The Federal Water Power Act" and "act" mean the act of Congress, entitled "An act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act approved August 8, 1917, and for other purposes," approved October 10, 1920 (41 Stat., 1063), as amended by the act of March 3, 1921 (41 Stat., 1353).

SEC. 2. "Commission" means the Federal Power Commission created by the Federal Water Power Act, or its successor, or any authority or duty prescribed by the act, such officer or agent as it may lawfully designate to assume or perform any authority or duty.

SEC. 3. "Public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public-land laws. It shall not include "reservations," as hereinafter defined.

SEC. 4. "Reservation" means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands, except national monuments and national parks, owned by the United States and withdrawn, reserved, or held from private appropriation and disposal under the public-land laws; also lands and interests in lands acquired and held for public purpose.

SEC. 5. "Corporation" means a corporation organized under the laws of any State or of the United States empowered to develop, transmit, distribute, sell, lease, or utilize power in addition to any other powers as it may possess, and authorized to transact its business in any State or States in which its project is located all business necessary to effect the purposes of a license under the act. It shall not include "municipalities" as hereinafter defined.

SEC. 6. "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

SEC. 7. "Municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State authorized under the laws thereof to carry on the business of development, transmitting, utilizing, or distributing power.

SEC. 8. "Municipal purposes" means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality.

SEC. 9. "Navigable waters" mean those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition, notwithstanding interruptions between the navigable parts of streams or waters by falls, shallows, or rapids compelling land obstructions, are used or suitable for use for the transportation of property in interstate or foreign commerce, including therein such interrupting falls, shallows, or rapids; together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended by Congress for such improvement after investigation under its authority.

SEC. 10. "Government dam" means a dam or other work, constructed or owned by the United States for governmental purposes, whether or without contribution from others.

SEC. 11. "Project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or abutment reservoirs directly connected therewith, the primary line transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, easements of way, ditches, dams, reservoirs, lands, or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

SEC. 12. "Project area" means all lands, without respect to ownership, the use and occupancy of which are or will be valuable and servicable in the maintenance and operation of a project.

SEC. 13. "Project boundary" means the line or lines inclosing the project area.

SEC. 14. "Project works" means the physical structures of a project.

SEC. 15. The "power capacity" of a project means the controllable product of—

A. The factor 0.08;²

B. The average static head in feet; and

C. The water supply, in cubic feet per second and not in excess of the hydraulic capacity of the approved project works, estimated to be available from natural flow or from storage, or from both, 90 per cent of the time.

SEC. 16. "Net investment" in a project means the actual estimate original cost thereof as defined and interpreted in the "Classification of Investment in Road and equipment of Steam Roads, of 1914, Interstate Commerce Commission," plus similar costs and additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent such items have been accumulated during the period of the investment: (a) Unappropriated surplus, (b) aggregate credit balances of depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserve or expended for additions or betterments or used for the purpose for which such reserves were created. The term "cost" shall include, in so far as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or corporations.

REGULATION 2.—APPLICATIONS—GENERAL REQUIREMENTS

[As amended June 6, 1921.]

SECTION 1. Applications for preliminary permits or licenses shall be filed either with the commission at Washington, D. C., or with such office, agent, or agency of the commission as may from time to time be established or authorized to receive applications on behalf of the commission.

SEC. 2. Applications filed with the Departments of War, Interior, or Agriculture, prior to approval of the act, under the provisions of then existing law and accepted as complete by the department in which filed will upon written request of the applicant be received by the commission as an application under the act.

SEC. 3. The date of filing of applications shall be the date of the latest communication containing information essential for the action by the commission on the application.

²The factor 0.08 represents the horsepower at 70 per cent efficiency of one cubic foot of water per second falling through a head of 1 foot.

SEC. 4. All applications for preliminary permits or for licenses shall include:

Information relative to the applicant's qualifications to make application as follows:

(1) If the applicant is a corporation:

(a) A copy of its charter or articles of incorporation duly certified by the secretary of state of the State where organized or other officer having legal custody of a record of incorporation (one copy only, marked "Exhibit A").

(b) Execute Form 1 in triplicate and mark it "Exhibit B."

(2) If the applicant is a State:

(a) A copy of the law or laws, or reference thereto, under authority of which the application is made, duly certified by the governor or secretary of state of the State, under seal, and two uncertified copies marked "Exhibit B."

(3) If the applicant is a municipality:

(a) A copy of its charter or other organization papers duly certified by the secretary of state of the State in which it is located, or other officer having legal custody of the record of municipal incorporations (one copy only, marked "Exhibit A").

(b) A certified copy, or reference thereto, of the State law or ordinance authorizing the operations contemplated by the application and two uncertified copies marked "Exhibit B."

(4) If the applicant is an association of citizens:

(a) Each member shall make affidavit of citizenship. (See application Forms 3 and 4.)⁵ Associations shall submit their articles of association. If there be none, the fact shall be stated over the signature of each member of the association (one copy only, marked "Exhibit A").

(b) A complete list of members must be given in an affidavit by the applicant (in triplicate, marked "Exhibit B").

(5) If the applicant is an individual:

(a) An affidavit by the applicant that he is a citizen of the United States. (See application Forms 3 and 4.)⁵

(b) General data with respect to the project or projects applied for, shown on the prescribed application Form 3 or 4, paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, inclusive.⁵

Any applicant shall have filed with the commission any of the papers required by this regulation, a specific reference to such filing, accompanied by duly certified statement of changes thereafter made, thereby bringing up to date the information of the commission. Such filing will be accepted as fulfilling the requirements with respect to such papers.

⁵Form see p. 50.

⁶Forms see pp. 51 and 54.

C. Maps and drawings as required by Regulations 3, 4, or 5; as the case may be. All maps and drawings:

(1) Shall be on tracing linen cut to uniform size, not smaller than 24 inches by 36 inches and not larger than 28 inches by 40 inches, the latter size being preferred, except that lithographed official maps issued by Federal or State agencies may be used for general maps of the project and, when so used, one copy for permanent record shall be mounted on linen.

(2) Shall have a clear border of one-half inch on three sides, and of 2½ inches on one of the shorter sides, which shall be the left-hand border of the map.

(3) Shall have a numerical scale and a graphical scale, the latter not less than 6 inches in length.

(4) Shall, if a map, have true and magnetic meridians indicated thereon.

(5) Shall have a space 4 inches by 7 inches in the lower right corner, the upper half of which shall bear the title, scale, etc., and the lower half of which shall be left clear.

(6) Shall, if a map including public lands, show location of official public-land survey lines crossing the project area. If on unsurveyed public lands or reservations, the protractors of township and section lines shall be shown, such protractors whenever available to be those recognized by the agency of the United States having jurisdiction over the lands.

(7) Shall be rolled, not folded, for mailing, etc.

SEC. 5. Applicants may be required upon request of the commission to furnish maps, plans, or other data in addition to the requirements specifically set forth in the regulations, if in the judgment of the commission such additional data are desirable for a full understanding of the project or projects or for the purpose of enabling the commission to review the design thereof, either in whole or in part.

SEC. 6. The names of applicants, the information contained in their application forms (Forms 3 and 4), and general project maps will be available for general public information. Other information concerning applications will not be made public except upon a showing satisfactory to the commission of the public necessity or desirability therefor, or with the consent of the applicant. At public hearings upon any application the commission may require the presentation of such information respecting the application as in its judgment the proper conduct of the hearing or the public interests requires.

REGULATION 3.—APPLICATIONS FOR PRELIMINARY PERMITS.

[As amended June 6, 1921.]

Applications for preliminary permits shall be submitted in duplicate on Form 3,* and shall be accompanied by the documents specified below, each of which shall be dated and signed by the applicant in the manner prescribed in Form 2* and designated "Exhibit A," "Exhibit B," etc., as indicated:

SEC. 1. *Exhibit A.*—Certified copy of charter, articles of incorporation or other organization papers (one copy only). (See Regulation 2, sec. 4.)

SEC. 2. *Exhibit B.*—Other evidence that applicant is qualified to apply for and receive a permit (in triplicate). (See Regulation 2, sec. 4.)

SEC. 3. *Exhibit C.*—Statement of nature and amount of data available, such as surveys, maps, plans, stream measurements, foundation explorations, etc., and of work already performed, including preliminary construction, such as clearing, road building, etc. (in triplicate).

SEC. 4. *Exhibit D.*—Statement of nature and amount of work proposed to be performed under preliminary permit, such as surveying, preparation of maps and plans, measurement of streams, explorations, foundations, or preliminary construction, and estimate of cost thereof (in triplicate).

SEC. 5. *Exhibit E.*—Statement of nature, extent, and ownership of water rights and of ownership of lands which applicant contemplates using in the development of each project. Also statements of applicant's plans with reference to perfecting water rights and to clearing lands (in triplicate).

SEC. 6. *Exhibit F.*—Statement whether project involves the use of Government dam or other Government structure; and if so, to what extent (in triplicate).

SEC. 7. *Exhibit G.*—Such data as the applicant desires to supply to show his ability to finance the preliminary work as well as the project projects applied for (in triplicate). The commission may decline to approve the application unless satisfied that the applicant will be able to finance the preliminary work and the project.

SEC. 8. *Exhibit H.*—A general map showing the nature, principal features, and location of the project with reference to some well-known town or stream. On this map shall be placed a line indicating the approximate project boundary (as defined in sec. 13 of Regulation 1), exclusive of transmission lines, and the approximate distance and bearing of the upper and lower limits thereof from some

natural object or permanent monument that can be readily found and recognized from a description thereof noted on the map on land covered by official public-land survey, the distances and bearings shall be from the nearest existing corner of the public-land survey. (One tracing and two blue prints, or lithographed or printed map with project shown thereon, one copy mounted on linen and three copies not so mounted.) (For size, etc., of map, see Regulation 2, sec. 4, par. C.)

SEC. 9. *Exhibit I* (to be submitted only if public lands or reservations are affected).—A map showing the project area and the location of the principal features of the project. The map shall show the project boundary the subdivision line of the public-land survey lying next outside the project area, unless the applicant can show it more closely, in which case the boundary shall be so defined.

On the map shall be indicated separately lands patented, lands entered or otherwise embraced in any unperfected claim under public-land laws, unreserved public lands, and lands of each reservation affected. The map shall be on a scale to present this information effectively.

If so desired, a single map may be submitted for Exhibits I and II, provided it shows all the information required for both, and in that case, one tracing and five blue prints shall be furnished. If separate maps are used, one tracing and three blue prints shall be furnished. (For size, etc., of map, see Regulation 2, sec. 4, par. C.)

SEC. 10. Such additional documents or data as applicant may consider pertinent to submit.

REGULATION 4.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS.

[As amended June 6, 1921.]

All applications for licenses, and for additions or betterments to projects already under license (except for projects of not more than 100-horsepower capacity), shall be submitted in triplicate on Form 2 and shall be accompanied by the documents specified below, each of which shall be dated and signed by the applicant in the manner prescribed in Form 2⁷ and designated "Exhibit A," "Exhibit B," and "Exhibit C," respectively, as indicated.

SECTION 1. *Exhibit A*.—Certified copy of charter, articles of incorporation, or other organization papers (one copy only). (See Regulation 2, sec. 4.) If already furnished for preliminary permit, a reference thereto will suffice.

SEC. 2. *Exhibit B*.—Other evidence that applicant is qualified to proceed with the project applied for (in triplicate). (See Regulation 2, sec. 4.)

2, sec. 4.) If already furnished for preliminary permit, a reference thereto will suffice.

SEC. 3. *Exhibit C*.—Field notes or a description by metes and bounds of the entire final location survey of the project boundaries of transmission lines. Field notes need not be submitted as a separate exhibit when they are noted on tracings filed with application (in triplicate).

SEC. 4. *Exhibit D*.—Evidence that the applicant has complied with the requirements of the laws of the State or States within which the project or projects will be located with respect to bed and banks and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of the license applied for. This evidence shall be accompanied by a statement of the steps that have been taken and the steps that remain to be taken to acquire franchise or other rights from counties and municipalities before the project or projects can be completed and put into operation (in triplicate).

SEC. 5. *Exhibit E*.—Statement of the nature, extent, and ownership of the water rights and of ownership of lands which the applicant proposes to use in the development of the project or projects applied for, together with satisfactory evidence that the applicant has proceeded as far as practicable in perfecting its rights to use the water for proper operation of the project works. A certificate from the proper State agency setting forth the extent and validity of the applicant's water rights shall be filed if practicable.

Whenever the approval or permission of one or more State agencies is required by State law as a condition precedent to the applicant's right to take or use water for the operation of the project, duly certified evidence of such approval or permission or a statement of cause why such evidence can not be reasonably submitted shall be filed. Statement of applicant's plans for acquiring lands owned by other parties and which are essential for carrying out the project. If statement submitted with application for preliminary permit gives above information, a reference thereto will suffice (in triplicate). When State certificate is involved, one certified copy and two uncertified copies will suffice.

SEC. 6. *Exhibit F*.—Statement whether project involves the use of a Government dam or other Government structure; and if so, a detailed description of the proposed use. Information relative to such structure which may be of record in any branch of the United States Government at Washington need not be furnished if appropriate evidence thereto is given (in triplicate).

SEC. 7. *Exhibit G*.—Statement showing the financial ability of the applicant to carry out the project or projects applied for (in tripli-

⁷ For forms see pp. 50 and 54.

cate). If adequate statement has been furnished with application for preliminary permit, reference thereto will suffice.

SEC. 8. Exhibit H.—Statement of the effect of the proposed operation of the project works on the normal flow of the stream, including a statement of the minimum flow proposed to be released during periods of low water and full exposition of the relation of any proposed ponding of the flow to the conservation and utilization in the public interest of the available water resources for the purposes of power, navigation, irrigation, reclamation, flood control, and municipal water supply (in triplicate).

SEC. 9. Exhibit I.—Estimate of the power capacity of each project accompanied by the complete data upon which such estimate is based, including stream flow, evaporation records, static heads, etc. Also a list of all present and proposed sources of power for the system of which the project or projects will be a part, including the approximate location, water power or steam power, source of water, ultimate capacity of all power plants in use or proposed to be used, and present installed capacity of constructed plants; also connections, if any, with other power systems (in triplicate). If any of these are of record in any branch of the United States Government at Washington, appropriate reference thereto will suffice.

SEC. 10. Exhibit J.—General map covering the entire project or areas, showing on a single sheet and to an appropriate scale:

- A. Principal structures and other important features.
- B. The entire transmission system with which the project or projects may be connected, indicating prominently by appropriate symbols the portions for which application is made.
- C. State and county lines, towns, streams, and other features which will aid in arriving at a general comprehension of the project.
- D. References to the detail map, indicating by outline the portions shown on each sheet.
- E. If all features can not be shown with sufficient distinctness on one sheet, two general maps may be furnished, one for structures and one for the transmission system. (Furnish one tracing and two prints, or one lithographed map mounted on linen and four mounted with project works appropriately marked thereon. Size, etc., of map see Regulation 2, sec. 4, par. C.)

SEC. 11. Exhibit K.—Detailed map covering entire project or areas. Scale in general not more than 400 feet to the inch, except for such portion as will be used only for transmission or telephone lines, where scale of not more than 1 mile to the inch may be used provided it is accompanied by field notes giving a description of the right of way for the line. Elevations shall be tied to Government bench marks whenever available and shall be referred to mean

level, except that, in the case of projects on navigable waters having a datum accepted for local use by the United States Engineer Department, War Department, such local datum shall be used. If more than one sheet is used, the sheets shall be numbered consecutively, and each shall bear a small diagram showing the entire map indicating the portions shown on each sheet. The map shall conform with respect to each project applied for:

A. The project boundary, which shall be a line to include the area within which it is necessary to acquire land or rights of way for the project. It shall include only such lands as are or will be valuable and serviceable in the development, transmission, or distribution of power in connection with the project. The location of the project boundary may or may not follow established land lines. It shall be subject to approval of the commission, and unless satisfactory reasons are given therefor it shall not be more than 200 feet distant from the prior margins of reservoirs, water conduits, transmission lines, appurtenances, or other project works. The project boundary shall be described in such a way that it can be legally identified, and shall be marked on the ground by existing land lines supplemented by such additional monuments as may be necessary. Such portion of the project area as will be used only for transmission lines, telephone lines, pipe lines, conduits, or canals may be described by lines of any color by specifying the distances of the project boundary therefrom.

B. All project works accurately located, such as:

- (1) Dams.
- (2) *Reservoirs.*—Indicate the flow lines by maximum and minimum water levels and by elevation of spill way crest, and give tables or diagrams of areas and capacities for maximum and minimum water levels and for each contour line.
- (3) *Water conduits.*—Indicate center line; type, i. e., flume, ditch, canal, pipe, etc.; and grade and elevation of bottom at each change of grade.
- (4) Power houses and substations.
- (5) Transmission lines and appurtenances and telephone lines.
- (6) Navigation structures.
- (7) Channel approaches to navigation structures indicating elevations of bottom for distances of not less than 1,000 feet above and below the structures.
- (8) Contour lines with contour interval of not more than 10 feet for the entire project area, except such portions as will be used only for transmission lines or telephone lines or will be included in reservoirs. *Provided*, That a profile of tunnel lines may be substituted for contours along such lines.

D. If on lands covered by official public-land survey (see Regulation 2, sec. 4, par. C (6)), show distances along land-survey lines from the nearest established corner to all intersections with project boundary where such distances do not exceed 1 mile.

E. Reference lines to the initial points of project boundaries of the survey (center lines) of transmission or telephone lines to their intersections with boundaries of reservations. Such reference lines shall show distances and bearings by a line or lines that can at all times be readily retraced from an established corner of public survey, if not more than 2 miles distant, or, if such established corner is not available, a permanent mark on a natural object or a permanent monument which can be readily found and recognized from a description thereof noted on a map or in the field notes.

F. The status as to ownership, and the land lines and area of each parcel of land within the project boundaries, designating separate lands owned by the applicant, lands for which the applicant holds rights of use and occupancy for purposes of the project, reservations (indicating separately each reservation), and public lands (indicating separately lands, full title to which remains in the United States, and lands in which the United States retains only an interest). (One tracing and two blue prints.)

SEC. 12. *Exhibit L.*—General design drawings showing plans, elevations, and sections of all principal structures and appurtenances, works or other features of each project applied for. These drawings shall be in sufficient detail and shall be accompanied by sufficient information relating to controlling factors (such as character of formations and explorations thereof, materials, types of construction, important elevations, and water levels, etc.) to enable the commission to have a full understanding of the project and to check safety, efficiency, and desirability in the development of the resources involved. (One tracing and two blue prints.) This section applies to:

(a) Dams and appurtenances, such as spill ways, fishways, or locks, etc.

(b) Navigation structures and approaches thereto, including locks, lock gates, and operating machinery thereof, etc.

(c) Conduits, including forebays, intake works, surge tanks, and other pressure relief devices, etc.

(d) Power houses and substations.

SEC. 13. *Exhibit M.*—General descriptions and general specifications of mechanical, electrical, and transmission equipment and appurtenances in sufficient detail to enable the commission to have a full understanding of the project or projects and to determine safety and adequacy and suitability for the development and utilization of the resources involved (in triplicate).

SEC. 14. *Exhibit N.*—Estimate of the cost of developing each project, segregated by principal features, showing quantities, unit costs, and in sufficient detail for a full understanding of the elements of the project (in triplicate).

SEC. 15. *Exhibit O.*—Detailed statement of the time desired for completing preliminary construction and for beginning and completing construction of the project works. If the ultimate development is to be completed and put into operation in two or more parts, the time desired for beginning and completing the construction of each part shall be given (in triplicate).

SEC. 16. Such additional documents or data as applicant may deem pertinent to submit.

REGULATION 5.—APPLICATIONS FOR LICENSES—MINOR PROJECTS.

[As amended June 6, 1921.]

Applications for licenses for power projects of not more than 100 horsepower capacity, and for projects which involve transmission lines only, shall be submitted in triplicate on Form 4^a and shall be accompanied by the documents specified below, each of which shall be typed and signed by the applicant in the manner prescribed in Regulation 2^a and designated "Exhibit A," "Exhibit B," etc., respectively, as indicated:

1. *Exhibit A.*—Copy of charter, articles of incorporation, or other organization papers (one copy only). (See Regulation 2, sec. 4.)

2. *Exhibit B.*—Other evidence that applicant is qualified to be associated with the project applied for. Certified copy of list of associates if an association (in triplicate). (See Regulation 2, sec. 4.)

3. *Exhibit C.*—Field notes, or a description by metes and bounds of the entire final location survey of the project boundaries of transmission lines (in triplicate). Field notes need not be filed as a separate exhibit when they are noted on tracings filed with application.

4. *Exhibit D.*—Statement of the applicant's water rights accompanied by evidence that the State water laws have been complied with to the extent necessary to permit the applicant to proceed with all operations contemplated in the application (in triplicate).

5. *Exhibit E.*—Statement of the time desired for beginning and completing the construction of the project (in triplicate).

6. *Exhibit F.*—Map of the project area drawn to any convenient scale and showing: (See Regulation 2, sec. 4, par. C, for details, sheets, etc.)

A. The project boundary, which shall be a line to include the within which it is necessary to acquire land or rights of way for project. The location of the project boundary may or may not low established land lines, should not be more than 200 feet dis from exterior margins of reservoirs, water conduits, transmis lines, and appurtenances, or other project works, and should described in such a way that it can be legally identified. Such tion of the project area as will be used only for transmission li telephone lines, pipe lines, conduits, or canals may be describe lines of survey (center lines), specifying the distances of the pr boundary therefrom.

B. All project works, such as dams, reservoirs, conduits, po houses, transmission lines, etc.

C. If on lands covered by official public-land survey (see Reg tion 2, sec. 4, par. C (6)), show distances along land-survey from the nearest established corner to all intersections with project boundary, where such distances do not exceed 1 mile.

D. Reference lines to the initial points of the survey of dams of the survey (center line) of transmission or telephone lines at intersections of all such surveys with boundaries of reservat Such reference lines shall show distances and bearings from an ublished corner of the public-land survey, if not more than 1 mile tant, or a permanent mark on a natural object or a permanent ment which can be readily found and recognized from a descri thereof noted on the map or in the field notes.

E. Location on the flow line fixed by maximum water level an area and storage capacity of each reservoir.

F. The status as to ownership and the land lines and area of parcel of lands within the project boundaries, designating separ lands owned by the applicant, lands for which the applicant rights of use and occupancy for purposes of the project, reserv (indicating separately each reservation), and public lands (in ing separately lands, full title to which remains in the United S and lands in which the United States retains only an inte (Furnish one tracing and two blue prints. If lands of the U States are involved, furnish two additional blue prints.)

SEC. 7. *Exhibit G* (to be filed with applications for transm lines only).—General description of the transmission line, phase, voltage, etc., and of appurtenant structures and equip such as substations, in sufficient detail to enable the commiss have a full understanding of the project and to determine its adequacy and suitability (in triplicate).

SEC. 8. *Exhibit H* (to be filed with applications for transm lines only).—Estimate of the cost of constructing the transmissi and of appurtenant structures and equipment, segregated by

features, in sufficient detail for a full understanding of the elements of cost of the project (in triplicate).

REGULATION 6.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS ALREADY CONSTRUCTED.

[As amended June 6, 1921.]

All applications for licenses under section 23 of the act (except projects of not more than 100-horsepower capacity), which in project works already constructed, shall be submitted in tripli on Form 4,⁹ and shall be accompanied by the documents specified r, each of which shall be dated and signed by the applicant in manner prescribed in Form 2,⁹ and designed "Exhibit A," "Ex-B," etc., respectively, as indicated.

SECTION 1. *Exhibits A to M, inclusive.*—All documents prescribed regulation 4, Exhibits A to M, inclusive, showing on the maps and therein provided for in some appropriate manner what project is or parts thereof have already been constructed.

SEC. 2. *Exhibits N and O.*—If the application covers project works in addition to those already constructed, submit as "Exhibit N" an estimate of the cost of such additional works segregated by principal items, showing quantities, unit costs, etc., in sufficient detail for understanding of the elements of cost; and submit also as "Ex-O" a detailed statement of the time desired for beginning and completing such additional construction. If the additional construc to be completed and put into operation in two or more parts, time desired for beginning and completing the construction of part shall be given.

SEC. 3. *Exhibit P.*—A statement of the nature and character of the right of way, or other authority claimed to be held by the applicant. This statement shall be accompanied by copies of or appropriate references to the legislative authority, if any, by or under such permit, right of way, or authority was acquired, and if not by an instrument in writing, certified copy of such instrument, in lieu thereof, if such a copy is of record in any department of the United States Government at Washington, a statement to that effect and reference thereto (in triplicate).

SEC. 4. *Exhibit Q.*—A statement setting forth a brief history of project works already constructed, giving time of commencement and completion of construction of the several parts thereof, date of commencement of operation, and method of financing (in triplicate).

SEC. 5. *Exhibit R.*—A statement of the amount claimed by applicant for the fair value of the project or projects already constructed, accompanied by such supporting data as the applicant may desire to submit (in triplicate).

SEC. 6. Such additional documents as applicant may consider pertinent to submit.

REGULATION 7.—DECLARATIONS OF INTENTION.

SECTION 1. Declarations of intention to construct a dam or other project works across, along, over, or in any stream or part thereof other than those defined in the act and in these regulations as navigable waters and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, filed under the provisions of the second paragraph of section 23 of the act, shall be accompanied by:

A. A sketch map of any convenient size and scale showing stream or streams to be utilized and the approximate location of project.

B. A brief description of the project and its purpose, including such data as proposed height of dams, storage capacity of reservoirs, power capacity of the project, and probable effect on present or prospective navigation.

C. A statement as to whether, if the commission finds that project will affect the interests of interstate or foreign commerce, applicant proposes to apply for a permit or for a license.

SEC. 2. On receipt of such declaration, the commission will cause immediate investigation of the project to be made, and if it shall find that the interests of interstate or foreign commerce would be affected by the proposed construction, it will so notify the declarant and will inform him of the time within which application for preliminary permit or license should be made. After such findings by the commission it will be unlawful for the declarant to proceed with construction until he shall have applied for and shall have received a license under the provisions of the act. If the commission shall not so find, and if no public lands or reservations are affected, permission is granted by the act to construct such dam or other project works in such stream upon compliance with State laws.

REGULATION 8.—PRIORITIES AND PREFERENCES.

SECTION 1. Priority of application for a license may be initiated either by the filing of such application under the provisions of Regulations 2 and 4 or 2 and 5, or by the filing of an application for preliminary permit under the provisions of Regulations 2 and 3, and priority will be established either by the issuance of a preliminary permit or, if no preliminary permit has been issued or applied for, by the approval of the application for license. When two or more applications are filed for the same site, the commission will give full consideration to all pertinent matters, including the relative date of filing of application, before taking final action upon such applications.

SEC. 2. Priority established by preliminary permit may be lost if there is failure to fulfill the requirements of the permit; if the permit is canceled by order of the commission upon failure of the permittee to comply with the conditions thereof; or if, in the course of consideration by the commission of an application by the permittee for license, such permittee shall not before the expiration of the term of preliminary permit or such later date as may be fixed by the commission:

File data required by the commission in addition to that contained in or furnished with the application; or

Present satisfactory evidence of ability to carry out the plan set forth in the application; or

Accept the conditions of a proposed license; or

Modify its plans as required by the commission if the project proposed by the applicant as disclosed in the plan set forth in the application is not such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses.

SEC. 3. Priority established by approval of application for license may be lost if the conditions of the proposed license are not accepted within a time fixed by the commission.

SEC. 4. In issuing preliminary permits, or licenses where no preliminary permits have been issued, and in issuing license to new applicants under section 15 of the act, the commission will give preference to applications therefor by States and municipalities, provided their plans of the same are deemed by the commission equally well adapted, or shall within a reasonable time to be fixed by the commission, be made equally well adapted to conserve and utilize in the public interest the navigation and water resources of the region; and, as between other applicants, the commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the navigation and water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans; but such preference will not be deemed to apply to the issuance of license under the provisions of the first paragraph of section 23 of the act.

REGULATION 9.—PERMITS.

SECTION 1. Except as hereinafter provided, preliminary permits may be issued on the application of citizens, associations, corporations, States, or municipalities desirous of obtaining licenses for the construction, maintenance, or operation of dams, water conduits, canals, locks, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of

power across, along, from, or in any of the navigable waters of the United States; or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam.

SEC. 2. Permits will be issued only for the purpose of enabling applicants to maintain their priorities while securing the data required for an application for license and will be for such periods not exceeding a total of three years, as in the judgment of the commission will be necessary for studying the proper location and development of the project; for making examinations, surveys, maps, plans, specifications, and estimates; for conducting stream measurements, sinking test pits or making borings to determine foundations for dams or other structures; for securing a market for the power to be developed; for making financial arrangements; or for any other purpose necessary or desirable in the preparation of application for license.

SEC. 3. Permits will not be issued for projects already constructed for transmission lines alone; for projects of a power capacity greater than 100 horsepower; for projects which, in the judgment of the commission, do not come within the scope of its authority under the act, or should be undertaken by the United States itself, or which propose adequate schemes of development, or would unreasonably interfere with projects under permit, license, or other authority theretofore granted; or for projects for which data sufficient for filing application for license are already available. Permits affecting any reservation will be issued only after a finding by the commission that the proposed use will not interfere or be inconsistent with the purpose for which such reservation was created or acquired. Permits will not be issued until after the expiration of the public hearing period prescribed by the act.

SEC. 4. In acting upon applications for preliminary permits, in determining preferences therefor, the commission may, in its discretion, upon the request of any applicant or upon its own motion, hold hearings, order testimony to be taken by deposition, subpoena witnesses, or require the production of documentary evidence.

SEC. 5. No charges will be made for permits, but permittees will be required, as a condition of maintenance of priority, to perform such work and to make such studies and investigations, and to prepare reports thereon, as in the judgment of the commission may be necessary or desirable to enable both the applicant and the commission to determine the feasibility, and the character and extent of development which is proposed or which should be undertaken, which requirements will be expressed in the permit.

SEC. 6. Upon a satisfactory showing of reasons therefor the commission may authorize permittees to perform such construction

may be necessary to maintain water rights under State law, or as may be desirable in preparation for the construction of project works; but the granting of such authority shall not be deemed to have created any equities or to have established any rights beyond those that would have been created or established had such authority not been given.

SEC. 7. Permits will not be transferable and may be canceled by the commission for failure to comply with the conditions thereof.

SEC. 8. Each preliminary permit shall set forth the conditions under which priority shall be maintained and a license issued, and shall also set forth the essential terms and conditions of such license.

SEC. 9. Each permittee shall keep accurate and dependable record of all expenditures made under the permit, for the purposes indicated in section 2 of this regulation, and, in the event a license is issued for a project covered in whole or in part by a permit, any such record shall be a part of all items properly includible in the actual legitimate cost of the project representing expenditures made under the permit and shall be supported by proper vouchers and other records, the same as would have been required of a licensee if no permit had been issued; and any such vouchers or records, or certified copies thereof, in support of an item properly includible in the cost of the project, shall become a part of the records of the project and shall be kept and retained by the licensee in the manner required by the commission.

REGULATION 10.—LICENSES.

SECTION 1. Except as hereinafter provided, licenses may be issued either in accordance with the provisions of preliminary permits or upon direct application therefor by citizens, associations, corporations, States, or municipalities for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power lines, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam.

SEC. 2. Licenses will be issued for such periods, not exceeding 50 years, as in the judgment of the commission will, in each individual case, allow for the satisfactory development and operation of the project and protect the public interest, and shall remain in full force and effect for such periods, unless surrendered or terminated as provided in these regulations or revoked as provided in the act.

SEC. 3. Licenses will not be issued for projects which, in the judgment of the commission, do not come within the scope of its authority under the act, or should be undertaken by the United States itself, or do not propose adequate schemes of development, or do not show satisfactory showing of financial ability, or would unreasonably interfere with projects under permit, license, or other authority theretofore granted, or would be opposed to the public interest. Licenses affecting the navigable capacity of any navigable water in the United States will be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief Engineer and the Secretary of War. Licenses within any reservation will be issued only after a finding by the commission that the license will not interfere or be inconsistent with the purposes for which such reservation was created or acquired. Licenses will be issued until after the expiration of the publication period prescribed by the act.

SEC. 4. Licenses may be altered only upon mutual agreement between the licensee and the commission. Any such alteration shall be made a part of the license and a substitute for the provision altered, but no such alteration shall operate to alter or amend or in any way whatsoever be a waiver of any other part, condition, or provision of the license.

SEC. 5. Licenses may be surrendered only upon mutual agreement between the licensee and the commission, and upon the fulfillment by the licensee of all obligations under the license, with respect to payment or otherwise, existing at the time of such agreement, and if the project works authorized under the license are constructed, whole or in part, upon such conditions with respect to the disposition of such works as may be determined by the commission.

SEC. 6. Licenses may be terminated by written order of the commission after such reasonable notice, not exceeding 90 days, as the commission may grant, if there is failure to commence actual construction of the project works within the time prescribed in the license, or as extended by the commission. Under similar conditions and upon like notice the authority granted under a license may be terminated with respect to any project works or separable part thereof covered by the license if there is failure to begin construction of such project works or part thereof within the time prescribed in the license or as extended by the commission; but no part of such project works shall be deemed separable for the purposes of this regulation unless so specified in the license.

SEC. 7. Licenses may be revoked only through proceedings in equity instituted in a district court of the United States for a district in which some part of the project is situated, and in the manner provided in the act:

In case construction of the project works covered by the license, or of any specified part thereof, has been begun but not completed within the time prescribed in the license or as extended by the commission; or

In case the terms of the license are violated by the licensee.

REGULATION 11.—GENERAL CONSIDERATIONS AFFECTING APPROVAL.

SECTION 1. Only such projects will be approved by the commission as are in its judgment best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses. In considering these matters the commission will consider:

Whether the maps, plans, and specifications are such—

1. That full, practicable utilization will be made of the water, taking into account all possible opportunities, and the head at the site to be developed.

2. That the structures shall be safe and in accordance with good engineering practice.

3. That all unnecessary energy losses, whether in hydraulic or in mechanical or electrical equipment, will be avoided.

4. Whether in relation to existing or probable future projects in the same or adjacent streams, the fullest practicable utilization of the water, storage possibilities, and head available will be made.

5. Whether the project will be in general accord with the most beneficial utilization of the water for navigation, water power, irrigation, or other beneficial public uses, and for aiding flood control, reclamation, and similar developments.

6. Whether proper provision is made for present or future electric interconnection with other projects or systems in order to take advantage of diversity of stream flow and of power demands.

7. Whether the use to which the power will be devoted is, in general, in accord with the needs of the community and of the public interest.

8. Whether the applicant is financially able to carry out the project.

9. Whether the construction, maintenance, and operation of project works will interfere or be inconsistent with the purpose for which the reservation was created or acquired.

REGULATION 12.—PROJECT WORKS.

[As amended June 6, 1921.]

The following provisions will govern the planning, construction, operation, and maintenance of major projects, but will not apply to

projects of 100-horsepower capacity or less, unless so provided in licenses therefor:

SECTION 1. Special features of construction and installation:

A. If the dam or other project works are to be constructed along, from, or in any of the navigable waters of the United States, the commission may, in so far as it deems the same reasonably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(1) The licensee shall, to the extent necessary to preserve or improve navigation facilities, construct, in whole or in part, at any time as needs of navigation require, without expense to the United States, in connection with such dam, a lock or locks, booms, sluiceways, regulating gates, or other structures for navigation purposes in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of War and made part of such license.

(2) Whenever the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks, regulating gates, or other navigation structures, and that such structures can not, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in subparagraph A preceding, the commission may grant the application with the provision to be expressed in the license that the licensee will install necessary navigation structures if the Government fails to do so within a provision therefor within a time to be fixed in the license.

(3) In case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, whenever the United States shall desire to complete such navigation facilities, the licensee shall convey to the United States free of charge such of its lands and its rights of way and such right of passage through its dams or other structures and permit or exercise control of pools as may be required to complete such navigation facilities, and shall make such provision in the approved design in the construction of the project works in accordance therewith that will permit such passage through the dams or other structures and such control of pools.

(4) Lights and signals shall be installed as and when directed by the Secretary of War.

(5) The licensee shall construct and install such appliances and facilities necessary for furnishing power for the operation of navigation facilities, including lights and signals, whether constructed by the licensee or by the United States.

B. Fishways shall be constructed as may be prescribed by the Secretary of Commerce.

In the case of projects situated either wholly or partially on lands of the United States the licensee shall clear the reservoir site in the manner and to the extent specified in the license, and shall clear and keep clear lands of the United States along water courses and transmission lines. The licensee shall also dispose of all brush, refuse, or unused timber on lands of the United States resulting from the construction and maintenance of the project works to the satisfaction of the commission. In the case of projects on navigable waters, the commission will require such clearing of reservoir site as may be specified by the Chief of Engineers and the Secretary of War and set forth in the license. The commission may in any case require such clearing of lands and such disposition of brush, refuse, or unused timber as it may deem necessary in the public interest or for the protection of life, health, and property, which requirement shall also be specified in the license.

The licensee shall place and maintain suitable structures to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone, and other signal wires and power transmission wires not owned by the licensee. The licensee shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires crossing and obstructing traffic and endangering life on highways, streets, or railroads.

Sec. 2. Maps, plans, and specifications:

A. Modification of any project and of the plans and specifications of the project works before approval may be required by the commission when such modification is necessary in order to secure a comprehensive scheme of improvement and utilization, as contemplated in Regulation 11.

The maps, plans, and specifications, when approved by the commission, shall be made a part of the license, and no license will be issued prior to such approval. Thereafter no substantial change shall be made in said maps, plans, or specifications until such changes shall have been approved by the commission and the license amended accordingly, as required by section 4, paragraph A, of this regulation.

C. No license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War.

D. After the completion of the project works the licensee shall submit a revised set of maps, plans, and specifications in so far as necessary to show variations, in the project works as constructed, from the original maps, plans, and specifications submitted with

the application for license, or from those submitted under the provisions of section 2, paragraph B, of this regulation; shall maintain during the period of the license a complete set of record drawings prepared in conformity with good engineering practice to a convenient size and scale, covering the project works as constructed and shall from time to time, on request of the commission, furnish such copies of such record drawings as may be required for information of the commission.

SEC. 3. Construction:

A. The licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such parts of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The period for the commencement of construction may be extended once, but not longer than two additional years, and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with public interest.

B. The project works shall be constructed in substantial conformity with the maps, plans, and specifications, or changes therein, approved as hereinbefore provided, and made a part of the license. Material changes in or divergence from the approved plans may be made in the course of construction, if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development. Any changes made without the prior approval of the commission or of its authorized representatives which, in the judgment of the commission, have produced or produce such results shall be subject to such alteration as the commission may direct.

SEC. 4. Alterations and additions:

A. A licensee desiring to make alterations in, or additions or improvements to, his project which will affect materially the power capacity, or the efficiency of the project, or which will materially affect navigation or other uses of the water, or which will materially affect the proposed use of the lands or structures of the United States, shall file application therefor, accompanied by such maps, plans, specifications, field notes, and estimates of cost, in the form prescribed in

Regulation 4, as will be necessary to indicate the nature and extent of the change proposed, together with a full statement of the reasons for the proposed change or changes.

Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition shall be made to any dam or other project works of a capacity in excess of 100 horsepower without the prior approval of the commission, and any emergency alteration or addition so made shall hereafter be subject to such modification and change as the commission may direct.

C. The licensee shall within a reasonable period after any such emergency alteration or addition has been made file with the commission in the form prescribed by Regulation 4, plans and specifications showing such changes and the reasons therefor, together with an application for the approval thereof. Such plans and specifications, when approved by the commission, shall become a part of the license.

SEC. 5. Maintenance and operation:

A. The licensee shall 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; shall make all necessary renewals and replacements for such purposes; shall so maintain and operate said works as not to impair navigation; shall assist the authorized representatives of the commission in making inspections of the project works; shall furnish such information and reports as may be required by the commission in connection with such maintenance and operation; and shall comply with such reasonable orders, not inconsistent with any orders issued under the provisions of paragraph B of this section, as the commission may make from time to time with respect to the matters hereinbefore named.

B. Navigation facilities constructed as a part of or in connection with any dam or diversion structure built under the provisions of the act shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be determined from time to time by the Secretary of War.

C. Lights, signals, regulating gates, and other navigation facilities which under the terms of the license are to be maintained and operated by the licensee, shall be maintained in such state of repair that they can be operated promptly and safely in accordance with the rules and regulations established by the Secretary of War, and it shall be the duty of the licensee so to operate them.

D. Unless specifically relieved therefrom by the commission, the licensee shall install and maintain standard meters adequate for the

determination of the amount of electric energy generated by project works, and shall make adequate provision in conformity with the prevailing standards of the United States Geological Survey for the determination of the stage and flow of the stream or streams from which the water is to be diverted for the operation of the project works and of the amount of water held in and drawn from storage works shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the commission; and shall make retention of such records at such time and in such form as may be required by the commission.

E. The licensee shall furnish free of cost to the United States power for the operation of navigation facilities, including lights, signals, constructed in connection with the project works, when such facilities are constructed by the licensee or by the United States (See Regulation 12, sec. 1, par. A (5)).

SEC. 6. Responsibility for damages:

A. Timber upon public lands and reservations of the United States to be used or destroyed in the construction of the project works shall be paid for in accordance with the requirements and estimates of the department concerned.

B. The licensee shall be liable for injury to or destruction of buildings, bridges, roads, trails, lands, or other property of the United States occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or access thereto constructed under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

C. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works, or of the works appurtenant or access thereto, constructed under the license, and in no event shall the United States be liable therefor. When such property consists of crops, buildings, or other improvements upon lands in which the United States has reserved the right of reentry under the provisions of section 24 of the act, the licensee will be required in advance of construction to settle with the owner for such damages or to give good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, such bond to be in the form prescribed by the commission.

REGULATION 13.—LANDS RESERVED OR CLASSIFIED AS POWER SITES.

SECTION 1. All lands of the United States included in any proposed project under the provisions of the act shall, from the date of filing of application therefor (see Regulation 2, sec. 3), be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress.

SEC. 2. Whenever the commission shall determine, on application or otherwise, that the value of any lands of the United States reserved by filing of an application for a permit or license, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, it will file a notice of such determination with the Secretary of the Interior, to whom and that such lands, if not otherwise reserved, may be declared open to location, entry, or selection, as provided by the act. Before making such a determination the commission must be satisfied that such location, selection, or entry will not materially interfere with the cost of the occupancy and use of the lands for the purposes of the act.

SEC. 3. All locations, entries, or selections made upon lands of the United States in pursuance of determinations by the commission, as provided in section 2 hereof, shall be subject to a reservation of the right of the United States or of its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the commission, for the purposes of the act, such right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands under the act may thereupon for the purposes of the act upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, such bond to be in the form prescribed by the commission.

NOTE 1.—The regulations governing applications for determinations by the commission, as provided in section 2 hereof, will be furnished upon request.

NOTE 2.—Notice that application for a permit or license has been made, together with a copy of filing thereof and a description of the lands of the United States affected thereby, will be filed by the commission in the General Land Office, Washington, D. C.

REGULATION 14.—ANNUAL CHARGES.

[As amended June 6, 1921.]

The basis for assessing annual charges to be paid by the licensee to the United States, and the manner of payment thereof, shall be as follows:

SECTION 1. For reimbursing the United States for the cost of administration of the act, charges shall be based upon the power capacity of the project and shall be determined according to the following schedule:

A. With respect to each project of more than 100 horsepower, there shall be a preoperation annual charge at the rate of 2 cents per horsepower of power capacity effective during the period between the issuance of the license and the 1st of January immediately following the date of operation of each part or unit. As each separate part or unit goes into operation, the preoperation rate as to such unit shall cease on the 31st of December immediately following, and an operation rate will be substituted, which, for the first calendar year shall be 5 cents per horsepower of installed capacity; for the second calendar year, 10 cents per horsepower of installed capacity; for the third and each succeeding calendar year, 25 cents per horsepower of installed capacity.

B. When the power capacity of the project has been reached, the operating charge will thereafter be made for additional units installed in excess of power capacity. After the maximum rates hereinabove prescribed have become effective with respect to any license, they shall thereafter continue without change with respect to all licenses unless or until the commission or Congress shall make modifications in such rates of charge.

SEC. 2. For recompensing the United States for the use of public lands and reservations (excepting tribal lands within Indian reservations) and lands adjoining and pertaining to Government reservations, charges shall be based upon the power capacity of the project in accordance with the schedule of section 1 of this regulation, and shall be as follows:

A. The rate shall be 10 cents per horsepower and the charge shall commence on the 1st of January immediately following the date of operation of the project or of the various parts or units thereof.

B. When any of the land within the project area, exclusive of so much of such area as is occupied and used for transmission lines and is not public lands or reservations of the United States, the charge shall be determined in accordance with the above-named schedule and shall be reduced in the proportion that the land not in public lands or reservations of the United States bears to the total amount of

of the project area, exclusive of so much thereof as is occupied and used for transmission lines only.

C. The charge for public lands or reservations of the United States used for transmission lines only shall be at the rate of \$5 per 100 feet or less wide, per annum, with proportional increase for additional width.

SEC. 3. Horsepower of power capacity shall be determined in accordance with sections 1 and 2 preceding from the definition of power capacity given in Regulation 1, section 15, and may be readjusted annually to provide for changes in the average static head or in the water supply, either from storage or otherwise, which increase or decrease the power capacity 100 horsepower or more: *Provided*, That operation charges on account of storage shall be based upon the amount of such storage available for use.

SEC. 4. For recompensing the United States for the use of Government dams or other structures and the lands adjoining and pertaining thereto owned by the United States, the commission will fix a reasonable annual charge for the use thereof; and in no case will a license be issued free of charge for development and utilization of power created by Government dams. The amount charged shall be a fair annual value of the power so created as determined by the commission, and shall not be less than the interest at current rates upon so much of the cost of such structures, or land as would be justified if built or purchased for purposes of power development, together with any expenses incurred by the United States in operating such dams or structures primarily for the benefit of power development. Depreciation charges shall be based upon the rates of depreciation fixed by the commission for similar structures built by licensee or, in the absence of such rates, upon rates fixed by the commission for the same or under consideration. The charge shall begin on the 1st of January immediately succeeding commencement of operation.

SEC. 5. When licenses are issued involving the use of tribal lands and lands within Indian reservations the commission will fix a reasonable annual charge for the use thereof, based upon the commercial value of the land for the most profitable purpose for which it is used, including power development. The charge shall commence when the license is issued.

SEC. 6. The annual charges described in section 4 and 5 of this regulation for the use of Government dams or other structures and lands embraced within Indian reservations, may be readjusted at the end of 20 years after the beginning of operation and at

periods of not less than 10 years thereafter in a manner to be prescribed in each license.

SEC. 7. No exemption shall be made from payment of annual charges for the use of Government dams or of tribal lands within Indian reservations, but licenses will be issued without charge—

A. For the development, transmission, or distribution of power in States or municipalities, to the extent that the power developed under the project is sold to the public without profit, or is used by the State or municipality for State or municipal purposes. As to power so developed which is sold for profit, such of the foregoing provisions for charges shall apply as may be applicable.

B. For all projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation.

C. For the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects aggregating more than 100-horsepower capacity under one license.

SEC. 8. The payment by the licensee of annual charges for each calendar year shall be made to the United States at the end of each year or within thirty days thereafter upon bills rendered or approved by the commission.

REGULATION 15.—BENEFITS FROM HEADWATER IMPROVEMENTS

SECTION 1. Whenever any licensee hereunder is directly benefited by the construction work of another licensee, of a permittee, or of the United States, of a storage reservoir or other headwater improvement, the commission will require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvement for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the commission and the date when such charges are due shall be fixed by the commission.

SEC. 2. Where such benefit is received from the construction work of another licensee or permittee, payments shall be made to the licensee or permittee, annually, for each preceding year and the commission notified of such payment, and whenever such benefit is received from a reservoir or other improvement constructed by the United States, such payments shall be made annually into the Treasury of the United States to be received and appropriated as a part of the special fund for headwater improvements as provided in section 17 of the act.

REGULATION 16.—DEPRECIATION RESERVES.

[As amended June 6, 1921.]

SECTION 1. *General requirements.*—In order that adequate provision may be made for all necessary renewals and replacements of project works and for the maintenance thereof in a condition of adequacy for the purposes of navigation and for their efficient operation in the development and transmission of power, the licensee shall establish and maintain adequate depreciation reserves except as provided in section 6 hereof and in section 3 of Regulation 20 hereof, shall conform to such rules and regulations as the commission may from time to time prescribe for accounting for depreciation, for the classification of property for such purposes, for determining the rate or amount of depreciation to be accounted for on each unit, class, or group of property, and for the establishment and maintenance of depreciation reserve accounts.

SECTION 2. *Depreciation defined.*—By the term "depreciation" is meant losses, either temporary or permanent, suffered through the curtailment or lessening in service value of tangible physical property due to wear and tear from operation and the action of time and the elements which are not replaced by current repairs, as well as those losses in capacity for use or service sustained by physical property from obsolescence or inadequacy due either to age, physical wear, or supercession resulting from new inventions, discoveries, changes in popular demand, or requirements of public authority; also losses in the service value of intangible property and tangible physical property through lapse of time or other causes. Temporary losses in service value of property, which it is practicable to replace through repairs or renewals, may be said to represent deferred maintenance. For the purpose of this regulation the term "deferred maintenance" shall be understood to mean physical depreciation through wear and tear due to use, or to the effects of weather or other physical conditions, which accrues currently at the time project property comes into existence or is placed in service, but which does not materially reduce the operating capacity of the project works and which it is impossible or impracticable to replace by current repairs or renewals.

SECTION 3. *Character of property involved.*—For the purpose of accounting for depreciation as it currently accrues, all property the value of which is properly includible in the fixed capital account of the project or projects shall be classified as between (A) property subject to depreciation and (B) property which is subject to depreciation.

Under property not subject to depreciation shall be included: property owned and held in fee or under perpetual rights.

(2) Perpetual franchises, perpetual water and riparian rights and other perpetual rights and licenses.

(3) Overhead costs of construction, which pertain to the project as a whole and can not be allocated to definite items of property, such as expenditures for organization, engineering and superintendence, law expenditures during construction, injuries and damages during construction, taxes during construction, interest during construction, miscellaneous construction expenditures; also expenditures for uncompleted units of plant or equipment properly included in the fixed capital account as "unfinished construction" or other similar designation.

(4) Any other tangible physical property which from the nature of its construction or its inherent characteristics may be considered as permanent and not subject to depreciation.

B. Under property which is subject to depreciation shall be included:

(1) Rights of way and other land rights having a fixed term of life or other than perpetual.

(2) Franchises, patent rights, water and riparian rights, and other rights and licenses having a fixed term of life or other than perpetual.

(3) All buildings, structures, equipment, facilities, and appliances constituting the tangible physical property of the project or project, except such tangible physical property as from the nature of its construction or its inherent characteristics may be considered as permanent and not subject to depreciation.

SEC. 4. Method of computing and accounting for depreciation rates to be charged.—A. Charges for depreciation, other than deferred maintenance, shall in all cases be based upon the cost of property depreciated, and the rate used shall be such that when applied to the cost of a particular structure, unit of equipment, or class of depreciable property at regular intervals throughout its estimated service life of such structure, unit of equipment, it will produce an amount equal to the cost of such structure, unit, or class of property plus the cost of dismantling, less salvage. For the purposes of this regulation the cost of any project or projects licensed under the provisions of section 23 of the act and constructed prior to issuance of license thereunder shall be deemed to be the fair value of said project or projects determined as provided in said section. Depreciation representing deferred maintenance shall be estimated, based upon the experience and the best sources of information available. Where the loss or exhaustion of capacity for service is dependent upon the use made of certain units or classes of property a rate of depreciation based upon the amount of power generated or other appropriate basis may be employed. If the licensee desires, a composite

depreciation for tangible, physical property described under section 4, paragraph B, subparagraph (3) above, may be ascertained and added to the cost of such property. The procedure in connection with the accounting for depreciation of the project shall be such that at all times the credit balance in the depreciation reserve account shall fairly reflect, as nearly as it is practicable to estimate, the depreciation that has accrued on the project property remaining in service, or the loss in service value or in the capacity for service that has taken place in such property. All losses in the service value of the property, including, in the absence of negligence of the licensee, extraordinary losses, whether or not provided for currently, shall, except as provided in section 6 hereof, be included in operating expenses as a charge against the earnings from operation.

3. The licensee shall within six months after the date of going into service of any project prepare and submit to the commission a statement showing in detail the plan upon which it is proposed to account for depreciation, including the cost of the project, the property, and the cost thereof on which it is proposed to account for depreciation, and the property and the cost thereof which the licensee considers is not subject to depreciation. Such statement shall further show as to each class of property, or structure, unit, or item when depreciated, other than deferred maintenance, its cost, its service life (which the licensee may estimate if not known), the estimated value of salvage (if any) recoverable at the time of retirement, and the amount necessary to be applied to the cost of each such class of property, or structure, unit, or item, to produce a reserve equal to the difference between such cost and the value of salvage (if any) recoverable at the time of retirement. A schedule shall also be submitted showing a list of property, if any, and the cost thereof, on which it is proposed to account for depreciation representing deferred maintenance, the annual amount of such depreciation, the method for determining such amount, and such other details as may be appropriate. Such classification of property and such rates and amounts of depreciation thereon so proposed shall be used by the licensee as a basis for accounting for depreciation, unless and until the commission, after investigation and hearing, shall by order require changes in such classification and in such rates and amounts of depreciation.

5. **Investigations and hearings.**—The commission may, when questions arise regarding the sufficiency of the rates and amounts being accounted for by licensees for depreciation on property or of the adequacy of the depreciation reserves that have been established and are being maintained, institute an investigation or hold a hearing, or both, and require the licensee

to present at such hearing evidence regarding such matter or orders for the purpose of determining whether such rates and amounts are sufficient and whether such reserves are adequate for the purposes of the act. In case, after such investigation or hearing, the commission finds that such rates, amounts, or reserves are not sufficient or adequate for said purposes, and the licensee is not subject to regulation by any State authority as provided in section 6, the licensee shall be subject to and shall comply with any reasonable orders of the commission in relation to such accounting for depreciation and to the creation and maintenance of such depreciation reserves.

SEC. 6. Conflict with requirements of State commissions.—If the licensee is a public service corporation or a person, association, or corporation developing, transmitting, or distributing power for sale or use in public service, and such licensee is subject to the jurisdiction of any public utility commission or other commission or regulatory body of the State or States in which the project is located, as to the rates to be charged by such licensee for public service, the licensee may account for depreciation on the project property in the manner required or authorized by such regulatory authority. In the judgment of the commission, such accounting for depreciation does not show that adequate depreciation reserves have been established and are being maintained as to the project property, the licensee shall be subject to and shall comply with any reasonable order of the commission in relation to such accounting for depreciation and the creation and maintenance of such depreciation reserves. The amount attained by accounting for depreciation as required or authorized by such State regulatory body, or by complying with any such reasonable order of the commission, shall be shown in the statements and reports of the licensee to the commission made in accordance with the provisions of the act and of Regulation 20 hereof and shall, so far as applicable, be binding upon the licensee in the administration of the provisions of the act.

SEC. 7. Review of commission's orders.—In any proceeding to enforce any order of the commission under sections 5 or 6, there shall be subject to review by the court the reasonable basis for the basis of determining as well as the amount of depreciation reserves.

SEC. 8. Disposition of depreciation reserve account—A. Upon transfer of license.—Upon the transfer of any license, whether voluntary transfer, judicial sale, foreclosure, or otherwise, the successor or assign of the rights under such license shall be required to transfer to his or its account the credit balance in the depreciation reserve account; and the use of such account and balance and the accounting in connection therewith shall be continued by such

or assign in the same manner as required of the original licensee as if there had been no transfer.

Upon revocation of license.—In the event a decree revoking a license is entered as a result of proceedings in equity in any court of competent jurisdiction and the whole or any part of the project or projects under license is sold by the court the vendee shall be required, unless the court decrees otherwise, to transfer to his or her account the credit balance in the depreciation reserve account with respect of such part of the project or projects as may be required by such vendee under such sale; and the use of such account and balance and the accounting in connection therewith shall, unless the court decree otherwise, be continued by such vendee in the same manner as required of the original licensee as if there had been no transfer. **Provided,** That such transfer of balance shall not be required in the United States in the event it becomes the purchaser of the whole or any part of the project.

Upon the expiration of the license.—If at the expiration of the original license the United States does not exercise its right to take over, maintain, and operate any project or projects of the licensee, and if at such time a new license is not issued to a new licensee or a new license issued to the original licensee upon such terms and conditions as may be authorized or required under the existing laws and regulations, but an annual license is issued to the then licensee under the terms and conditions of the original license, then and in the latter event the then licensee shall continue to maintain in its accounts the credit balance in the depreciation reserve account; and the use of such account and balance and the accounting in connection therewith shall be continued under the rules and regulations in effect with respect thereto at the time of the expiration of the original license until such time as the United States may take over the project or projects or issue a new license. If a new license other than annual is issued by the commission, the foregoing requirements shall apply, unless such new license shall specifically provide otherwise.

and when the United States exercises its right to take over the project or projects under license or to issue a new license to a licensee any credit balance in the current depreciation reserve account shall be considered in determining the net investment in the project or projects.

Separate accounting between project and nonproject property.—The accounts or records of the licensee shall be kept and maintained in such manner as to show the accounting for depreciation on project property, including the retirements of such property and the balances in depreciation reserve accounts, separate and distinct from the nonproject property.

REGULATION 17.—AMORTIZATION RESERVES.

[As amended June 6, 1921.]

SECTION 1. *General requirements.*—After the first 20 years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual, legitimate investment of a license in any project or projects under license the licensee shall establish and maintain amortization reserves, and such reserves shall, in the discretion of the commission, be held until the termination of the license or be applied from time to time in proportion of the net investment. Such specified rate of return and proportion of such surplus earnings to be paid into and held in reserves shall be set forth in the license.

SEC. 2. *Definition of terms.*—For the purposes of this regulation and of section 10 (d) of the act the terms "actual, legitimate investment," "earnings," "surplus earnings," and "amortization reserves" shall have the following meanings:

A. *Actual, legitimate investment* means the net debit balance of the fixed capital accounts of a project or projects of items properly includible therein under the accounting rules and regulations of the commission.

B. *Earnings* of a project means the excess of credits over debits of the items of operating revenues, operating expenses, income, profit and loss named below, or similar items which may be properly included for in the accounting rules and regulations prescribed by the commission from time to time, whether such earnings result directly from operations or transactions involving the project only or allocated to the project as a result of joint operations or of transactions involving the project and other property operated in connection therewith.

Debit Items.	Credit Items.
Operating expenses (including depreciation). Uncollectible bills. Taxes assignable to operations. Taxes on net income. Reimbursement of others for headwater improvements. Amounts paid or accrued for reimbursing the United States for the cost of administration of the act and for recompensing it for the use, occupancy, and enjoyment of its lands or other property. Rents paid or accrued for property used or useful in operation, including annual or more frequent payments or assessments for land rights, water rights, riparian rights, or other rights or licenses. Delayed income debits. Cancellation of balance sheet accounts, the balances of which were created by credits to operating expenses or income accounts appearing as a credit item herein. Loss on land sold.	Operating revenues. Reimbursement from others for headwater improvements. Rent received or accrued for the occupancy by others of property the cost of which is properly includible in investment or fixed account. Delayed income credits. Cancellation of balance sheet accounts representing unclaimed wages and vacation accounts written off because of the inability to locate the creditor, and like items. Profit on land sold.

If the total of the debit items exceeds the total of the credit items the excess of debits shall be known as *Earnings—Dr.*

If the licensee is not a public-service corporation or a person, partnership, or corporation developing, transmitting, or distributing power for sale or use in public service, but such power is developed, transmitted, distributed, or used for manufacturing, industrial, or nonpublic-service purposes by the licensee or by any subsidiary corporation the stock of which is owned or controlled directly or indirectly by the licensee, the fair value of the power developed by the project under license and so used shall be reported annually by the licensee as operating revenue of such project: *Provided*, That such fair value so reported shall be subject to revision by the commission within one year from the date of filing of each report: *And provided further*, That in any such revision the value so determined by the commission shall not be greater than the value at which an equal amount of power under similar service requirements could be purchased, or may or could be provided, by such licensee or subsidiary corporation from any other source.

Surplus earnings or *surplus* means the earnings in excess of the specified rate of return upon the actual, legitimate investment of the licensee in the project or projects.

Amortization reserves means the amount appropriated and set aside by the licensee out of surplus earnings for the purposes set out in section 10 (d) of the act.

SEC. 3. *Specified rate of return—Method of determining.*—A. The "specified rate of return" upon the actual, legitimate investment of the licensee in any project or projects shall, for the purposes of this regulation, be one and one-half (1½) times the weighted average annual interest rate payable on the par value of the bona fide interest-bearing debt of the licensee actually outstanding, in whole or in part, on account of the project property at the beginning of the period of amortization and of each calendar year thereafter: *Provided*, That, if at the beginning of the period of amortization or any calendar year thereafter, the outstanding interest-bearing debt of the licensee on account of the project or projects under license together with any other works or property operated in connection therewith, is less than 25 per cent of the actual, legitimate investment of the licensee in said project or projects, then and in the event for the calendar year next following the specified rate of return shall be two (2) times the legal rate of interest in the State in which the project, or the greater part thereof, is located. In determining such weighted average annual interest rate there shall be included the interest payable according to the terms of bonds, notes, or other evidences of such debt, discount (or pre-

mium) thereon, and expenses incurred in connection with the and initial sale thereof, such discount (or premium) and expense for such purposes being prorated with respect to any item of debt over the life of the security issued in respect thereof in manner prescribed in the accounting rules and regulations of commission.

C. When an issue of bonds, or other evidence of interest-bearing debt, is actually outstanding on account both of project property and of nonproject property such issue, for the purpose of this regulation, shall, unless otherwise provided in the lien, be prorated between project property and nonproject property in the ratio of the legitimate investment of the licensee therein, respectively, estimated if not actually determinable.

D. The fixing of a specified rate of return for the purposes of this regulation shall not be construed as limiting in any degree whatsoever the authority of the commission, or of any other public agency, in respect to the determination of a fair rate of return in any proceeding or in any proceedings for the determination of the net investment under the provisions of sections 14 and 15 of this act, or in connection with any other matter not directly related to the administration of this regulation.

SEC. 4. Period for accumulating amortization reserves.—For the purpose of this regulation the period for computing earnings and surplus, the appropriating or setting aside of amortization reserves, and all accounting or transactions in connection therewith shall begin twenty (20) years after the date a project is placed in operation under a license issued under the act. This will include projects so licensed whether constructed before or after the date of acceptance of such license. The date of acceptance of a license under section 23 of the act for a project already constructed and in operation will, for the purposes of this regulation, be considered as the date of the beginning of operation of such project, unless otherwise specifically provided in the license.

SEC. 5. Proportion of surplus earnings to be reserved.—Subject to the provisions of section 6 of this regulation, the following proportions of such surplus earnings shall be paid into and held in the amortization reserve: Of all surplus earnings up to and including 2 per cent upon the actual, legitimate investment, 30 per cent thereof shall be so paid; of all surplus earnings in excess of 2 per cent and not in excess of 4 per cent upon such investment, 50 per cent thereof shall be so paid; of all such surplus earnings in excess of 4 per cent and not in excess of 6 per cent, 70 per cent thereof shall be so paid; and of all such surplus earnings in excess of 6 per cent, 90 per cent thereof shall be so paid: *Provided*, That if at the end of any calendar

of the amortization period the commission shall find that the accumulated earnings of the licensee during the period of operation, including the first twenty (20) years thereof, have not yielded a return upon the actual, legitimate investment in the project under license, the proportion of such surplus earnings for such calendar year and for succeeding calendar years to be paid in such amortization reserves shall be ten (10) per cent thereof at such time as the accumulated earnings of the licensee represent, in the judgment of the commission, a fair return upon such investment for such period of operation.

SEC. 6. Accounting procedure.—A. This regulation shall become effective with the beginning of the twenty-first year of operation of a project under license. On or before 60 days after the close of the calendar year in which the twenty-first year's operation commences under a license issued under the act, and likewise for each succeeding calendar year thereafter, the licensee shall ascertain the amount of "Earnings" or "Earnings—Dr." resulting from the year's operation as also the surplus earnings, if any, and shall prepare and submit to the commission for approval a statement thereof, which statement shall show the items used in computing the earnings as well as all the necessary details with respect thereto; and such statement shall also show the actual, legitimate investment of the licensee in the project or projects at the beginning of the period of amortization or at the beginning of each calendar year thereafter.

The actual, legitimate investment at the beginning of the period of amortization or of each calendar year thereafter shall be used as the basis for ascertaining the amount of the specified return. The amounts with respect to earnings, etc., shall be cumulative. If at the close of the year following the beginning of the period of amortization, or any year thereafter, the statement submitted and approved by the commission shows earnings accumulated in excess of the specified rate of return on the actual legitimate investment for such period, such proportion of such excess as is required by section 5 shall be set aside in a fund and accounted for in such manner as may be prescribed in the accounting rules and regulations of the commission: *Provided, however*, That the licensee shall not be required to include in the amortization reserve account or to set aside a total amount greater than the accumulated surplus earnings for such period.

The cash transferred to the amortization fund may be deposited in the name of the licensee, or invested in the securities of the licensee, or such other securities as the commission may approve; and in the discretion of the commission such amortization reserves and funds shall be held until the termination of the license or be applied from time to time to the reduction of the net investment.

C. Interest derived from the amortization fund deposited in or income from investments belonging to such fund shall be credited to the appropriate income account and an equal amount of interest transferred to the fund.

SEC. 7. Disposition of amortization reserve accounts and funds.

A. *Upon the transfer of license.*—Upon the transfer of any license, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, any successor or assign of the rights under such license shall be required to transfer to his or its accounts any credit balance in the amortization reserve accounts as also any debit balance in the amortization fund account, and the use of such accounts and the balances therein and the accounting in connection therewith shall be continued by such successor or assign in the same manner as if there had been no transfer.

B. *Upon revocation of license.*—In the event a decree revoking a license is entered as a result of proceedings in equity in any court of competent jurisdiction and the whole or any part of the project or projects under license is sold by the court, the vendee shall be required to transfer to his or its accounts the credit balance in the amortization reserve account and the debit balance in the amortization fund account with respect of such part of the project or projects as may be acquired by such vendee under such sale, and the use of such accounts and balances and the accounting in connection therewith shall, unless the court decree otherwise, be continued by such vendee in the same manner as if there had been no sale: *Provided*, That such transfer of balances shall not be required of the United States in the event it becomes the purchaser of the whole or any part of the project.

C. *Upon the expiration of the license.*—If at the expiration of an original license the United States does not exercise its right to take over, maintain, and operate any project or projects of the licensee and if at such time a new license is not issued to a new licensee, a new license issued to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, but an annual license is issued to the licensee under the terms and conditions of the original license, and in the latter event the then licensee shall continue in his or her accounts the credit balance in the amortization reserve account, the debit balance in amortization fund account, and the use of such accounts and balances and the accounting in connection therewith shall be continued under the rules and regulations in effect with respect thereto at the time of the expiration of the original license, at such time as the United States may take over the project or projects or issue a new license to a new licensee. If a new license other than an annual is issued by the commission, the foregoing requirements shall apply unless such new license shall specifically provide otherwise.

If and when the United States exercises its right to take over any project or projects under license or to issue a new license, any interest in the amortization reserve account and the amortization fund account shall be considered in determining the net investment in the project or projects, and the original licensee, its successors or assigns, shall be entitled to receive and retain any cash or other property contained in the amortization fund.

REGULATION 18.—EXPROPRIATION OF EXCESSIVE PROFITS.

[As amended June 6, 1921.]

1. Until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as provided in section 10 (e) of the act is reached, the licensee shall pay annually to the United States any and all excessive profits arising from the operation of the project or projects under license.

2. If the commission at any time during the period specified in the preceding paragraph has reason to believe that any licensee may be earning or has earned excessive profits within the meaning of section 10 (e) of the act, it will cause an investigation to be instituted and a hearing to be had, and after such investigation and hearing will issue such order or orders, not inconsistent with the act, as may be appropriate concerning the expropriation of excessive profits, if any, and the payment thereof to the United States. If the licensee is a public-service or other corporation, or a person or association developing, transmitting, or distributing power for sale, or using power in public service, and the regulation and control of the rates charged by such licensee is within the jurisdiction of the commission, such order or orders may require the licensee to make such reduction in the rates charged that excessive profits will not be realized.

3. Where a State has created and has authorized and empowered a commission or other agency or agencies to regulate or control the rates and charges of payment for power developed, transmitted, or distributed within such State by public-service or other corporations, or by persons or associations, for sale or use in public service, it shall be deemed, for the purposes of this regulation, that such State has made provision for preventing excessive profits with respect to such public-service corporations and to such persons and associations.

4. When the licensee is not a public-service corporation or a person or association, or corporation developing, transmitting, or distributing power for sale or use in public service, but such power is used, transmitted, distributed, or used for manufacturing, in-

dustrial, or other nonpublic-service purposes by the licensee or any subsidiary corporation the stock of which is owned or controlled directly or indirectly by the licensee, and there is no actual and bona fide sale of power or no allocation, satisfactory to the commission, of the project or projects of the licensee of the proportion of earnings of the licensee properly assignable to said project or projects, the commission may determine the fair value of the power so used from such value determine the profits of such licensee and whether and to what degree such profits so determined are excessive and require the licensee to pay to the United States any and all such excessive profits: *Provided*, That such value so determined shall not be greater than the price at which an equal amount of power under similar service requirements could be purchased or produced by the licensee or subsidiary corporation from any other source; and *provided further*, That the amounts to be paid to the United States hereunder shall not be greater than the amounts which would be paid into amortization reserves under the provisions of Regulation 19 hereof, were such regulation applicable to the projects and properties named in section 1 hereof.

Sec. 5. Any proceeding involving the matter of excessive profits shall, in so far as practicable, be conducted according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the act to regulate commerce, approved February 4, 1887, as amended, and any licensee or other party to such proceeding shall have the same rights of appeal, defense, and review as said companies in such cases.

REGULATION 19.—ALLOCATION OF EARNINGS.

[As amended June 6, 1921.]

SECTION 1. For use in the administration of certain provisions of the act, and for other purposes, each licensee shall ascertain and report to the commission annually, and at such other times as the commission may require, the earnings of his project or projects, and in computing such earnings the items of operating revenues, operating expenses, income, and profit and loss, as enumerated or provided in the definition of "earnings" in Regulation 17, section 2 hereof, shall be included.

Sec. 2. Where the operation of the project works is combined with the operation of a generating, distributing, or other operating system, or other nonproject property not under license, and it is necessary to allocate all or a portion of the items involved in computing the earnings as between the project and nonproject operations, allocation shall be made on an equitable basis. The applicant, permittee, or licensee may either before the issuance of permit or

subsequent thereto and before the beginning of operation of the project works prepare and submit to the commission in detail a plan or basis for making such allocation and for ascertaining the earnings of the project. If the applicant or permittee so elects, such plan or basis shall be reviewed and a determination with respect thereto made by the commission prior to the issuance of permit or license. If such plan or basis so reviewed and determined involves a valuation of works or properties constructed or acquired prior to the date of issuance of permit or license the value of such works or properties for the purpose of this regulation, be determined in the discretion of the commission either by agreement between the commission and the applicant, or permittee, prior to the date of the issuance of permit or license or by a rule or method set forth in such permit or license. If the applicant, permittee or licensee does not elect to submit such plan or basis so prepared and submitted, reviewed and determined prior to the issuance of license such plan or basis shall be used by the licensee unless and until the commission, upon application of the licensee or upon its own initiative, shall by order change or modify such plan or basis. Any such plan or basis, after approval by the commission, shall remain in effect unless and until, upon application of the licensee or upon its own initiative, and at intervals of less than five years, shall review such plan or basis; and if upon such review and after investigation and hearing, the commission shall find that such plan or basis no longer provides an equitable allocation of earnings it may by order change or modify such plan or basis.

REGULATION 20.—ACCOUNTS AND REPORTS.

[As amended June 6, 1921.]

SECTION 1. Each licensee shall as to each project under license, conform to such rules and regulations as may be prescribed by the commission from time to time for the establishment and maintenance of a system of accounts and for the keeping and preserving of such books, records, and memoranda pertaining to the project and the project accounts as may be required by the commission.

Sec. 2. In order to aid the commission in determining the net value of a licensee in any project, the licensee shall, upon application therefor within a reasonable period of time, to be fixed by the commission, after the construction of the original project or any improvement thereto or betterment thereof, file with the commission, in detail as the commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project,

addition, or betterment, and the price paid for water rights of way, lands, or interest in lands; and the licensee shall give the commission or to its duly authorized agent or agents, at reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, and books, records, and all other papers and documents relating to the project.

Sec. 3. Where a licensee is a municipal corporation subject to regulation by a State commission or is a public service corporation or a person, association, or corporation owning or operating a project and developing, transmitting, or distributing power or use in public service, and the records and accounts of such project are kept and maintained under and in conformity with the existing rules and regulations prescribed by the public utility commission or other commission or regulatory body of the State or State in which the project is located, the licensee will not be required to maintain also the system of accounts provided by section 1, but the system of accounts prescribed by the State regulatory body may be substituted therefor if desired: *Provided*, That no licensee shall be relieved from keeping such permanent records as, in the judgment of the commission, are necessary to enable such licensee to submit to the commission such statements and reports as are required for the purposes of sections 2 and 5 hereof or for the purposes of the act: *And provided further*, That a record kept and maintained by each licensee showing separately in detail all debits and credits to the property investment and capital accounts of each project classified in accordance with the system of accounts provided by section 1 hereof.

Sec. 4. Irrespective of the extent to which a licensee is required to conform to the system of accounts provided by section 1, all reports, annual or otherwise, submitted under the provisions of the act or of these regulations on account of project or the operations thereof shall conform in items included therein to their segregation to the requirements of said system of accounts as if the accounts from which such statements or reports were compiled were kept and maintained according to such system.

Sec. 5. A. Each licensee shall submit at such time or times as the commission may require statements and reports, including financial information as to assets and liabilities, capitalization, net investment, reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacements of the project works, and as to depreciation of the project works and production, transmission, use and sale of power; and shall make adequate provision for currently determining such costs and other

statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the commission may require.

Any licensee which, under the permission granted by section 3, does not keep its accounts in accordance with the system of accounts prescribed by the commission as provided by section 1, but substitutes therefor the system of accounts prescribed by a regulatory body, shall, in addition to other reports which are required under this regulation, file with the commission a copy of all annual reports made to such State regulatory body and each licensee which is a corporation shall file with the commission a copy of all its annual reports made to its stockholders.

The commission reserves to itself the right to investigate and issue any lawful order concerning any item or amount included in the cost of the original project or of any addition thereto or in the cost thereof, whether such cost is incurred by the licensee during the period of the license, or by a permittee or other person or artificial prior to the issuing of a license under the act.

FORM 3.—Application for preliminary permit.

[See Regulations 2 and 3.]

(Act of June 10, 1920, 41 Stat., 1063.)

FORMS.

The following forms are prescribed for applications filed the Federal Water Power Act, approved June 10, 1920, (41 1063), in accordance with the foregoing regulations:

FORM 1.—Official statement of organization of corporation and list of and directors.

[See Regulation 2, sec. 4, par. A (1) (b).]

I, _____ (Name.) _____ (Secretary or president.) do hereby that the organization of said corporation has been completed; and that poration is authorized to proceed with the project applied for according existing laws of the State... of _____ further certify that the following is a true list of the principal officers the directors of the said corporation, with the full name and official designation of each, to wit: (Here insert the full name and official designation principal officer and director.)

Witness my hand and the seal of the corporation this _____ day of _____, 19--

(SEAL.)

FORM 2.—Dating and signature of applicant.

[See Regulations 3, 4, and 5.]

This map (these estimates, this copy of notice, etc.) is a part of plication for preliminary permit (license) made by the undersig

_____ day of _____, 19--

Applications have proved to be so varied in size that it has been found im to furnish printed blanks therefor. Applications should be typewritten, fol forms indicated herein.

corporation } organized and existing under and by virtue of the laws of the
city }
of _____ and having its office and principal
of business at _____, in the State of _____

_____ of the United States, whose business address is _____

_____ being an applicant for a license under the Federal Power Act, do hereby make application to the Federal Power Com-

mission for a preliminary permit for _____ months, for the project herein and approximately shown upon a certain map signed by the _____ on the _____ day of _____

_____ which map is filed herewith and made a part hereof. This application is in order that the applicant may secure and maintain priority for a license under the Federal Water Power Act while procuring the data and performing the acts necessary to perfect an application for such license. The location of the project applied for is as follows:

In the State -- of _____

In the county -- of _____

_____ the following-named stream _____ and carrying commerce to the following extent:

_____ in the region of the following-named cities and towns:

do not used.

3. The proposed scheme of development for the project is as follows:

4. The proposed use of market for the power to be developed is as follows:

5. The location and capacity of all power projects owned or operated by the applicant, the markets supplied thereby, and the relation thereof to the project applied for are briefly described as follows:

6. The following exhibits are filed herewith and are hereby made a part of this application:

(Give each exhibit a designation and brief description, as Exhibit A, copy of articles of incorporation; Exhibit B, official statement of organization and list of officers on Form 1; Exhibit C, statement of amount of data available, etc.)

Exhibit: -----

Exhibit: -----

Exhibit: -----

IN WITNESS WHEREOF the applicant has caused its name and corporate seal to be hereunto signed and affixed by

----- its

thereunto duly authorized, this

of -----, 192---

By -----

Attest: -----

Secretary.

the application is made by an individual or association of individuals, it shall be signed and sworn to before a notary public or other officer having authority to administer the oath, using the following form:)

I, -----, the signature of the applicant, this -----, 192---

the applicant is an individual or an association of individuals proof of which is required. Such proof may be by affidavit in the following form:)

of ----- } ss.
County of -----

-----, being duly sworn, each for himself, that he is a citizen of the United States of America.

described and sworn to before me this -----, 192---

Notary Public.

Form 4.—Application for license.

[See Regulations 2 and 4, or 2 and 5.]

(Act of June 10, 1920, 41 Stat., 1068.)

(1) _____

^a { corporation } organized and existing under and by virtue of the law
 { municipality }

State of _____, and having its office and

place of business at _____, in the

_____ (1) _____

_____ citizen of the United States, whose business address is _____

_____ in pursuance of a preliminary permit issued

applicant on the _____ day of _____, 19____

hereby make application to the Federal Power Commission for a license

a project described herein and shown on general and detail maps

the applicant on the _____ day of _____

which maps are filed herewith and made a part hereof, said license to

the construction, operation, and maintenance of certain project works

principal ones of which are designated as follows on said maps:

(Give the name or other designation and a brief description of the

project works and cancel such of the four following items (a), (b), (c),

(d) as may not be applicable.)

(a. Dams and reservoirs.) _____

(b. _____ water conduits.) _____

(c. _____ power houses.) _____

(d. _____ transmission lines.) _____

^a Cancel words not used.

The location of the project applied for is as follows:

a) In the State of _____

b) In the county of _____

c) On the following-named stream _____

_____ capable and carrying commerce to the following extent:

d) In the region of the following-named cities and towns:

The proposed scheme of development for the project is as follows:

The proposed use or market for the power to be developed is as follows:

The location and capacity of all power projects owned or operated by the

applicant, the markets supplied thereby, and the relation thereof to the project

applied for, are briefly described as follows:

The following exhibits are filed herewith and are hereby made a part of

application:

_____ each exhibit a designation and brief description, as Exhibit A, certi-

_____ of articles of incorporation; Exhibit B, official statement of organi-

_____ and list of officers on Form 1; Exhibit C, statement of nature and amount

_____ (to be ready available, etc.)

_____ Exhibit:

_____ Exhibit:

_____ Exhibit:

WITNESS WHEREOF the applicant has caused its name and corporate seal to

be signed and affixed by _____

_____ thereunto duly authorized, this

_____ day of _____, 192____

By _____

_____ Secretary.

THE FEDERAL WATER POWER ACT.

(Approved, June 10, 1920; vol. 41, Statutes at Large, p. 1063.)
(Public—No. 280—66th Cong. H. R. 8184.)

TO create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto, and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes.

Enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission be created and established, to be known as the Federal Power Commission (hereinafter referred to as the commission), which shall be composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. Two members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal, which shall be judicially noticed. The President shall designate the chairman of the commission.

That the commission shall appoint an executive secretary, who shall receive a salary of \$5,000 a year, and prescribe his duties, and the commission may request the President of the United States to detail an officer from the United States Engineer Corps to serve the commission as engineer officer, his duties to be prescribed by the commission.

The work of the commission shall be performed by and through the Departments of War, Interior, and Agriculture and their engineering, technical, clerical, and other personnel except as may be otherwise provided by law.

The expenses of the commission, including rent in the District of Columbia, all necessary expenses for transportation and subsistence, including, in the discretion of the commission, a per diem of not exceeding \$4 in lieu of subsistence incurred by its employees and officers in making any investigation, or conducting field work, on official business outside of the District of Columbia and from their designated points of duty, shall be allowed and paid on the presentation of itemized vouchers therefor approved by a proper officer of the commission duly authorized for that purpose, and in order to defray the expenses made necessary by the provisions of this Act there is hereby authorized to be appropriated such sum as Congress may hereafter determine, and the sum of \$1,000,000 hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available until expended, to be paid out

upon warrants drawn on the Secretary of the Treasury upon the commission.

Sec. 3. That the words defined in this section shall have the following meanings for the purposes of this Act, to wit:

"Public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public-land laws. It shall not include "reservations," hereinafter defined.

"Reservations" means national monuments, national parks, national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public-land laws, and lands and interests in lands acquired and held for any public purpose.

"Corporation" means a corporation organized under the laws of any State or of the United States empowered to develop, transmit, distribute, sell, lease, or utilize power in addition to such other purposes as it may possess, and authorized to transact in the State or States in which its project is located all business necessary to effect the purposes of a license under this Act. It shall not include "municipalities" as hereinafter defined.

"State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

"Municipality" means a city, county, irrigation district, district, or other political subdivision or agency of a State authorized under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

"Navigable waters" means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States and which either in their natural or improved condition, notwithstanding interruptions between the navigable parts of such streams by falls, shallows, or rapids compelling land carriage, or otherwise unsuitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interruptions as shall have been authorized by Congress for improvement of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority.

"Municipal purposes" means and includes all purposes within the municipal powers as defined by the constitution or laws of the State by the charter of the municipality.

"Government dam" means a dam or other work, constructed and owned by the United States for Government purposes, without contribution from others.

"Project" means complete unit of improvement or development, including of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with the unit or any part thereof, and all water rights, rights of way, easements, dams, reservoirs, lands, or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

"Project works" means the physical structures of a project.

"Net investment" in a project means the actual legitimate original investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission," plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, so far as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained by donations by State, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall in so far as applicable be published and promulgated as a part of the rules and regulations of the commission.

4. That the commission is hereby authorized and empowered—
To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water power industry and its relation to other industries and to interstate or foreign commerce, and concerning the local capacity, development costs, and relation to markets of power, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and to determine a fair value of such power, to the extent the commission may deem necessary or useful for the purposes of this Act.

Order to aid the commission in determining the net investment in any project, the licensee shall, upon oath, within a reasonable period of time, to be fixed by the commission, after the

construction of the original project or any addition thereto or betterment thereof, file with the commission, in such detail as the commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition, or betterment, and the price paid for water rights, rights of way, lands, or interests in lands. The commission shall deposit one of said statements in the Secretary of the Treasury. The licensee shall grant to the commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

(b) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the commission, to furnish such records, papers, and information from their possession as may be requested by the commission, and to borrow temporarily to detail to the commission such officers or experts as may be necessary in such investigations.

(c) To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The commission, on or before the first Monday in December of each year, shall submit to Congress for the fiscal year preceding, a classified report showing the permits and licenses issued under this Act, and in each case the parties thereto, the terms prescribed, and the moneys received, if any, on account thereof.

(d) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of power across, along, from or in the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water power from any Government dam, except as herein provided. *Provided*, That licenses shall be issued within any reservation after a finding by the commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose super-

reservation falls shall deem necessary for the adequate protection and utilization of such reservation: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the commission, desirable and expedient in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate foreign commerce, a finding to that effect shall be made by the commission and shall become a part of the records of the commission.

Provided further, That in case the commission shall find that a Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to the commission the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to the passage of this Act: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (e) of this section, notice shall be given and published as required by the proviso of said subsection.

(e) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the surveys required by section 9 hereof: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, partnership, or corporation the commission, before granting such application, shall at once give notice of such application in writing to the State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application in eight weeks in a daily or weekly newspaper published in the State or counties in which the project or any part thereof or the lands affected thereby are situated.

To prescribe rules and regulations for the establishment of a system of accounts and for the maintenance thereof by licensees; to examine all books and accounts of such licensees at any time; to require them to submit at such time or times as the commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment and reserve thereof, gross receipts, interest due and paid, depreciation, depreciation reserves, cost of project, cost of maintenance and operation of project, cost of renewals and replacements of the project works, and to depreciation of the project works and as to production, transmission, use and sale of power; also to require any licensee to make adequate provision for currently determining said costs and

other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the commission may require. Any person who, for the purpose of deceiving, makes or causes to be made any false entry in the books or the accounts of such licensee, and any person who, for the purpose of deceiving, makes or causes to be made any false statement or report in response to a request or order or direction from the commission for the statements and report herein referred to shall, upon conviction, be fined not more than \$2,000 or imprisoned not more than five years, or both.

(g) To hold hearings and to order testimony to be taken by deposition at any designated place in connection with the application for any permit or license, or the regulation of rates, service, or securities, or the making of any investigation, as provided in this Act; and to require by subpoena, signed by any member of the commission, the attendance and testimony of witnesses and the production of documentary evidence from any place in the United States, and in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any member, expert, or examiner of the commission may, when duly designated by the commission for such purposes, administer oaths and affirmations, examine witnesses and receive evidence. Depositions may be taken before any person designated by the commission or by its executive secretary and empowered to administer oaths, shall be reduced to writing by such person or under his direction, and subscribed by the deponent. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(h) To perform any and all acts, to make such rules and regulations, and to issue such orders not inconsistent with this Act as may be necessary and proper for the purpose of carrying out the provisions of this Act.

Sec. 5. That each preliminary permit issued under this Act shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of three years, as in the discretion of the commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained and a license issued. Such permits shall not be transferable, and may be canceled by order

of the commission upon failure of permittees to comply with the conditions thereof.

Sec. 6. That licenses under this Act shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this Act and such further conditions, if any, as the commission shall prescribe in conformity with this Act, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the commission after ninety days' public notice.

Sec. 7. That in issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 15 hereof the commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the commission equally well adapted, or shall within a reasonable time to be fixed by the commission be made equally well adapted, to conserve and utilize in the public interest the navigation and water resources of the region; and as between other applicants, the commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the navigation and water resources of the region, if it is satisfied as to the ability of the applicant to carry out such plans.

That whenever, in the judgment of the commission, the development of any project should be undertaken by the United States itself, the commission shall not approve any application for such project by any citizen, association, corporation, State, or municipality, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the project as it may deem necessary, and shall submit its findings to Congress with such recommendations as it may deem appropriate concerning the construction of such project or completion of any project upon any Government dam by the United States.

The commission is hereby authorized and directed to investigate and, on or before the 1st day of January, 1921, report to Congress the cost and, in detail, the economic value of the power plant outlined in project numbered 8, House Document numbered 1400, Sixty-second Congress, third session, in view of existing conditions, utilizing such study as may heretofore have been made by any department of the Government; also in connection with such project to submit plans and estimates of cost necessary to secure an increased and adequate water supply for the District of Columbia. For this purpose the

sum of \$25,000, or so much thereof as may be necessary, is hereby appropriated.

Sec. 8. That no voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such license, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this Act to the same extent as though such successor or assign were the original licensee hereunder. *Provided*, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfer within the meaning of this section.

Sec. 9. That each applicant for a license hereunder shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(b) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of a license under this Act.

(c) Such additional information as the commission may require.

Sec. 10. That all licenses issued under this Act shall be on the following conditions:

(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses; and if necessary in order to secure such scheme the commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(b) That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made on any dam or other project works constructed hereunder of a capacity in excess of one hundred horsepower without the prior approval

the commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the commission may direct.

(c) That the licensee shall 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, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license; and in no event shall the United States be liable therefor.

(d) That after the first twenty years of operation out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual, legitimate investment of a licensee in any project or projects under license the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the commission, be held until the termination of the license and be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

(e) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the commission for the purpose of reimbursing the United States for the costs of the administration of this Act; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective rates shall make provision for preventing excessive profits or for expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the commission shall seek to avoid increasing the price to the consumers of power by such charges, and charges for the expropriation of excessive profits may be adjusted from time to time by the commission as conditions may require: *Provided*, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the commission shall fix a reasonable annual charge for use thereof, and such charges may be readjusted at the end of twenty years after the beginning of operations and at periods of not

less than ten years thereafter in a manner to be described in each license: *Provided*, That licenses for the development, transmission or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation licenses therefor shall be issued without charge; and that licenses for the development, transmission or distribution of power for domestic, mining, or other beneficial use in projects of not more than one hundred horsepower capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the commission.

(f) That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the commission.

Whenever such reservoir or other improvement is constructed in the United States the commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 17 hereof.

(g) Such other conditions not inconsistent with the provisions of this Act as the commission may require.

(h) That combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

(i) In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower capacity, the commission may in its discretion waive such conditions, provisions, and requirements of this Act, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions hereof shall not apply to lands within Indian reservations

Sec. 11. That if the dam or other project works are to be constructed across, along, or in any of the navigable waters of the United States, the commission may, in so far as it deems the same reasonably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(a) That such licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of War and made part of such license.

(b) That in case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then whenever the United States shall desire to complete such navigation facilities the licensee shall convey to the United States, free of cost, such of its land and its rights of way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete such navigation facilities.

(c) That such licensee shall furnish free of cost to the United States power for the operation of such navigation facilities, whether constructed by the licensee or by the United States.

Sec. 12. That whenever application is filed for a project hereunder involving navigable waters of the United States, and the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks or other navigation structures, and that such structures can not, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in section 11, subsection (a) hereof, the commission may grant the application with the provision to be expressed in the license that the licensee will install the necessary navigation structures if the government fails to make provision therefor within a time to be fixed in the license and cause a report upon such project to be prepared, with estimates of cost of the power development and of the navigation structures, and shall submit such report to Congress with such recommendations as it deems appropriate concerning the participation of the United States in the cost of construction of such navigation structures.

Sec. 13. That the licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation

such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the commencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission. In case the construction of the project works, or of any specified part thereof, have been begun but not completed within the time prescribed in the license, or as extended by the commission, then the Attorney General upon the request of the commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 26 hereof.

SEC. 14. That upon not less than two years' notice in writing from the commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 3 hereof and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be caused by the severance therefrom of property taken; and shall assume all contracts entered into by the licensee with the approval of the commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by agreement between the commission and the licensee, and in case they can not agree, by proceedings in equity instituted by the United States in the district court

the United States in the district within which any such property may be located: *Provided*, That such net investment shall not include or be affected by the value of any lands, rights of way, or other property of the United States licensed by the commission under this Act, by the license, or by good will, going value, or prospective revenues: *Provided further*, That the values allowed for water rights, rights of way, lands, or interest in lands shall not be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this Act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved.

SEC. 15. That if the United States does not, at the expiration of the original license, exercise its right to take over, maintain, and operate any project or projects of the licensee, as provided in section 4 hereof, the commission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee, which license may cover any project or projects covered by the original license, and shall be issued on the condition that the new licensee shall, before taking possession of such project or projects, pay such amount, and assume such contracts as the United States is required to do, in the manner specified in section 14 hereof: *Provided*, That in the event the United States does not exercise the right to take over or does not issue a license to a new licensee, or issue a new license to the original licensee, upon reasonable terms, when the commission shall issue from year to year an annual license to the then licensee under the terms and conditions of the original license until the property is taken over or a new license is issued as aforesaid.

SEC. 16. That when in the opinion of the President of the United States, evidenced by a written order addressed to the holder of any license hereunder, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project, or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission

upon the basis of a reasonable profit in time of peace, and the cost of restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee.

SEC. 17. That all proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder shall be paid into the Treasury of the United States, subject to the following distribution: Twelve and one-half per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to "Miscellaneous receipts"; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands, national monuments, national forests, and national parks shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests, national parks, public lands, and national monuments, from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwaters or other improvements of navigable waters of the United States.

SEC. 18. That the operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of War. Such rules and regulations may include the maintenance and operation by such licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 25 hereof.

SEC. 19. That as a condition of the license, every licensee hereunder which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing

transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee hereunder or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customers engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

SEC. 20. That when said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidiary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and distribution or use in public service, shall be reasonable, nondiscriminatory, and just to the customer, and all unreasonable discriminatory and unjust rates or services are hereby prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative, to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce, and to regulate the issuance of securities by the parties included within this section,

and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the Act to regulate commerce, approved February 4, 1887, as amended, and that the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 14 hereof for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this Act.

Sec. 21. That when any licensee can not acquire by contract or pledges an unimproved dam site or the right to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works appurtenant or accessory thereto; in conjunction with an improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000.

Sec. 22. That whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public

service commission, then upon the approval of the commission; and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts.

Sec. 23. That the provisions of this Act shall not be construed as affecting any permit or valid existing right of way heretofore granted, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality, holding or possessing such permit, right of way, or authority may apply for a license hereunder, and upon such application the commission may issue to any such applicant a license in accordance with the provisions of this Act, and in such case the provisions of this Act shall apply to such applicant as a licensee hereunder: *Provided*, That when application is made for a license under this section for a project or projects already constructed, the fair value of said project or projects, determined as provided in this section, shall for the purposes of this Act and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such termination, if license has not been issued. Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they cannot agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value.

That any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, may in their discretion file a declaration of such intention with the commission, whereupon the commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not proceed with such construction until they shall have applied for and shall have received a license under the provisions of this Act. If the commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

Sec. 24. That any lands of the United States included in any proposed project under the provisions of this Act shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the commission, for the purposes of this Act, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Act, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites or in connection with water-power development or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained.

Sec. 25. That any licensee, or any person, who shall willfully fail or who shall refuse to comply with any of the provisions of this Act, or with any of the conditions made a part of any license issued hereunder, or with any subpoena of the commission, or with any regulation or lawful order of the commission, or of the Secretary of War, or of the Secretary of Commerce as to fishways issued or made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall in the discretion of the court, be punished by a fine of not exceeding \$1,000, in addition to other penalties herein prescribed or provided by law; and every month any such licensee or any such person

shall remain in default after written notice from the commission, or from the Secretary of War, or from the Secretary of Commerce, shall be deemed a new and separate offense punishable as aforesaid.

Sec. 26. That the Attorney General may, on request of the commission or of the Secretary of War, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder. The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders, and decrees to compel compliance with the lawful orders and regulations of the commission and of the Secretary of War, and to compel the performance of any condition imposed under the provisions of this Act. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises; and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 14 hereof at the termination of the license.

Sec. 27. That nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein.

Sec. 28. That the right to alter, amend, or repeal this Act is hereby expressly reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this Act, or the rights of any licensee thereunder.

Sec. 29. That all Acts or parts of Acts inconsistent with this Act are hereby repealed; *Provided*, That nothing herein contained shall be held or construed to modify or repeal any of the provisions of the Act of Congress approved December 19, 1913, granting certain rights of way to the city and county of San Francisco, in the State of Cali-

ifornia: *Provided, further*, That section 18 of an Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, approved August 8, 1917, is hereby repealed.

Sec. 30. That the short title of this Act shall be "The Federal Water Power Act."

Approved, June 10, 1920.

AMENDMENT TO THE FEDERAL WATER POWER ACT.

(41 Stat., 1853.)

AN ACT To amend an Act entitled "An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," approved June 10, 1920.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power, within the limits as now constituted of any national park or national monument shall be granted or made without specific authority of Congress, and so much of the Act of Congress approved June 10, 1920, entitled "An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," approved June 10, 1920, as authorizes licensing such uses of existing national parks and national monuments by the Federal Power Commission is hereby repealed.

Approved March 8, 1921.

ORDERS.

ORDERS, No. 1.

By authority of section 2 of the Federal Water Power Act approved June 10, 1920 (Public 280), it is ordered that the Executive Secretary of the Federal Power Commission shall be authorized to draw upon the Secretary of the Treasury all warrants for expenditures out of appropriations heretofore or hereafter made for the use of said Commission.

Done at Washington, D. C., this 31st day of July, 1920.

NEWTON D. BAKER, *Chairman*.

Attest:

O. C. MERRILL,

Executive Secretary.

ORDERS, No. 2.

By authority of section 2 of the Federal Water Power Act, approved June 10, 1920 (Public 280, 66th Congress), and pursuant to the action of the Federal Power Commission at its meeting of July 28, 1920, it is hereby ordered that the duties of the Executive Secretary of the Federal Power Commission, to be performed under the general direction of the Commission, shall be as follows:

1. To administer the Act as executive officer of the Commission and to see that the rules and regulations of the Commission are carried out.
2. To supervise under the Act and regulations all personnel that may be employed by or detailed or assigned to the Commission, and to prescribe their duties within the limits of the Act and regulations.
3. To have general administrative charge of the conduct, preparation, and publication of all investigations, valuations, hearings, and reports authorized or required by the Act, unless otherwise provided by the Commission.
4. To approve vouchers for expenditures incurred on account of salaries and other expenses payable under the provisions of the Act.
5. To administer oaths and affirmations, examine witnesses, and receive evidence as authorized by section 4 (g) of said Act.
6. To formulate, authenticate, and record the findings of the Commission provided for in sections 4 (d), 7, 21, and 23 of the Act, or other sections of the Act, unless otherwise provided by the Commission.
7. To attest all orders, decisions, or regulations of the Commission and to certify under seal copies of such orders, decisions, or regula-

tions, or of any finding, report, map, plan, or other record of the Commission, whenever required for any lawful purpose.

8. To execute and issue permits and licenses under the seal of the Commission.

9. To approve under the seal of the Commission voluntary transfers of licenses, or of the rights thereunto granted.

10. To cancel or terminate permits or licenses under the conditions prescribed in section 5 and in section 18 of the Act, respectively.

Done at the city of Washington, District of Columbia, this 23d day of August, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

ORDERS, No. 3.

By authority of section 2 of the Federal Water Power Act, approved June 10, 1920 (Public 280, 66th Congress), and pursuant to the action of the Federal Power Commission at its meeting of July 28, 1920, it is hereby ordered that the duties of the Engineer Officer of the Federal Power Commission, to be performed under the general direction of the Executive Secretary, shall be to act as Chief Engineer of the Commission, and to have general charge of its engineering activities.

Done at the city of Washington, District of Columbia, this 23d day of August, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

ORDERS, No. 4.

By authority of section 7 of the Federal Water Power Act, approved June 10, 1920 (Public 280), and pursuant to the direction of the Commission, it is hereby ordered that the instructions to the Chief of Engineers, issued in compliance with the request of the Commission at its meeting of July 1, 1920, to undertake the investigations and other work of the Great Falls Project, required by said section 7, be and the same are hereby confirmed.

Done at the city of Washington, District of Columbia, this 23d day of August, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

ORDERS, No. 5.

By authority of section 2 of the Federal Water Power Act, approved June 10, 1920 (Public 280, 66th Congress), and pursuant to the action of the Federal Power Commission at its meeting of September 3, 1920, it is hereby ordered that the duties of the Executive Secretary of the Commission shall include, in addition to those prescribed in Orders No. 2, dated August 23, 1920, the following, namely: To authorize all advertising in newspapers required by section 4 (d) and section 4 (e) of the Act, and such other advertising as may be required in the administration of the Act.

Done at the city of Washington, District of Columbia, this 3d day of September, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

ORDERS, No. 6.

By authority of paragraph (h) of section 4 of the Federal Water Power Act, approved June 10, 1920 (Public 280, 66th Congress), and in pursuance of the action of the Federal Power Commission at its meeting of September 3, 1920, it is hereby ordered that the following rules and regulations effective on and after the date of execution hereof, being Regulations 1 to 10, inclusive, shall govern in the matter covered thereby in the administration of said Act.

Done at the city of Washington, District of Columbia, this 3d day of September, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

NOTE.—Orders, No. 6 was superseded by Orders, No. 9 of February 23, 1921, which latter prescribed Regulations 1 to 20, inclusive. By Orders, No. 11 of June 6, 1921 (see page 87 hereof), certain of the regulations were amended, and in their amended form are shown herein on pages 6 to 49, inclusive.

ORDERS, No 7.

By authority of paragraph 3 of section 2 of the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), and in pursuance of the action of the Federal Power Commission at its meeting of

November 8, 1920, it is hereby ordered that the following travel regulations shall be effective on and after the date of execution hereof.

Done at the city of Washington, District of Columbia, this 8th day of November, 1920.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

NOTE.—The travel regulations referred to in Orders, No. 7 have been printed in pamphlet form. As they are of interest chiefly to employees of the commission, they have not been included in this publication.

ORDERS, No. 8.

Approval having been given by the Commission on December 27, 1920, to the opinion by its Chief Counsel that, as to records not privileged, there is—

no reason why authenticated or unauthenticated copies thereof may not be furnished, and that the Commission may authorize charges for such service and prescribe a schedule for such charges; and that as to records confidential in their nature copies thereof should not be furnished,

the following instructions will govern the matter of furnishing copies of official records of the Commission, and the matter of inspecting such records:

1. Fees will be charged for all written copies at the rate of fifteen cents for each hundred words therein (if printed stock forms are used charge will be made for the written or typewritten portions only); and for copies made by photographic, photolithographic, blue print, or other process, the actual or estimated expense of reproduction will be charged: *Provided*, That there shall be no charge for the making or verification of copies required for official use by the officers of any branch of the Government: *Provided further*, That a charge of twenty-five cents shall be made for furnishing authenticated copies of any rules, regulations, or other matter printed by the Commission for gratuitous distribution.

2. In event it should appear that the making of any such copies will unduly interfere with the work of the Commission or deplete its appropriations, the Executive Secretary may deny any application, whenever such denial will not be prejudicial to the interests of the Government; or he may authorize copies to be made at other than expense of the Commission under such arrangement as he may approve.

3. Any person desiring a copy of any record in the Commission must make written application therefor (except in cases coming within the provisos in paragraph 1), stating specifically (a) the particular record of which copy is desired, (b) the kind of copy de-

sired, whether written, photographic, or other, and whether authenticated or unauthenticated, and (c) the purpose for which such copy is desired to be used; and shall deposit the approximate amount of the charge for the copy, which deposit will be returned should the application be denied. Should the amount deposited be found to be insufficient to pay the charge, the desired copy will not be delivered until the deficiency is paid. Any excess deposited will be returned to the applicant when the copy is delivered.

4. The question of whether the furnishing of any desired copy of any record of the Commission is prejudicial to the interests of the Government, whether the particular record is confidential in its nature, and whether the particular interest of the applicant is such as will warrant permission being given to inspect such record, and what is a proper purpose in making inspection, will be determined primarily and promptly by the chief of division to whose work the record pertains, who may, if in doubt, submit the question to the Executive Secretary for decision; or the chief of division may deny the application, in which event the applicant may himself submit the question to the Executive Secretary for decision.

Done at the city of Washington, District of Columbia, this fourteenth day of February, 1921.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

ORDERS, No. 9.

By authority of paragraph (h) of section 4 of the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), and in pursuance of the action of the Federal Power Commission at its meeting of February 28, 1921, it is hereby ordered that the following rules and regulations, effective on and after the date of execution hereof, being Regulations 1 to 20, inclusive, shall govern in the matters covered thereby, in the administration of said act; and that this order shall supersede Orders, No. 6, of September 3, 1920.

Done at the city of Washington, District of Columbia, this 28th day of February, 1921.

NEWTON D. BAKER, *Chairman.*

Attest:

O. C. MERRILL,
Executive Secretary.

NOTE.—Certain of the Regulations 1 to 20, inclusive, prescribed by Orders, No. 11 of June 6, 1921 (see page 87 hereof), and in their amended form are shown herein on pages 6 to 49, inclusive.

ORDERS, No. 10.

By authority of paragraph one of section 2 and paragraph (A) of section 4 of the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), and in pursuance of the action of the Federal Power Commission at its meeting of May 20, 1921, it is hereby ordered that the following general procedure, whenever practicable be observed in the administration of said Act, and that the Executive Secretary be authorized and directed to take such steps as may be necessary to place such procedure into effect.

Done at the city of Washington, District of Columbia, this 2d day of June, 1921.

JOHN W. WEEKS, *Chairman.*

Attest:

O. C. MERRILL,

Executive Secretary.

GENERAL PROCEDURE FOR ADMINISTRATION OF THE FEDERAL WATER POWER ACT.

I. ACTION BY THE COMMISSION.

("Commission" in the following paragraphs means the Commission itself distinguished from its executive staff.)

1. The Commission to hold regular meetings at stated intervals, at which time action to be taken on matters initiated by members of the Commission or formulated and presented by the Executive Secretary. Such matters include the following:

- (a) Findings with respect to effect of power projects upon navigable water or reservations.
- (b) Authorization for issuance of permits and licenses, and restoration of entry of lands in power-site reserves.
- (c) Legal opinions.
- (d) Matters of policy or of general administration.
- (e) Appeals.
- (f) Formal orders.
- (g) Regulations.
- (h) Legislation.

2. Special meetings to be held upon call of the chairman when in his judgment necessary in order to avoid delay on pending matters or in case of hearings before the Commission.

II. ACTION BY EXECUTIVE SECRETARY—GENERAL.

("Executive Secretary" in the following paragraphs includes also the individuals detailed or assigned to the Commission and working under the supervision of the Executive Secretary.)

3. To formulate and present to the Commission for its action matters within the scope of paragraph "1" preceding. Matters arising under divisions "d," "e," and "g" of said paragraph, and in other cases on request of a member of the Commission, to be submitted in written form to the individual

members of the Commission prior to the date of the meeting upon which presented for action.

4. To keep minutes of all meetings of the Commission, to record therein the substance of all action taken, and to furnish the individual members of the Commission with copies of such minutes.

III. PERMITS, LICENSES, AND DECLARATIONS OF INTENTION—GENERAL.

(A) ACTION BY THE DEPARTMENTS.

(a) FIELD OFFICES.

5. To receive applications, to examine them for conformity with regulations, to secure additions and corrections when necessary, and when complete to submit copy with statement of date of filing directly to the Executive Secretary.

6. When applications are sufficiently complete, to give the public notice, to prepare and arrange for advertising, as required by section 4, subsections (d) and (e) of the Act, and to submit the bill therefor and a certificate of completion of advertisement directly to the Executive Secretary.

7. To make field examination of projects, to prepare reports thereon, including such conditions as may be necessary for the protection of navigation or for the adequate protection and utilization of any reservation involved, and to submit the same to the Executive Secretary through the appropriate Washington office of the Department concerned.

8. Where there are conflicting applications for the same site, or objections have been made to the application, or information is needed which can not be secured through individual investigation, and a public hearing is therefore necessary or desirable, to hold such hearing in the field wherever practicable and to submit with and in the same manner as the report on the project a record of such hearing, consisting either of stenographic transcript or notes, together with any exhibits filed.

9. To give sufficient supervision to construction, operation, and maintenance of project works to determine whether there is substantial compliance with requirements of license in respect thereto.

(b) WASHINGTON OFFICE.

10. The appropriate Washington office of the several departments to submit to the Executive Secretary, with any additional material or recommendation desired, the reports and records of hearings specified in paragraphs 7 and 8 preceding.

11. When projects involve dams or other structures affecting navigation the Chief of Engineers to approve the same and secure the approval of the Secretary of War, as required by section 4(d) of the Act before license is issued.

(B) ACTION BY EXECUTIVE SECRETARY.

12. Applications filed directly with the Executive Secretary to be examined to determine whether they conform with the regulations and then to be transmitted to the appropriate department with a statement of the respect, if any, which is incomplete, for submission by such department to its field offices for further action in accordance with paragraphs 5-8 preceding.

13. All applications, whether filed directly with the Executive Secretary or transmitted to him from the field, to be assigned a serial number and appropriate notification made.

14. In all applications involving public lands the Commissioner of the General Land Office to be notified of the areas affected in order that withdrawal may be made under the provisions of section 24 of the Act and that records thereof may be filed with the appropriate land office.

15. Hearings to be held by Executive Secretary when Washington is the most convenient place for such hearings except when the Commission wishes to conduct a hearing itself, or approves the request that it be so conducted. Hearings to be conducted by the Executive Secretary outside of Washington when such hearings can be more conveniently held by him than by other. (This relates particularly to hearings involving applications. For hearings on miscellaneous matters, see paragraph 84 following.)

16. Upon receipt of reports and other papers, the same to be examined in connection with the application, and if no further information required, permit or license, as the case may be, to be prepared and the cases reported to the Commission at its next meeting. If and when approved by the Commission the maps and plans to be approved and the permit or license to be executed, and issued by the Executive Secretary.

17. In reporting to the Commission recommendations for the issuance of permits and licenses the Executive Secretary to submit for the approval of the Commission, if the project affects navigable waters, a finding with respect to the use and benefit of such project in interstate or foreign commerce; and, if the project affects a reservation of the United States, a finding that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired.

18. In the case of reports upon declarations of intention the Executive Secretary to make and record on behalf of the Commission the finding required by section 23 of the Act, and, if it is found that the proposed construction will affect interstate or foreign commerce, to treat the declaration as an application for permit or license and to proceed accordingly.

19. In the case of applications for projects of 100 horsepower capacity or less, or for minor parts of complete projects, the Executive Secretary to determine what general requirements may, under the provisions of section 10 of the Act, be waived.

20. Subject to appeal to the Commission, the Executive Secretary to decide between contesting applicants for the same site, to reject those not approved, and, in general, to reject applications if the plans proposed do not provide adequate development of the site, or if the applicant can not make reasonable showing of financial ability, or if approval of the application would not be in the public interest.

21. Executive Secretary to report to the Commission at its meetings, entry upon the minutes, applications filed, applications advertised, findings made and proposed, and permits or licenses the issuance of which is recommended.

IV. SPECIAL INVESTIGATIONS.

22. An investigation be made of so much of the Colorado River as will determine the proper relation of power developments on the middle section of river to irrigation on the headwaters, on the tributaries, and on the lower reaches of the river, such investigation to be undertaken as soon as arrangements can be effected between the Reclamation Service, the Commission, the States concerned and, pending the employment of personnel by the Commission, the Chief of Engineers or the Geological Survey, or both, be requested to detail an engineer to represent the Commission.

23. Similar investigations on other pending cases to be undertaken as soon as arrangements can be made, details or assignments of individuals to be requested from the department or departments in the best position to act for the Commission.

V. APPLICATIONS FOR LICENSES UNDER SECTION 23 OF ACT INVOLVING PROPERTY VALUATIONS.

24. Action upon applications in accordance with section 23 of the Act for projects already constructed by applicants who hold or possess permits, rights of way, or other authority heretofore granted, to be suspended until such time as the Commission has authority to employ sufficient personnel to undertake the valuations required, or until the disposition of other cases pending before the Commission makes existing personnel available.

25. When any such applicant is without authority to maintain and operate his project, license to be issued under the conditions that valuation shall be made at the earliest practicable date, that it shall be determined as of the date of issuance of license, and that the licensee shall agree to accept and to enter upon its books as the value of its property on such date the amount determined under the provisions of section 23.

VI. POWER SITE RESTORATIONS.

(A) ACTION BY THE DEPARTMENTS.

(a) FIELD OFFICES.

26. To receive applications if tendered and to submit same to Executive Secretary with report thereon through the appropriate Washington office. So far as practicable all such applications to be filed with the local land offices and transmitted therefrom through the General Land Office to the Executive Secretary.

(b) WASHINGTON OFFICE.

27. To transmit applications with all available data thereon to the Executive Secretary.

28. When determination has been made the General Land Office will record the fact and notify the local land office. All further action will be within the exclusive jurisdiction of the Department of the Interior.

(B) ACTION BY EXECUTIVE SECRETARY.

29. On the receipt of applications directly, or by reference from departments, to secure available information from the General Land Office, Geological Survey, or Forest Service, and if adequate information is not thus available, to request for such further information from the appropriate Government agencies may be necessary. When sufficient information is received, to submit matter to the Commission for the determination required by section 24 of the Act, to notify such determination to the Commissioner of the General Land Office and to record the action taken in the minutes of the Commission.

VII. LEGAL OPINIONS AND DECISIONS.

30. Opinions of the Chief Counsel rendered in connection with the work of the Commission to be transmitted to the members of the Commission for in-

formation and individual approval, and to be later submitted by the Executive Secretary to the Commission for formal action. If approved by the Commission, such opinions to become decisions of the Commission, and abstracts thereof to be entered upon the minutes of the meeting at which approved. If approved, the Executive Secretary to transmit copies of such decisions to each of the three Departments for their information and record. In case of disagreement the question to be either referred back to the Chief Counsel for further consideration or decided by vote of the Commission, or referred to the Attorney General, as the Commission may determine.

81. In matters involving appropriations of the Commission the question to be formulated by the Executive Secretary and letter to the Comptroller of the Treasury to be prepared for the signature of the Chairman of the Commission.

VIII. ACCOUNTS AND REPORTS.

82. In conformity with the Rules and Regulations and with the system of accounting adopted, and subject to appeal to the Commission, the Executive Secretary:

(a) To determine the forms of annual and special reports to be submitted by licensees under the requirements of section 4, subsections (e) and (f) of the Act.

(b) To make investigations, hold hearings, and determine whether the proposals of licensees for the allocation of earnings between project and nonproject property are equitable; whether classification of property for the purpose of depreciation, as proposed by licensees, is reasonable whether the rates and amounts of depreciation and the reserves established thereby, as required by section 10, subsection (c) of the Act are adequate; and whether the licensee is earning or has earned excess profits within the meaning of section 10, subsection (b) of the Act.

83. The Executive Secretary to determine benefits which have equitably accrued to any licensee on account of the construction of storage reservoirs or other headwater improvements by another licensee, by a permittee, or by the United States, and to determine the annual charges which should be paid on account thereof, as required by Section 10, subsection (f) of the Act.

IX. HEARINGS AND APPEALS.

84. In cases of request for hearing before the Commission such hearing, unless in any case the Commission decide otherwise, to be held in the first instance by the Executive Secretary and preliminary decision to be made by him on the matter at issue.

85. If those requesting hearing are dissatisfied with the preliminary decision appeal may be taken to the Commission, in which event an agreed statement of facts, if such can be reached, to be presented to the Commission by the Executive Secretary, together with a digest of the arguments for and against the matter at issue and any briefs or other papers pertinent to the case, for consideration by the Commission at its next regular meeting, at which time opportunity for oral argument to be given if appellant desires and Commission concurs.

86. If no appeal taken, the preliminary decision to be presented by Executive Secretary to the Commission at its next regular meeting for approval or for such modification as the Commission may direct.

87. Appeals from decisions of Executive Secretary made in accordance with paragraph 20, to be handled in the manner provided in paragraph 85.

ORDERS, No. 11.

By authority of paragraph (h) of section 4 of the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), and in pursuance of the action of the Federal Power Commission at its meeting of May 28, 1921, it is hereby ordered that Regulations 1, 2, 3, 4, 5, 6, 12, 14, 16, 17, 18, 19, and 20, of the Rules and Regulations of the Commission promulgated by Orders No. 9 of February 28, 1921, be amended as hereinafter set forth; that said regulations so amended shall be effective on and after the date of execution hereof, and shall govern in the matters covered thereby in the administration of said Act; and that any permit or license heretofore issued may, upon written application by the permittee or licensee, be subject to the rules and regulations as herein amended, in lieu of the rules and regulations promulgated by said Orders No. 9.

Done at the city of Washington, District of Columbia, this 6th day of June, 1921.

JOHN W. WEEKS, *Chairman.*

Attest:

O. C. MERRILL,

Executive Secretary.

NOTE.—The text of Order No. 11, as adopted by the commission, contains the several paragraphs, sections, etc., of regulations as amended. Inasmuch as the amended regulations are printed in full elsewhere herein the amended text has been omitted from what follows, but reference thereto is given.

REGULATION 1.—GENERAL DEFINITIONS.

At the end of section 1 add the words "as amended by the Act of March 3, 1921 (41 Stat., 1853)," so that said section shall read as follows. (For section 1 as amended, see page 6.)

In the first line of section 4, strike out the words and punctuation, "national monuments, national parks,"; before the word "owned" in line 3 of said section insert the words and punctuation ", except national monuments and national parks,"; so that said section shall read as follows. (For section 4 as amended see page 6.)

REGULATION 2.—APPLICATIONS—GENERAL REQUIREMENTS.

In the second line of paragraph A (8), (a) of section 4, after the word "located" insert a comma; in the third line of said paragraph, strike out the word "other" and insert in lieu thereof the words "by the"; so that said paragraph shall read as follows. (For paragraph as amended, see page 9.)

REGULATION 3.—APPLICATIONS FOR PRELIMINARY PERMITS.

In the second line of the first paragraph, strike out the word "items" and insert in lieu thereof the word "documents"; in the fourth line strike out the

References to lines follow the printed form of Orders, No. 9.

word "form" and insert in lieu thereof the word "manner"; so that said paragraph shall read as follows: (For paragraph as amended, see page 11.)

In the first line of section 4 after the words "Exhibit D" insert the words "Statement of," so that said section shall read as follows. (For section 4 as amended, see page 11.)

In the fourth line of section 8, after the word "boundary," insert in parentheses the words "as defined in Sec. 18 of Regulation 1," and substitute commas for the parentheses in lines 4 and 5 of said section, so that said section shall read as follows. (For section 8 as amended, see page 11.)

In the first line of section 10 strike out the words "Exhibit J," and in the same line strike out the word "exhibits" and insert in lieu thereof "documents or data," so that said section shall read as follows. (For section 10 as amended, see page 12.)

REGULATION 4.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS.

In the fourth line of the first paragraph strike out the word "items" and insert in lieu thereof the word "document"; in the fifth line of the same paragraph strike out the word "form" and insert in lieu thereof the word "manner," so that said paragraph shall read as follows. (For paragraph as amended, see page 12.)

In the eighth line of section 4 strike out the word "of" and insert in lieu thereof the word "or," so that said section shall read as follows. (For section 4 as amended, see page 13.)

In the first line of section 16 strike out the word "Exhibits" and insert in lieu thereof the words "documents or data," so that said section shall read as follows. (For section 16 as amended, see page 17.)

REGULATION 5.—APPLICATIONS FOR LICENSES—MINOR PROJECTS.

In the second line of the first paragraph, after the word "capacity," insert the words and punctuation ", and for projects which involve transmission lines only,"; in the third line of the same paragraph strike out the word "items" and insert in lieu thereof the word "documents"; and in the fourth line of the same paragraph strike out the word "form" and insert in lieu thereof the word "manner," so that said paragraph shall read as follows. (For paragraph as amended, see page 17.)

Add new sections 7 and 8 as follows. (For new sections 7 and 8, see page 18.)

REGULATION 6.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS ALREADY CONSTRUCTED.

In the fourth line of the first paragraph strike out the word "items" and insert in lieu thereof the word "documents"; in the sixth line of the same paragraph strike out the word "form" and insert in lieu thereof the word "manner"; after the figure "2" in the sixth line of the same paragraph add the words "and designated 'Exhibit A,' 'Exhibit B,' etc., respectively, as indicated"; so that said paragraph shall read as follows. (For paragraph as amended, see page 19.)

Strike out sections 1 and 2 and insert in lieu thereof the following. (For sections 1 and 2 as amended, see page 19.)

In the first line of section 6 strike out the word "exhibits" and insert in lieu thereof the word "documents," so that said section shall read as follows. (For section 6 as amended, see page 20.)

REGULATION 12.—PROJECT WORKS.

In the fifth line of paragraph B of section 8 strike out the word "do" and in lieu thereof insert the word "will" and after the word "which" at the end of the eighth line of the same paragraph insert a comma followed by the words "in the judgment of the commission, have produced or will," so that paragraph shall read as follows. (For paragraph B as amended, see page 25.)

Strike out paragraph A of section 5 and insert in lieu thereof the following paragraph. (For paragraph A as amended, see page 29.)

In the sixth line of paragraph B of section 6 strike out the word "therefor" and insert in lieu thereof the words "for such injury or destruction, or by," and in the same line strike out the word "thereof" and insert in lieu thereof the words "or repair of damaged property," so that said paragraph shall read as follows. (For paragraph B as amended, see page 30.)

REGULATION 14.—ANNUAL CHARGES.

Strike out the first paragraph and insert in lieu thereof the following. (For paragraph as amended, see page 32.)

In the first line of section 8 following the word "horsepower" insert the words "of power capacity," so that said section shall read as follows. (For section 8 as amended, see page 33.)

Strike out section 8 and insert in lieu thereof the following. (For section 8 as amended, see page 34.)

REGULATION 16.—DEPRECIATION RESERVES.

Strike out section 1 and insert in lieu thereof the following. (For section 1 as amended, see page 35.)

Strike out the words "accruing depreciation and all" appearing in the first and second lines of the first paragraph of section 8, and in the second line of the same paragraph strike out the words "in connection therewith" and insert in lieu of the latter the words "for depreciation as it currently accrues," so that said paragraph shall read as follows. (For paragraph as amended, see page 35.)

In the twenty-fifth line of paragraph A of section 4 strike out the word "accrued" and after the word "depreciation" in the same line insert the words "that has accrued"; following the word "service" where it first occurs in the twenty-sixth line of the same paragraph insert a comma followed by the words "or the loss in service value or in the capacity for service that has taken place in such property"; after the word "shall" in the twenty-eighth line of the same paragraph insert the words "except as provided in section 6 hereof," so that the last two sentences of said paragraph, beginning on the twenty-second line thereof, shall read as follows. (For paragraph as amended, see page 37.)

In the third, fifth, tenth, and eighteenth lines of paragraph B of section 4 strike out the word "charge" and insert in lieu thereof the words "account for"; strike out the words "and upon which no depreciation charges are proposed," beginning on the seventh and ending on the eighth line of the same paragraph; in the eleventh line of the same paragraph strike out the word "estimated" and insert in lieu thereof the words "which the licensee may estimate"; and in the twenty-third line of the same paragraph strike out the word "charging" and insert in lieu thereof the words "accounting for," so that said paragraph shall read as follows. (For paragraph B as amended, see page 37.)

Strike out section 5 and insert in lieu thereof the following. (For section 5 as amended, see page 37.)

Following section 5 insert two new sections to be numbered 6 and 7, as follows. (For new paragraphs 6 and 7, see page 38.)

On the first line of section 6 strike out the figure "6" and insert in lieu thereof the figure "8," so that the designation shall read "Sec. 8."

Strike out section 7 and insert in lieu thereof section numbered 9, as follows. (For section numbered 9, see page 39.)

REGULATION 17.—AMORTIZATION RESERVES.

Strike out section 2 and insert in lieu thereof the following. (For section 2 as amended, see page 40.)

Strike out paragraph A of section 3 and insert in lieu thereof the following. (For paragraph A as amended, see page 41.)

Strike out paragraph C of section 3 and insert in lieu thereof the following. (For paragraph C as amended, see page 42.)

Strike out section 4 and insert in lieu thereof the following. (For section 4 as amended, see page 42.)

Strike out section 5 and insert in lieu thereof the following. (For section 5 as amended, see page 42.)

In the first line of paragraph C of section 7 strike out the parentheses and the words "*secs. 14 and 15*" inclosed therein, so that the title of said paragraph shall read as follows:

C. Upon the expiration of the license.

In the fifth line of paragraph D of section 7 insert the words "its successors or assigns" preceded and followed by a comma, so that said paragraph shall read as follows. (For paragraph D as amended, see page 45.)

REGULATION 18.—EXPROPRIATION OF EXCESSIVE PROFITS.

In section 1 strike out the words "and of any other property operated in connection therewith," beginning on the sixth line and ending on the seventh line, so that said section shall read as follows. (For section 1 as amended, see page 45.)

Strike out section 4 and insert in lieu thereof the following. (For section 4 as amended, see page 45.)

REGULATION 19.—ALLOCATION OF EARNINGS.

Strike out section 2 and insert in lieu thereof the following. (For section 2 as amended, see page 46.)

REGULATION 20.—ACCOUNTS AND REPORTS.

Strike out section 1 and insert in lieu thereof the following. (For section 1 as amended, see page 47.)

Following section 2 insert three new sections to be numbered 3, 4, and 5, as follows. (For new sections 3, 4, and 5, see pages 48 and 49.)

In the first line of section 3 strike out the figure "3" and insert in lieu thereof the figure "6," so that the designation shall read "Sec. 6."

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