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April 27, 2007

**VIA ELECTRONIC FILING**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: Notice of Inquiry – Preliminary Permits for Wave, Current, and Instream New  
Technology Hydropower Projects  
Docket No. RM07-8-000**

Dear Secretary Bose:

On February 15, 2007, the Commission sought comment on the standard of review it should apply to applications for preliminary permits for ocean wave, tidal, and other non-traditional hydropower projects, and how it should regulate those permits during their terms. Public Utility District No. 1 of Snohomish County, Washington (“Snohomish PUD”) appreciates the opportunity to submit comments, which we hope will assist the Commission in its consideration of future actions with regard to these emerging resources.

Snohomish PUD has received preliminary permits to study the application of tidal in-stream energy generation at seven locations in and around Puget Sound, WA. These preliminary permits were granted under the Commission’s interim “strict scrutiny” approach, whereby the Commission will, among other things, be closely reviewing Snohomish PUD’s semi-annual progress reports to ensure that adequate progress is being made toward the ultimate goal of filing a license application for a commercial tidal energy project.

With respect to the standard of review applied to preliminary permit applications, Snohomish PUD offers the following comments:

- Snohomish PUD supports the Commission’s close scrutiny of the footprints of proposed projects. However, we believe the inquiry should focus on the justification for the proposed footprint, not simply the square footage covered. A footprint based on anticipated turbine placement and reasonable, near-term expansion, supported by preliminary research, is much different than a footprint intended solely to lock up a particular body of water.
- Permit applicants should not be required to name a specific technology, and the Commission should recognize that any technology on which the preliminary permit application is based is subject to change pending studies undertaken once the permit is issued. Each site has its own unique characteristics, and reasonable

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*Commissioners: David Aldrich, Kathleen Vaughn, Tanya Olsen • General Manager: Steven J. Klein*

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investigation of that site may dictate the use of a particular technology (or rule out one or more technologies). Some of this information, such as detailed site bathymetrical characteristics and spatial/temporal current velocity variation, cannot be determined from existing information, and thus will be a part of the post-permit studies. Further, the technologies at issue here are undergoing constant change – in the past year alone the number of operating turbines has increased three-fold. To require an applicant to choose a technology up front, without the ability to change that decision, may result in an improper fit between the technology and the site selected and ultimately render the project unviable.

- A demonstration in the semi-annual reports of active and diligent evaluation of the available technologies, including facilitating technology development where appropriate, will be sufficient to ensure that the permit holder is making reasonable progress towards a license application.

Snohomish PUD offers the following comments on the Commission's approach to regulation once a preliminary permit has been issued:

- Snohomish PUD supports the strict scrutiny approach's close monitoring of the semi-annual progress reports. We believe it is the actions of the entity following issuance of the permit that separates those truly attempting to develop the resource from site-bankers.
- We also support the filing of a pre-application document (PAD) and notification of intent within 1 year of the permit's effective date.
- We agree with requiring a schedule of activities to be filed within 45 days of the permit's effective date. However, we believe the schedule's primary usefulness is during the first year, at which point the schedule contained in the PAD will be filed. While the 45-day schedule of activities represents the permit holder's best estimate of activities to be undertaken, the schedule in the PAD will incorporate discussions with federal and state agencies, affected tribes, and other stakeholders, and will reflect decisions about which Commission licensing process to pursue and the work needed to fully develop a license application.
- Snohomish PUD encourages the Commission to award successive permits to entities that have demonstrated diligent progress towards full development of the proposed project. A preliminary permit is valid for three years, with the first year spent developing the PAD. Under the Commission's Integrated Licensing Process, the pre-application activities require three years after filing of the PAD, possibly longer, to complete. As a result, it is a near certainty that a diligent permit holder will need at least a second permit in order to sufficiently evaluate the potential environmental and other impacts of the project and develop a complete license application. This is particularly important when sensitive marine environments and developing technologies are involved.

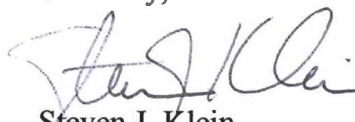
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- The information generated from actual operation of a device, accomplished under the watchful eye of appropriate federal and state regulatory agencies, tribes, and other stakeholders, is invaluable and is often the only way for any of the interested parties to fully discover the true impact of the device and properly evaluate its operation. It is vital that the Commission continue to allow for as much flexibility as possible regarding these temporary demonstration installations.

We applaud the Commission's exhibition of flexibility when regulating the development of new technologies, and we encourage the Commission to continue to reduce regulatory barriers facing these projects. The Commission has suggested that a future technical conference will be held to discuss matters relating to simplifying and/or streamlining the licensing process. Snohomish PUD welcomes the additional dialogue and looks forward to the discussion this conference will generate.

Thank you again for the opportunity to provide comments on this important matter. Should you have any questions or concerns, please contact me at (425) 783-8473.

Sincerely,



Steven J. Klein  
General Manager

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