



OREGON  
DEPARTMENT OF  
ENERGY

# Comment Opportunity

## Considerations for an Oregon Hydropower Development Assistance Program

**Published: December 23, 2011**

**Comment Deadline: February 3, 2012, 5:00 PM**

*Note: this document is not a Request for Information (RFI) and is not linked to a planned Request for Proposals (RFP). Therefore the Department did not release this comment opportunity into its Oregon Procurement Information Network (ORPIN) database. No rights are reserved or forfeited by submitting comments or failing to submit comments under this opportunity.*

## **Purpose of Inquiry**

The Oregon Department of Energy (Department) is seeking comments on whether the assistance provided to hydropower developers through a Colorado state program (“Colorado pilot”) would work well for Oregon’s stakeholders, governments, and resources.

In 2010, the state of Colorado signed a Memorandum of Understanding with the Federal Energy Regulatory Commission (FERC) that outlined the terms of the “Colorado pilot.”<sup>1</sup> Colorado initiated this effort to shorten the time needed to receive a hydroelectric license and to simplify the process, making permitting and development more cost-effective for small hydroelectric projects. Colorado then executed a program that involved pre-screening hydropower proposals, coordinating state response to the development, and stakeholder outreach. The state also used federal stimulus funds to hire technical expertise to assist the best projects in the state in navigating the FERC permitting process. See Attachment A for a description of the program.

At this time the Colorado program is operational, but winding down. One license has issued.<sup>2</sup> A group of state-supported applications are preparing to file with FERC.

The Department is interested in developing the next generation of the Colorado pilot while preserving our state’s natural resources and resource protections. However we are mindful of the broad community of stakeholders in this sector and would like public input on whether this interest is well-placed.

The Department of Energy is not seeking comments on whether permitting authorities or responsibilities should change. Rather the Department is interested in whether strategic technical support for development proposals, pre-screening to prioritize projects, and widespread public outreach could materially benefit the development of small hydropower facilities; and if so, whether this is desirable and worth applying public funds.

## **Inquiry**

Comments are not required to address all of the questions below, but they should remain germane to these questions and the hydropower sector.

- What are the most productive elements of the Colorado pilot? What are the challenges with that approach?
- There are many reasons that hydropower proposals succeed or fail in Oregon. Please comment broadly on the most significant factors for success and whether the Colorado pilot would address these reasons in the public interest.
- Could the Oregon Hydroelectric Application Review Team (HART) process, which currently applies to reauthorization, sufficiently perform the function of development assistance?<sup>3</sup>

If Oregon pursued a development assistance program –

- What should the goals of the program be? Is there an opportunity to provide additional public benefits through the program?

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<sup>1</sup> See <http://www.ferc.gov/legal/maj-ord-reg/mou/mou-co.pdf>.

<sup>2</sup> See FERC News Release <http://www.ferc.gov/media/news-releases/2011/2011-3/09-14-11.asp>.

<sup>3</sup> See ORS 543A.055. <http://www.leg.state.or.us/ors/543a.html>.

- How will the State measure the program's effectiveness?
- How will Oregon's natural resources be better protected through this program? For example, should low impact proposals receive immediate highest priority?
- Should State assistance focus mostly on:
  - technical support;
  - process support; or
  - pre-filing outreach?
- What projects should be eligible for the program? Please comment on both the general character of the project, any geographic focus, and pre-screening criteria that should be applied.
  - Is there a nexus to the Deschutes Basin Preliminary Hydropower Opportunity Assessment, currently underway?<sup>4</sup>
  - What should be the responsibility of the project developer for due diligence regarding a potential project's costs, benefits, and the likelihood of success prior to requesting assistance?
- Should Oregon seek an MOU with FERC? The Department notes that a state does not need special approval from FERC to assist a developer with pre-filing requirements.

### **To Submit Comments**

Comments may be no longer than 5 pages typed and must be submitted electronically.

Contact: Rebecca Sherman O'Neil  
(503) 373-2295

Submit comments to [rebecca.sherman@state.or.us](mailto:rebecca.sherman@state.or.us).

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<sup>4</sup> The US Department of Energy's preliminary report is available here: <http://basin.pnnl.gov>.



## Agreement with FERC

### Background

A vast majority of the hydro projects in the US must be permitted by the Federal Energy Regulatory Commission (FERC). The current permitting process employed by FERC needs to be streamlined and simplified to encourage the responsible development of small-scale hydropower projects. The Governor's Energy Office, the National Hydropower Association, a few state energy offices, a host of private developers and other organizations across the United States agree that the resources needed today to obtain a hydropower permit from FERC represent a disproportionate burden for the developers of small projects. As a result, the development of this renewable resource is stifled nation-wide. Colorado has not been immune to this effect: in 30 years, only 24 small hydropower projects in the state have received an exemption permit from FERC, in spite of having several hundred sites with a potential of 2 MW or less, and a combined capacity of more than 1,400 MW.

The Governor's Energy Office has taken a proactive stance to correct this situation by working with FERC to find opportunities to streamline their current framework. The result of this effort is an agreement that will not just shorten the time needed to receive a permit but also simplify the process, making it cost-effective for small projects. As part of this initiative, GEO used Recovery Act funding to contract a group of experts, known as the Renewable Energy Development Team (REDT), to assist the best projects in the state in navigating the FERC permitting process.

### The Program

Colorado will prescreen projects that comply with a rigorous set of conditions. These conditions ensure that the candidate projects utilize an existing infrastructure for which hydropower is an incidental use, without increasing current water diversion. Additionally, projects that adversely affect water quality, wildlife or cultural resources will be excluded from this program. The REDT will collect all the pertinent information from the applicants and will submit it to the relevant state and federal agencies for their approval. GEO is working with such agencies to ensure that the information collected matches their needs. Once an agency has received the required information, it will decide whether a project affects natural or cultural resources in a negative way. For those projects that have no negative impacts, the agencies will issue a letter communicating their assessment. Simultaneously, the REDT will assist developers in completing permit applications that thoroughly adhere to FERC's requirements.

GEO will submit the applications that successfully complete the program to FERC, together with the agencies' letters of approval. For projects submitted through the state's process FERC agrees to waive the 1<sup>st</sup> and 2<sup>nd</sup> stages of consultation. These two stages, which focus on engaging stakeholders in the permitting process and delineating the studies necessary to support the application, can be time consuming. The state's program will serve as an alternate route.

Within 30 days of receipt, the Commission will notify the state if the application is accepted. When FERC accepts an application, it declares the project ready for environmental analysis and solicits comments, recommendations, and terms and conditions from relevant agencies and the general public, who will have 30 days for filing responses. This is half the usual period. If the applicant submits satisfactory reply comments, FERC will then conduct an Environmental Analysis in the case of conduit exemptions, or a NEPA review for 5 MW exemptions. Finally, FERC will issue an order granting or denying the exemption. The program sunsets after 20 projects have completed it, but both FERC and Colorado intend to continue the aspects that prove to be the most beneficial.