

## § 45.21

(2) If any of the documents relied upon are not already in the license proceeding record, DOI must:

(i) File them with FERC at the time it files the preliminary condition or prescription;

(ii) Provide copies to the license applicant; and

(iii) In the case of a condition developed by the Bureau of Indian Affairs, provide copies to the affected Indian tribe.

(b) *Service.* DOI will serve a copy of its preliminary condition or prescription on each license party.

### § 45.21 How do I request a hearing?

(a) *General.* To request a hearing on disputed issues of material fact with respect to any preliminary condition or prescription filed by DOI, you must:

(1) Be a license party; and

(2) File with OEPC, at the address provided in § 45.2, a written request for a hearing:

(i) For a case under § 45.1(d)(1), within 30 days after DOI files a preliminary condition or prescription with FERC; or

(ii) For a case under § 45.1(d)(2), within 60 days after DOI files a preliminary condition or prescription with FERC.

(b) *Content.* Your hearing request must contain:

(1) A numbered list of the factual issues that you allege are in dispute, each stated in a single, concise sentence;

(2) The following information with respect to each issue:

(i) The specific factual statements made or relied upon by DOI under § 45.20(a) that you dispute;

(ii) The basis for your opinion that those factual statements are unfounded or erroneous; and

(iii) The basis for your opinion that any factual dispute is material.

(3) With respect to any scientific studies, literature, and other documented information supporting your opinions under paragraphs (b)(2)(i) and (b)(2)(iii) of this section, specific citations to the information relied upon. If any such document is not already in the license proceeding record, you must provide a copy with the request; and

## 43 CFR Subtitle A (10–1–20 Edition)

(4) A statement indicating whether or not you consent to service by electronic means under § 45.13(c)(4) and, if so, by what means.

(c) *Witnesses and exhibits.* Your hearing request must also list the witnesses and exhibits that you intend to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, you must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony.

(2) For each exhibit listed, you must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b)(2) of this section may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.

### § 45.22 How do I file a notice of intervention and response?

(a) *General.* (1) To intervene as a party to the hearing process, you must:

(i) Be a license party; and

(ii) File with OEPC, at the address provided in § 45.2, a notice of intervention and a written response to any request for a hearing within 20 days after the deadline in § 45.21(a)(2).

(2) A notice of intervention and response must be limited to one or more of the issues of material fact raised in the hearing request and may not raise additional issues.

(b) *Content.* In your notice of intervention and response you must explain your position with respect to the issues of material fact raised in the hearing request under § 45.21(b).

(1) If you agree with the information provided by DOI under § 45.20(a) or by the requester under § 45.21(b), your response may refer to DOI's explanation or the requester's hearing request for support.

(2) If you wish to rely on additional information or analysis, your response must provide the same level of detail with respect to the additional information or analysis as required under § 45.21(b).

(3) Your notice of intervention and response must also indicate whether or not you consent to service by electronic means under §45.13(c)(4) and, if so, by what means.

(c) *Witnesses and exhibits.* Your response and notice must also list the witnesses and exhibits that you intend to present at the hearing, other than solely for impeachment purposes.

(1) For each witness listed, you must provide:

(i) His or her name, address, telephone number, and qualifications; and

(ii) A brief narrative summary of his or her expected testimony; and

(2) For each exhibit listed, you must specify whether it is in the license proceeding record.

(d) *Page limits.* (1) For each disputed factual issue, the information provided under paragraph (b) of this section (excluding citations to scientific studies, literature, and other documented information supporting your opinions) may not exceed two pages.

(2) For each witness, the information provided under paragraph (c)(1) of this section may not exceed one page.

**§45.23 Will hearing requests be consolidated?**

(a) *Initial Department coordination.* Any bureau that has received a copy of a hearing request must contact the other bureaus and Departments and determine:

(1) Whether a preliminary condition or prescription relating to the license has been filed with FERC on behalf of any other bureau or Department; and

(2) If so, whether the other bureau or Department has also received a hearing request with respect to the preliminary condition or prescription.

(b) *Decision on consolidation.* Where more than one bureau or Department has received a hearing request, the bureaus or Departments involved must decide jointly:

(1) Whether the cases should be consolidated for hearing under paragraphs (c)(3)(ii) through (iv) of this section; and

(2) If so, which Department will conduct the hearing on their behalf.

(c) *Criteria.* Cases will or may be consolidated as follows:

(1) All hearing requests with respect to any conditions from the same Department will be consolidated for hearing.

(2) All hearing requests with respect to any prescriptions from the same Department will be consolidated for hearing.

(3) All or any portion of the following may be consolidated for hearing, if the bureaus and Departments involved determine that there are common issues of material fact or that consolidation is otherwise appropriate:

(i) Two or more hearing requests with respect to any condition and any prescription from the same Department;

(ii) Two or more hearing requests with respect to conditions from different Departments;

(iii) Two or more hearing requests with respect to prescriptions from different Departments; or

(iv) Two or more hearing requests with respect to any condition from one Department and any prescription from another Department.

**§45.24 Can a hearing process be stayed to allow for settlement discussions?**

(a) Prior to referral to the ALJ, the hearing requester and the Department may by agreement stay the hearing process under this subpart for a period not to exceed 120 days to allow for settlement discussions, if the stay period and any subsequent hearing process (if required) can be accommodated within the time frame established for the license proceeding.

(b) Any stay of the hearing process will not affect the deadline for filing a notice of intervention and response, if any, pursuant to §45.22(a)(1)(ii).

**§45.25 How will the bureau respond to any hearing requests?**

(a) *General.* Within 50 days after the deadline in §45.21(a)(2) or 30 days after the expiration of any stay period under §45.24, whichever is later, the bureau may file with OEPC an answer to any hearing request under §45.21.

(b) *Content.* If the bureau files an answer: