



American Bar Association
Section of Environment, Energy, and Resources



Hydro Power Committee

Presents a "Quick Teleconference" program

City of Tacoma v. FERC: Did the Hydro Industry Get the Number of that Train?

Friday, September 29, 2006

12:00 p.m. – 1:30 p.m. Eastern Time / 11:00 a.m. – 12:30 p.m. Central Time
10:00 a.m. – 11:30 a.m. Mountain Time / 9:00 a.m. – 10:30 a.m. Pacific Time

Program Overview:

On August 22, 2006, the U.S. District Court of Appeals issued a decision in the case of *City of Tacoma v. FERC*. The decision addressed a number of issues that may significantly change the way that the Federal Energy Regulatory Commission issues licenses for hydropower projects pursuant to the Federal Power Act. The D.C. Circuit Court of Appeals modified in part and granted in part, Petitions for Review of the FERC Order Issuing New License for the Cushman Hydroelectric project on the Skokomish River in the State of Washington. Some of the issues were: (i) whether a relicensing proceeding or a new license proceeding should be undertaken for a project that previously held a minor part license, (ii) whether the mandatory conditioning authority under Federal Power Act Section 4(e) is limited to those areas where the hydro project is located on a federal reservation, (iii) must the federal agencies who submit "mandatory" conditions pursuant to FPA Section 4(e), and presumably Section 18, comply with FERC's regulatory deadlines for submittal of the conditions, (iv) the degree to which FERC must evaluate a state water quality agency's compliance with Clean Water Act Section 401, (v) whether a FERC license that makes a project uneconomic to operate constitutes a *de facto* decommissioning of the project, and (vi) how FERC should treat the state of Washington's decision not to object to the project under the state's Coastal Zone Management Act authority.

Educational Objectives:

- Ensure that attorneys practicing in this field are kept apprised of significant court decisions.
- Inform hydro power attorneys about new Federal Power Act interpretations.
- Advise other attorneys who may practice in related fields about an important decision that will have environmental, energy, and land use ramifications.

Faculty:

Moderator:

Nino J. Mascolo, Southern California Edison Company, Rosemead, CA

Panelists:

John Katz, Federal Energy Regulatory Commission, Washington, DC

Mark Quehrn, Perkins Coie, LLP, Bellevue, WA

Bella K. Sewall, U.S. Department of the Interior, Washington, DC

Questions?

Do you have a question that you would like the panel to address? Please email your question to Nino Mascolo at nino.mascolo@scr.com by September 28, 2006 at noon Eastern Time and the panel will make every effort to address your inquiry. You will also have an opportunity to ask questions of the panel live at the conclusion of the program.

