

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 516-515 – South Carolina
Saluda Hydroelectric Project
Dominion Energy South Carolina, LLC

January 5, 2023

VIA USPS First-Class Mail

Richard Levitan
34 Edens Point Road
Columbia, SC 29212

Subject: Notice of Intent to Convey Project Lands to State of South Carolina

Dear Mr. Levitan:

This letter is in response to your November 21, 2022 filing of a complaint¹ regarding Commission staff's November 16, 2022 letter responding to Dominion Energy South Carolina LLC's notice of intent to convey ownership of project lands to the State of South Carolina for public recreational development at the Saluda Hydroelectric Project No. 516.² The project is located on the Saluda River in Lexington, Newberry, Richland, and Saluda counties, South Carolina.

Article 30 is the standard land use and occupancy article that has been included in federal hydroelectric licenses since 1980. As has been explained elsewhere, requiring a licensee to obtain prior Commission approval for every use or occupancy of project land would be unduly burdensome. The standard land use article allows the licensee to grant permission, without prior Commission approval, for certain uses and occupancies of project lands, which must be consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

¹ The complaint was filed under Rule 206 of the Commission's regulations; however, the provisions of Rule 206 apply to "any other person alleged to be in contravention or violation of any statute, rule, order, or other law administered by the Commission, or for any other alleged wrong over which the Commission may have jurisdiction." Thus, the provisions of Rule 206 do not apply in this instance (see Commission's Rules of Practice and Procedure at 18 C.F.R. § 385.206).

² Order Issuing New License (27 FERC ¶ 61,332), issued June 1, 1984.

Specifically, under Article 30(d)(6) of the project license for the Saluda Project, the licensee is permitted to convey project lands for recreational development consistent with an approved Exhibit R (i.e., recreation management plan). Article 30(d) goes on to explain that, unless Commission staff, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period. As explained in Commission staff's November 16, 2022 letter, the proposed conveyance to the State of South Carolina is for public recreational development, and is not in conflict with either the approved recreation plan or the proposed recreation plan for the relicensing proceeding.³ Thus, the conveyance is allowable under Article 30(d)(6).

The issue before Commission staff was whether the proposed conveyance of project lands was allowable under the project license. We have again reviewed the issues you raise and we conclude that our November 16, 2022 letter is consistent with the project license. However, as noted in our November 16, 2022 letter, future park management decisions (e.g., reservations, operating hours, admission fees, etc.) will best be addressed by the South Carolina Department of Parks, Recreation, and Tourism.

Thank you for your interest in the Saluda Hydroelectric Project. If you have any questions concerning this matter, please contact Mark Carter at (678) 245-3083.

Sincerely,

Robert J. Fletcher
Land Resources Branch
Division of Hydropower Administration
and Compliance

³ The licensee's application to relicense the project is pending before the Commission.