

MAINE STATE LEGISLATURE

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OFFICE OF
THE GOVERNOR

NO. 13FY 86/87
DATE March 4, 1987

PROVIDING FOR THE ESTABLISHMENT OF A TIMELY
AND COORDINATED STATE PROCESS AND THE DEVELOPMENT
OF A CONSISTENT STATE POSITION IN FEDERAL
HYDROPOWER LICENSING AND RELICENSING PROCEEDINGS

WHEREAS, interest in developing the hydropower potential of Maine's rivers has increased significantly in recent years; and

WHEREAS, a great many existing hydropower facilities, which generate inexpensive, renewable, and clean electric power to the citizens and businesses of Maine, currently require or will soon require federal relicensing; and

WHEREAS, the Legislature, through the 1983 Maine Waterway Development and Conservation Act (38 MRSA Section 630-636), has declared that "hydropower justifies singular treatment"; and that "it is the policy of the State to support and encourage the development of hydropower projects by simplifying and clarifying requirements for permits, while assuring reasonable protection of natural resources and the public interest in use of the waters of the State"; and

WHEREAS, the Maine Waterway Development and Conservation Act consolidated State regulatory authority for hydropower development into a single permit to be issued by either the Board of Environmental Protection or the Land Use Regulation Commission including action on water quality certification pursuant to Section 401 of the Federal Clean Water Act; and

WHEREAS, most applicants for hydropower projects to be located in the State must apply to the Federal Energy Regulatory Commission (FERC) for a federal license or exemption; and

WHEREAS, effective State participation in FERC proceedings demands that comments from State agencies be communicated in a clear, consistent and timely fashion, and that the State secure status as an official intervenor in these proceedings;

NOW, THEREFORE, I, John R. McKernan, Jr., Governor of the State of Maine, do hereby direct that:

1. A final decision by the Board of Environmental Protection or the Land Use Regulation Commission issued in accordance with the Maine Waterway Development and Conservation Act where applicable, and the water quality certification of the project issued pursuant to Section 401 of the Federal Clean Water Act, and the applicable State certification procedures shall represent the official position of the State of Maine regarding the subject application;
2. The State's sole, official recommendations for any terms and conditions upon the federal license shall be those contained in the Board of Environmental Protection or the Land Use Regulation Commission decisions, superseding all preliminary recommendations by individual State agencies;
3. All State agency comments submitted subsequent to State action on the subject project shall include a copy of the decisions rendered by the State permitting agencies;
4. All State agency comments submitted prior to action on a State permit shall advise FERC that the official position of the State is that established through the decisions of the Board of Environmental Protection or the Land Use Regulation Commission; and
5. The State shall have responsibility to intervene, in a timely fashion, on the State's behalf, in all FERC licensing proceedings for projects in Maine, and, as appropriate, in selected FERC preliminary permit and license exemption proceedings; and
6. Pursuant to this policy, the State Planning Office, in consultation with the Land and Water Resources Council's FERC Coordinating Committee, shall monitor all State agency comments in FERC proceedings, shall mediate any disagreements among State agencies regarding comments submitted to FERC or the applicant, and shall develop procedures for implementing this Order.

(This Executive Order supersedes Executive Order #17, FY84/85.)


JOHN R. MCKERNAN, JR.
Governor