

has completed an investigation of the project for which it is assessed; or

(B) 80 percent of the estimated final charge if the Commission has not completed an investigation of the project for which it is assessed.

(iii) When a final charge is established for a period for which an interim charge was paid, the Commission will apply the amount paid to the final charge.

(2) *Preliminary assessment of a final charge.* Unless the project owner was assessed a final charge in the previous year, the Commission will issue to the downstream project owner a preliminary assessment of any final charge when it is determined. A staff technical report explaining the basis of the assessment will be enclosed with the preliminary assessment. Copies of the preliminary assessment will be mailed to all parties.

(3) *Opportunity to respond.* After issuance of a preliminary assessment of a final charge, parties may respond in writing within 60 days after the preliminary assessment.

(4) *Order and bill.* (i) After the opportunity for written response by the parties to the preliminary assessment of a final charge, the Commission will issue to the downstream project owner an order establishing the final charge. Copies of the order will be mailed to all parties. A bill will be issued for the amount of the final charge and costs.

(ii) If a final charge is not established prospectively under paragraph (b)(5) of this section, the Commission will issue an order and a bill for the final charge and costs each year until prospective final charges are established. After the Commission issues an order establishing a prospective final charge, a bill will be issued annually for the amount of the final charge and costs.

(5) *Prospective final charges.* When the Commission determines that historical data, including the hydrology, development, and other characteristics of the river basin, demonstrate sufficient stability to project average energy gains and section 10(f) costs, the Commission will issue to the downstream project owner an order establishing the final charge from future years. Copies of the order will be mailed to all parties. The prospective final charge will remain in

effect until a new investigation is initiated under § 11.15(d)(2).

(6) *Payment under protest.* Any payment of a final charge required by this section may be made under protest if a party is also appealing the final charge pursuant to § 385.1902, or requesting rehearing. If payment is made under protest, that party will avoid any penalty for failure to pay under § 11.21.

(7) *Accounting for payments pending appeal or rehearing.* The Commission will retain any payment received for final charges from bills issued pursuant to this section in a special account. No disbursements to the U.S. Treasury will be made from the account until 31 days after the bill is issued. If an appeal under § 385.1902 or a request for rehearing is filed by any party, no disbursements to the U.S. Treasury will be made until final disposition of the appeal or request for rehearing.

(c) *Charges for costs of determinations of headwater benefits charges.* (1) Any owner of a downstream project that benefits from a Federal headwater project must pay to the United States the cost of making any investigation, study, or determination relating to the assessment of the relevant headwater benefits charge under this subpart.

(2) If any owner of a headwater or downstream project requests that the Commission determine headwater benefits charges for benefits provided by non-Federal headwater projects, the headwater project owners must pay a pro rata share of 50 percent of the cost of making the investigation and determination, in proportion to the benefits provided by their projects, and the downstream project owners must pay a pro rata share of the remaining 50 percent in proportion to the energy gains received by their projects.

(3) Any charge assessed under this paragraph is separate from and will be added to, any final or interim charge under this subpart.

### Subpart C—General Procedures

#### § 11.20 Time for payment.

Annual charges must be paid no later than 45 days after rendition of a bill by the Commission. If the licensee or exemptee believes that the bill is incorrect, no later than 45 days after its

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rendition the licensee or exemptee may file an appeal of the bill with the Chief Financial Officer. No later than 30 days after the date of issuance of the Chief Financial Officer's decision on the appeal, the licensee or exemptee may file a request for rehearing of that decision pursuant to §385.713 of this chapter. In the event that a timely appeal to the Chief Financial Officer or a timely request to the Commission for rehearing is filed, the payment of the bill may be made under protest, and subject to refund pending the outcome of the appeal or rehearing.

[60 FR 15048, Mar. 22, 1995]

**§ 11.21 Penalties.**

If any person fails to pay annual charges within the periods specified in §11.20, a penalty of 5 percent of the total delinquent amount will be assessed and added to the total charges for the first month or part of month in which payment is delinquent. An additional penalty of 3 percent for each full month thereafter will be assessed until the charges and penalties are satisfied in accordance with law. The Commission may, by order, waive any penalty imposed by this subsection, for good cause shown.

[51 FR 24318, July 3, 1986]

**APPENDIX A TO PART 11—FEE SCHEDULE FOR FY 2004**

State/County	Rate per acre
Alabama: All Counties	\$26.64
Arkansas: All Counties	19.99
Arizona:	
Apache .....	6.64
Cochise.	
Gila.	
Graham.	
La Paz.	
Mohave.	
Navajo.	
Pima.	
Yavapai.	
Yuma.	
Coconino (North of Colorado R.).	
Coconino (South of Colorado R.) .....	26.64
Greenlee.	
Maricopa.	
Pinal.	
Santa Cruz.	
California:	
Imperial .....	13.32
Inyo.	
Lassen.	
Modoc.	
Riverside.	

State/County	Rate per acre
San Bernardino.	
Siskiyou .....	19.99
Alameda .....	33.30
Alpine.	
Amador.	
Butte.	
Calaveras.	
Colusa.	
Contra Costa.	
Del Norte.	
El Dorado.	
Fresno.	
Glenn.	
Humboldt.	
Kern .....	33.30
Kings.	
Lake.	
Madera.	
Mariposa.	
Mendicino.	
Merced.	
Mono.	
Napa.	
Nevada.	
Placer.	
Plumas.	
Sacramento.	
San Benito.	
San Joaquin.	
Santa Clara.	
Shasta.	
Sierra.	
Solano.	
Sonoma.	
Stanislaus.	
Sutter.	
Tehama.	
Trinity.	
Tulare.	
Tuolumne.	
Yolo.	
Yuba.	
Los Angeles .....	39.98
Marin.	
Monterey.	
Orange.	
San Diego.	
San Francisco.	
San Luis Obispo.	
San Mateo.	
Santa Barbara.	
Santa Cruz.	
Ventura.	
Colorado:	
Adams .....	6.64
Arapahoe.	
Bent.	
Cheyenne.	
Crowley.	
Elbert.	
El Paso.	
Huerfano.	
Kiowa.	
Kit Carson.	
Lincoln .....	6.64
Logan.	
Moffat.	
Montezuma.	
Morgan.	
Pueblo.	
Sedgewick.	
Washington.	
Weld.	