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Duke begins process to renew license

Public asks for answers

Utility faces questions about lakeshore development

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As Duke Power begins the long process of renewing its Catawba River hydropower license, groups representing the public are asking pointed questions.

Duke's direct control of the 220-mile river generally ends at the water's edge. But government agencies and public-interest groups are probing the utility's effects across that boundary, on the shore.

How, they want to know, did Duke and its parent company acquire, transfer and profit from its extensive land holdings over the past century?

What would the Catawba be like if dams hadn't created 11 reservoirs?

Why has so much shoreline been earmarked for development?

The questions are posed in the 568 requests for studies that will serve as the foundation of the new license, and of negotiations between Duke and a host of public entities.

The flood of requests reflects the changing public responsibilities of hydro operators such as Duke. Recreation, wildlife habitat and water quality now get equal consideration with Duke's need to make power. That wasn't true in 1958, when Duke got its current license.

Two teams -- one for each of the Carolinas -- representing Duke, natural-resource agencies and the public at large will start deciding next month which studies to undertake. "Of our 40 or so active participants who worked on the study requests, all are interested in shoreline issues," said Vicki Taylor, president of the Catawba-Wateree Relicensing Coalition.

The coalition's participants have included Mecklenburg County's environmental agency, Charlotte-Mecklenburg Utilities, local marine commissions, land trusts and 18 local, regional, state and federal government agencies.

Studies of the shoreline, Taylor said, would show how hydro operations have influenced recreation, public access, water quality and fish-and-wildlife habitat. In previous relicensings, some hydro operators have had to expand their project boundaries to provide parks or water-protection buffers.

Duke, she said, "is in such a good position to make a lasting difference in preserving shorelands for the future."

Mark Oakley, Duke's Catawba relicensing manager, wouldn't say which studies Duke will support.

"Our commitment all along has been to an open and collaborative process," he said. "I would not take the risk of prejudicing anybody before they see the study requests."

Studies would be completed by mid-2005. Duke wants to file its license application -- including negotiated settlements -- by August 2006. The current license expires in 2008.

The Federal Energy Regulatory Commission will issue the new license. But some government agencies and the Catawba Indian Tribe, whose reservation borders the river, have the authority to impose mandatory conditions on the license. The U.S. Department of Interior can require fish passages around hydroelectric dams, said FERC spokeswoman Celeste Miller. The states also have to certify that the hydro operation doesn't violate clean-water standards.

But the commission, in recent years, has increasingly urged utilities and the public to resolve their differences before the license applications are filed.

Duke has said the studies should be limited in scope. Its first public document on relicensing, filed in February, proposed studies that: would explore only "direct impacts" of Duke's operations; were supported by "evidence that a project-related problem exists"; and fall "within Duke's ability to control and manage."

Duke outlined several changes it expects in the new license. Among them are modified water releases from its dams at lakes James, Wylie and Wateree; access and recreational improvements; and a protocol for sharing shrinking water supplies during drought.

Many of the study requests cover similar ground.

The need for more recreational access to the water, especially for people who don't own boats, comes up often. So does steadier release of water from Duke's dams, which now operate like giant spigots, releasing and then shutting off large amounts of water into the Catawba.

The requests also reveal individual priorities of the agencies that will be negotiating with Duke.

The S.C. parks department wants to acquire "significant property" in Chester County for a state park in or around Dearborn Island, site of an historic armory, and Great Falls.

The U.S. Department of Interior has asked for studies of fish passages around dams, allowing fish to spawn upstream. The department also proposed at least partial removal of two low dams that divert water from the Great Falls, a two-mile rapids near the S.C. town of the same name.

Questions about the shoreline, however, venture into a gray area.

Duke Power says it has no control over development. Shoreline classifications Duke applies determine only where amenities such as piers and marina docks can be located.

But critics of Duke's position point out that both the utility and Crescent Resources, a large developer of lakefront property, are part of the same corporation, Duke Energy.

"The way Duke classifies its shoreline ... is going to dictate how development behind it occurs," said Gerrit Jobsis, who represents the S.C. Coastal Conservation League and

American Rivers. "We think it's exactly the sort of thing that's intended to be examined by the Federal Power Act." The act governs hydro operations.

The S.C. Department of Natural Resources says Duke's shoreline plan allocates 66 to 73 percent of its three major S.C. reservoirs to development. The amount earmarked for existing and future public recreation is 3.8 percent on Lake Wylie, 4.3 percent on Wateree and 6 percent for Fishing Creek.

The department questions whether those proportions represent the "fair balance" of shoreline uses federal law prescribes.

"We think there's certainly the possibility that we're closing in on the limit of development without sacrificing water quality or some other valuable asset of the public resource," said DNR's Dick Christie.

More bank-fishing spots, picnic areas and recreation for people who don't own boats are needed, he said.

"What are they going to do to keep this public resource from becoming a private resource?" he said.

Questions for Duke

Public-interest groups and government agencies have asked Duke Power to study several areas as part of the process to renew its license to make hydropower on the Catawba River. Those study requests would examine:

- Whether too much shoreline has been earmarked for development,
- How the license might affect public access to the river, water quality, recreation and wildlife,
- Whether fish passages around dams could help return some native fish to stretches of the river,
- Whether more consistent releases of water through the dams would help wildlife and recreation downstream,
- Whether to partially remove two low dams to resurrect the two mile Great Fall, S.C., rapids,
- How Duke and its parent company acquired and profited from its landholdings.

RELICENSING INFORMATION AND UPDATES

<http://www.catawbahydrolicensing.com/>.

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