

Utah reluctantly asks feds to push pause on the state's Lake Powell Pipeline

After [asking for fast-track review](#) in 2017, officials in Utah now want federal regulators to delay a decision on whether the state can build its proposed Lake Powell Pipeline.

Construction of the billion-dollar-plus pipeline to deliver Colorado River water to communities in southern Utah is [already behind schedule](#) and has cost the state more than \$30 million. But state regulators now are pumping the brakes again as they seek to learn whether the Federal Energy Regulatory Commission (FERC) will keep a perceived promise to play a more direct role in issuing permits for the pipeline, so that state officials and other parties can avoid “wasting time and resources.”

In a letter released late Thursday, state officials have asked FERC to hold off on any further study of the 140-mile pipeline project until federal regulators clear up an unexpected dispute over which government agencies have proper jurisdiction to approve it.

Top officials with the Utah Division of Water Resources have expected for almost a decade that, after [approving the state's application](#) to build the pipeline, FERC would then take the lead in processing a host of other federal permits Utah needs before it can break ground on the project.

But in a surprise December announcement, FERC said that it will need to study whether it has jurisdiction over the entire pipeline project or only the electricity-generating turbine stations expected to be built along its route.

Utah plans six hydroelectric turbines along the length of the pipeline, which would pump water from Lake Powell to Sand Hollow Reservoir just east of St.

George. Sales of electricity are meant to help offset pipeline costs, which official estimates put somewhere between \$1.1 billion and \$1.8 billion.

According to a Dec. 27 letter from the state Division of Water Resources, officials at FERC had repeatedly said they would issue a permit for the 89 miles of pipe that runs downhill, not just the hydroelectric stations. If FERC won't take jurisdiction for the entire 89 miles, Utah will have to obtain additional permits from other federal agencies, including the Bureau of Land Management — added review the state had not assumed it would need when it first wrote its 6,000-page application to FERC.

Utah has now asked FERC to declare it does have jurisdiction over the 89 miles of downhill pipeline by Feb. 15. Until then, the state is asking federal regulators to put all other actions on hold.

“It’s not a deal breaker,” said Joel Williams, assistant director of the Utah Division of Water Resources. “It would just be a change in the game plan.”

Utah doesn't intend to seek FERC jurisdiction over the 50 or so miles of pipe that would pump water uphill. The state understands that it will need to get permits from other federal agencies for that portion of the project, said Williams.

If FERC doesn't issue a permit for the 89 miles, Williams said, the state would have to invest additional effort and money into obtaining the necessary papers from the BLM and other agencies. It remains unclear just how much more that would cost or how long it would take.

FERC's seemingly sudden declaration that it would need to review its jurisdiction, according to the state's letter, has created an “unprecedented and extraordinary situation” and “great uncertainty” for Utah.

“This uncertainty,” the letter states, “may also cause [the state] and other parties to expend substantial resources.”

Some observers say Utah might be misremembering some facts.

Matt Rice has followed Utah's Lake Powell Pipeline application for eight years as the director of the Colorado River Basin Program for the conservation group American Rivers. Rice contends FERC never said it would issue a permit for anything other than the power-generating stations.

“The commission has been fairly clear, from the very beginning, that they were not necessarily going to take on the pipeline, the conveyance system, under their jurisdiction,” Rice said Friday.

Officials with FERC have also indicated in an email to The Salt Lake Tribune they never assumed they would have jurisdiction over the entire pipeline.

Though he agreed the dispute needs to be resolved, Rice said he doesn't believe FERC should take full jurisdiction over the pipeline, and he strongly disagrees with Utah's proposed timeline for deciding the issue.

Although Utah “is reluctant to seek any delay of the application for this major new infrastructure project which is for the public benefit,” the letter states, “clarity regarding the commission's jurisdiction is necessary” to ensure all participants avoid wasting time and money.

Rice said the timeline Utah is seeking won't give FERC enough time to evaluate public comments relevant to the jurisdiction issue. Under FERC's rules, he said, commenters have 30 days to respond to Utah's letter. The Feb. 15 deadline, he said, would leave FERC two weeks to evaluate those comments — probably not enough time for a thorough review.

Rice said he suspects that state officials set the deadline in attempt to rush FERC's decision “to get the answers that they want.” He added that his group has objected to the state's timeline to ensure Utah “plays by the rules that FERC adheres to.”

But Williams said the state didn't mean to rush FERC's decision. He said they

chose Feb. 15 to keep overall progress on the pipeline on track. Utah still hopes to break ground sometime around 2020.

“There’s not a lot of wiggle room left,” Williams said.