

FEDERAL ENERGY REGULATORY COMMISSION
Washington, DC 20426
June 17, 2016

OFFICE OF ENERGY PROJECTS

Project No. 2685-026—New York
Blenheim-Gilboa Pumped Storage Project
New York Power Authority

Mr. Robert Daly
Licensing Manager
New York Power Authority
123 Main Street
White Plains, NY 10601

Subject: Determination on Requests for Study Modifications for the Blenheim-Gilboa Pumped Storage Project

Dear Mr. Daly:

Pursuant to 18 C.F.R. section 5.15 of the Commission's regulations, this letter contains the determination on requests for modifications to the approved study plan for New York Power Authority's (NYPA's) Blenheim-Gilboa Pumped Storage Project No. 2685 (Blenheim-Gilboa Project). The determination is based on the study criteria set forth in sections 5.9(b) and 5.15(d) and (e) of the Commission's regulations, applicable law, Commission policy and practice, and staff's review of the record of information.

Background

Commission staff issued a Study Plan Determination (SPD) for the Blenheim-Gilboa Project on February 19, 2015. NYPA filed an initial study report (ISR) on February 19, 2016, held an ISR meeting on March 3, 2016, and filed an ISR meeting summary on March 18, 2016. Comments on the ISR and meeting summary were filed on April 12, 2016, by the Schoharie County Board of Supervisors and the Town of Fulton, New York; on April 13, 2016, by the Schoharie County Relicensing Committee, American Whitewater, and the Town of Blenheim Relicensing Committee; on April 18, 2016, by the Blenheim Long-Term Community Recovery Committee (Blenheim LTCRC); and on April 19, 2016, by the Middleburg Fire Department, Anne Mattice-Strauch, and by Gail Shaffer individually and on behalf of the Town of Blenheim, New

Project No. 2685-026

- 2 -

York (Town of Blenheim).¹ NYPA filed reply comments on May 19, 2016. Late comments were filed by Schoharie County Long Term, Inc. on June 2, 2016. Although NYPA did not have an opportunity to reply to the late comments, they have been reviewed and considered in this determination.

Comments

A number of the comments received on the ISR do not specifically request modifications to the approved studies or new studies. This determination does not address these types of comments, including comments on: issues that were previously addressed in the Commission's September 18, 2014 Scoping Document 2 (SD2) or the SPD; issues related to the Commission's environmental analysis under the National Environmental Policy Act (NEPA); the Commission's dam safety criteria; requests for funding of programs and services, additional information, and license term limitations; or recommendations for protection, mitigation, or enhancement measures. This determination only addresses specific recommendations to modify the approved study plan or, where needed, provides guidance to NYPA on how to proceed with studies that are not yet complete. In addition, unless otherwise noted, the methodologies used to conduct the completed studies or that are planned for the studies yet to be completed, as they are discussed in NYPA's reply comments, are consistent with the approved study plan and are not addressed in this determination.

Study Plan Determination

Pursuant to section 5.15(d) of the Commission's regulations, any proposal to modify a required study must be accompanied by a showing of good cause, and must include a demonstration that: (1) the approved study was not conducted as provided for in the approved study plan, or (2) the study was conducted under anomalous environmental conditions or that environmental conditions have changed in a material way. As specified in section 5.15(e), requests for new information gathering or studies must include a statement explaining: (1) any material change in law or regulations applicable to the information request, (2) why the goals and objectives of the approved study could not be met with the approved study methodology, (3) why the request was not made earlier, (4) significant changes in the project proposal or that significant new information material to the study objectives has become available, and (5) why the new study request satisfies the study criteria in section 5.9(b).

¹ On April 29, 2016, the Schoharie County Board of Supervisors filed a report entitled "*August 28-29, 2011 Flood Study For Schoharie County*" prepared by John M. McDonald Engineering, P.C. Hard-copies of the report had previously been given to NYPA staff and Commission staff at the March 3, 2016 ISR meeting.

Project No. 2685-026

- 3 -

As indicated in Appendix A, none of the requested study modifications are approved. The basis for not modifying the study plan is explained in Appendix B (Requested Modifications to Approved Studies). Commission staff considered all study plan criteria in section 5.9 of the Commission's regulations; however, only the specific study criteria particularly relevant to the study in question are referenced in Appendix B.

Incomplete Studies

There are currently three incomplete studies. According to the approved study plan, the study report for Study 4: *Recreation Use/User Contact Study and Assessment of Effects the Project has on Recreation Use* (Recreation Study) was expected to be filed with the Updated Study Report (USR). Reports for two studies, Study 5: *Effect of Project Operations on Downstream Flooding Study* (Downstream Flooding Study) and Study 6: *Socioeconomics Study*, were due to be filed with the ISR and are late.

In the ISR, NYPA describes the delays for the Downstream Flooding and Socioeconomics studies. These delays are reportedly related to the timing of the U.S. Geological Survey's release of the Light Detection and Ranging (LiDAR) data needed for NYPA's hydraulic model and issues with developing the operations model for the Downstream Flooding Study; and unanticipated delays with the REMI model used for analyses in the Socioeconomics Study. These delays did not involve a change to the study methodologies in the approved study plan, and appear to be reasonable. In its reply comments, NYPA states that it "...is on schedule to complete the reports for the Socioeconomics Study and Recreation Use/User Comment Survey in the summer of 2016 and the report for the Effect of Project Operations on Downstream Flooding Study by the fourth quarter of 2016." NYPA also states that it "...will hold a public meeting(s) to present the results of these studies."

According to the current process plan and schedule, the USR is due on February 18, 2017. Therefore, the USR must contain study reports for the Recreation Study, Downstream Flooding Study, and Socioeconomics Study. NYPA is welcome to file these studies with the Commission prior to the USR and hold technical meetings to discuss the study results with stakeholders. However, if NYPA proposes to accelerate the USR process (including the USR filing date, USR meeting date, 30-day stakeholder review period, etc.) for all three studies, or accelerate the review of either of the late studies, it must request that the Commission adjust the process plan and schedule accordingly. Otherwise, the USR review process will occur according to the current process plan and schedule. We encourage stakeholders to provide a showing of good cause in support of any requests to modify the required studies or to require a new study, following the guidelines in section 5.15(d) and (e) of the Commission's regulations, respectively.

Project No. 2685-026

- 4 -

Requests Not Addressed

Appendix B does not address two requests for study modifications because the information gathered to date does not provide an adequate basis for a determination on these requests. Specifically, Commission staff need to review the Recreation Study and Socioeconomics Study reports to assess requests: (1) to modify the Recreation Study to include a controlled-flow boating assessment and an assessment of feasibility of portage around the lower dam; and (2) for a more specific and independent valuation of the project in the Socioeconomics Study. Commission staff will address these two requests after the study reports are filed with the USR, or earlier if NYPA files, and the Commission accepts, a request to accelerate the review for either study.

Please note that nothing in this determination is intended, in any way, to limit any agency's proper exercise of its independent statutory authority to require additional studies.

If you have any questions, please contact Andy Bernick at (202) 502-8660, or via e-mail at andrew.bernick@ferc.gov.

Sincerely,

Ann F. Miles
Director
Office of Energy Projects

Enclosures: Appendix A – Summary of Determinations on Requested Modifications to Approved Studies

Appendix B – Staff's Recommendations on Requested Modifications to Approved Studies

cc: Mailing List, Public Files

APPENDIX A**SUMMARY OF DETERMINATIONS ON REQUESTED MODIFICATIONS TO APPROVED STUDIES****Requested Modifications to Approved Studies (see Appendix B for discussion)**

Study	Recommending Entity	Approved	Approved with Modification	Not Required
1 -- Historic Structures Survey	Town of Blenheim, Blenheim LTCRC, Anne Mattice-Strauch, Schoharie County Relicensing Committee			X ^a
2 -- Phase 1A Archaeological Survey	Town of Blenheim, Blenheim LTCRC, Anne Mattice-Strauch, Schoharie County Relicensing Committee			X ^a
3 -- Fish Entrainment/Protection Assessment Study	Town of Blenheim			X ^a
4 -- Recreation Use/User Contact Study and Assessment of Effects the Project has on Recreation Use ^b	Town of Blenheim, Blenheim LTCRC, American Whitewater, Schoharie County Relicensing Committee, Town of Fulton			X

Project No. 2685-026

Appendix A

- 6 -

5 -- Effect of Project Operations on Downstream Flooding Study	Town of Blenheim, Blenheim LTCRC, Anne Mattice-Strauch, Schoharie County Relicensing Committee, Town of Fulton, Schoharie County Board of Supervisors			X ^c
6 -- Socioeconomics Study ^b	Town of Blenheim, Blenheim LTCRC, Anne Mattice-Strauch, Town of Blenheim Relicensing Committee, Schoharie County Relicensing Committee, Town of Fulton			X

^a All of the comments and requests on this study had been previously addressed, as noted in the cover letter, and are not discussed further in Appendix B.

^b As noted in the cover letter, we were not able to review all requests for modification in this determination. We will address remaining requests after NYPA files its study reports in the USR on February 18, 2017.

^c Except for the Town of Blenheim's seismic study request, the other comments and requests on the Downstream Flooding Study had been previously addressed and are not discussed further in Appendix B.

APPENDIX B**STAFF RECOMMENDATIONS ON REQUESTED MODIFICATIONS TO
APPROVED STUDIES****Study 4: Recreation Use/User Contact Study and Assessment of Effects the Project has on Recreation Use (Recreation Study) - Recreational Boating Desktop Feasibility Assessment task**Background

The goal of the Recreational Boating Desktop Feasibility Assessment (desktop assessment) is to determine if it is feasible for the project to provide additional flow-related recreational boating opportunities, which could inform the development of protection, enhancement, and mitigation measures later in the relicensing process. While the Recreation Study report is due to be filed with the USR, NYPA completed the desktop assessment task early and filed the report on the desktop assessment with the ISR.²

As required by the SPD, NYPA focused the desktop assessment on a 9.2-mile reach of Schoharie Creek downstream of the lower dam to Max V. Shaul State Park (primary study area), and conducted a literature review, a hydrology assessment, a hydraulic analysis, and surveys. NYPA also identified three other stretches of Schoharie Creek, both upstream and downstream of the primary study area, to include within the literature review and expanded the geographic scope of the literature review to document other boating opportunities within a 50-mile radius of the project in order to provide regional context. NYPA concluded that while there are available access points, only a limited amount of recreational boating has occurred in the primary study area because water depths are not conducive to boating for most of the boating season. Further, based on the hydraulic analysis, NYPA concluded that diverting water from project storage for boating releases would adversely impact the ability of the project to replenish storage lost through evaporation and seepage, and to continue to provide the downstream flows required by the current license.

American Whitewater, the Town of Fulton, the Town of Blenheim, the Blenheim LTCRC, and Schoharie County filed comments on the desktop assessment; however,

² We note that several commenters characterize the desktop assessment as a separate, stand-alone study; however, that was not the intent when the study was required by the SPD. Rather, the SPD describes the desktop assessment as a component of the Recreation Study, with the results to be filed as part of Task 4 (Study Report of the Recreation Study).

Project No. 2685-026

Appendix B

- 8 -

only American Whitewater provided a specific study modification request, which calls for NYPA to conduct a controlled-flow boating study.

Recreational Flow Releases

Requested Study Modifications

American Whitewater states that while NYPA claims any additional storage capacity in the upper reservoir is needed to provide the minimum flows required by the existing license or to replace water lost to evaporation, it has not provided any data analyzing the extent to which it uses this excess capacity or the extent to which this capacity might be used to supplement project inflows in order to support additional recreational boating downstream of the lower dam. American Whitewater requests that NYPA analyze the impact of reserving, for example, 10 percent of project inflows for storage following a boating release in order to replace the water used for that release.

In addition, American Whitewater states that evaluating the quality of boating in the primary study area based on the anecdotal information collected by NYPA is difficult due to a variety of factors, including the lack of flow data correlating to boater evaluation of the reach, the length of time between the boating experience and the survey, differences in water craft and ability among those surveyed, and changes to the stream reach resulting from Tropical Storm Irene. American Whitewater states that a more definitive evaluation of the resource under current conditions would require a controlled-flow boating study in which varying flows are released in a stepwise manner and participants of varying ability and using a variety of water craft provide a comparative evaluation of the river reach at each flow. The modified study would include an analysis of: a range of optimal and acceptable boating flows for various water craft; the frequency, timing, duration, and predictability of optimal and acceptable paddling flows under current conditions in the bypassed reach, and how proposed alternative operations could be used; access needs of boaters and the current and potential river access option for paddling; flow information needs for boating and the current and potential flow information distribution system; and the location, challenge, and other recreational attributes associated with river features in this reach. Blenheim LTCRC and Schoharie County also request a detailed analysis of how specific, timed flow releases pre-scheduled by NYPA, and made in coordination with Schoharie County and regional agencies, clubs and other such entities, might enhance the use of Schoharie Creek for boating opportunities even in times of low water levels.

Finally, American Whitewater, the Town of Fulton, the Town of Blenheim, Blenheim LTCRC, and Schoharie County request that the study take into account the new opportunities for kayaking and canoeing events that may become possible by 2020 with the completion of a new low level outlet at New York Department of Environmental

Protection's (New York DEP) renovated Gilboa Dam, located upstream of the Blenheim-Gilboa Project. The commenters state that conservation flows from New York DEP's Gilboa Dam could be used to provide recreational boating flow releases and replace depleted storage at the Blenheim-Gilboa Project.

Comments on Requested Study Modifications

NYPA states that the request to analyze use of the upper reservoir for recreational boating releases should be denied because it overlooks that from a technical feasibility standpoint, there is insufficient water at this time to provide reliable enhancement flows for recreational boating. NYPA states that the requirement to provide releases for evaporative losses and low flows from the lower reservoir derives from the Commission's 1975 *Order Approving Settlement Agreement*.³ In order to account for evaporative losses and low flows from the lower reservoir, NYPA states that it releases stored water from the upper reservoir to create flows from the lower reservoir that are comparable to those that would have occurred if the project had not been built. NYPA then goes on to provide a discussion detailing the volume of water required to account for evaporation losses and low-flow augmentation and estimating the volume of water that would be needed for potential boating releases.

Regarding the release of conservation flows from New York DEP's Gilboa Dam, NYPA states that at this time it is unaware of an approved conservation release plan for the Gilboa Dam and as such, the amount of the releases, if any, is not yet certain. NYPA states that until there is more certainty regarding any future conservation releases from New York DEP's Gilboa Dam, it is premature to assess whether any increased releases to the lower reservoir would allow for sufficient water to provide enhancement flows for recreational boating in the stretch of Schoharie Creek downstream of the lower dam.

Discussion and Staff Recommendation

Although NYPA filed the report on the desktop assessment early as part of the ISR, the results of the desktop assessment are meant to inform the entire Recreation Study as NYPA evaluates project recreation and studies the adequacy of existing recreation sites and facilities to meet current and future demand. As a result, until NYPA files the Recreation Study report, which will include the results of a user survey and address the demand for project recreational opportunities,⁴ it is premature to make a determination on American Whitewater's requested study modification and the other

³ *Power Authority of New York*, 54 F.P.C. 380 (1975).

⁴ The Recreation Study report is scheduled to be filed with the USR on February 18, 2017, unless NYPA requests a change to the current process plan and schedule.

Project No. 2685-026

Appendix B

- 10 -

commenters' requests to conduct a controlled-flow study. Once the Recreation Study is complete and we have a better understanding of the demand for recreational boating at the project, we will assess whether a controlled-flow study is needed.

Regarding requests that the desktop assessment include an analysis of the extent to which excess storage capacity might be utilized to support recreational flow releases and take into account the new boating opportunities that may become possible through New York DEP's potential conservation releases at Gilboa Dam, we note that NYPA's May 19, 2016 reply comments on the ISR provide this information, in the form of a detailed discussion of the storage available in the upper reservoir and how it is used to account for evaporation and low-flow augmentation. Further, even though the amount of any conservation releases from Gilboa Dam is uncertain, a physical study of the effects of these flows is unnecessary because any questions regarding the flows can be addressed by incorporating the potential range of flows into NYPA's existing flow analysis. For these reasons, requests to modify the Recreation Study to analyze the extent of storage available for recreational releases and to account for potential conservation flows from Gilboa Dam do not meet the criteria for study modification listed under section 5.15(d) or (e), because NYPA has provided the information needed to conduct this analysis and environmental conditions have not changed in a material way.

Boating Access

Requested Study Modifications

American Whitewater states that while NYPA identified numerous recreational boating access points, it did not include information on the physical suitability of these areas, nor did NYPA evaluate the impact of the lack of any hand-carry portage around the lower dam as an impediment to recreational use. American Whitewater believes additional boating on Schoharie Creek would occur if access improvements and scheduled flow releases were made. American Whitewater requests that NYPA undertake a physical inspection of each access point in order to assess its adequacy as a boat launch and study the feasibility of providing portage around the lower dam.

Comments on Requested Study Modifications

NYPA claims that American Whitewater's request assumes, but provides no evidence, that there is demand for new or improved access points. In addition, NYPA states that the lower reservoir is essentially operated as run-of-river and therefore does not affect boating conditions downstream. NYPA also states that two of the other Schoharie Creek stretches that it included in the desktop assessment (study areas 2 and 3) are upstream of the lower dam and are not influenced by flows from the project.

Project No. 2685-026

Appendix B

- 11 -

NYPA states that development of a portage route from the lower reservoir to below the lower dam is impractical for a number of reasons and therefore a study to identify such a route would have no purpose. NYPA states that the shoreline embankments both above and below the lower dam are steep and/or heavily rip-rapped for erosion control purposes, creating treacherous footing, especially when carrying a boat. These conditions, coupled with the proximity of any potential upstream access site to the lower dam present significant safety issues. NYPA also states that American Whitewater assumes the provision of canoe portage means that boaters will boat the lower reservoir, portage around the lower dam, and then boat in the creek immediately below the dam; however, the type of boating opportunities above and below the dam are very different. The lower reservoir provides flat water boating conditions while the reach below the lower dam provides a whitewater experience that can be very dangerous depending on flows. Further, NYPA states that only one of 14 boaters interviewed for the desktop assessment's survey indicated "yes" in response to the direct question about having boated from Gilboa Dam to Mine Kill (which flows into the lower reservoir approximately 1.5 miles above the lower dam), suggesting there is little demand or need for a portage around the lower dam.

Discussion and Staff Recommendation

As stated above, the SPD describes the desktop assessment as a component of the Recreation Study and requires the results of the assessment to be filed as part of Task 4 (Study Report of the Recreation Study). The Recreation Study is to include an evaluation of the adequacy of existing recreation sites and facilities to meet current recreation demand. As such, the information requested by American Whitewater regarding the suitability of recreational access points should be addressed as part of NYPA's Recreation Study.

Regarding portage around the lower dam, the Recreation Study report also will include the results of a user survey and address the use and demand for recreational opportunities at the project. Until that report is filed, it is premature to make a determination regarding the suitability of access points or need for portage because the requested information may already be contained in the Recreation Study report. Further, the Recreation Study report should provide a better understanding of the existing recreation facilities and the demand for recreational boating at the project, and on that basis we will make a determination regarding American Whitewater's request to inspect access points and address portage at the project.

Study 5: Effect of Project Operations on Downstream Flooding Study (Downstream Flooding Study)*Seismic Study*Background

The goal of NYPA's Downstream Flooding Study is to examine the potential effects of the project's current operation on downstream flooding, and investigate alternative operations, if any, that could potentially reduce downstream flooding during high-flow events, recognizing the primary purpose of the project as a pumped storage facility.

Requested Study Modification

The Town of Blenheim commented on a 3.0-magnitude earthquake that recently occurred in proximity to the project facilities⁵ and a subsequent seismic event north of the Mohawk River a few days afterward, and suggests that there has been an increase in local seismic activity over the past decade.

The Town of Blenheim recommends that a consultant be engaged to study seismic events within the project boundary, and that NYPA fund such a study, to be conducted by a specific seismic geologist at the State University of New York – Buffalo who is experienced in issues related to seismic activity in proximity to pumped storage projects and who is accountable to the Dam Safety Division of the New York State Department of Environmental Conservation (New York DEC). Although the Town of Blenheim submitted the requested modification under the Downstream Flooding Study, it requests that the results of this effort be incorporated into “the study addressing dam safety and flood mitigation issues.”

⁵ This earthquake occurred on September 26, 2015, as indicated in Schoharie County Board of Supervisors' October 26, 2015, filing of County Resolution 98 (titled “*A Resolution calling for the Bureau of Flood Protection and Dam Safety of the NYS Department of Environmental Conservation to take the following action regarding the New York City DEP dam at Gilboa, NY and the Blenheim/Gilboa Pumped Storage Project owned by NYS Power Authority*”), requesting an independent study of the recent seismic event on the nearby dam structures.

Project No. 2685-026

Appendix B

- 13 -

Comments on Requested Study Modification

In its response, NYPA indicates that this issue has been addressed previously by the Commission's SD2 or SPD, and that the issue is beyond the scope of the relicensing proceeding.

Discussion and Staff Recommendation

In SD2, we clarified that the Commission's environmental review will examine the effects of potential seismic events and subsidence on project facilities, and stated that the Commission would continue to require NYPA to ensure that the project meets the Commission's dam safety criteria regarding seismic hazard, as noted in Part 12 of the Commission's regulations and the Engineering Guidelines. Nevertheless, as the 3.0-magnitude earthquake event occurred following SD2, we have reviewed all information filed with the Commission regarding the incident. Based on our review, there does not appear to be any evidence that the September 2015 earthquake had an effect on project facilities or lands within the project boundary. Further, it is unclear whether the Town of Blenheim intended its request for a seismic study be included under the Downstream Flooding Study, or under a new study addressing dam safety and flooding issues. In either case, the request does not meet the criteria under section 5.15(d) or (e), as the earthquake didn't represent a material change in environmental conditions that would require a modification to the Downstream Flooding Study, and it is unclear how a new seismic study would inform licensing decisions (section 5.9(b)(5)). Lastly, requiring NYPA to fund a study that would be subject to New York DEC's dam safety program, and be conducted by a specific party, is beyond the Commission's jurisdiction. For these reasons, we do not recommend the requested seismic study as part of the Downstream Flooding Study; however, we may still require modifications to the Downstream Flooding Study after NYPA files its study report.

Study 6: Socioeconomics Study

Background

The goal of NYPA's Socioeconomics Study is to evaluate the socioeconomic effects of the Blenheim-Gilboa Project on the local and neighboring communities, as well as on the region and State of New York. The study includes: a demographic and economic profile of current conditions in local and neighboring communities, including the socioeconomic character of those communities; evaluation of potential socioeconomic effects on the communities resulting from the project's operation and

Project No. 2685-026

Appendix B

- 14 -

NYPA's tax-exempt status using the REMI model;⁶ and evaluation of potential economic effects associated with the local and neighboring communities providing first responder services.

Geographic scope

Requested Study Modification

Several stakeholders, including the Blenheim LTCRC, the Town of Blenheim, the Town of Blenheim Relicensing Committee, and the Schoharie County Relicensing Committee have commented that the study should not include a state-wide assessment of socioeconomic effects because this would dilute any negative effects of the project on the local, neighboring, and host communities.

Comments on Requested Study Modification

In its response, NYPA states that one objective of the study is to evaluate the socioeconomic effects on the local and neighboring communities, the region, and the state. It states that New York State is included because the power-related benefits of the project accrue to the entire state, and the inclusion of the state will not obscure the socioeconomic effects of the project on the local and neighboring communities because the effects will be itemized for each local and neighboring community.

Discussion and Staff Recommendation

NYPA proposes to conduct the Socioeconomics Study at multiple geographic levels, i.e., state, regional and local-level. Because the state-level analysis of socioeconomic effects would be independent of the socioeconomic effects analysis on the local level, and NYPA is conducting the study according to the approved study plan (section 5.15(d)(1)), we do not recommend the requested change to the study.

Methodology or valuation of the project to assess the project's tax-exempt status

Requested Study Modifications

Several stakeholders, including the Blenheim LTCRC, the Town of Blenheim, the Town of Blenheim Relicensing Committee, the Schoharie County Relicensing Committee, Anne Mattice-Strauch, and the Town of Fulton have commented that the use

⁶ REMI, developed by Regional Economic Models, Inc., is an economic Input-Output model that uses various equations and variables to forecast the impact that an economic/policy change has upon an economy.

Project No. 2685-026

Appendix B

- 15 -

of Schoharie County's valuations of the project to assess the effects of the project's tax-exempt status will not provide an accurate assessment, and therefore, NYPA should retain an independent appraisal firm to determine the project's value. The Town of Blenheim states that because it anticipates development of a compensation package as part of the relicensing process, it is critical that a reevaluation of the project be conducted by an entity with specialized expertise.

Comments on Requested Study Modification

NYPA responds that the use of Schoharie County's own valuation of the project is a reasonable approach because it provides sufficient, independent information for the Commission to assess the socioeconomic impacts of the continued operation of the Blenheim-Gilboa Project. NYPA states that a project-level appraisal is unnecessary for the Commission to evaluate the socioeconomic impacts of the project because the assessment of non-power resources is generally conducted qualitatively. It also states that establishing payments in lieu of taxes is beyond the scope of the relicensing process and outside of the Commission's jurisdiction.

Discussion and Staff Recommendation

In the ISR meeting held on March 3, 2016, NYPA stated that it is using Schoharie County's valuations of the project in the REMI model to assess the socioeconomic effects of the project's tax-exempt status on the local communities. NYPA has filed only a brief progress report on the Socioeconomics Study and has indicated that the study is ongoing. At this time, there is not enough information regarding the valuation of the project and how this information would be used in the analysis of the project's socioeconomic effects. Therefore, it is premature to comment and/or provide a recommendation on the need to modify the project's valuation methodology until the Socioeconomics Study is completed and a report is filed, which we expect would be part of the USR unless NYPA requests a change to the current process plan and schedule.

However, regarding the need for detailed assessment data for the purpose of determining compensation for lost tax revenue, the Commission does not have the authority to adjudicate claims for, or to require a licensee, through license requirements or any other means, to establish payments in lieu of taxes. The tax-exempt status of NYPA is a matter of state law and beyond the Commission's jurisdiction.⁷

⁷ See e.g., *City of Tacoma*, 84 FERC ¶ 61,037 at 61,142, *reh'g denied*, 85 FERC ¶ 61,020 (1998) (declining to require licensee to compensate county for lost tax revenues); *FPL Energy Maine Hydro, LLC*, 106 FERC ¶ 61,038 at P 58 (2004) (rejecting request that local government be compensated for loss of future tax revenues upon cessation of operations of project).

*Assessment of the socioeconomic impact of a catastrophic dam failure*Requested Study Modification

The Blenheim LTCRC and the Schoharie County Relicensing Committee state that the threat of a catastrophic event involving the project dams should be considered in the Socioeconomics Study. They state that the inhabitants downstream of the facility live under the constant threat of flooding and this threat has a significant economic, social, and psychological impact on the residents of the Town of Blenheim, the Schoharie County, and the entire Schoharie Valley.

Comments on Requested Study Modification

In its response, NYPA states that such issues have been addressed previously by the Commission's SD2 or SPD. NYPA also states that this issue is beyond the scope of the relicensing proceeding, either because the information has been addressed under the current license as part of the Commission's Part 12 dam safety program, or otherwise has no nexus to the project's relicensing.

Discussion and Staff Recommendation

Although we recognize that a catastrophic dam failure event could threaten areas downstream of the dams, the evaluation of such a threat based on a hypothetical event would be too speculative and would not inform the development of the license requirements (section 5.9 (b)(5)). Therefore, we do not recommend the requested threat assessment in the Socioeconomics Study.

The Blenheim-Gilboa Project has been operating for almost 43 years. During this time, Commission staff has conducted inspections focusing on the continued safety of the structures, efficiency and safety of operations, compliance with the terms of the license, and proper maintenance. The project has been inspected and evaluated every 5 years by an independent consultant, and a consultant's safety report has been submitted for Commission review. The Commission would continue to require NYPA to ensure that the project meets the Commission's dam safety criteria found in Part 12 of the Commission's regulations and the Engineering Guidelines, which among other things require an emergency action plan (EAP) that is reviewed and tested annually by NYPA staff.

*Socioeconomic effects of non-project transmission lines*Requested Study Modifications

The Town of Blenheim comments that the project's high-power transmission lines diminish the value of real estate properties and have a negative aesthetic impact on the community, and request that these impacts be factored into the Socioeconomics Study. The Schoharie County Relicensing Committee comments that transmission lines connected with the Blenheim-Gilboa Project, although not part of relicensing, have a negative effect on the County by lowering property values. It states that the Socioeconomics Study should include the economic loss the community suffers due to these transmission lines owned by other companies.

Comments on Requested Study Modifications

In its response, NYPA states that such issues have been addressed previously by the Commission's SD2 or SPD. In addition, NYPA states that this issue is beyond the scope of the relicensing proceeding because it has no nexus to the project relicensing.

Discussion and Staff Recommendation

On page 18 of SD2, we noted that the Commission issued a June 3, 2010 order amending the project license that removed three, 345-kilovolt transmission lines from the project license. As these transmission lines are no longer part of the project, any effects associated with them would be outside the scope of this proceeding (section 5.9(b)(5)). Therefore, we do not recommend the evaluation of this non-project related effect.

Document Content(s)

P-2685-026Letter6.DOC.....1-17