

# **Suspension of Payments for E. J. West Power Plant by Brookfield Renewable**

## **Frequently Asked Questions**

### **What are these payments?**

Nearly a century ago, the State of New York needed to obtain the necessary property rights to construct Conklingville Dam and form what is now Great Sacandaga Lake. It did so in 1927 via an agreement with New York Power & Light, the predecessor to Niagara Mohawk, which was the predecessor to Erie Boulevard Hydropower, a division of Brookfield Renewable, which currently operates the E. J. West hydroelectric plant at the dam. New York Power & Light retained the rights to 15 feet of “head” at the location, with the State providing an additional 56 feet of head by virtue of its construction of the dam. For 95 years, the Regulating District has been compensated by the power company operating at the site for the rights to this additional 56 feet in head as it relates to generation of electricity at the dam. Currently, this revenue amounts to approximately \$1.5 million annually in support of the Regulating District’s mission.

### **What has changed?**

With its existing agreement set to expire at the end of June 2021, the Regulating District began negotiations with Brookfield Renewable in June 2020 on a new or amended agreement. As these discussions continued and documents were exchanged, the parties realized that a new agreement would not be in place by the end of June 2021, and both parties agreed on a one-year extension and a later additional six month extension to the end of December 2022. After the Regulating District provided Brookfield its independent, third-party appraisal of the value of rights covered by the agreement, suggesting that the annual fee should increase from approximately \$1.5 million to approximately \$2.5 million, Brookfield Renewable suggested it may opt not to renew the agreement. On November 21, 2022, Brookfield Renewable formally notified the Regulating District that it would let the agreement expire at the end of the year, bringing an end to 95 years of payments for the right to use the 56 feet of head provided by the State, and ceasing its annual \$1.5 million payments to the Regulating District.

### **Was Brookfield paying more or less than it had historically?**

Outside of this specific agreement, and preceding agreements, to compensate the Regulating District for the 56 feet of head the State provided in constructing the Conklingville Dam since 1927, hydroelectric power producers, including Brookfield Renewable, are assessed and make payments to the Regulating District other ways as well. Overall, payments made by Brookfield in connection to its operations in the Hudson River Area have declined by nearly \$1.8 million - or by approximately 50% - over the last ten years.

### **How will Brookfield’s suspension of these payments impact the Regulating District’s mission of protecting the public through flood protection and flow augmentation?**

As required by statute, the Regulating District adopts annual budgets on a three-year cycle. It is in the middle of its current, three-year cycle. With support from the Governor and the New York

State Legislature, the Regulating District has implemented financial reforms putting it on the best fiscal footing in two decades. Though the loss of this significant funding stream from Brookfield will have consequences, in the near term, the Regulating District can continue to execute its vitally important mission-critical operations without any reduction of service or impact to readiness.

**How will Brookfield’s suspension of these payments impact the upcoming rehabilitation project at Conklingville Dam?**

Thanks to a \$40 million commitment in State funding from the Governor and New York State Legislature, this project is fully funded and not dependent on Regulating District revenue streams. We will continue moving forward with our partners at the New York State Office of General Services and Bergmann Associates to deliver this generational investment in our critical infrastructure.

**How will Brookfield’s suspension of these payments impact the upcoming rehabilitation project at Indian Lake Dam?**

The Regulating District remains 100% committed to making the necessary investments in its infrastructure in the interest of dam safety, and in support of its mission of protecting the public from the impacts of flooding. Working closely with the Board and stakeholders, we will be carefully considering any impacts to scope or timing of the project in the context of this loss of revenue, with a goal of keeping the project on schedule.

**How will Brookfield’s suspension of these payments impact water regulation on Great Sacandaga Lake?**

The Regulating District is fully capable of meeting all requirements for releases from Great Sacandaga Lake, and downstream flows, regardless of operations at the E. J. West hydroelectric plant. Residents around, and users of, Great Sacandaga Lake should not see any changes.

**How will Brookfield’s suspension of these payments impact access permit fees for Great Sacandaga Lake?**

Working closely with stakeholder organizations like the Sacandaga Protection Committee, the Great Sacandaga Lake Association, and local elected officials, the Regulating District implemented modest changes to the access permit fee structure in 2020 which, along with customer service enhancements such as a new online permit renewal system, became effective in 2021. This represented the first such increase in two decades, and no additional increases are currently envisioned as a result of this loss of revenue from Brookfield.

**How will Brookfield’s suspension of these payments impact fiscal relief anticipated by downstream counties which make sizable payments to the Regulating District for flood protection?**

A 2013 agreement signed between five counties in the Hudson River area and the Regulating District ending litigation over payments from the counties for flood protection required the Regulating District to pursue all reasonable and appropriate avenues to reduce or eliminate its

real property tax obligations, in the interest in reducing the costs borne by taxpayers in those counties.

Working with these counties and State and Legislative leaders, the Regulating District sought this reduction in the New York State's FY 2023 budget, which ultimately included two statutory changes making the State of New York, rather than the Regulating District, responsible for school and local real property taxes on taxable State lands under the Regulating District's jurisdiction.

This reduction in the Regulating District's operating expenses would have been factored into the next three-year budget cycle, with a reduction in the equalized annual assessments charged to these counties first appearing in the 2024 assessment payments. However, the suspension of the approximately \$1.5 million annual payments from Brookfield call into question whether, and to what extent, these counties will realize this expected relief.

**What if I have questions?**

Questions/ comments for HRBRRD may be directed to: [hrao@hrbrrd.ny.gov](mailto:hrao@hrbrrd.ny.gov)

Questions/ comments for Brookfield may be directed to: [BRUSInfo@brookfieldrenewable.com](mailto:BRUSInfo@brookfieldrenewable.com)