



Hudson River - Black River Regulating District

KATHY HOCHUL
Governor

MARK M. FINKLE
Chairman

JOHN C. CALLAGHAN
Executive Director

May 22, 2023

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: Response to Urgent Request to Prevent the Diversion of Reservoir Releases
Project Nos. 12252-035, 12252-036, 2318-053, and 2318-054**

Dear Secretary Bose:

In response to the May 17, 2023 letter advanced on behalf of Erie Boulevard Hydropower L.P. (“Erie”), the Hudson River – Black River Regulating District (“Regulating District”) concurs that the Commission’s timely response to Petitions filed by the Regulating District and Erie should be encouraged. However, the Regulating District objects to Erie’s request that the Commission bifurcate its analysis so as to preclude the Regulating District’s sole remedy should Erie cease payments upon expiration of the agreement through which Erie and the Regulating District have, over the last ninety-five years, split the revenue generated through use of the parties’ respective properties. The current reservoir operating agreement, originally set to expire June 30, 2021, has been extended by mutual consent of the parties through June 30, 2023.

The Regulating District has every intention of negotiating a new reservoir operating agreement with Erie. This new agreement will be the next in the long series of reservoir operating agreements dating back to the 1927 real property transaction through which Erie’s predecessor agreed to share generation revenue in exchange for use of the state land underlying the impoundment; and the state’s construction of such impoundment at Conklingville. We do not dispute that both parties, and the public, are best served by having Erie generate and share the resulting revenue with the Regulating District through the pendency of these negotiations.

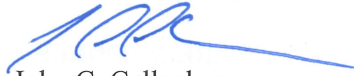
If the Commission is compelled to force the Regulating District to facilitate Erie’s continued generation at Conklingville, then we request that the Commission also compel Erie’s continued payment to the Regulating District for a necessary real property interest under the expiring or any replacement agreement. Negotiations have already dragged on for several years. The Regulating District has commissioned and shared with Erie an appraisal to establish the value of the Regulating District’s contribution to Erie’s ability to generate electricity at Conklingville. Based on the negotiated transaction Erie’s predecessor reached with the Regulating District’s predecessor ninety-five years ago, the appraisal computes Erie’s obligation to be a little over \$2.5 million a year; almost \$1 million more than Erie is

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obligated to pay under the expiring agreement. The basis for this revenue sharing is fully explained in the Petitions and Answers already before the Commission.

Sincerely,



John C. Callaghan
Executive Director

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Albany, New York this 22nd day of May, 2023.



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