

**FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR HYDROPOWER RELICENSING**

**NIAGARA PROJECT
FERC Project No. 2216-066
New York**

Federal Energy Regulatory Commission
Office of Energy Projects
Division of Hydropower Licensing
888 First Street, NE
Washington, DC 20426

December 2006

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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY PROJECTS

To the Agency or Individual Addressed:

Reference: Final Environmental Impact Statement

Attached is the final environmental impact statement (FEIS) on the proposed relicensing of the Niagara Project (No. 2216-066), located on the Niagara River in Niagara County, New York.

This FEIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff. It contains staff evaluations on the applicant's proposal and alternatives for relicensing the Niagara Project.

Before the Commission makes a licensing decision, it will take into account all concerns relevant to the public interest. This FEIS will be part of the record from which the Commission will make its decision. The FEIS was sent to the U.S. Environmental Protection Agency and made available to the public in December 2006.

An electronic copy of this document may be viewed on the Commission's website at www.ferc.gov using the "Documents & Filing" link; select "eLibrary" and follow the instructions (call 866-208-3676 for assistance). The TTY number is 202-502-8659. Copies are also available in the Commission's Public Reference Branch, Room 2A, located at 888 First Street NE, Washington, D.C. 20426.

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COVER SHEET

- a. Title: Relicensing the Niagara Project in New York, Federal Energy Regulatory Commission (FERC or Commission) Project No. 2216-066
- b. Subject: Final Environmental Impact Statement
- c. Lead Agency: Federal Energy Regulatory Commission
- d. Abstract: The New York Power Authority (Power Authority) has filed an application for a new license, and an Offer of Settlement, for the existing 2,755-megawatt Niagara Project (project) located on the Niagara River in Niagara County, New York. The intake structures are about 2.6 miles upstream of Niagara Falls and the generating plants (1 pumped storage development and 1 conventional hydroelectric development) are approximately 5 miles downstream from Niagara Falls. The project does not occupy any federal lands.

The project is operated under the terms of two treaties (1909 and 1950) between the United States and Canada regarding the creation of the International Joint Commission, allocation of the boundary waters, and minimum aesthetic flows for Niagara Falls. Additionally, a 1993 directive from the International Niagara Board of Control limits water level fluctuations in the area of the upper Niagara River where the intakes are located. Within these constraints, the project operates in a store and release mode to maximize the amount of energy produced during peak demand periods. No change in project operation is proposed or recommended.

Key issues associated with relicensing this project are: water level fluctuations, groundwater transport, shoreline erosion, and power allocation. The Power Authority's proposal under the terms of the Relicensing Agreement (a component of the Offer of Settlement) includes measures intended to address these issues.

The staff's recommendation is to relicense the project as proposed under the terms of the Relicensing Agreement, with some minor modifications.

- e. Contact: **Environmental Staff** **Staff Counsel**
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- f. Transmittal: This final environmental impact statement prepared by the Commission's staff on the hydroelectric license application filed by the New York Power Authority for the existing Niagara Project (No. 2216-066) is being made available to the public on or about December 29, 2006, as required by the National Environmental Policy Act of 1969.¹

¹ National Environmental Policy Act of 1969, amended (Pub. L. 91-190. 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, §4(b), September 13, 1982).

FOREWORD

The Federal Energy Regulatory Commission (Commission), pursuant to the Federal Power Act (FPA)² and the U.S. Department of Energy Organization Act³ is authorized to issue licenses for up to 50 years for the construction and operation of non-federal hydroelectric developments subject to its jurisdiction, on the necessary conditions:

That the project adopted...shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, for the adequate protection and enhancement of fish and wildlife (including related spawning grounds and habitat), and for other beneficial public uses, including irrigation, flood control, water supply, and recreational and other purposes referred to in Section 4(e)...⁴

The Commission may require such other conditions not inconsistent with the FPA as may be found necessary to provide for the various public interests to be served by the project.⁵

²16 U.S.C. §791(a)-825r, as amended by the Electric Consumers Protection Act of 1986, Public Law 99-495 (1986) and the Energy Policy Act of 1992, Public Law 102-486 (1992).

³Public Law 95-91, 91 Stat. 556 (1977).

⁴16 U.S.C. §803(a).

⁵16 U.S.C. §803(g).

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