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FEDERAL ENERGY REGULATORY COMMISSION
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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

UAH-CENCOGEN Group

Project No. 9159-000

ORDER GRANTING EXEMPTION FROM LICENSING
(CONDUIT)
(Issued December 18, 1986)

On May 2, 1985, UAH-CENCOGEN Group filed an application to exempt the West Delaware Tunnel Outlet Project from the licensing requirements set forth in Part I of the Federal Power Act. The proposed small hydropower project is described in the attached public notice. The comments of interested agencies and individuals, including the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the state fish and wildlife agency, have been fully considered in determining whether to issue this exemption from licensing.


Article 2 of this exemption requires compliance with the terms and conditions prepared by federal or state fish and wildlife agencies to protect fish and wildlife resources. These mandatory terms and conditions are contained in the attached letters commenting on the exemption application. If contested, the Commission will determine whether any mandatory term or condition is outside the scope of article 2.

After considering the mandatory terms and conditions designed to protect fish and wildlife resources, the environmental information in the exemption application, the staff's independent assessment, ^{1/} and other public comments, the Director finds that issuance of this order is not a major federal action significantly affecting the quality of the human environment.

^{1/} Environmental Assessment, West Delaware Tunnel Outlet, FERC Project No. 9159-000, Federal Energy Regulatory Commission, April 25, 1986. This document is available in the Commission's public file associated with this proceeding.

The Director orders:

- (A) The West Delaware Tunnel Outlet Project is exempted from the licensing requirements of Part I of the Federal Power Act, subject to the attached standard articles. See section 4.94 of the Commission's regulations.
- (B) The Commission reserves the right to assess the exemptee fees pursuant to section 30(e) of the Federal Power Act.
- (C) This order is issued under authority delegated to the Director and is final unless appealed to the Commission within 30 days from the date of this order.


Richard T. Hunt
Director, Office of
Hydropower Licensing

§ 4.94 Standard terms and conditions of exemption

Any exemption granted under §4.93 for a small conduit hydroelectric facility is subject to the following standard terms and conditions:

(a) Article 1. The Commission reserves the right to conduct investigations under sections 4(g), 306, 307, and 311 of the Federal Power Act with respect to any acts, complaints, facts, conditions, practices, or other matters related to the construction, operation, or maintenance of the exempt facility. If any term or condition of the exemption is violated, the Commission may revoke the exemption, issue a suitable order under section 4(g) of the Federal Power Act, or take appropriate action for enforcement, forfeiture, or penalties under Part III of the Federal Power Act.

(b) Article 2. The construction, operation, and maintenance of the exempt project must comply with any terms and conditions that the United States Fish and Wildlife Service and any state fish and wildlife agencies have determined are appropriate to prevent loss of, or damage to, fish or wildlife resources or otherwise to carry out the purposes of the Fish and Wildlife Coordination Act, as specified in Exhibit E of the application for exemption from licensing or in the comments submitted in response to the notice of the exemption application.

(c) Article 3. The Commission may revoke this exemption if actual construction of any proposed generating facilities has not begun within two years or has not been completed within four years from the effective date of this exemption. If an exemption is revoked under this article, the Commission will not accept from the prior exemption holder a subsequent application for exemption from licensing or a notice of exemption from licensing for the same project within two years of the revocation.

(d) Article 4. In order to best develop, conserve, and utilize in the public interest the water resources of the region, the Commission may require that the exempt facilities be modified in structure or operation or may revoke this exemption.

(e) Article 5. The Commission may revoke this exemption if, in the application process, material discrepancies, inaccuracies, or falsehoods were made by or on behalf of the applicant.

(f) Article 6. Before transferring any property interests in the exempt project, the exemption holder must inform the transferee of the terms and conditions of the exemption. Within 30 days of transferring the property interests, the exemption holder must inform the Commission of the identity and address of the transferee.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice of Application Filed with the Commission
(July 24, 1985)

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

- a. Type of Application: Conduit Exemption
- b. Project No: 9159-000
- c. Date Filed: May 2, 1985
- d. Applicant: UAH-CENCOGEN Group
- e. Name of Project: West Delaware Tunnel Outlet
- f. Location: West Delaware Tunnel Outlet in Sullivan County, New York
- g. Filed Pursuant to: Section 30 of the Federal Power Act, [16 U.S.C. §§ 825(a)]
- h. Contact Person: Mr. David Goodman
UAH-CENCOGEN Group
80 Eighth Avenue, Suite 711
New York, NY 10011
- i. Comment Date: SEP 3 1985
- j. Competing Application: Project No. 8821
Date Filed: December 24, 1984
Notice Expired: May 6, 1985
- k. Description of Project: The proposed project would utilize the existing City of New York's West Delaware Tunnel and would consist of the following: (1) a new power station connected to the outlet works of the existing tunnel containing a generating unit with a rated capacity of 7,500-kW at elevation 846 feet msl; (2) a new 0.5-mile-long transmission line tying into the existing Central Hudson Gas and Electric Corporation System; and (3) appurtenant facilities. The Applicant estimates a 19,989,332 kWh average annual energy production.
- l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.
- m. This notice also consists of the following standard paragraphs: A4, B, C, and D3b.

A4. **Development Application** -- Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

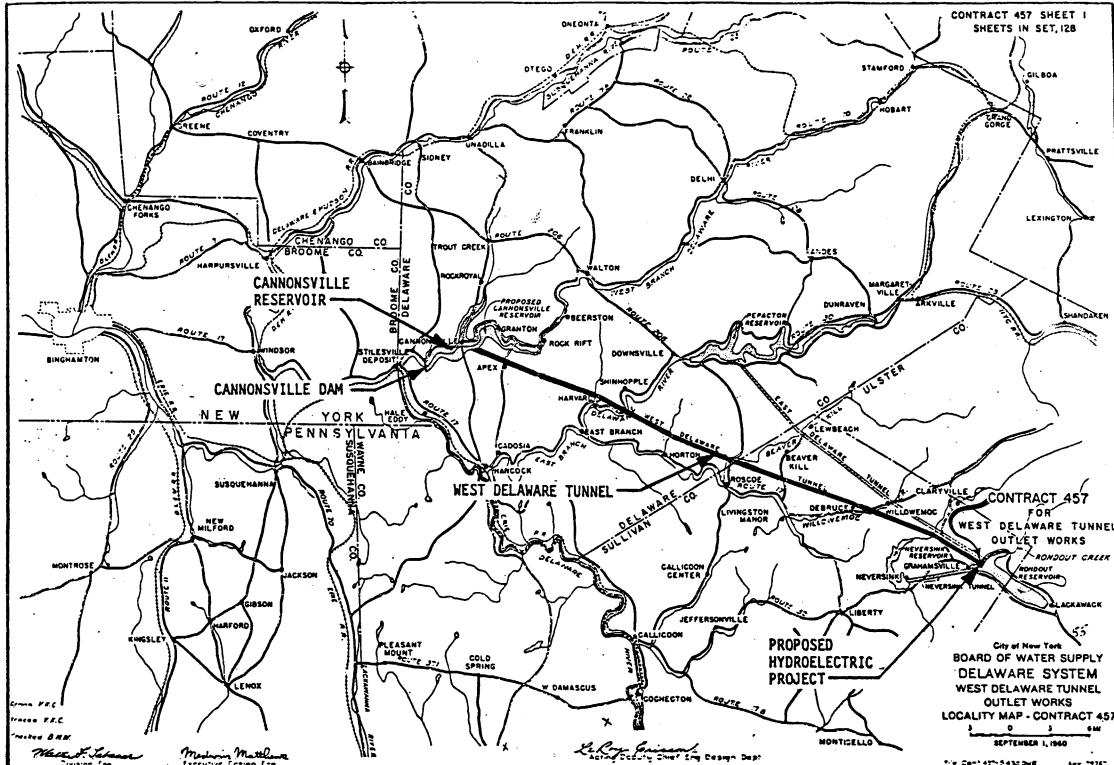
B. **Comments, Protests, or Motions to Intervene** - Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. **Filing and Service of Responsive Documents** - Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth P. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RE, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D3b. **Agency Comments** - The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb
Secretary

RECORDED
MAY 1 1984



THIS DRAWING IS EXCERPTED FROM THE West Delaware Tunnel Outlet Works Construction Drawings supplied to the Applicant by the City of New York, Bureau of Water Supply on May 1, 1984.

This drawing is a part of the application for exemption from licensing made by the undersigned on this day of May 1985
 BY: [Signature]
 DAVID GOODRICH, PRESIDENT
 UAH-CENCOPEN GROUP
 MANAGING PARTNER

EXHIBIT B-1
 GENERAL LOCATION MAP
 WEST DELAWARE TUNNEL OUTLET
 HYDROELECTRIC PROJECT
 UAH-Cencogen Group
 P-9159-000