SaveHighRockLake.org
Help Us Rescue "The Rock"
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FERC Project 2197-073
Environmental Assessment
Comments

SaveHighRockLake.org would like to submit the following comments on behalf of our membership pertaining to the Environmental Assessment being performed by the Commission in the relicensing of Project 2197.

Discussion:

During the scoping process for Project 2197 many stakeholders requested the Commission to consider amending the Relicensing Settlement Agreement being submitted by APGI. SaveHighRockLake.org has also submitted numerous filings to the commission documenting our requested amendments to the RSA and references to several specific studies supporting our requests. Our previous proposals / requests appear to be accurately documented in scoping document SD-2 recently published by the Commission. In response to the numerous requests from individual stakeholders and several organizations the Commission requested APGI to supply modeling data documenting the generation gains/losses associated with two alternative operating scenarios for High Rock Lake. In response to this request APGI submitted the generation information requested but instead of using the values established by APGI to value the generation of the project for negotiations and FERC filing purposes, they attempted to completely redefine the way this power should be valued.

History:

During the negotiations process, participants requested APGI provide historical project data to value the energy produced by the project. In the June 9, 2005 negotiations meeting APGI presented THEIR proposal for the way all power generation associated with Oasis Model runs would be valued. This proposal identified a third-party developed index for southeast power sales to be used as a consistent set of pricing figures in negotiations and the FERC license application. The index provided peak and off-peak pricing values and was declared by APGI to be a sound tool for participants to evaluate changes in impact of future operating scenarios. The “Southern, Into” energy values were purported to represent a compilation of daily values of peak and off-peak energy sold into the Southern Company Region and claimed to use the standard price reporting methodology including FERC’s 2003 standards. The publisher of the index approved the use of the data in settlement negotiations and FERC applications. The overall average for peak power was approximately $48.40 per MWH and $29.63 per MWH for off-peak power. The use of this index was approved by ALL negotiations participants to establish a standard to be used throughout the relicensing process to value the energy produced by Project 2197, including APGI. The “Base Case” model run was created based on the current license terms and historical river flow data to establish a standard to be used for determining generation gains/losses associated with proposals for future operating scenarios. The agreed upon values were used to establish a value for the energy produced under the "Base Case" historical operating scenario. Generation values reported in the License Application and the Agreement In Principal submitted to the Commission were all based on the standards agreed upon by all relicensing participants.

Issues:

In their April 26, 2007 filing in response to the Commissions "Additional Information Request" APGI submitted what appear to be accurate generation deltas for 4'/6' and 3'/6' alternatives for the future operation of High Rock Lake. In this filing APGI completely disregarded the pricing standards agreed upon by ALL relicensing negotiations participants and attempted to completely redefine how these very small generation differences should be valued. The tables below reflect the creative NEW valuations APGI now wishes to use to evaluate the impact of future operating scenarios for High Rock Lake versus the values that should have been reported using the standards agreed upon for all negotiations purposes and FERC filings.

Generation gains/losses and associated values as Reported by APGI

	On-Peak MWH	Reported Value	Off-Peak MWH	Reported Value	Total Reported	Inc. cost over RSA
Base Case	689,000	$33,342,500.00	251,200	$7,442,000.00	$40,784,500.00	
RSA Delta	-36,200	-$3,611,000.00	43,100	$1,292,900.00	-$2,318,100.00	
4'/6' Delta	-40,700	-$5,078,300.00	43,900	$1,316,700.00	-$3,761,600.00	$1,443,500.00
3'/6' Delta	-41,000	-$7,281,200.00	42,600	$1,279,900.00	-$6,001,300.00	$3,683,200.00

Generation gains/losses and associated values using the Negotiations standards

Negotiations Values (rounded up to nearest penny)	On Peak	$48.40	Off Peak	$29.63

	On-Peak MWH	Negotiations Value	Off-Peak MWH	Negotiations Value	Negotiations Total	Inc. cost over RSA
Base Case	689,000	$33,347,600.00	251,200	$7,443,056.00	$40,790,656.00	
RSA Delta	-36,200	-$1,752,080.00	43,100	$1,277,053.00	-$475,027.00	
4'/6' Delta	-40,700	-$1,969,880.00	43,900	$1,300,757.00	-$669,123.00	$194,096.00
3'/6' Delta	-41,000	-$1,984,400.00	42,600	$1,262,238.00	-$722,162.00	$247,135.00

The Base Case used as the standard for all comparisons of future operating scenarios represents the maximum generation possible based on the current project license and has two significant differences from all three of the alternatives proposed. The first difference is the current license includs multiple levels of staged generation cutbacks based on the level of High Rock Lake. In reality several of these stages are more symbolic than controlling and VERY difficult to monitor or verify compliance as dramatically illustrated in 2002. All participants agreed to remove these stages and base future operating scenarios strictly on the levels of the project reservoirs. This makes compliance much easier to monitor and quantifying the damaging environmental effects of project operations more straightforward. As noted in the FERC "Division of Hydropower Compliance" Compliance Handbook, “The purpose of these water-level requirements is to protect and enhance the recreational, scenic, and other environmental resource values of a project”

“Non-compliance with the water-level requirements of a project reservoir could adversely affect the project's environmental integrity and quality. For example, water levels that are lower or higher than required may render important fish spawning and rearing areas unusable and may diminish the beneficial functions and values of wetlands. Also, docks and piers designed for specific water levels may be rendered inaccessible for boating, and shoreline beach areas may be unusable for swimming. In addition, lower than required water levels may cause visual impairments and offensive odors from the exposure of littoral zone substrates along the shoreline.”

Alternatives proposed by stakeholders having direct interests inside the project boundaries have been based on the issues cited above. They still represent a significant level of compromise in the protection of wetlands, fish and wildlife habitat, recreation opportunities, visual impairments and the exposure of littoral zone substrates at High Rock Lake.

The second significant difference is the current license allows downstream flows to be delivered on a weekly average basis. This allows APGI to completely withhold downstream flows for more than half of any week and then operate at 100% capacity just long enough to satisfy the weekly average discharge requirement. All participants agreed that this operating regime was not acceptable as it dramatically altered the natural and seasonal downstream river flow characteristics to the detriment of all downstream stakeholder interests. All three proposals for the future operation of High Rock Lake include new “Daily Flow” discharge requirements with seasonal minimum discharge requirements designed to more closely mimic natural river flows. This causes all future operations proposals to shift similar amounts of energy production from On-Peak to Off-Peak to satisfy the daily discharge requirements on weekends. This represents a significant environmental consideration for the entire river basin and must be maintained. The overall effect of this “Daily Discharge” requirement for all three alternatives is a significant reduction in the need to define excessive storage capacity to capture inflow to High Rock Lake. These changes make most of the generation differences associated with all three alternatives very similar. As shown in the APGI “Additional Information Request” response all three alternatives actually represent an increase in total “green” energy production over the “Base Case” of historical operations.

In their response APGI contends they will no longer be able to produce some or all “Premium Energy Products” under the operating scenarios being proposed for future operations of High Rock Lake. This claim is not only patently false, it’s absurd! “Forward Energy Sales” are generally used by energy producers to ensure the sale of their known or projected surpluses. Unlike Progress Energy and Duke Energy, APGI has no customer base to which they are committed to supply power at a regulated price. This allows virtually 100% of their generating capabilities to be available for “Forward Energy Sales” commitments. Due to daily price fluctuations and market volatility “Forward Energy Sales” contracts do not necessarily ensure this energy would generate a premium price exceeding the “Spot Market” prices when the energy is actually delivered. In previous filings and many public venues APGI has repeatedly stated they intend to operate High Rock Lake one to two feet above the proposed limits in the future to ensure their ability to “Chase Peaks” opportunistically. The contention they would lose this ability under a 4’/6’ or 3’/6’ operating guide is also totally ridiculous. High Rock Lake is a shallow reservoir. Realistically a two foot cushion with a six foot limit affords greater capacity to “Chase Peaks” than a two foot cushion with a ten foot limit. Due to the natural contour of the lake bottom, a two foot cushion would contain significantly more cubic feet of water for every foot the lake level rises resulting in a greater overall generating capacity to “Chase Peaks”.

Summary:

In summary, again we request the Commission to “Do the Right Thing” and ensure the Environmental Assessment being performed is based appropriately on **environmental considerations**. The mitigation of adverse effects on environmental integrity and quality due to project operations should be the overwhelming basis for all considerations. We urge the Commission to adequately value the protection of the natural resources at High Rock Lake. To recognize the enhanced protection to wetlands, fish and wildlife habitat, the littoral zone and water quality afforded by limiting future drawdowns to no more than 6 feet as opposed to the 10 foot drawdowns being proposed by APGI. We request the visual impairments, increased recreational boating hazards and the loss of access to the project waters via thousands of privately permitted recreation facilities be adequately considered when evaluating the alternatives. All of these factors can have a huge social and economic impact on surrounding communities as well as the quality of life for tens of thousands of North Carolinians using High Rock Lake for more than 1.5 million recreations days annually.

We encourage the Commission to disallow APGI’s attempt to drastically change the way energy produced by the project is valued for the following reasons:

- APGI defined the standards to be used for generation value in negotiations and FERC filings.
- The Southern Into averages were used by APGI in their License Application as well as in the Agreement In Principal submitted to FERC and signed by all of the participants that continued with the final development of the RSA.
- It is procedurally inappropriate to modify the standards agreed upon by all participants after the fact.
- This change was not presented to or approved by the signatories of the RSA as required in the terms of the RSA.
- Attempting any type of financial comparison between the “Base Case” and the alternatives being considered is impossible using the values submitted by APGI since the generation values for each scenario is calculated using dramatically different values for peak power sales.
- APGI provided no data to substantiate the claim they would lose the ability to produce “Premium Energy Products” in the future
- APGI provided no data to substantiate the inflated value they associated with the “Premium Energy Products” or any incremental generation gains or losses
- APGI provided no data to show that the Southern Into averages used for negotiations purposes did not include a reasonable mixture of such “Premium Energy Products”.
- Allowing such a change at this point in the relicensing process undermines the integrity of the entire negotiations process.

Using the previously agreed upon values to quantify the value of power produced at Project 2197 provides accurate calculations for power gains or losses and comparisons against the Base Case are straightforward. This produces a truthful representation of the differences between each operational scenario. After all stakeholder negotiations processes have ended, APGI is attempting to introduce this creative new accounting concept that calculates financial results for every scenario differently, making any meaningful comparisons impossible. By supplying only the grossly exaggerated valuations for each of the alternatives possibly being considered, APGI attempts to lure those evaluating alternatives into simply subtracting the claimed losses for each scenario from the total generation value stated in the Base Case. This results in what would amount to comparing GRAPES to APPLES to CANTALOUPES to WATERMELONS since each scenario is calculated on a radically different value per MWH. The Commission IS obligated to adequately balance stakeholder interests in the project and minimize the environmental impacts of project operations but they are under absolutely NO obligation to guarantee any specific level of profitability for the licensee. Under every alternative proposed Project 2197 is well documented to be EXTREMELY profitable. The maximum generation differentials of “green” power associated with all the alternatives proposed amount to less than 0.5% of the projected annual generation for the Project.

The 4’/10’ proposal included in the RSA has been shown repeatedly to be little more than a request to operate High Rock Lake as APGI has for many decades. The fact that High Rock Lake is now officially designated as impaired by the State of North Carolina is overwhelming evidence that this operating scenario is not adequate to protect the environment here. Stakeholders have submitted numerous filings with references to multiple studies supporting the need to improve the protection of the environment at High Rock Lake. Given numerous opportunities, to date the licensee has not submitted a single fact supporting their desire to continue excessive winter drawdowns other than financial concerns which are realistically very small. The licensee ALWAYS has the right to petition the Commission for a license modification if future studies or data should document a better way to manage High Rock Lake. Unfortunately that option is only available to the rest of the stakeholders in the Project during the relicensing process. In the interest of the protection of our natural resources the citizens of North Carolina encourage the Commission to error on the side of caution.

To our knowledge, SaveHighRockLake.org is the only organization that has actually cited the 3’/6’ as a preferred alternative to the 4’/10’ operating guide proposed in the RSA. Our proposal was submitted based on the availability of pre-existing Oasis modeling data to support our proposal. Since there is now data to quantify the generation deltas and associated values for the 4’/6’ alternative we will gladly amend our proposal to align with other stakeholders 4’/6’ requests and simplify the alternative evaluation process for the Commission.

Respectfully submitted,

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Robert “Pete” Petree
Board Chairman
SaveHighRockLake.org