

The proposed project would consist of: (1) The existing Pine Creek Mine site and access tunnel; (2) an existing 12-foot by 12-foot by 30-foot reinforced concrete plug in the Pine Creek Mine; (3) a proposed 18-inch or smaller steel penstock; (4) a proposed 250-kilowatt generating unit; (5) a proposed 2.4-kilovolt, 60-foot-long transmission line; and (6) appurtenant facilities. The project would have an annual generating capacity of 2.3 gigawatt-hours that would be sold to a local utility.

*Applicant Contact:* Mr. Monty Bengochia, Chairman, Bishop Paiute Tribe, 50 Tu Su Lane, Bishop, CA 93514; (760) 873-3584.

*FERC Contact:* Emily Carter; (202) 502-6512.

*Competing Application:* This application competes with Project No. 12532-002 filed March 3, 2008. Competing applications were due by close of business on November 18, 2008.

*Deadline for Filing Comments or Motions to Intervene:* 60 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filings-comments.asp>. More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13317) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010-9934 Filed 4-28-10; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2685-023]

#### New York Power Authority (NYPA); Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 21, 2010.

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

a. *Type of Application:* Amendment of license to delete certain non-jurisdictional transmission facilities from license.

b. *Project No.:* 2685-023.

c. *Date Filed:* April 9, 2010.

d. *Applicant:* New York Power Authority (NYPA).

e. *Name of Project:* Blenheim Gilboa.

f. *Location:* The project is located on Schoharie Creek, Schoharie County, New York.

g. *Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mark Slade, Licensing Manager, New York Power Authority, 123 Main Street, White Plains, NY 10601. Tel: (914) 681-6659 or e-mail address:

[Mark.Slade@nypa.gov](mailto:Mark.Slade@nypa.gov).

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 502-6190, or e-mail address:

[vedula.sarma@ferc.gov](mailto:vedula.sarma@ferc.gov).

j. *Deadline for filing comments and or motions:* May 21, 2010.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-filing" link. The Commission strongly encourages electronic filings.

All documents (original and eight copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P-2685-023) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must

also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* NYPA requests authorization to remove three transmission lines: Fraser-Gilboa line, Gilboa-New Scotland line, and Gilboa-Leeds line from the project's license. According to the licensee the lines are no longer primary lines for the project, but they are integral part of the licensee's interconnected transmission system.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 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.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application.

A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010-9936 Filed 4-28-10; 8:45 am]

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CAC-026]

#### Energy Conservation Program for Commercial Equipment: Decision and Order Granting a Waiver to Daikin AC (Americas), Inc. (Daikin) From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and order.

**SUMMARY:** This notice publishes the U.S. Department of Energy's (DOE) decision and order in Case No. CAC-026, which grants Daikin a waiver from the existing DOE test procedure applicable to commercial package central air conditioners and heat pumps. The waiver is specific to the Daikin variable capacity VRV-WIII (commercial) water-source multi-split heat pumps. As a condition of this waiver, Daikin must use the alternate test procedure set forth in this notice to test and rate its VRV-WIII multi-split products.

**DATES:** This decision and order is effective April 29, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov). Betsy Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC-71, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586-9507; E-mail: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 431.401(f)(4), DOE gives notice that it issues the decision and order set forth

below. In this decision and order, DOE grants Daikin a waiver from the existing DOE commercial package air conditioner and heat pump test procedures for its VRV-WIII multi-split products. The waiver requires Daikin use the alternate test procedure provided in this notice to test and rate the specified models from its VRV-WIII multi-split product line. The capacities of the Daikin VRV-WIII multi-split heat pumps range from 72,000 Btu/hr to 252,000 Btu/hr. The applicable test procedure for Daikin's commercial VRV-WIII multi-split heat pumps with capacities less than 135,000 Btu/hr is ISO Standard 13256-1 (1998). There is no applicable test procedure for the larger-capacity Daikin VRV-WIII heat pumps. Today's decision prohibits Daikin from making any representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. 42 U.S.C. 6314(d).

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on April 22, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

#### Decision and Order

*In the Matter of:* Daikin AC (Americas), Inc. (Daikin) (Case No. CAC-026).

#### Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A of Title III which establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291-6309. Part A-1 of Title III provides for a similar energy efficiency program titled "Certain Industrial Equipment," which includes large and small commercial air conditioning equipment, package boilers, storage water heaters, and other types of commercial equipment. 42 U.S.C. 6311-6317.

Today's notice involves commercial equipment under Part A-1. The statute specifically includes definitions, test procedures, labeling provisions, and energy conservation standards. It also provides the Secretary of Energy (the Secretary) with the authority to require

information and reports from manufacturers. 42 U.S.C. 6311-6317. The statute authorizes the Secretary to prescribe test procedures that are reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6314(a)(2).

For commercial package air-conditioning and heating equipment, EPCA provides that "the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992." 42 U.S.C. 6314(a)(4)(A). Under 42 U.S.C. 6314(a)(4)(B), the Secretary must amend the test procedure for a covered commercial product if the applicable industry test procedure is amended, unless the Secretary determines, by rule and based on clear and convincing evidence, that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

On December 8, 2006, DOE published a final rule adopting test procedures for commercial package air-conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted the International Organization for Standardization (ISO) Standard 13256-1-1998, "Water-source heat pumps—Testing and rating for performance—Part 1: Water-to-air and brine-to-air heat pumps," for small commercial package water-source heat pumps with capacities < 135,000 British thermal units per hour (Btu/h). *Id.* at 71371. Pursuant to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(3) incorporate by reference ISO Standard 13256-1-1998. In addition, Table 1 of 10 CFR 431.96 directs manufacturers of commercial package water-source air conditioning and heating equipment to use the appropriate procedure when measuring the energy efficiency of those products. The cooling capacities of Daikin's commercial VRV-WIII multi-split heat pump products at issue in the waiver petition range from 72,000 Btu/hr to 252,000 Btu/hr. The Daikin products with capacities ≥ 135,000 Btu/hr are not covered by this waiver because there is no DOE test procedure for water-source heat pumps with capacities ≥ 135,000 Btu/hr.

In addition, DOE's regulations allow a person to seek a waiver for a particular