

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
LS Power Grid New York Corporation I
New York Independent System
Operator, Inc.
Docket No. ER20-716-000

Issued: February 27, 2020

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Reference: LS Power Grid New York Corporation I's Transmission Formula Rate
Proposal

On December 31, 2019, New York Independent System Operator, Inc. (NYISO) filed, on behalf of LS Power Grid New York Corporation I (LSPG-NY), pursuant to section 205 and 219 of the Federal Power Act (FPA)¹ and 18 C.F.R. Part 35, a transmission formula rate template and formula rate implementation protocols (Formula Rate) along with a request for authorization for certain transmission rate incentives.² LSPG-NY states that it is filing the Formula Rate to recover the costs of LSPG-NY's

¹ 16 U.S.C. § 824d (2012).

² New York Independent System Operator, Inc., NYISO Tariffs, NYISO OATT, 6.10.6-6.10.6.2 OATT Schedule 10 - Attachment 1 – Rate Mecha, 0.0.0, NYISO OATT, 6.10.6.2.1 OATT Schedule 10 -, 0.0.0, NYISO OATT, 6.10.6.2.2 OATT Schedule 10 - Formula Rate Implementation Pr, 0.0.0, and NYISO OATT, 6.10.6.3 OATT Schedule 10 - Cost Allocation, 0.0.0.

proposed transmission facilities in New York.³

Please be advised that LSPG-NY's filing is deficient, and additional information is necessary to process the filing under Docket No. ER20-716-000. Please provide complete responses to the following:

1) Acquisition Premiums

LSPG-NY states that Segment A involves replacement of two existing 230 kV transmission circuits with new 345 kV circuits using existing rights of way where available. LSPG-NY states that it is currently negotiating agreement(s) with the existing asset owners and the structure of the ultimate agreement(s) are not yet known (Proposed Transaction(s)). LSPG-NY states that these Proposed Transactions may involve acquisition premiums because the policy of the State of New York is for a transfer of utility real estate at fair market value, which will likely be an amount above the amount permitted by the Commission's regulations and rules.⁴

LSPG-NY states that consistent with the Commission policy on acquisition premiums, if Segment A results in the acquisition of these existing facilities at more than book cost, any amount above cost will be considered an acquisition premium which is not allowed in rates unless LSPG-NY shows: (1) the transaction was an arms-length transaction; (2) the acquired facility is being put to new use; and (3) whether the purchaser has demonstrated consumer benefits resulting directly from the sale.⁵

LSPG-NY's Formula Rate indicates that "[n]o Acquisition Adjustment will be recovered until a filing requesting recovery is submitted to and approved by FERC under FPA Section 205." However, LSPG-NY states that it meets the Commission's requirements for inclusion of acquisition premiums in this application.⁶

Please clarify whether LPSG-NY plans to make a Section 205 filing to request and support the recovery of any acquisition premium before including it in rates.

2) Regulatory Assets

³ LSPG-NY Transmittal at 1-2.

⁴ See 18 C.F.R. Part 101, Electric Plant Instruction No. 5, Electric Plant Purchased or Sold, and Definition No. 23, Original Cost.

⁵ LSPG-NY Transmittal at 19-20.

⁶ LSPG-NY Formula Rate, Appendix A, Note B and LSPG-NY Transmittal at 20, respectively.

Please identify the Uniform System of Accounts (USofA) accounts that LSPG-NY will use to amortize amounts recorded in the Regulatory Asset accounts in LSPG-NY's Formula Rate.

3) Performance-based Rate and 80/20 Cost Containment Provision

LSPG-NY's filing describes an additional return-on-equity (ROE) adder to account for sharing of the savings as ranging from 0.05 percent for costs less than 5 percent below an adjusted cost cap to 0.71 percent for costs greater than 25 percent below an adjusted cost cap.⁷

- a) To the extent that the proposed 80/20 cost containment provision differs from that proposed to NYISO when NYISO selected LSPG-NY's proposal for Segment A, please provide support for the differences in the proposed 80/20 cost containment provision.
- b) Please provide an explanation for how the ROE adder levels were derived.
- c) Please provide Formula Rate mathematical calculation(s) illustrating how the ROE adders would be included in the Formula Rate. Specifically, provide the mathematical formula details for Appendix A and Attachment 4, Competitive Bid Concession, on lines 66-67 for the Adjusted Cost Cap and Performance-based Rate Incentive, and Attachment 5 - Example of True-Up Calculation, Col. C - Adjusted Net Revenue Requirement, for how the tiered ROE adders would be implemented in the Formula Rate.
- d) Please explain why LSPG-NY includes Allowance For Funds Used During Construction as an exception to its cost containment provision.
- e) Please explain the nature of and the rationale for the Adjusted Cost Cap.
- f) The Commission has previously approved "an applicant's proposal to limit an incentive ROE based on the project's risks and challenges to the cost estimate utilized at the time of RTO approval."⁸ Please explain the aspects of LSPG-NY's

⁷ LSPG-NY Filing, Attachment B, Willick Testimony at 30 (providing a table that summarizes how the ROE adder varies based on its actual costs being below the Adjusted Cost Cap).

⁸ *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 at P 28 (2012), citing *RITELine Illinois & Indiana LLC*, 137 FERC ¶ 61,039 at P 5 (2011)).

proposal that are different from the Commission-approved approach and provide support for these differences.

This letter is issued pursuant to 18 C.F.R. § 375.307 and is interlocutory. This letter is not subject to rehearing under 18 C.F.R. § 385.713. A response to this letter must be filed with the Secretary of the Commission within thirty days of the date of this letter by making a deficiency filing in accordance with the Commission's electronic tariff requirements. For your response, use Type of Filing Code 180 if your company is registered under program code "E" (Electric Traditional Cost of Service and Market Based Rates Public Utilities).⁹ In addition, submit an electronic version of your response to Ms. Rachel Spiker at rachel.spiker@ferc.gov. The information requested in this letter will constitute an amendment to your filing and a new filing date will be established.¹⁰ A notice will be issued upon receipt of your filing.

Pending receipt of the above information, a filing date will not be assigned to your filing. Failure to respond to this letter order within the time period specified may result in a further order rejecting your filing.

Issued: Kurt M. Longo, Director, Division of Electric Power Regulation – East

⁹ The filing must include at least one tariff record to restart the statutory timeframe for Commission action even though a tariff revision might not otherwise be needed. *See generally Electronic Tariff Filings*, 130 FERC ¶ 61,047, at PP 3-8 (2010) (explaining that the Commission uses the data elements resulting from the tariff filing process to establish statutory filing and other procedural dates).

¹⁰ *See Duke Power Co.*, 57 FERC ¶ 61,215, at 61,713 (1991) (“[T]he Commission will consider any amendment or supplemental filing filed after a utility’s initial filing . . . to establish a new filing date for the filing in question”).