

175 FERC ¶ 61,210
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

Issued June 17, 2021

In Reply Refer To:
New York Independent System Operator, Inc.
LS Power Grid New York Corporation I
Docket No. ER20-716-004

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Washington, DC 20006

Attention: Michael R. Engleman, Esq.
Attorney for LS Power Grid New York Corporation I

Dear Mr. Engleman:

1. On April 1, 2021, as amended on April 9, 2021,¹ New York Independent System Operator, Inc. (NYISO) filed, on behalf of LS Power Grid New York Corporation I (LSPGNY) and the Settling Parties,² an Offer of Settlement (Settlement) concerning LSPGNY's proposed formula rate and protocols to determine and recover the costs of

¹ The April 1, 2021 Filing was submitted in Docket No. ER20-716-003 with eTariff records that were superseded by the April 9, 2021 Filing in Docket No. ER20-716-004. The April 9, 2021 Filing states that it “reflects no substantive changes to the previously submitted documents” and that it “is correcting the references and organizing the submittals as reflected in the agreed upon offer of settlement.” Settlement Transmittal Letter, Docket No. ER20-716-004, at 1 (Apr. 9, 2021).

² The Settling Parties are: LSPGNY, the New York Power Authority, the New York State Public Service Commission, the Municipal Electric Utilities Association of New York, the Multiple Intervenors (an unincorporated association of approximately 60 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State), and the City of New York.

LSPGNY's investment in Segment A of the AC Transmission Projects,³ and proposed certain transmission incentives for its investment in such project.⁴ NYISO also filed revised tariff records implementing the Settlement and correcting the numbering of the Open Access Transmission Tariff (OATT) provisions applicable to LSPGNY's revenue requirement and cost allocation. On April 21, 2021, Commission Trial Staff filed initial comments supporting the Settlement. On May 7, 2021, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.⁵

2. Article V, section 5.6 of the Settlement states:

Absent the mutual agreement of the Parties to a proposed change to this Settlement, the standard of review for unilateral changes to this Settlement proposed by a Party shall be the "public interest" standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) ("Mobile"); *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956) ("Sierra"); *Morgan Stanley Capital Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527 (2008); and *NRG Power Mktg., LLC v. Maine Pub. Utils. Comm'n*, 558 U.S. 165 (2010), and the standard of review for any changes proposed by a non-Party, or the Commission acting *sua sponte*, shall be the just and reasonable standard of review, *Devon Power LLC*, 134 FERC ¶ 61,208 at P 10 (2011), *reh'g denied*, 137 FERC ¶ 61,073 (2011), *review dismissed in part and denied in part sub nom. New England Power Generators Ass'n v. FERC*, 707 F.3d 364 (D.C. Cir. 2012). During the term of the Moratorium reflected in Paragraph 3.14 herein, changes to the rates specified in this Settlement proposed by a Party will be reviewed, like changes to the Settlement terms themselves, under

³ Segment A is the Marcy to New Scotland Project in what is known as the AC Transmission Projects, which are public policy driven transmission additions to the transmission grid in the State of New York based on public policy transmission needs identified by the New York Public Service Commission. Settlement, Docket No. ER20-716-004, at 1-2 (Apr. 9, 2021).

⁴ In the initial order in this proceeding, the Commission granted LSPGNY a 50 basis-point return on equity adder for participating in a regional transmission organization or independent system operator (the RTO-Participation Incentive). *N.Y. Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,159, at P 32 (2020). We note that the Settlement recharacterizes the adder for the RTO-Participation Incentive as a 50 basis-point incentive adder to account for "benefits to customers, including congestion relief[.]" Settlement, art. III.B, section 3.3.

⁵ *N.Y. Indep. Sys. Operator, Inc.*, 175 FERC ¶ 63,017 (2021).

the “public interest” standard set forth in *Mobile* and *Sierra*. Changes to the rates specified in this Settlement by a non-Party, or the Commission acting *sua sponte*, will be reviewed under the ordinary just and reasonable standard of review regardless of who files for that change.

3. The Settlement resolves all issues set for hearing in Docket No. ER20-716.⁶ The Settlement appears to be fair, reasonable and in the public interest, and is hereby approved. The Commission’s approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

4. We accept the revised tariff records filed on April 9, 2021 that include ministerial numbering changes to the OATT provisions applicable to LSPGNY’s revenue requirement and cost allocation, and grant waiver to make these changes effective May 27, 2020. We also accept the revised tariff records implementing the Settlement effective May 27, 2020. NYISO is directed to make a compliance filing with updated revised tariff records in eTariff format,⁷ within 61 days of the date of this order,⁸ to reflect the Commission’s action in this order approving the Settlement.⁹

By direction of the Commission.

Debbie-Anne A. Reese,
Deputy Secretary.

⁶ *N.Y. Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,159 (establishing hearing and settlement judge procedures), *Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration*, 172 FERC ¶ 62,045 (2020), *Order Addressing Arguments Raised on Rehearing*, 172 FERC ¶ 61,266 (2020) (modifying the discussion in the hearing order but reaching the same result).

⁷ See *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *order on reh’g*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

⁸ See Settlement, art. III.E, section 3.15, and art. VI, section 6.1.

⁹ For example, LSPGNY’s Formula Rate Template, Appendix A, Note O should be updated to reflect the date of this order approving the Settlement, and LSPGNY’s Formula Rate Implementation Protocols, section 7 should be updated to reflect the correct docket number of this order approving the Settlement.