

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To
New York Independent System Operator, Inc.
NextEra Energy Transmission New York, Inc.
Docket No. ER21-2563-000

Issued: September 23, 2021

NextEra Energy, Inc.
801 Pennsylvania Avenue, N.W., Suite 220
Washington, DC 20004

Attention: Justin P. Moeller
Attorney for NextEra Energy Transmission New York, Inc.

Reference: Formula Rate Revisions

Dear Mr. Moeller:

On July 30, 2021, New York Independent System Operator, Inc. (NYISO) filed, on behalf of NextEra Energy Transmission New York, Inc. (NEET-NY), proposed revisions to NEET-NY's transmission formula rate template (Formula Rate) under NYISO's Open Access Transmission Tariff (Tariff) for the Empire State Line Project.¹ These revisions add new depreciation rates for several Form No. 1 Accounts listed in Attachment 7 of the Formula Rate, and amend accumulated deferred income tax (ADIT) provisions in Attachment 6 of the Formula Rate to calculate the average balance of ADIT such that it will capture proration requirements under the Internal Revenue Service (IRS) Normalization rules.²

Please be advised that the submittal is deficient and that additional information is required in order to process the filing. Please provide the information requested below.

1. Attachments 6a, 6e and 6f of the Formula Rate illustrate the calculation of the ADIT component of rate base.³ You state that these changes are necessary to

¹ New York Independent System Operator, Inc., NYISO Tariffs, [NYISO OATT, 6.10.9.2.1 OATT Schedule 10 - NextEra Energy Transmission Ne, 1.0.0.](#)

² Treas. Reg. § 1.167(l)-1(h)(6)(ii) (as amended in 1974) (Normalization rules).

comply with IRS Normalization rules, which mandate the use of a very specific proration procedure in measuring the amount of future test period ADIT that can reduce rate base. However, it is unclear whether the ADIT to be applied in the calculation of the transmission revenue requirements will use both the proration methodology and a beginning and end of year averaging. For example, the rate appears to use beginning and end of year averaging for non-prorated amounts and prorated averages for protected ADIT amounts, but there are no notes specifying the averaging methods. *See, e.g.*, Attachment 6e, Lines 11, 14- 16, 19, 22-23, 27, 30-31.

- (a) Please explain how the ADIT worksheets Attachments 6a, 6e, and 6f ensure that beginning and end of year averaging is not applied where the IRS prorating is applied and how the proposed calculation is consistent with Commission precedent.⁴ In your answer, please explain how each step of the two methods of averaging for protected items are flowed forward in the proposed formula. Please include an Excel spreadsheet with working formulas.
2. NEET NY indicates that its depreciation rate changes in Attachment 7 of the Formula Rate are supported by an independent third-party depreciation study included in Attachment C of the filing (Depreciation Study). NEET NY states that the Depreciation Study was filed in Docket Nos. ER19-282-000 and ER19-284-000 to support depreciation rates of its affiliate, Florida Power & Light Company (FPL). NEET NY requests that it be permitted to adopt the depreciation rates of FPL. While the filing includes a Depreciation Study, some of the underlying data and analyses are absent. Without this data and analyses, we are unable to determine the justness and reasonableness of some of the proposed transmission formula depreciation rates. Specifically, there do not appear to be statistical calculations in the Depreciation Study that correlate to the specific depreciation rates requested for Account No. 392 - Transportation Equipment, Account No. 393 - Stores Equipment, Account No. 394 - Tools, Shop, Garage Equipment, Account No. 395 - Laboratory Equipment, and Account No. 303- Intangible Plant - 15 Year Property.

For each of the Accounts listed above, please provide the following information:

³ ADIT arises from timing differences between the method of computing taxable income for reporting to the IRS and the method of computing income for regulatory accounting and ratemaking purposes.

⁴ *See Midcontinent Indep. Sys. Operator, Inc.*, 163 FERC ¶ 61,061 (2018); *Ameren Illinois Co.*, 163 FERC ¶ 61,200, at P 13 (2018); *Va. Elec. and Power Co.*, 165 FERC ¶ 61,239 (2018).

- (a) The pinpoint cite to the Depreciation Study supporting the depreciation rate for each account.
- (b) Where the statistical analysis in the Depreciation Study in Attachment C of the filing does not match the proposed depreciation rate(s) in Attachment 7, provide the necessary documentation and a narrative explaining the statistical analysis for the proposed depreciation rate(s) and an explanation of why the statistical analysis in the Depreciation Study is not sufficient.
- (c) Where the proposed depreciation rates in Attachment 7 are not based on statistical analysis in the Depreciation Study in Attachment C of the filing, provide support for such depreciation rates and explain/demonstrate how the proposed depreciation rate(s) are just and reasonable.

This letter is issued pursuant to 18 C.F.R. § 375.307 (2021) and is interlocutory. This letter is not subject to rehearing under 18 C.F.R. § 385.713.

NYISO and NEET-NY must respond within 30 days of the date of this letter by making a deficiency letter response filing in accordance with the Commission's electronic tariff requirements. For your response, use Type of Filing Code 170 if your company is registered under program code "M" (Electric Market Based Rate Public Utilities) or 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). The electronic tariff filing requested in this letter will constitute an amendment to your filing and a new filing date will be established, pursuant to *Duke Power Co.*, 57 FERC ¶ 61,215 (1991). A notice of amendment will be issued upon receipt of your response.

Failure to respond to this letter order within the time period specified may result in a further order rejecting your filing.

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