

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
New York Independent System Operator, Inc.,
New York Power Authority
Docket No. ER22-1014-000

Issued: April 7, 2020

Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Seventh Floor
Washington, DC 20007

Attention: Gary D. Bachman, Esq.
Counsel for the New York Power Authority

Reference: Request for incentive-based rate treatments

Dear Mr. Bachman:

On February 10, 2022, New York Power Authority (NYPA), pursuant to sections 205 and 219 of the Federal Power Act (FPA),¹ 18 C.F.R. Part 35, and Order No. 679,² filed a request for incentive rates associated with NYPA's investment in the Smart Path Connect Project (the Project) and for corresponding revisions to NYPA's formula rate as set forth in section 14.2.3.1 of Attachment H of the New York Independent System Operator, Inc.'s (NYISO) Open Access Transmission Tariff (OATT).³

Please be advised that your filing is deficient, and that additional information is

¹ 16 U.S.C. §§ 824d, 824s.

² *Promoting Transmission Inv. through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

³ New York Independent System Operator, Inc., NYISO Tariffs, [NYISO OATT, 14.2.3-14.2.3.1 OATT Att H - NYPA Formula Rate \(6.0.0\)](#).

required in order to process the filing. Please provide the information requested below.

1. In Order No. 679, the Commission stated that each incentive must be tailored to the risks and challenges faced and that each applicant must demonstrate that there is a nexus between the incentive sought and the investment being made.⁴ As clarified by Order No. 679-A, the Commission requires an applicant to demonstrate how the total package of incentives is tailored to address demonstrable risks and challenges faced by the applicant in undertaking the transmission project.⁵

On page 3 of NYPA's filing, NYPA states that it requests: "approval of the following transmission incentive rate treatments for its investment in the SPC Project: (i) a 50-basis point [Return on Equity (ROE)] adder (i.e., the ROE Risk Adder) to reflect the significant risks and challenges associated with the development of the Project; and (ii) if applicable upon Project in-service, a performance-based rate in the form of an ROE adjustment consistent with the 80/20 risk mitigation proposed in the cost-containment mechanism contained herein."

- a. Please identify the risks and challenges addressed by the proposed performance-based rate incentive, which are not addressed by the base ROE or other requested incentives, such as the ROE Risk Adder, or the conditionally granted Abandonment Incentive.⁶
- b. Please explain how the performance-based rate incentive is addressed as part of the total package of incentives that addresses the demonstrable risks and challenges faced by NYPA in undertaking the Project.
- c. If NYPA is seeking the performance-based rate incentive as something other than an incentive subject to Order No. 679, please explain.

⁴ Order No. 679, 116 FERC ¶ 61,057 at P 26.

⁵ *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129, at P 10 (2012); Order No. 679-A, 117 FERC ¶ 61,345, at P 27 (finding applicants "must provide sufficient explanation and support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package. If some of the incentives would reduce the risks of the project, that fact will be taken into account in any request for an enhanced ROE.")

⁶ *New York Power Authority*, 178 FERC ¶ 61,172, at PP 28-29 (2022).

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 (2021). A response to this letter must be filed with the Secretary of the Commission within 30 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 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).⁷

In addition, submit an electronic version of your response to Bryan Wheeler at Bryan.Wheeler@ferc.gov. The information requested in this letter order will constitute an amendment to your filings and a new filing date will be established.⁸ 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 by: Kurt M. Longo, Director, Division of Electric Power Regulation - East

⁷ 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).

⁸ *See Duke Power Co.*, 57 FERC ¶ 61,215, at 61,713 (1991) ("the 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").