

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY MARKET REGULATION

New York Power Authority
Docket No. ER24-1866-000

Issued: June 26, 2024

On April 29, 2024, the New York Power Authority (NYPA) submitted modifications to its formula rate template in section 14.2.3.1 of Attachment H to the New York Independent System Operator, Inc. (NYISO) Open Access Transmission Tariff (OATT) to: (1) revise the calculation of most rate base items and all capitalization items to a 13-month average in place of the existing beginning-of-year/end-of-year average; (2) add land held for future use to rate base; (3) add the amortization and interest associated with “right to use” assets to depreciation expense, operation and maintenance (O&M) expenses and to administrative and general (A&G) expenses, as appropriate; and (4) add depreciation rates for three new transmission accounts now recognized under the FERC’s Uniform System of Accounts.¹

Please be advised that your submittal is deficient, and that additional information is required in order to process the filing. Please provide complete responses to the following:

1. The Commission has found that the rates of entities that are exempt from FERC’s Uniform System of Accounts and FERC Form 1, such as municipal utilities, still need to be consistent with Commission ratemaking policy and should be able to represent supportive information consistent with the Commission’s rules for accounting which is used as a basis to support its ratemaking.²

¹ NYSIO, NYISO Tariffs, NYISO OATT, 14.2.3-14.2.3.1 OATT Att. H - NYPA Formula Rate (11.0.0).

² See *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240, at P 36 (2012) (stating that, because the entity was not subject to FPA section 205, it was not subject to the Commission’s regulatory filing requirements, but was required to provide enough information for the Commission to review the rate); *City of Vernon, Ca.*, 112 FERC ¶ 61,207, at P 15 (2005) (noting that the City of Vernon had “appropriately” been excused from the Commission’s regulatory filing requirements, but was required to provide enough information for the Commission to review the rate).

In its transmittal letter, NYPA states that it “proposes to recover the amortization and interest component associated with its ‘right to use’ contracts and subscription-based information technology (IT) contracts as amortization expenses, O&M expenses for interest on transmission-related contracts, and A&G expenses for interest on general and intangible asset-related contracts.”³ According to NYPA, its current formula rate does not provide for recovery of the amortization or interest cost associated with these contracts.⁴ NYPA states that, consistent with recently issued Governmental Accounting Standards Board (GASB) Statements 87 (Leases) and 96 (Subscription-Based Information Technology Arrangements), it now amortizes the right to use assets created for such contracts to amortization expense (FERC Account 403.1) and records interest expense (FERC Account 431.1), both of which are not included in NYPA’s current formula rate template.⁵ However, NYPA states that it previously recorded payments under such contracts as operating expenses which were recoverable as an O&M expense for transmission contracts or A&G expense for general contracts.⁶ According to NYPA, through its proposal, it seeks to restore its ability to recover these costs as it was doing prior to GASB Statements 87 and 96.⁷

- a. While the Commission’s accounting regulations provide that right to use assets associated with leases may be recorded in balance sheet accounts,⁸ ratemaking policy considers only the associated rental expense in cost of service.
 - i. Please explain whether NYPA proposes to include only the rental expense related to its right of use assets (e.g., leases) in its cost of service.
 - ii. Please provide the account that NYPA currently uses to include rental expense associated with the right of use leases in its cost of service.

³ Transmittal at 5.

⁴ *Id.*

⁵ NYPA Filing, attach. C (Test. Vincent Zuccarelli), at 8 (Zuccarelli Test.).

⁶ Transmittal at 5; Zuccarelli Test. at 7-8.

⁷ Transmittal at 5; Zuccarelli Test. at 8.

⁸ *See Accounting & Financial Reporting for Leases*, Docket No. AI19-1-000 (2018) (where the Chief Accountant clarified that this guidance did not change the accounting for rent expense).

- iii. Please explain whether NYPA proposes to include only the O&M expense related to long-term software subscription service contracts in its cost of service.
- iv. Please provide the O&M account(s) that NYPA currently uses to include long-term software subscription service contracts in its cost of service.⁹

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 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).¹⁰

In addition, submit an electronic version of your response to Jason Rhee at jason.rhee@ferc.gov. The information requested in this letter order will constitute an amendment to your filing and a new filing date will be established.¹¹ 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

⁹ See *Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement that is a Service Contract*, Docket No. AI20-1-000 (2019) (noting that *certain implementation costs* can be capitalized, but ongoing service fees are considered operating expense).

¹⁰ 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).

¹¹ 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.”) (emphasis in original).