188 FERC ¶ 61,001
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie and David Rosner.

Rochester Gas and Electric Corporation New York Independent System Operator, Inc.	Docket Nos. ER24-1967-000
New York State Electric & Gas Corporation New York Independent System Operator, Inc.	ER24-1968-000 (not consolidated)

ORDER ON TRANSMISSION RATE INCENTIVES

(Issued July 5, 2024)

1. On May 8, 2024, pursuant to sections 205 and 219 of the Federal Power Act (FPA),[1] section 35.35(d) of the Commission's regulations,[2] Order No. 679,[3] and the Commission's November 15, 2012 policy statement on transmission incentives,[4] New York Independent System Operator, Inc. (NYISO) filed a request, on behalf of Rochester Gas & Electric Corporation (RG&E) in Docket No. ER24-1967-000 and New York State Electric & Gas Corporation (NYSEG) in Docket No. ER24-1968-000, for authorization to use certain transmission incentives for multiple transmission projects.[5] Specifically, RG&E and NYSEG (together, Applicants) request the following transmission rate incentives: (1) to include 100% of prudently incurred Construction Work in Progress

[1] 16 U.S.C. §§ 824d, 824s.

[2] 18 C.F.R. § 35.35(d) (2023).

[3] *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).

[4] *Promoting Transmission Inv. Through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (Transmission Incentives Policy Statement).

[5] NYISO, Filing, Docket No. ER24-1967-000, (filed May 8, 2024) (RG&E Filing); NYISO, Filing, Docket No. ER24-1968-000, (filed May 8, 2024) (NYSEG Filing). Because NYISO files the same transmittal letter and attachments A-D in each docket, our references to "Filing" and those attachments throughout refer to those filed in both dockets.

(CWIP) in rate base (CWIP Incentive) for transmission projects that Applicants are developing pursuant to New York State's efforts to increase transmission system "headroom" to support renewable energy development (Phase 2 Projects) and (2) to recover 100% of prudently incurred costs associated with their investment in the Phase 2 Projects if such projects are abandoned or cancelled for reasons beyond the control of the Applicants (Abandoned Plant Incentive). NYISO also filed, on Applicants' behalf, corresponding revisions to RG&E's and NYSEG's respective formula rates under the NYISO Open Access Transmission Tariff (Tariff).[6] As discussed below, we conditionally grant Applicants' requests for the Phase 2 Projects that are subject to subsequent permitting approval by the New York State Public Service Commission (New York Commission) under Article VII of New York State's Public Service Law (Article VII Approval),[7] effective July 8, 2024, as requested, and deny Applicants' requests for the Phase 2 Projects that are not subject to subsequent Article VII Approval. We also conditionally accept RG&E's and NYSEG's proposed Tariff revisions to their respective formula rates, effective July 8, 2024, as requested, subject to the New York Commission issuing Article VII Approval for the relevant Phase 2 Projects and Commission acceptance of Applicants' compliance filing(s), and subject to the outcome of the ongoing proceedings in Docket Nos. ER23-1816 and ER23-1817, as discussed below.

I. Background

A. Applicants

2. Applicants are each a wholly owned subsidiary of Avangrid, Inc. (Avangrid). NYSEG operates approximately 35,000 miles of electric distribution lines and 4,500 miles of electric transmission lines across more than 40% of upstate New York, serving approximately 907,000 electricity customers.[8] RG&E operates approximately 8,900 miles of electric distribution lines and 1,100 miles of electric transmission lines and serves approximately 385,000 electricity customers in a nine-county region in New York surrounding the City of Rochester.

B. The Phase 2 Projects

3. Applicants state that the Phase 2 Projects include 33 local transmission projects, estimated at $157 million in investment by RG&E and $2.093 billion investment by NYSEG, approved in the New York Commission's "Order Approving Phase 2 Areas of

[6] *See* NYISO, NYISO Tariffs, NYISO OATT, § 6.19.7.2.2 OATT (Schedule 19 - Rochester Gas and Electric Corporation (3.0.0); NYISO, NYISO Tariffs, NYISO OATT, § 6.19.6.2.2 OATT (Schedule 19 - New York State Electric and Gas) (3.0.0).

[7] N.Y. Pub. Serv. Law Ch. 48, art. VII.

[8] Filing at 3.

Concern Transmission Upgrades" (Phase 2 Order) to support achievement of New York's renewable energy policy goals while increasing reliability and reducing congestion.[9] In total, Applicants state that their Phase 2 Projects represent approximately 300 miles of transmission line rebuilds, as well as major upgrades or rebuilds of nine substations and minor upgrades of several others.[10] Applicants state that the Phase 2 Projects include several large projects with long development and construction schedules, all being developed simultaneously with other New York State public policy-driven transmission projects.

4. Applicants explain that the Phase 2 Projects are a product of the New York State Climate Leadership and Community Protection Act (CLCPA), which established certain renewable energy requirements, and the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA), which established new regulatory processes to facilitate CLCPA requirements achievement.[11] Applicants explain that AREGCBA directs the New York Commission to establish a distribution and local transmission capital plan for each utility in whose service territory the power grid study identified distribution upgrades and local transmission upgrades that the New York Department of Public Service determines are necessary or appropriate to achieve the CLCPA targets.[12]

5. Applicants state that the New York Commission initiated a process to establish this plan on May 14, 2020, directing the New York utilities to submit a comprehensive report identifying local transmission and distribution upgrades to achieve the CLCPA targets.[13] According to Applicants, the New York utilities recommended dividing local transmission projects into "Phase 1" projects already needed under existing planning criteria and "Phase 2" projects proposed primarily to increase transmission system headroom in support of renewable energy development.[14]

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[9] *Id.* at 6, 11 & attach. A (Direct Testimony of Alan Trotta), at 6 (Trotta Test.); *see also id.* attach. A, Ex. 1 (Order Approving Phase 2 Areas of Concern Transmission Upgrades, Case 20-E-0197 (New York Commission Feb. 16, 2023) (Phase 2 Order)).

[10] The Phase 2 Projects for which Applicants seek the CWIP and Abandoned Plant Incentives are listed in Appendix A.

[11] *Id.* at 3-4.

[12] *Id.* at 4.

[13] *See id.* (citing *Ord. on Transmission Plan. Pursuant to the Accelerated Renewable Energy Growth & Cmty. Benefit Act*, Case 20-E-0197, at 3 (N.Y. Pub. Serv. Comm'n, May 14, 2020)).

[14] *Id.* at 4-5.

6. Applicants state that, on September 9, 2021, the New York Commission issued an order: (1) identifying specific "Areas of Concern" in New York "characterized by the presence of existing renewable generation that is already experiencing curtailments and a strong level of developer interest that exceeds the capability of the local transmission system"; and (2) ordering NYSEG, RG&E, Central Hudson Gas & Electric Corporation (Central Hudson), and Niagara Mohawk Power Corporation (Niagara Mohawk) to "consult with Department of Public Service Staff regarding presentation of a minimum of two options for each Area of Concern that identifies the most cost-effective upgrades on a dollar per megawatt basis . . . ."[15] Applicants, along with Central Hudson and Niagara Mohawk, submitted a joint petition for approval of Phase 2 local transmission projects on March 8, 2022. The New York Commission issued the Phase 2 Order approving Applicants' Phase 2 Projects, including a Technical Assessment appendix, on February 16, 2023.[16]

7. Applicants also explain that, on June 17, 2022, RG&E, NYSEG, Central Hudson, Niagara Mohawk, Consolidated Edison Company of New York, Inc. (Con Ed), and Orange and Rockland Utilities, Inc. (Orange and Rockland) entered into the "Cost Sharing and Recovery Agreement" (CSRA) participant funding agreement for local transmission upgrades selected by the New York Commission to meet CLCPA mandates, which the Commission accepted on August 19, 2022.[17] Applicants state that section 3.3. of the CSRA requires approval from the New York Commission and the Commission for parties to use the CWIP Incentive. Applicants state that the New York Commission authorized them to request CWIP Incentive authorization from the Commission on April 19, 2024.[18]

8. Applicants state that, on their behalf, NYISO filed proposed formula rates with the Commission for Applicants' Phase 2 Projects on May 3, 2023, which the Commission accepted subject to further compliance and suspended for a nominal period subject to refund and the outcome of hearing and settlement judge procedures on December 4, 2023.[19]

[15] *Id.* at 5 (citing *Ord. on Loc. Transmission & Distrib. Plan. Process & Phase 2 Project Proposals*, Case 20-E-0197, at 34 & Ordering P 6 (N.Y. Pub. Serv. Comm'n, Sept. 9, 2021)).

[16] *Id.*; *see also* Phase 2 Order & app.

[17] Filing at 5; *see also Consol. Edison Co. of N.Y.*, 180 FERC ¶ 61,106, at P 2 (2022) (approving filing of the CSRA).

[18] Filing at 6 (citing *Order Addressing Ratemaking for Areas of Concern Transmission Upgrades*, Case 20-E-0197 (N.Y. Pub. Serv. Comm'n, Apr. 19, 2024)).

[19] *Id.* (citing *N.Y. State Elec. & Gas Corp.*, 185 FERC ¶ 61,164 (2023)).

II. Applicants' Filings

9. Applicants request that the Commission issue an order authorizing the CWIP Incentive and the Abandoned Plant Incentive for their 33 Phase 2 Projects[20] and accepting the proposed formula rate template changes to implement the requested incentives authorizations, effective July 8, 2024.[21] Applicants state that such an order will allow them to implement the necessary Tariff revisions for the January 1, 2025 recovery period.

III. Notices of Filings

10. Notices of Applicants' filings were published in the *Federal Register*, 89 Fed. Reg. 42,466 (May 15, 2024) with interventions and protests due on or before May 29, 2024. Con Ed and Orange and Rockland filed timely motions to intervene in both dockets. No protests or comments were filed.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

B. Substantive Matters

12. As discussed below, we find that Applicants have not demonstrated that the Phase 2 Projects satisfy the requirements of FPA section 219 and Order No. 679. However, we grant the requested incentives for the Phase 2 Projects that are subject to Article VII Approval, effective July 8, 2024, as requested, conditioned upon the New York Commission issuing Article VII Approval for those projects that addresses reliability and/or congestion in a manner contemplated by FPA section 219—i.e., that determines

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Applicants explain that NYSEG's formula rate template and associated protocols are set forth in Attachment 1 to Rate Schedule 19 of the NYISO OATT, while RG&E's formula rate template and associated protocols are set forth in Attachment 2 to Rate Schedule 19 of the NYISO OATT. *Id.* (referencing NYISO, NYISO Tariffs, NYISO OATT, §§ 6.19.6-6.19.6.2.1 Schedule 1 (attach. 1 – Rate Mechanism (2.0.0)); NYISO, NYISO Tariffs, NYISO OATT, §§ 6.19.7-6.19.7.2.1 (Schedule 19– Rate Mechanism) (2.0.0)).

[20] *See* Appendix A for a listing of Applicants' 33 Phase 2 Projects for which they seek the CWIP Incentive and Abandoned Plant Incentive.

[21] *Id.* at 1-2, 18-19, 21.

that each proposed project ensures reliability and/or reduces the cost of delivered power by reducing transmission congestion—and Commission acceptance of Applicants' compliance filing(s).[22] For the remaining Phase 2 Projects, we deny without prejudice Applicants' requests for the CWIP and Abandoned Plant Incentives.[23] We also accept Applicants' proposed formula rate Tariff revisions, effective July 8, 2024, conditioned upon the New York Commission issuing Article VII Approval for the relevant Phase 2 Projects and Commission acceptance of Applicants' compliance filing(s), and subject to the outcome of the ongoing proceedings in Docket Nos. ER23-1816 and ER23-1817.

1. <u>Section 219 Requirement</u>

13. In the Energy Policy Act of 2005, Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments to promote capital investment in certain transmission infrastructure.[24] The Commission subsequently issued Order No. 679, establishing the processes by which a public utility may seek transmission rate incentives pursuant to FPA section 219. Additionally, in November 2012, the Commission issued a policy statement providing guidance regarding its evaluation of applications for transmission rate incentives under FPA section 219 and Order No. 679.[25]

14. Pursuant to Order No. 679, an applicant may seek to obtain incentive rate treatment for transmission infrastructure investments that satisfy the requirements of FPA section 219, i.e., the applicant must show that "the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[26] Order No. 679 established a process for an applicant to demonstrate that it meets this standard, including a rebuttable presumption that the standard is met if: (1) the transmission project "result[s] from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission"; or (2) "a project has received construction approval from an appropriate state commission or state siting authority."[27] The Commission also stated

[22] The Phase 2 Projects that Applicants state are subject to additional Article VII Approval are listed in Appendix B.

[23] The Phase 2 Projects that Applicants state are not subject to additional Article VII Approval are listed in Appendix C.

[24] Energy Policy Act of 2005, Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005).

[25] Transmission Incentives Policy Statement, 141 FERC ¶ 61,129.

[26] Order No. 679, 116 FERC ¶ 61,057 at P 76.

[27] *Id.* P 58.

that "[o]ther applicants not meeting these criteria may nonetheless demonstrate that their project is needed to maintain reliability or reduce congestion by presenting [to the Commission] a factual record that would support such findings."[28]

a. Applicants' Requests

15. Applicants argue that the Phase 2 Projects qualify for a rebuttable presumption under Order No. 679 because they allege that the New York Commission "concluded that the projects were necessary to ensure reliability and reduce congestion when it approved the Applicants' Phase 2 Projects."[29] Applicants state that, through the Phase 2 Order, the New York Commission approved the upgrades needed to resolve curtailments in the Northern New York, Capital, and Southern Tier regions, and in doing so expressly considered whether those projects would ensure reliability or reduce congestion.[30] In addition, Applicants note that ensuring reliability and reducing congestion were among the fundamental objectives of the New York Commission's process that produced the Phase 2 Order.[31] Applicants also add that, given the advanced age of some of the facilities to be replaced in the Phase 2 Projects, the New York Commission found that "the resulting replaced facilities will improve both reliability and resiliency of the system."[32] Therefore, Applicants argue that the Phase 2 Order satisfies Order No. 679's rebuttable presumption because "reliability enhancement and curtailment reduction informed the [New York Commission's] decision to approve the construction of the Applicants' Phase 2 Projects."[33]

16. Applicants assert that, while certain of their Phase 2 Projects are also subject to additional New York State permitting processes pursuant to Article VII of New York

[28] *Id*. P 57; *see also* Order No. 679-A, 117 FERC ¶ 61,345 at P 41.

[29] Filing at 7.

[30] *Id.* at 8 (citing Phase 2 Order at 34).

[31] *Id.* (quoting Phase 2 Order at 43 ("Here faced with balancing generation and transmission costs, under legislatively-based renewable energy mandates, *we find that addressing the congestion by investing in transmission infrastructure is likely the better choice from the ratepayer perspective*. This investment will maximize the public investment already made in renewable generation by *increasing the amount of renewable energy that can be delivered* and will also make the [New York State Energy Research & Development Authority] procurement program more competitive in the future, by largely *eliminating curtailment risk premiums*.") (emphasis in Filing)).

[32] *Id.* at 8-9 (citing Phase 2 Order, app. at 14, 34).

[33] *Id.* at 9.

State's Public Service Law, the Phase 2 Order conducted the reliability and congestion assessment relevant to the Commission's FPA section 219 criteria.[34]

17. Moreover, Applicants maintain that, notwithstanding the rebuttable presumption, independent analyses demonstrate that the Phase 2 Projects ensure reliability and reduce the cost of delivered power by reducing congestion.[35] Specifically, Applicants note that NYISO's 2019 Congestion Assessment and Resource Integration Study (NYISO CARIS Study) identified high levels of congestion, and associated curtailments of wind and solar generation, in a scenario assuming renewables deployment aligned to CLCPA mandates in the southern tier region of New York State where the Phase 2 Projects are sited.[36] Applicants state that the New York Commission directed the New York utilities to propose cost-effective upgrades to relieve congestion based on the NYISO CARIS Study findings, and that the New York Commission found that Applicants' Phase 2 Projects would "transform the Southern Tier Region from one that would experience significant curtailment risk to one that would experience virtually no curtailment risk."[37] Accordingly, Applicants argue that their Phase 2 Projects are being developed with the express purpose of addressing congestion, increasing the deliverability of power, and reducing curtailment risk premiums as identified through NYISO's economic planning process, and therefore satisfy FPA section 219's requirements.

b. Commission Determination

18. We find that the Phase 2 Projects do not qualify for the Order No. 679 rebuttable presumption because they have neither been approved in a regional planning process nor received state construction approval through a process that considers and evaluates projects for reliability and/or congestion. The Commission clarified in Order No. 679-A that its regulations "require each applicant seeking to invoke the rebuttable presumption

[34] *Id.* at n.33 (referencing N.Y. Pub. Serv. Law Ch. 48, art. VII); *see also* Filing, attach. A, Ex. 3 (describing each project and noting which will require an Article VII permitting submission).

[35] Filing at 9.

[36] *Id.* (citing NYISO, *2019 Congestion Assessment & Res. Integration Study* 65 (July 2020), https://www.nyiso.com/documents/20142/2226108/2019-CARIS-Phase1-Report-Final.pdf (NYISO CARIS Study)); *see also id.* (quoting NYISO CARIS Study at 97 ("In general, the wind and solar generation in this pocket experience high levels of curtailments, and the transmission facilities in this pocket show high levels of congested hours. This congestion results mainly from the lack of strongly interconnected bulk power transmission facilities near injection points, and the 115 kV network was not designed for large power transfers.")).

[37] *Id.* at 10 (citing Phase 2 Order, app. at 31).

to explain in its filing how the applicable process (regional planning or state approval) in fact considered whether the project ensures reliability or reduces congestion."[38] Although Applicants argue that the New York Commission's Phase 2 Order should qualify the Phase 2 Projects for the rebuttable presumption because "reliability enhancement and curtailment reduction informed the [New York Commission's] decision to approve the construction of the Applicants' Phase 2 Projects[,]"[39] we find that Applicants have not demonstrated that this process considered whether the Phase 2 Projects ensure reliability and/or reduce the cost of delivered power by reducing the cost of congestion as contemplated by FPA section 219 and Order No. 679.[40] Although the New York Commission made some findings regarding reliability N-1 contingencies and generation curtailment levels in the Phase 2 Order and Technical Assessment appendix, there are no specific findings on the reliability criteria or congestion costs savings on a project-specific basis for each Phase 2 Project on which we could rely to find that the process considered that each Phase 2 Project ensures reliability and/or reduces the cost of delivered power by reducing congestion.[41]

19. Additionally, Applicants have not provided the Commission with the necessary evidentiary support to determine whether the Phase 2 Projects ensure reliability and/or reduce the cost of delivered power by reducing congestion as required by Order No. 679. The Phase 2 Order's finding that the Phase 2 Projects will increase transmission system headroom and the NYISO CARIS Study's prediction of congestion in the areas where the Phase 2 Projects will be sited are insufficient to demonstrate that the Phase 2 Projects specifically will reduce the cost of delivered power by reducing the cost of congestion. Like the Phase 2 Order and Technical Assessment appendix,[42] the NYISO CARIS Study does not include specific findings on the reliability criteria or congestion costs savings on a project-specific basis for each of the Phase 2 Projects; its analysis and findings apply to regions. Although these orders and reports show that the Phase 2 Projects generally will provide headroom to meet New York's policy goals, this analysis is insufficient to demonstrate that the Phase 2 Projects ensure reliability and/or reduce the cost of delivered power by reducing congestion as contemplated by FPA section 219 and Order No. 679. Similarly, Applicants' otherwise unsupported statements that the Phase 2 Projects will provide reliability and congestion benefits are likewise insufficient to demonstrate that each Phase 2 Project satisfies the FPA section 219 criteria.

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[38] Order No. 679-A, 117 FERC ¶ 61,345 at P 49; 18 C.F.R. § 35.35(i)(1)(ii).

[39] Filing at 9.

[40] Order No. 679-A, 117 FERC ¶ 61,345 at PP 41, 46.

[41] *See* Phase 2 Order & app.

[42] *See* Phase 2 Order & app.

20. However, we grant the requested incentives for the Phase 2 Projects that are subject to Article VII Approval, conditioned upon the New York Commission issuing Article VII Approval for those projects that addresses reliability and/or congestion in the manner contemplated by FPA section 219. The Commission has previously found that it is appropriate to grant incentives to certain projects that are still undergoing state approval conditioned upon receipt of that construction approval by the state commission or siting authority.[43] In this case, some of the Phase 2 Projects are subject to additional New York State permitting processes pursuant to Article VII of New York State's Public

[43] *See Niagara Mohawk Power Corp.*, 178 FERC ¶ 61,173, at P 28 (2022) (granting Abandoned Plant Incentive request for investment in the Smart Path Connect Project conditioned upon the New York Commission issuing an Article VII Approval for the Smart Path Connect Project that addresses reliability and/or congestion in the manner contemplated by FPA section 219); *N.Y. Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,004, at P 27 (2022) (granting 50-basis point return on equity adder request to reflect the risks and challenges associated with investment in the Smart Path Connect Project conditioned upon the New York Commission issuing an Article VII Approval for the Smart Path Connect Project that addresses reliability and/or congestion in the manner contemplated by FPA section 219); *N.Y. Power Auth.*, 178 FERC ¶ 61,172, at P 28 (2022) (granting Abandoned Plant Incentive request for investment in the Smart Path Connect Project conditioned upon the New York Commission issuing an Article VII Approval for the Smart Path Connect Project that addresses reliability and/or congestion in the manner contemplated by FPA section 219); *Xcel Energy Servs., Inc.*, 121 FERC ¶ 61,284, at P 53 (2007) (finding that a set of projects qualified for the rebuttable presumption that they met the requirements of FPA section 219 if they received a "Certificate of Need" from the Minnesota Public Utility Commission).

Service Law,[44] which may be an appropriate basis for finding that the FPA section 219 criteria are met.[45] Because the New York Commission Article VII Approval process may adequately consider and evaluate the reliability and/or congestion-relieving impacts of these Phase 2 Projects, they may satisfy the rebuttable presumption. To the extent those Phase 2 Projects meet the rebuttable presumption, we grant the CWIP and Abandoned Plant Incentives, as discussed below, conditioned upon the New York Commission issuing Article VII Approval for the relevant Phase 2 Projects that addresses reliability and/or congestion in the manner contemplated by FPA section 219. We direct Applicants to submit compliance filing(s) within 30 days of issuance of Article VII Approval for the relevant Phase 2 Projects by the New York Commission. Applicants must demonstrate in their compliance filing(s) that the given Article VII Approval process adequately considered and found that the relevant Phase 2 Projects will ensure reliability and/or reduce the cost of delivered power by mitigating congestion consistent with Order No. 679-A.[46]

21. Furthermore, because Applicants have not shown that the Phase 2 Projects that do not need an Article VII Approval meet the rebuttable presumption or provided the Commission with the necessary evidentiary support to determine whether such Phase 2 Projects ensure reliability and/or reduce the cost of delivered power by reducing congestion as required by Order No. 679, we find that those Phase 2 Projects are not eligible for incentives.[47] This finding is without prejudice to Applicants making a subsequent filing demonstrating that these Phase 2 Projects satisfy the requirements of FPA section 219 or otherwise merit incentive rate treatment.[48]

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[44] *See* Filing at n.33 (referencing N.Y. Pub. Serv. Law Ch. 48, art. VII) & attach. A, Ex. 3 (describing each project and noting which projects will require an Article VII Approval).

[45] The Phase 2 Projects that Applicants state are subject to additional Article VII Approval are listed in Appendix B.

[46] *See* Order No. 679-A, 117 FERC ¶ 61,345 at P 49. *See also Niagara Mohawk Power Corp.*, 178 FERC ¶ 61,173 at P 28 (directing further filing).

[47] The Phase 2 Projects that Applicants state are not subject to additional Article VII Approval are listed in Appendix C.

[48] The Commission has explained that, "[w]here the Commission previously has granted requests for incentives for projects that have not relied on FPA section 219's rebuttable presumption, the applicants supported their requests with comprehensive and clear data, as well as internal and, in several cases, external studies." *The Dayton Power & Light Co.*, 172 FERC ¶ 61,140, at P 37 & n.48 (2020) (citing *Green Power Express*

2. Order No. 679 Nexus Requirement

22. In addition to satisfying the FPA section 219 requirement of ensuring reliability and/or reducing the cost of delivered power by reducing congestion, Order No. 679 requires an applicant to demonstrate that there is a nexus between the incentive sought and the investment being made.[49] In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."[50] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package.[51] The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis.[52] We address the nexus test for each incentive and for the total package of incentives requested for the Phase 2 Projects that are subject to Article VII Approval below.

a. CWIP Incentive

i. Applicants' Requests

23. Applicants assert that their CWIP Incentive request is tailored to mitigate the risks and challenges associated with the development of the Phase 2 Projects. Applicants claim that the magnitude of the necessary investment in CLCPA-related transmission over the next few years will exacerbate cash flow and credit metrics challenges, which, if left unchecked, will increase the cost of debt for customers.[53] Applicants note that, absent the requested CWIP Incentive, they anticipate having large capital expenditures for plant additions that have not yet entered service, and thus are not generating any cash flow. Applicants claim that capitalizing these costs through Allowance for Funds Used During Construction (AFUDC) will harm their cash flows and credit metrics, which are already under pressure, putting their investment grade credit ratings at risk.[54]

LP, 127 FERC ¶ 61,031, at P 41 (2009); *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281, at P 38 (2009); *Tallgrass Transmission, LLC*, 125 FERC ¶ 61,248, at PP 40-41 (2008)).

[49] Order No. 679, 116 FERC ¶ 61,057 at P 48.

[50] Order No. 679-A, 117 FERC ¶ 61,345 at P 27.

[51] Transmission Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, 117 FERC ¶ 61,345 at P 27).

[52] Order No. 679, 116 FERC ¶ 61,057 at P 43.

[53] Filing at 11-12.

24. Applicants assert that the Phase 2 Projects will require an unprecedented level of capital investment.[55] Applicants state that they project NYSEG to spend approximately $198 million through 2024, $154 million in 2025, and $247 million in 2026 on the Phase 2 Projects—compared to 5-year annual average transmission plant additions of around $102 million from 2019-2023. Applicants add that the capital cost of NYSEG's Phase 2 Projects alone is about 20% higher than its $1.8 billion total cost of all NYSEG transmission gross plant in service as of December 31, 2023. Applicants state that they project RG&E's annual investment in its Phase 2 Project to be approximately $5 million in 2024, $4 million in 2025, and $4 million in 2026, compared to 5-year annual average transmission plant additions of around $103 million from 2019-2023.[56]

25. According to Applicants, including 100% CWIP in rate base for the Phase 2 Projects would allow them to avoid buildup of large AFUDC balances and obtain favorable financing, both of which would lower rates, and avoid rate shock.[57] In total, Applicants allege that recovering capital costs via CWIP instead of AFUDC would reduce capital costs by $15 million and $173 million for RG&E and NYSEG, respectively, and avoiding credit rating downgrades from their cash flow challenges could save $2.3-$10 million for the Phase 2 Projects (not to mention other investments).

26. Applicants claim that their CWIP Incentive request is consistent with other transmission incentives authorized for similar transmission projects in New York—including several that are relatively small compared to the $2.093 billion of NYSEG investment and $157 million of RG&E investment authorized in the Phase 2 Order.[58] Applicants also state that they will implement the requisite accounting controls to prevent double recovery and make the requisite annual filings with the Commission if their CWIP Incentive request is granted.[59] Specifically, Applicants state that they will tag the Phase 2

[54] *Id.* at 12 & attach. C (Direct Testimony of Andrea Vanluling and Michael Panichi), at 3-6 (Vanluling & Panichi Test.). Applicants state that ratings agencies have already characterized their respective financial metrics as extremely weak. Filing at 12.

[55] Filing at 10-11.

[56] RG&E's Phase 2 Project (Z09) has an in-service date of 2030 and is estimated to cost $157 million.

[57] Filing at 11-13.

[58] *Id.* at 14-15 (citing *N.Y. Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,004 (2015); *N.Y. Power Auth.*, 169 FERC ¶ 61,125, at P 26 (2019); *N.Y. Indep. Sys. Operator, Inc.*, 184 FERC ¶ 61,059, at P 31 (2023)).

[59] *Id.* at 15 & attach. D (Direct Testimony of April Theberge and Angela Bassano), at 4-6 (Theberge & Bassano Test.).

Projects with program codes that will prohibit the calculation of AFUDC on the capital assets. Applicants also state that, if the Commission grants their CWIP Incentive request, they will each submit, as required, a CWIP report as part of each of their annual update processes established in their respective formula rate implementation protocols that will provide information regarding project construction and service statuses.[60]

27. Applicants request waiver of certain filing requirements governing CWIP recovery under Order No. 679. First, Applicants request waiver of section 35.13(h)(38), which requires a CWIP Incentive applicant to submit a "Statement BM" describing its program for providing reliable and economic power.[61] Applicants claim that the Commission has previously found that this requirement is primarily designed for CWIP associated with new generation and has waived the requirement for utilities with formula transmission rates.[62] Second, Applicants request waiver of sections 35.25(c)(4) and (g) of the Commission's regulations, which require an applicant to provide certain information to help the Commission assess the anti-competitive impacts of the CWIP Incentive.[63] Applicants argue that the Commission should grant the requested waivers consistent with its determination in Order No. 679 that such anti-competitive concerns are less significant in the transmission context.[64]

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[60] Filing at 15-16. Applicants explain that NYSEG's formula rate implementation protocols are set forth in Section 6.19.6.2.1 of Attachment 1 to Rate Schedule 19 of the NYISO OATT and RG&E's formula rate implementation protocols are set forth in Section 6.19.7.2.1 of Attachment 2 to Rate Schedule 19 of the NYISO OATT. *Id.* at n.76 (referencing NYISO, NYISO Tariffs, NYISO OATT, §§ 6.19.6-6.19.6.2.1, Schedule 19 (attach. 1 – Rate Mechanism) (2.0.0); NYISO, NYISO Tariffs, NYISO OATT, §§ 6.19.7-6.19.7.2.1, Schedule 19 (attach. 2 – Rate Mechanism) (2.0.0)).

[61] Filing at 22-23 (citing 18 C.F.R. § 35.13(h)(38) (2023)). Statement BM is a construction program statement that summarizes data and supporting assumptions relating to the economics of any construction program to replace or expand a utility's power supply that must be filed if the utility is filing for construction work in progress in rate base. 18 C.F.R. § 35.13(h)(38).

[62] Filing at 22-23 (citing *The Dayton Power & Light Co.*, 172 FERC ¶ 61,140 at P 74, *order on reh'g*, 173 FERC ¶ 61,154 (2020), *order on reh'g*, 174 FERC ¶ 61,119 (2021)).

[63] *See* 18 C.F.R. § 35.25(c)(4) & (g) (2023).

[64] Filing at 23 (citing Order No. 679, 116 FERC ¶ 61,057 at P 119).

ii. <u>Commission Determination</u>

28. We grant Applicants' request for the CWIP Incentive for the Phase 2 Projects that are subject to additional Article VII Approval, conditioned upon the New York Commission issuing Article VII Approval that addresses reliability and/or congestion in the manner contemplated by FPA section 219 and Commission acceptance of Applicants' compliance filing(s), as discussed above, effective July 8, 2024.[65] In Order No. 679, the Commission established a policy that allows utilities to include, where appropriate, 100% of prudently-incurred transmission-related CWIP in rate base.[66] The Commission stated that this rate incentive treatment will advance the goals of FPA section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, reducing the pressure on an applicant's finances caused by investing in transmission projects.

29. We find that Applicants have shown a nexus between the proposed CWIP Incentive and their investments in the Phase 2 Projects that are subject to additional Article VII Approval. Applicants estimate that their investment in the Phase 2 Projects will require capital expenditures of approximately $157 million for RG&E and $2.093 billion for NYSEG, with NYSEG's capital costs about 20% higher than its total cost of all NYSEG transmission gross plant in service as of December 31, 2023.[67] Applicants demonstrate that capitalizing these costs through AFUDC will harm their cash flows and credit metrics.[68] While we are conditionally granting the CWIP Incentive for only the Phase 2 Projects that are subject to additional Article VII Approval, we nevertheless find that granting the CWIP Incentive will help ease these risks by providing upfront certainty, improved cash flow, and reduced interest expense as Applicants proceed with these projects.

30. A utility with an approved CWIP Incentive must propose accounting procedures that ensure that there is no duplicate recovery of CWIP and corresponding AFUDC capitalized as a result of different accounting or ratemaking treatments by state or local authorities.[69] We find that Applicants' proposed accounting procedures (i.e., their use of new program codes in their SAP accounting system to tag new capital orders for the Phase 2 Projects for which the Commission grants the CWIP Incentive and prohibit the

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[65] *See supra* P 20. The Phase 2 Projects that Applicants state are subject to additional Article VII Approval are listed in Appendix B.

[66] Order No. 679, 116 FERC ¶ 61,057 at PP 29, 117.

[67] Filing at 10-11.

[68] *Id.* at 12 & Vanluling & Panichi Test. at 3-6.

[69] *See Bos. Edison Co.*, 109 FERC ¶ 61,300, at P 36 (2004).

calculation of AFUDC on the capital assets), coupled with their existing formula rate protocols, are adequate to ensure that there is no duplicate recovery of CWIP.

31. Additionally, we grant Applicants' request for waiver of 18 C.F.R. §§ 35.13(h)(38), 35.25(c)(4) & (g). We find that the anti-competitive concerns raised in sections 35.25(c)(4) and (g) are not present in this proceeding and therefore that waiver of these sections is reasonable. With respect to the requirements of section 35.13(h)(38), we find that Applicants are similarly situated to utilities for whom the Commission has waived the requirement to file Statement BM under section 35.13(h)(38).

32. We deny the CWIP Incentive for those Phase 2 Projects that do not require an additional Article VII Approval without prejudice to Applicants making a future filing demonstrating that such Phase 2 Projects meet the rebuttable presumption, as discussed above.[70]

b. Abandoned Plant Incentive

i. Applicants' Requests

33. Applicants state that the Abandon Plant Incentive request is tailored to mitigate the regulatory risks associated with the investments of the Phase 2 Projects if those projects are abandoned for any reasons beyond Applicants' control.[71] Applicants state that the Abandoned Plant Incentive is appropriate because these projects each independently face significant regulatory, permitting, procurement, project-on-project, and execution risks that could result in the Phase 2 Projects' cancellation for reasons beyond Applicants' control.[72]

34. Applicants state that the Phase 2 Projects face potential coordination and timing risks, specifically around outage scheduling and construction sequencing.[73] Applicants note that utility-scale construction projects are necessarily sequential, requiring careful planning around how outages and construction processes affect other resources. For that reason, the geographic density of the Phase 2 Projects, and their proximity to areas of high renewable generation development, make avoiding impacts to other development activities challenging.[74] Applicants also claim that the Abandoned Plant Incentive would

[70] The Phase 2 Projects that Applicants state are not subject to additional Article VII Approval are listed in Appendix C.

[71] Filing at 16.

[72] *Id.*

[73] *Id.* & attach. B (Direct Testimony of James Yeske), at 8 (Yeske Test.).

protect Applicants from the risk that their projects could be abandoned if actual renewable resource development is less than anticipated.

35. In addition, Applicants note that the Phase 2 Projects may face significant supply chain, labor, and procurement challenges that have strained new development across the energy sector, exacerbated by the concentration of projects approved by the Phase 2 Order on an expedited timeline in construction-crowded areas.[75] Applicants also state that the Phase 2 Projects are subject to significant siting and permitting processes from several federal and state entities, and that Applicants will need to obtain new and expanded rights of way in certain areas, involving extended negotiations with municipalities, landowners, and other stakeholders.[76] Applicants also state that at least one of the Phase 2 Projects will involve parkland alienation, which involves a complex and time-consuming process subject to several state approvals and risks local opposition.[77] Applicants state that the Abandoned Plant Incentive provides appropriate protection given the risks and challenges presented by the Phase 2 Projects' complex siting, permitting, construction, and stakeholder coordination challenges.

36. Applicants also highlight that the Phase 2 Projects are being developed as a result of the AREGCBA state process and that New York's public policy regarding transmission development processes or need could change at any point in response to rapidly evolving generation development trends and other state policy considerations.[78] Applicants claim that the Commission has acknowledged that the Abandoned Plant Incentive is appropriate for projects at risk of abandonment due to policy and market changes that render the project unnecessary or imprudent.[79] Applicants state that granting the requested Abandoned Plant Incentive will help to mitigate the risk that Applicants cannot recover prudently incurred costs associated with project development in the event that the Phase 2 Projects are cancelled for reasons beyond the Applicants' control.[80] Applicants state that they will make an FPA section 205 filing seeking approval of the prudently incurred cancelled transmission plant costs and propose an

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[74] Filing at 16-17 & Yeske Test. at 8-9.

[75] Filing at 17 & Yeske Test. at 5-6.

[76] Filing at 17 & Yeske Test. at 6.

[77] Filing at 17 & Yeske Test. at 7-8.

[78] Filing at 18.

[79] *Id.* (citing *Ameren Serv. Co.*, 135 FERC ¶ 61,142, at P 59 (2011)).

[80] *Id.*

amortization period for recovery before any costs related to the Abandoned Plant Incentive are included in the Schedule 19 formula rate templates.[81]

ii. Commission Determination

37. We grant Applicants' request for the Abandoned Plant Incentive for the Phase 2 Projects that are subject to additional Article VII Approval, conditioned upon the New York Commission issuing Article VII Approval that addresses reliability and/or congestion in the manner contemplated by FPA section 219 and Commission acceptance of Applicants' compliance filing(s), as discussed above, effective July 8, 2024.[82] In Order No. 679, the Commission found that the Abandoned Plant Incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs when a project is abandoned for reasons outside the applicant's control.[83] We find that the Phase 2 Projects that are subject to additional Article VII Approval face certain regulatory, financial, siting, execution, and procurement risks and challenges beyond Applicants' control that could lead to their abandonment, and that approval of the Abandoned Plant Incentive will address those risks and challenges. Thus, we find that Applicants have demonstrated a nexus between their requested incentive and their planned investment in the Phase 2 Projects that are subject to additional Article VII Approval.

38. Consistent with Commission policy, the Abandoned Plant Incentive for the Phase 2 Projects that are subject to additional Article VII Approval will be available to Applicants, as conditioned above, for 100% of prudently incurred costs expended on and after the effective date granted in this order if those Phase 2 Projects are abandoned for reasons beyond Applicants' control. We will not determine the prudence of any costs incurred prior to the abandonment, if any, until Applicants seek such recovery in a future FPA section 205 filing that a public utility is required to make if it seeks abandoned plant recovery.[84]

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[81] Theberge & Bassano Test. at 7.

[82] *See supra* P 20. The Phase 2 Projects that Applicants state are subject to additional Article VII Approval are listed in Appendix B.

[83] Order No. 679, 116 FERC ¶ 61,057 at PP 163-166.

[84] *Id.* at PP 165-166. In the event that Applicants seek abandoned plant recovery for the time period prior to the effective date of this order, Applicants would be eligible to seek recovery of 50% of their prudently incurred costs, consistent with prior precedent. *See, e.g., San Diego Gas & Elec. Co.*, 154 FERC ¶ 61,158, *order denying reh'g*, 157 FERC ¶ 61,056 (2016), *aff'd*, *San Diego Gas & Elec. Co. v. FERC*, 913 F.3d 127 (D.C. Cir. 2019).

39. We deny the Abandoned Plant Incentive for those Phase 2 Projects that do not require an additional Article VII Approval without prejudice to Applicants making a future filing demonstrating that such Phase 2 Projects meet the rebuttable presumption as discussed above.[85]

c. <u>Total Package of Incentives</u>

i. <u>Applicants' Requests</u>

40. Applicants assert that the total package of incentives is tailored to the demonstrable risks and challenges that the Phase 2 Projects face, and that the CWIP Incentive and Abandoned Plant Incentive each mitigate different types of risks associated with the Phase 2 Projects.[86]

41. According to Applicants, the CWIP Incentive addresses cash flow deficiencies and protects the Applicants and their ratepayers by mitigating the impact of significant capital expenditures, providing assurances to creditors, and ultimately reducing the cost of debt for each of the Applicants.[87] Meanwhile, Applicants argue that the Abandoned Plant Incentive mitigates the risk of non-recovery of their costs associated with regulatory, project-on-project, construction, and permitting risks that could cause project abandonment for reasons beyond their control.

ii. <u>Commission Determination</u>

42. As noted above, in Order No. 679-A, the Commission clarified that its nexus test is met when an applicant demonstrates that the total package of incentives requested is tailored to address the demonstrable risks or challenges faced by the applicant.[88] Applicants must provide sufficient support to allow the Commission to evaluate each element of the package and the interrelationship of all elements of the package.[89] The Commission noted that this nexus test is fact-specific and requires the Commission to review each application on a case-by-case basis. The Commission has, in prior cases,

[85] The Phase 2 Projects that Applicants state are not subject to additional Article VII Approval are listed in Appendix C.

[86] Filing at 18.

[87] *Id.*

[88] Order No. 679-A, 117 FERC ¶ 61,345 at P 40; Transmission Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10.

[89] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 10 (quoting Order No. 679-A, 117 FERC ¶ 61,345 at P 40).

approved multiple rate incentives for particular projects.[90] For the reasons discussed above, we find that Applicants have demonstrated that each of the requested incentives that we conditionally authorize here, and the incentives package as a whole for the Phase 2 Projects that are subject to additional Article VII Approval, addresses the risks and challenges faced by Applicants in undertaking the Phase 2 Projects that are subject to additional Article VII Approval.

43. As a result of the Commission conditionally approving rate incentives, Applicants must submit FERC-730 reports annually.[91]

3. Tariff Revisions

a. Applicants' Requests

44. Applicants state that their formula rate templates need to be modified to incorporate CWIP in rate base and allow for abandoned plant recovery should the

[90] Order No. 679, 116 FERC ¶ 61,057 at P 55; *see also Midcontinent Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,246, at P 35 (2015).

[91] FERC-730 annual reports must be filed by public utilities that have been granted incentive rate treatment for specific transmission projects. 18 C.F.R. § 35.35(h) (2023). These reports contain actual, projected, and incremental transmission investment information.

Commission grant the requested incentives.[92] Applicants state that these revisions are in lines 23, 24, and 54 of the respective formula rate templates.

b. **Commission Determination**

45. We conditionally accept Applicants' proposed revisions to lines 23, 24, and 54 of the respective formula rate templates to incorporate CWIP in rate base and allow for abandoned plant recovery conditioned upon the New York Commission issuing Article VII Approval that addresses reliability and/or congestion in the manner contemplated by FPA section 219 and Commission acceptance of Applicants' compliance filing(s), as discussed above, effective July 8, 2024.[93] Also, because Applicants' proposed Tariff revisions to their formula rate templates in these proceedings include a 10.87% return on equity consistent with their proposals in Docket Nos. ER23-1816 and ER23-1817, which are pending with the Commission, we accept the proposed Tariff revisions subject to the outcome of those proceedings. We find the proposed revisions to be just and reasonable and not unduly discriminatory or preferential because they will allow Applicants to implement the CWIP and Abandoned Plant Incentives that we conditionally authorize in this order for the Phase 2 Projects that are subject to subsequent Article VII Approval.

The Commission orders:

(A) RG&E's and NYSEG's requests for the CWIP and Abandoned Plant Incentives for the Phase 2 Projects that are subject to Article VII Approval, identified in Appendix B to this order, are hereby granted, effective July 8, 2024, conditioned upon the New York Commission issuing Article VII Approval for the relevant Phase 2 Projects and Commission acceptance of Applicants' compliance filing(s), as discussed in the body of this order.

(B) RG&E's and NYSEG's proposed Tariff revisions to their respective formula rates are hereby accepted, effective July 8, 2024, conditioned upon the New York Commission issuing Article VII Approval for the relevant Phase 2 Projects and Commission acceptance of Applicants' compliance filing(s), and subject to the outcome of the ongoing proceedings in Docket Nos. ER23-1816 and ER23-1817, as discussed in the body of this order.

[92] Filing at 19 (citing NYISO, NYISO Tariffs, NYISO OATT, 6.19.7.2.2 (Schedule 19 - Rochester Gas and Electric Corp) (3.0.0); NYISO, NYISO Tariffs, NYISO OATT, 6.19.6.2.2 (Schedule 19 - New York State Electric and Gas) (3.0.0)).

[93] NYISO, NYISO Tariffs, NYISO OATT, 6.19.7.2.2 (Schedule 19 - Rochester Gas and Electric Corp) (3.0.0); NYISO, NYISO Tariffs, NYISO OATT, 6.19.6.2.2 (Schedule 19 - New York State Electric and Gas) (3.0.0).

(C) RG&E and NYSEG are hereby directed to submit compliance filing(s) within 30 days of issuance of Article VII Approval for the relevant Phase 2 Projects by the New York Commission, as discussed in the body of this order.

(D) RG&E's and NYSEG's requests for the CWIP and Abandoned Plant Incentives for the Phase 2 Projects that are not subject to Article VII Approval, identified in Appendix C to this order, are hereby denied without prejudice, as discussed in the body of this order.

By the Commission. Commissioner Christie is concurring with a separate statement attached.
Commissioner See is not participating.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.

Appendix A – Phase 2 Project List

Rochester Gas & Electric Corporation (RG&E)

1. Z09, RG&E 115 kV Line 906 Full Rebuild

New York State Electric & Gas Corporation (NYSEG)

1. WO12, NYSEG 115 kV Line 910 Full Rebuild
2. Z01, NYSEG 230 kV Line 67 Full Rebuild
3. Z02, NYSEG 230 kV Line 68 Full Rebuild
4. Z03, Stoney Ridge Transformer Replacement
5. Z04, NYSEG 230 kV Line 72 Full Rebuild
6. Z05, NYSEG 230 kV Line 69 Full Rebuild
7. Z06, Hillside 115 kV Retirement
8. Z07, Watercure 345/230/115 kV Expansion
9. Z08, NYSEG 115 kV Line 934 Full Rebuild
10. Z10, NYSEG 115 kV Line 724 Full Rebuild
11. Z11, Eelpot 115 kV Substation Expansion
12. Z12, NYSEG 115 kV Line 722 Full Rebuild
13. Z13, NYSEG 115 kV Line 968 Full Rebuild
14. Z14, Greenidge 115 kV Substation Upgrades
15. Z15, Montour Falls 115/34.5 kV Substation Rebuild
16. Z16, NYSEG 115 kV Line 963 Rebuild
17. Z17, NYSEG 115 kV Line 978 Full Rebuild
18. Z18, NYSEG 115 kV Line 932 Structure Replacements
19. Z19, Bennett 115/34.5 kV Substation Expansion and Upgrades and Power Flow Device
20. Z20, NYSEG 115 kV Line 953 Full Rebuild
21. Z21, NYSEG 115 kV Line 723 Full Rebuild
22. Z22, Bath 115/34 kV Substation Rebuild
23. Z23, NYSEG 115 kV Line 965 Full Rebuild
24. Z24, NYSEG 115 kV Line 712 Full Overhead Rebuilds; Underground cable remains
25. Z25, NYSEG 115 kV Line 711 Full Overhead Rebuilds; Underground cable remains
26. Z26, NYSEG 115 kV Line 935 Full Rebuild
27. Z27, Hickling 115/34.5 kV Substation Rebuild
28. Z28, NYSEG 34.5 kV Line 539 Partial Rebuild
29. Z29, NYSEG 34.5 kV Line 546 Partial Rebuild

30. Z30, NYSEG 34.5 kV Line 565 Full Rebuild
31. Z31, NYSEG 34.5 kV Line 542 Full Rebuild
32. Z32, Minor Substation Upgrades at Caton Ave, Flat St, Moraine, Ridge Rd, Spencer Hill, Station 128, Sullivan Park, West Erie Ave, and Yawger Rd 115 kV Substations.

Appendix B – Phase 2 Projects for which the Commission Conditionally Grants CWIP and Abandoned Plant Incentive Requests

Rochester Gas & Electric Corporation (RG&E)

1. Z09, RG&E 115 kV Line 906 Full Rebuild

New York State Electric & Gas Corporation (NYSEG)

1. Z01, NYSEG 230 kV Line 67 Full Rebuild
2. Z02, NYSEG 230 kV Line 68 Full Rebuild
3. Z04, NYSEG 230 kV Line 72 Full Rebuild
4. Z08, NYSEG 115 kV Line 934 Full Rebuild
5. Z10, NYSEG 115 kV Line 724 Full Rebuild
6. Z12, NYSEG 115 kV Line 722 Full Rebuild
7. Z16, NYSEG 115 kV Line 963 Rebuild
8. Z17, NYSEG 115 kV Line 978 Full Rebuild
9. Z18, NYSEG 115 kV Line 932 Structure Replacements[94]
10. Z21, NYSEG 115 kV Line 723 Full Rebuild
11. Z23, NYSEG 115 kV Line 965 Full Rebuild

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[94] Applicants state that Project Z18 "may require an Article VII permitting submission." Filing, attach. A, Ex. 3, Transmission Line Project 17. The Commission conditionally grants the requested CWIP and Abandoned Plant Incentives for Project Z18 if it is subject to Article VII Approval, conditioned upon the New York Commission issuing it Article VII Approval that addresses reliability and/or congestion in the manner contemplated by FPA section 219. If Project Z18 is not subject to subsequent Article VII Approval by the New York Commission, the Commission denies without prejudice NYSEG's CWIP and Abandoned Plant Incentive requests for Project Z18.

Appendix C – Phase 2 Projects for which the Commission Denies CWIP and Abandoned Plant Incentive Requests without Prejudice

New York State Electric & Gas Corporation (NYSEG)

1. WO12, NYSEG 115 kV Line 910 Full Rebuild
2. Z03, Stoney Ridge Transformer Replacement
3. Z05, NYSEG 230 kV Line 69 Full Rebuild
4. Z06, Hillside 115 kV Retirement
5. Z07, Watercure 345/230/115 kV Expansion
6. Z11, Eelpot 115 kV Substation Expansion
7. Z13, NYSEG 115 kV Line 968 Full Rebuild
8. Z14, Greenidge 115 kV Substation Upgrades
9. Z15, Montour Falls 115/34.5 kV Substation Rebuild
10. Z19, Bennett 115/34.5 kV Substation Expansion and Upgrades and Power Flow Device
11. Z20, NYSEG 115 kV Line 953 Full Rebuild
12. Z22, Bath 115/34 kV Substation Rebuild
13. Z24, NYSEG 115 kV Line 712 Full Overhead Rebuilds; Underground cable remains
14. Z25, NYSEG 115 kV Line 711 Full Overhead Rebuilds; Underground cable remains
15. Z26, NYSEG 115 kV Line 935 Full Rebuild
16. Z27, Hickling 115/34.5 kV Substation Rebuild
17. Z28, NYSEG 34.5 kV Line 539 Partial Rebuild
18. Z29, NYSEG 34.5 kV Line 546 Partial Rebuild
19. Z30, NYSEG 34.5 kV Line 565 Full Rebuild
20. Z31, NYSEG 34.5 kV Line 542 Full Rebuild
21. Z32, Minor Substation Upgrades at Caton Ave, Flat St, Moraine, Ridge Rd, Spencer Hill, Station 128, Sullivan Park, West Erie Ave, and Yawger Rd 115 kV Substations.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Rochester Gas and Electric Corporation New York Independent System Operator, Inc.	Docket Nos.	ER24-1967-000
New York State Electric & Gas Corporation New York Independent System Operator, Inc.		ER24-1968-000 (not consolidated)

(Issued July 5, 2024)

CHRISTIE, Commissioner, *concurring*:

1. I concur because the projects that are conditionally granted are public policy projects to implement New York's state climate law; the New York State Public Service Commission, which has granted a petition approving the projects and remains in the process of conducting its own state proceedings, did not protest the incentives; and the costs of the projects, including any incentives, will be confined to New York.[1] Given these specific circumstances I will concur.

For these reasons, I respectfully concur.

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Mark C. Christie
Commissioner

[1] *Consol. Edison Co. of N.Y.*, 180 FERC ¶ 61,106 (2022) (Christie, Comm'r, concurring at P 4) (available at https://www.ferc.gov/news-events/news/commissioner-christies-concurrence-concerning-nytos-cost-sharing-er22-2152-et-al).