

189 FERC ¶ 61,107
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

November 8, 2024

In Reply Refer To:

Consolidated Edison Company of New York, Inc.
New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
Central Hudson Gas and Electric Corporation,
New York Independent System Operator, Inc.

Docket Nos. ER23-2212-004

ER23-2212-002

ER23-2212-003

ER23-2212-000

ER23-1816-000

ER23-1816-003

ER23-1816-004

ER23-1817-000

ER23-1817-003

ER23-1817-004

ER23-2507-000

ER23-2507-002

(not consolidated)

Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, NY 10003

Attention: Susan J. LoFrumento

Dear Susan J. LoFrumento:

1. On May 3, 2023, as amended on July 26, 2023 and October 5, 2023, pursuant to section 205 of the Federal Power Act (FPA)¹ and section 35.13 of the Commission's regulations,² New York Independent System Operator, Inc. (NYISO) submitted, on

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2024).

behalf of New York State Electric & Gas Corporation (NYSEG) in Docket No. ER23-1816-000 and Rochester Gas and Electric Corporation (RG&E) in Docket No. ER23-1817-000, revisions to the NYISO Open Access Transmission Tariff (OATT)³ to add NYSEG and RG&E's proposed formula rate templates, associated formula rate protocols, and conforming OATT amendments addressing derivation and recovery of the costs for eligible transmission projects identified and designated under NYSEG's Attachment 1 to Rate Schedule 19⁴ and RGE's Attachment 2 to Rate Schedule 19.⁵ NYSEG and RG&E each further requested a ceiling base return on equity (ROE) for transmission facilities under Rate Schedule 19. On December 4, 2023, the Commission accepted NYSEG's proposed Attachment 1 to Rate Schedule 19 and RG&E's proposed Attachment 2 to Rate Schedule 19, which include the formula rate protocols, effective July 3, 2023, as requested. The Commission accepted the formula rate templates, subject to further compliance, and suspended them for a nominal period, effective July 3, 2023, as requested, subject to refund and to the outcome of hearing and settlement judge procedures on the proposed ceiling base ROEs.⁶

2. On June 22, 2023, as amended on September 1, 2023, pursuant to section 205 of the FPA and section 35.13 of the Commission's regulations, NYISO submitted, on behalf of Consolidated Edison Company of New York, Inc. (Consolidated Edison) in Docket No. ER23-2212-000, revisions to the NYISO OATT to add Consolidated Edison's proposed formula rate template, associated formula rate protocols, and conforming OATT amendments addressing derivation and recovery of the costs for eligible transmission projects identified and designated under Consolidated Edison's Attachment 3 to Rate Schedule 19⁷ and new Attachment 4 to Rate Schedule 10.⁸ Consolidated

³ Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the NYISO OATT.

⁴ NYISO, NYISO Tariffs, NYISO OATT, § 6.19.6.2.2 (Schedule 19 - New York State Elec. & Gas Corp.) (1.0.0) (NYSEG Formula Rate Template); *id.* § 6.19.6-6.19.6.2.1 (Schedule 19 - Attach. 1 - Rate Mechanism for the Recovery of CLCPA Eligible Projects for NY State Elec. & Gas Corp.) (2.0.0).

⁵ NYISO, NYISO Tariffs, NYISO OATT, § 6.19.7.2.2 OATT (Schedule 19 - Rochester Gas & Elec. Corp.) (1.0.0) (RG&E Formula Rate Template); *id.* 6.19.7-6.19.7.2.1 (Schedule 10 - Attach. 2 - Rate Mechanism for the Recovery of CLCPA Eligible Projects for Rochester Gas & Elec. Corp.) (2.0.0).

⁶ *N.Y. State Elec. & Gas Corp.*, 185 FERC ¶ 61,164 (NYSEG and RG&E Initial Order).

⁷ NYISO, NYISO Tariffs, NYISO OATT, 6.19.8-6.19.8.2.1 (Schedule 19 - Attach. 3 - Rate Mechanism for the Recovery of CLCPA Eligible Projects for Consolidated

Edison also requested a base ROE for transmission facilities under Rate Schedule 19, a separate base ROE for transmission facilities under Rate Schedule 10, and a 50-basis point adder to the ROE for transmission facilities under Rate Schedule 10 for participation in a Regional Transmission Organization (RTO Adder). On October 31, 2023, the Commission: (1) accepted Consolidated Edison's proposed Attachment 3 to Rate Schedule 19, which includes the formula rate protocols, effective August 22, 2023, as requested; (2) accepted the proposed Attachment 4 to Rate Schedule 10, effective August 22, 2023, as requested; (3) accepted the proposed formula rate template subject to further compliance, suspended it for a nominal period, effective August 22, 2023, as requested, subject to refund and to hearing and settlement judge procedures on the proposed base ROEs; and (4) conditionally granted the request for a 50-basis point RTO Adder to the base ROE for Rate Schedule 10.⁹

3. On July 28, 2023, as amended on October 23, 2023, pursuant to section 205 of the FPA and section 35.13 of the Commission's regulations, NYISO submitted, on behalf of Central Hudson Gas and Electric Corporation (Central Hudson) in Docket No. ER23-2507-000, revisions to the NYISO OATT to add Central Hudson's proposed formula rate template, associated formula rate protocols, and conforming OATT amendments addressing derivation and recovery of the costs for eligible transmission projects identified and designated under Central Hudson's Attachment 4 to Rate Schedule 19.¹⁰ Central Hudson further requested a ceiling base ROE for transmission facilities under Rate Schedule 19. On December 22, 2023, the Commission accepted Central Hudson's proposed Attachment 4 to Rate Schedule 19, which includes the formula rate protocols, effective September 27, 2023, as requested. The Commission accepted the formula rate template, subject to a further compliance filing, and suspended it for a nominal period, to be effective September 27, 2023, as requested, subject to refund and to

Edison Co. of NY, Inc.) (1.0.0); *id.* § 6.19.8.2.2 (Schedule 19 - Attach. 3 - Formula Rate Template) (2.0.0) (Consolidated Edison Formula Rate Template).

⁸ NYISO, NYISO Tariffs, NYISO OATT, 6.10.10 (Schedule 10 - Attach. 4 – Rate Mechanism for the Recovery by Consolidated Edison Co, of NY, Inc.) (0.0.0).

⁹ *Consol. Edison Co. of N.Y., Inc.*, 185 FERC ¶ 61,091 (Consolidated Edison Initial Order).

¹⁰ NYISO, NYISO Tariffs, NYISO OATT, § 6.19.9.2.2 (Schedule 19 - Central Hudson Gas & Elec. Corp.) (1.0.0); *id.* § 6.19.9-6.19.9.2.1 (Schedule 19 – Attach. 4 - Rate Mechanism for the Recovery of CLCPA Eligible Projects for Central Hudson Gas & Elec. Corp.) (1.0.0).

the outcome of hearing and settlement judge procedures on the proposed ceiling base ROE.¹¹

4. On January 23, 2024, NYISO submitted, on NYSEG and RG&E's behalf, revisions to the NYISO OATT to comply with the Commission's compliance requirements in the NYSEG and RG&E Initial Order.¹²

5. On January 4, 2024, NYISO submitted, on Consolidated Edison's behalf, revisions to the NYISO OATT to comply with the Commission's compliance requirements in the Consolidated Edison Initial Order.¹³

6. On February 2, 2024, NYISO submitted, on Central Hudson's behalf, revisions to the NYISO OATT to comply with the Commission's compliance requirements in the Central Hudson Initial Order.¹⁴

7. Notice of the NYSEG and RG&E Compliance Filing was published in the *Federal Register*, 89 Fed. Reg. 5886 (Jan. 30, 2024), with interventions and protests due on or before February 13, 2024. None was filed.

8. Notice of the Consolidated Edison Compliance Filing was published in the *Federal Register*, 89 Fed. Reg. 1914 (Jan. 11, 2024), with interventions and protests due on or before January 25, 2024. None was filed.

9. Notice of the Central Hudson Compliance Filing was published in the *Federal Register*, 89 Fed. Reg. 8669 (Feb. 8, 2024), with interventions and protests due on or before February 23, 2024. None was filed.

10. On August 19, 2024, Consolidated Edison filed a Joint Offer of Partial Settlement addressing its proposed ROE for projects under Rate Schedule 10 (Rate Schedule 10 Settlement).¹⁵ Consolidated Edison asks the Commission to issue an order on the

¹¹ *Cent. Hudson Gas & Elec. Corp.*, 185 FERC ¶ 61,217 (Central Hudson Initial Order).

¹² NYSEG and RG&E, Compliance Filing, Docket Nos. ER23-1816-003 and ER23-1817-003 (NYSEG and RG&E Compliance Filing).

¹³ Consolidated Edison, Compliance Filing, Docket No. ER23-2212-002 (Consolidated Edison Compliance Filing).

¹⁴ Central Hudson, Compliance Filing, Docket No. ER23-2507-002 (Central Hudson Compliance Filing).

¹⁵ Consolidated Edison, Joint Offer of Partial Settlement, Docket No. ER23-2212-

settlement no later than October 1, 2024, or in the alternative that the Commission's order on the settlement provide an effective date of October 1, 2024.¹⁶ On September 9, 2024, Commission Trial Staff filed comments supporting the Rate Schedule 10 Settlement.¹⁷ On September 26, 2024, the Settlement Judge certified the Rate Schedule 10 Settlement to the Commission as an uncontested settlement.¹⁸

11. On August 20, 2024, Consolidated Edison filed, on its behalf and for NYSEG, RG&E, and Central Hudson (together, Indicated NYTOs), an uncontested Joint Offer of Settlement addressing Indicated NYTOs' proposed ceiling base ROE proposals submitted by NYISO on their behalf for the formula rates under the NYISO OATT for Rate Schedule 19 projects (Rate Schedule 19 Settlement).¹⁹ On September 9, 2024, Commission Trial Staff filed comments supporting the Rate Schedule 19 Settlement.²⁰ On September 27, 2024, the Settlement Judge certified the Rate Schedule 19 Settlement to the Commission as an uncontested settlement.²¹

12. Article 7 of both the Rate Schedule 19 Settlement and the Rate Schedule 10 Settlement provides that:

The standard of review for any changes to this Settlement proposed by a Settling Party shall be the "public interest" application of the just and reasonable standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *Fed. Power Comm'n v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527 (2008) ("*Morgan Stanley*"), and refined in *NRG Power Mktg., LLC v. Maine Pub. Utilities Comm'n*,

003.

¹⁶ Transmittal Letter at 1-2.

¹⁷ Commission Trial Staff, Comments in Support of Partial Settlement, Docket No. ER23-2212-004, et al.

¹⁸ *Consol. Edison Co. of N.Y., Inc.*, 188 FERC ¶ 63,027 (2024).

¹⁹ Indicated NYTOs, Joint Offer of Settlement, Docket No. ER23-1816-002, et al.

²⁰ Commission Trial Staff, Comments, Docket No. ER23-2212-004, et al.

²¹ *Cent. Hudson Gas & Elec. Corp.*, 188 FERC ¶ 63,028 (2024); *N.Y. State Elec. & Gas Corp.*, 188 FERC ¶ 63,029 (2024).

558 U.S. 165, 174-75 (2010). The ordinary just and reasonable standard of review (rather than the “public interest” standard), as clarified in *Morgan Stanley* shall apply to any changes to this Settlement sought by the Commission acting *sua sponte* or at the request of a non-Settling Party or a non-party to any of these proceedings.

13. We find that the NYSEG and RG&E Compliance Filing in Docket Nos. ER23-1816-003 and ER23-1817-003 partially complies with the NYSEG and RG&E Initial Order, and accordingly we conditionally accept the NYSEG and RG&E Compliance Filing, effective July 3, 2023, as requested, subject to a further compliance filing to completely remove the remaining references to “Worksheet” and “Cost of Removal” in each company’s Formula Rate Template.²²

14. We find that Consolidated Edison’s Compliance Filing in Docket No. ER23-2212-002 complies with the Consolidated Edison Initial Order, and accordingly we accept the Consolidated Edison Compliance Filing, effective August 22, 2023, as requested.

15. We find that Central Hudson’s Compliance Filing in Docket No. ER23-2507-002 complies with the Central Hudson Initial Order, and accordingly we accept the Central Hudson Compliance Filing, effective September 27, 2023, as requested.

16. The Rate Schedule 10 Settlement together with the Rate Schedule 19 Settlement resolve all issues set for hearing in Docket Nos. ER23-1816 and ER23-1817,²³ ER23-2212,²⁴ and ER23-2507.²⁵ The Rate Schedule 10 Settlement appears to be fair and reasonable and in the public interest, and is hereby approved.²⁶ The Rate Schedule 19 Settlement appears to be fair and reasonable and in the public interest, and is hereby

²² See NYSEG and RG&E Initial Order, 185 FERC ¶ 61,164 at P 46 (directing removal of “the placeholder line items for the proposed regulatory asset for [cost of removal less salvage] from the Formula Rate Templates”). See, e.g., NYSEG Formula Rate Template, Workpaper 2a: Accumulated Deferred Income Taxes (ADIT) Workpaper – Current Year, column (h).

²³ NYSEG and RG&E Initial Order, 185 FERC ¶ 61,164.

²⁴ Consolidated Edison Initial Order, 185 FERC ¶ 61,091.

²⁵ Central Hudson Initial Order, 185 FERC ¶ 61,217.

²⁶ Article 5 of the Rate Schedule 10 Settlement states that the settlement shall be effective on the date the Commission approves the Consolidated Edison implementation filing(s) without material modifications or conditions.

approved.²⁷ The Commission's approval of the Settlements does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

17. Consistent with the Rate Schedule 10 Settlement that we are approving here, we direct Consolidated Edison to remove references in Consolidated Edison's Formula Rate Template to any ROE incentive adders that are prohibited by Article 3.2(b) of the Rate Schedule 10 Settlement,²⁸ such as Line 12 and Note C on "Workpaper 10b10: Schedule 10 Project ATRRs."

18. Indicated NYTOs, in conjunction with NYISO, are each directed to make compliance filings with revised tariff records in eTariff format,²⁹ within 30 days of the date of this order, to reflect the Commission's action in this order.

By direction of the Commission.

Debbie-Anne A. Reese,
Secretary.

²⁷ Article 5 of the Rate Schedule 19 Settlement states that the settlement shall become effective and binding on the settling parties on the date of Commission approval of the settlement without modification or condition.

²⁸ Article 3.2(b) of the Rate Schedule 10 Settlement states that "[t]he stated ROE values specified in Section 3.2(a), above are all inclusive, and shall not include any ROE incentive adders." We also note that Article 3.2(b) of the Rate Schedule 19 Settlement states that "[n]o Schedule 19 Projects shall be eligible for, nor shall any such Projects seek, any incentive ROE adders."

²⁹ See *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *order on reh'g*, Order No. 714-A, 147 FERC ¶ 61,115 (2014). Indicated NYTOs and NYISO are reminded to use an eTariff Record Effective Priority Order number higher than used in their respective dockets to ensure the tariff records approved as part of the Settlements become the effective rate.