

189 FERC ¶ 61,210  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

December 19, 2024

In Reply Refer To:  
Orange and Rockland Utilities, Inc.  
Docket Nos. ER24-1614-002  
ER24-1614-000

Orange and Rockland Utilities, Inc.  
4 Irving Place  
New York, NY 10003

Attention: Susan J. LoFrumento

Dear Susan J. LoFrumento:

1. On March 25, 2024, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and section 35.13 of the Commission's regulations,<sup>2</sup> New York Independent System Operator, Inc. (NYISO) submitted, on behalf of Orange and Rockland Utilities, Inc. (O&R), revisions to the NYISO Open Access Transmission Tariff (OATT) to add O&R'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 O&R's Attachment 5 to Rate Schedule 19 and new Attachment 5 to Rate Schedule 10.<sup>3</sup> O&R also requested a base return on equity (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 Participation Adder). On May 24, 2024, the Commission: (1) accepted O&R's proposed Attachment 5 to Rate Schedule 19, which includes the formula rate protocols; (2) accepted the proposed Attachment 5 to

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2024).

<sup>3</sup> NYISO, NYISO Tariffs, NYISO OATT, § 6.10.11 (OATT Schedule 10 - Attach. 5 - Rate Mechanism for Recovery) (0.0.0); *id.* NYISO OATT, §§ 6.19.10-6.19.10.2.1 (Schedule 19 - Attach. 5 - Rate Mechanism) (0.0.0); *id.* NYISO OATT, § 6.19.10.2.2 (Schedule 19 - Orange and Rockland Utilities) (0.0.0).

Rate Schedule 10; (3) accepted the proposed formula rate template, subject to refund and to hearing and settlement judge procedures on the proposed base ROEs for projects under Rate Schedule 19 and projects under Rate Schedule 10; and (4) conditionally granted the 50-basis-point RTO Participation Adder for Rate Schedule 10 for filing, subject to the outcome of paper hearing procedures.<sup>4</sup>

2. On September 20, 2024, O&R filed a Joint Offer of Settlement (Settlement) among O&R, New York State Public Service Commission, New York Association of Public Power, and New Jersey Division of Rate Counsel addressing the ROE values applied under O&R's formula rate templates.<sup>5</sup> O&R states that the Settlement renders moot the issues set for paper hearing. On October 10, 2024, Commission Trial Staff filed comments not opposing the Settlement. On October 15, 2024, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>6</sup>

3. Article 7 of the 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*, 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.

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<sup>4</sup> *Orange & Rockland Utils., Inc.*, 187 FERC ¶ 61,110 (2024) (Initial Order).

<sup>5</sup> O&R, Explanatory Statement at 1.

<sup>6</sup> *Orange & Rockland Utils., Inc.*, 189 FERC ¶ 63,005 (2024).

4. The Settlement resolves all issues set for hearing in Docket No. ER24-1614.<sup>7</sup> The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved.<sup>8</sup> The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

5. Consistent with the Settlement that we are approving here, we direct O&R to remove references in O&R's formula rate template to any ROE incentive adders that are prohibited by Article 3.2(b) of the Settlement,<sup>9</sup> such as Line 12 and Note C on "Workpaper 10b10: Schedule 10 Project ATRRs."

6. O&R, in conjunction with NYISO, is directed to make a compliance filing with revised tariff records in eTariff format,<sup>10</sup> 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.

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<sup>7</sup> Initial Order, 187 FERC ¶ 61,110. Specifically, among other things, the terms of the Settlement render moot the issue of O&R's request for approval of the RTO Participation Adder and O&R agrees to waive its right to a RTO Participation Adder. Settlement §§ 2.1, 3.2(b), 3.3(b).

<sup>8</sup> Article 5 of the Settlement states that the settlement shall be effective on the date the Commission approves the O&R Implementation Filing(s) without material modifications or conditions.

<sup>9</sup> 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."

<sup>10</sup> 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). O&R 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 Settlement become the effective rate.