

189 FERC ¶ 61,209
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 19, 2024

In Reply Refer To:
New York Transco, LLC
New York Independent System
Operator, Inc.
Docket Nos. ER24-232-002
ER24-232-000

Day Pitney LLP
555 11th Street, NW
Washington, DC 20004-1300

Attention: Evan C. Reese III
Attorney for New York Transco, LLC

Dear Evan C. Reese III:

1. On December 26, 2023, the Commission issued an order (Incentives Order)¹ addressing New York Transco LLC's (New York Transco)² investment in the Propel New York Energy Alternate Solution 5 Project (Project). The Incentives Order accepted New York Transco's proposed base return on equity (ROE) of 10.7% for filing, subject to refund, and to the outcome of hearing and settlement judge procedures. The Incentives Order further granted New York Transco's request for incentives including, but not limited to, a conditional grant of a 75-basis-point ROE adder for the risks and challenges associated with the Project and a 50-basis-point incentive adder (RTO Participation Adder) for New York Transco's voluntary participation in the New York Independent System Operator, Inc. (NYISO).

2. On January 25, 2024, the New York State Public Service Commission (New York Commission) filed a request for rehearing of the Incentives Order, arguing that New York Transco is ineligible for the RTO Participation Adder because its

¹ *N.Y. Transco, LLC*, 185 FERC ¶ 61,222, at P 3 (2023) (Incentives Order).

² New York Transco is owned by Consolidated Edison Transmission, LLC, Grid NY, LLC, Iberdrola USA Networks New York Transco LLC, and Central Hudson Electric Transmission, LLC.

membership in NYISO is not voluntary under New York state law.³ On May 24, 2024, the Commission issued an order establishing briefing procedures to obtain additional information to assist the Commission in considering the rehearing request.⁴

3. On August 21, 2024, New York Transco filed an Uncontested Offer of Settlement (Settlement) addressing New York Transco's proposed base ROE associated with its capital investments in the Project.⁵ On September 10, 2024, Commission Trial Staff filed comments supporting the Settlement. On September 20, 2024, New York Transco filed reply comments. On September 30, 2024, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.⁶

4. Article VI of the Settlement provides that:

The standard of review for any change to the Settlement proposed by a Settling Party shall be the “public interest” application of the just and reasonable standard of review set forth in *United Gas Pipeline Co. v. Mobile Gas Service 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 Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm’n*, 558 U.S. 165 (2010). The ordinary just and reasonable standard of review (rather than the “public interest” standard), as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), applies to any changes to the settlement sought by the FERC acting *sua sponte*, the

³ The New York Commission subsequently filed a petition for review in the Second Circuit. *N.Y. Pub. Serv. Comm’n v. FERC*, 2d Cir. No. 24-1126.

⁴ *N.Y. Transco, LLC*, 187 FERC ¶ 61,108 (2024).

⁵ The Settling Parties include: New York Transco; the New York Commission; City of New York; Multiple Intervenors (an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located in New York State) and its members; New York Association of Public Power; and New York Power Authority. Long Island Power Authority participated in the settlement procedures and does not oppose the settlement. New York Transco, Settlement Transmittal Letter at n.3.

⁶ *N.Y. Indep. Sys. Operator, Inc.*, 188 FERC ¶ 63,031 (2024).

Settling Parties acting unanimously, or at the request of a non-settling party or a non-party to this proceeding.

5. The Settlement resolves all issues set for hearing in Docket No. ER24-232 and provides that the New York Commission will withdraw its pending request for rehearing and petition for review. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved.⁷ The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings. For example, as part of the terms of the Settlement, the Settling Parties agree, among other things, to abandon pending review of an RTO Participation Adder and to apply a 25-basis point ROE incentive adder, which they have called a "Grid Enhancement Adder," to reflect what they view as the Project's benefits.⁸ We underscore that the approval of this uncontested settlement does not set precedent for any purpose—including the Commission's potential acceptance of any such ROE incentive adder in any future proceeding before the Commission, including another settlement proceeding.

6. New York Transco, in conjunction with NYISO, is directed to make a compliance filing with revised tariff records in eTariff format,⁹ within 30 days of the date of this order, to reflect the Commission's action in this order.

By direction of the Commission.

Carlos D. Clay,
Acting Deputy Secretary.

⁷ We note that the total ROE provided for in the Settlement is less than that which the Commission accepted, subject to hearing and settlement procedures, in the Incentives Order.

⁸ Settlement § 3.3.

⁹ 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). New York Transco and NYISO are reminded to use an eTariff Record Effective Priority Order number higher than used in Docket No. ER24-232-002 to ensure the tariff records approved as part of the Settlement become the effective rate.