

190 FERC ¶ 61,073
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

February 4, 2025

In Reply Refer To:
New York Power Authority
New York Independent System Operator, Inc.
Docket No. ER25-676-000

New York Power Authority
123 Main Street
White Plains, NY 10601

Attention: Gary D. Levenson

Dear Mr. Levenson:

1. On December 6, 2024, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² New York Independent System Operator, Inc. (NYISO) filed, on behalf of New York Power Authority (NYPA), revisions to its transmission formula rate template (Template) and implementation protocols (Protocols, and together with the Template, Formula Rate) found at Section 14.2.3 of Attachment H to the NYISO Open Access Transmission Tariff (OATT), consistent with a declaratory order granting NYPA's requests related to the development of the Propel NY Energy Alternate Solution 5 Project (Propel NY).³ NYPA also proposes revisions to Attachment 2 to Rate Schedule 10 section 6.10.8 of the NYISO OATT to establish the Regulated Transmission Facilities Charge for NYPA's portion of Propel NY. For the reasons stated below, we accept NYPA's proposed revisions to the Formula Rate and Attachment 2 of Rate Schedule 10 of the NYISO OATT, effective February 4, 2025, as requested.

2. NYPA states that it is a corporate municipal instrumentality and a political subdivision of the State of New York, organized under the laws of the state, and operating pursuant to Title 1 of Article 5 of the New York Public Authorities Law.⁴

¹ 16 U.S.C. § 824d.

² 18 C.F.R. pt. 35 (2024).

³ Filing, Transmittal Letter at 1 (citing *N. Y. Power Auth.*, 188 FERC ¶ 61,022 (2024) (July Order)).

NYPA states that it is a “municipality” within the meaning of section 3(7) of the FPA and is a “state instrumentality” within the meaning of FPA section 201(f).⁵ NYPA states that it generates, transmits, and sells electric power and energy at wholesale and retail throughout New York.⁶ NYPA states that it has no distribution facilities or defined geographical service territory of its own, and since the inception of NYISO, has recovered its cost of owning and maintaining its backbone transmission facilities primarily through the NYPA Transmission Adjustment Charge, a charge assessed to virtually all loads in NYISO on a load-ratio share basis.

3. NYPA states that it and New York Transco LLC (NY Transco) are project developers of Propel NY, a \$2.8 billion electric transmission project that will establish a continuous 345 kV path that expands the deliverability of generation from offshore to New York load centers.⁷ According to NYPA, the July Order conditionally granted NYPA’s requested 75-basis point return on equity (ROE) adder (ROE Risk Incentive) to recognize the significant risks and challenges associated with NYPA’s investment in Propel NY.⁸ NYPA states that the ROE Risk Incentive was conditioned upon NYPA proposing, and the Commission accepting, NYPA’s filing to implement its cost containment mechanism, which would “prohibit[] NYPA from recovering 20% of the Propel NY Project costs that exceed the project cost estimate (except for amounts attributable to certain ‘excusing conditions’ in NYISO OATT section 6.10.6.2), thereby limiting application of the ROE Risk Incentive and reducing total recovery of Propel NY Project costs.”⁹

4. To effectuate the July Order, NYPA requests the addition of footnote #6 to Schedule D2 (Project Specific Capital Structure and Cost of Capital) of the Template to indicate that the “cost rate” used to calculate the Propel NY revenue requirement will include the 75-basis point ROE Risk Incentive approved in the July Order, which commits NYPA to calculating the impacts of the cost containment mechanism.¹⁰ NYPA

⁴ *Id.* at 2.

⁵ 16 U.S.C. §§ 796(7), 824(f).

⁶ Filing, Transmittal Letter at 2.

⁷ *Id.* at 3.

⁸ *Id.* at 3-4 (citing July Order, 188 FERC ¶ 61,022 at PP 33-39).

⁹ *Id.* at 5 (citing July Order, 188 FERC ¶ 61,022 at P 37) (“While we grant the requested ROE Risk Incentive, we note NYPA’s commitment to propose in a future filing its cost containment mechanism for the Propel NY Project ... NYPA should propose such changes pursuant to FPA section 205.” *Id.* P 37 n.63).

states that Schedule D2 would also include new rows to accommodate the Propel NY capital structure.¹¹ NYPA also proposes Template modifications to include Propel NY on the Transmission Revenue Requirement Summary tab, Schedule F1 (Project Revenue Requirement Worksheet), Schedule F3 (Project True-Up), Workpaper BJ (Individual Projects - Plant in Service and Depreciation) and Workpaper BJ (Support). NYPA also proposes to add the Smart Path Connect project to Schedule F3 to separately show its True-Up amount and to consistently identify the Smart Path Connect project on Schedule F1, which currently shows that project's revenue requirement.

5. NYPA also proposes a new section 14.2.3.2.11 of the Protocols to effectuate the cost containment mechanism for Propel NY.¹² NYPA states that proposed section 14.2.3.2.11 of the Protocols ensures that NYPA shall not recover 20% of any amount of its financial ownership share of the "Included Capital Costs" that exceed NYPA's financial ownership share of the cost cap, except for amounts attributable to certain excusing conditions permitted by section 6.10.6.2 of Rate Schedule 10 to the NYISO OATT. Additionally, NYPA states that the proposed new section contains definitions to administer the cost containment for NYPA's share of Propel NY, a description of the applicable incentive adders, and a commitment that the total ROE inclusive of adders is bounded by the upper zone of reasonableness of NYPA's base ROE.

6. NYPA also proposes to revise Attachment 2 of Rate Schedule 10 of the NYISO OATT to accommodate the facilities charge applicable to NYPA's portion of Propel NY.¹³ Further, NYPA proposes to revise Attachment 2 of Rate Schedule 10 so it will apply to any NYPA project subject to a Regulated Transmission Facilities Charge rate mechanism. NYPA also proposes to include new language to: (1) provide background on the Propel NY selection; (2) indicate where the Propel NY revenue requirement for NYPA is stated in the Template, including the stipulation that there is no duplicative recovery of costs as between the Propel NY revenue requirement and any other NYPA revenue requirement recovered under the NYISO OATT; and (3) indicate that NYPA's cost allocation for Propel NY is on a load-ratio share basis in accordance with section 31.5.5.4.3 of Attachment Y to the NYISO OATT.¹⁴ NYPA argues that, because the revisions explain the pertinent information about the Propel NY facilities charge in an orderly manner, they should be accepted by the Commission as just and reasonable.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 4 n.18.

¹² *Id.* at 5.

¹³ *Id.* at 6.

¹⁴ *Id.* (citing *N. Y. Transco LLC*, 185 FERC ¶ 61,222, at PP 9, 20 (2023)).

7. NYPA contends that Commission's practice is to exempt non-jurisdictional municipal utilities such as NYPA from paying applicable filing fees and from compliance with section 35.13 of the Commission's regulation and therefore requests waiver of section 35.13.¹⁵ NYPA also requests clarification that, as a non-jurisdictional utility, it is exempt from filing FERC-730 annual reports that pertain to "public utilities that have been granted incentive rate treatment for specific transmission projects."¹⁶ Additionally, NYPA states that subpart (3) of Section 35.35(h) states that the Commission may waive the FERC-730 annual reporting requirement for good cause. NYPA requests, if necessary, waiver of this provision because it is a state instrumentality within the definition of section 201(f) of the FPA, and thus exempt from the requirements of Section 35.35(h), which also resides under Part II of the FPA. NYPA also requests that the Commission grant waiver of any other requirements of its regulations to the extent necessary to permit the proposed tariff modifications to become effective.¹⁷

8. NYPA requests that the Commission accept the proposed changes without suspension or hearing, so that they may become effective after the end of the 60-day statutory notice period, or February 4, 2025.¹⁸

9. Notice of NYPA's filing was published in the *Federal Register*, 89 Fed. Reg. 100477 (Dec. 12, 2024), with interventions and protests due on or before December 27, 2024. Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., and NY Transco each filed timely motions of intervention. No protests or comments were filed.

10. We accept NYPA's revisions to its Formula Rate, effective February 4, 2025, as requested. In the July Order, the Commission conditionally granted NYPA's request for a 75-basis point ROE Risk Incentive for its investments in Propel NY, subject to NYPA filing its proposed cost containment mechanism in its rates.¹⁹ Here, NYPA implements that cost containment mechanism, which is consistent with the NYISO Tariff.²⁰ We also

¹⁵ *Id.* at 6-7 (citing *N.Y. Indep. Sys. Operator, Inc., N.Y. Power Auth.*, 180 FERC ¶ 61,004, at P 55 (2022); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268, at PP 69-70 (2016); *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240, at PP 36-37 (2012)).

¹⁶ *Id.* at 7 (citing 18 C.F.R. § 35.35(h)).

¹⁷ *Id.* at 6.

¹⁸ *Id.* at 2.

¹⁹ July Order, 188 FERC ¶ 61,022 at P 36.

²⁰ NYISO, NYISO Tariffs, NYISO OATT, Rate Schedule 10 (Rate Mechanism for

note that NYPA commits that the total ROE inclusive of adders is bounded by the upper zone of reasonableness of NYPA's base ROE. We therefore find that NYPA's revisions to its Formula Rate are just and reasonable. We also accept the proposed revisions to Attachment 2 of Rate Schedule 10 of the NYISO OATT. We find them to be just and reasonable because they explain the pertinent information about the Propel NY facilities charge.

11. We grant NYPA's requested waiver of section 35.13 of the Commission's regulations.

12. We also clarify that NYPA is not subject to the FERC-730 annual reporting requirements of section 35.35(h) of the Commission's regulations.²¹

By direction of the Commission.

Carlos D. Clay,
Deputy Secretary.

the Recovery of the Regulated Transmission Facilities Charge) §6.10 (19.0.0), §6.10.6.3.

²¹ *Promoting Transmission Inv. through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, at P 372, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007) ("Since this rulemaking applies to public utilities and incentives are being permitted pursuant to [FPA] sections 219 and 205, which pertain to public utilities, we will not require information from entities that are not jurisdictional under section 205, although such entities are encouraged to voluntarily provide this information.").