

181 FERC ¶ 61,271
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
Mark C. Christie, and Willie L. Phillips.

New York Transco, LLC
New York Independent System Operator, Inc.

Docket No. ER20-2259-000

ORDER ON COMPLIANCE

(Issued December 29, 2022)

1. On June 30, 2020, New York Transco, LLC (NY Transco), submitted proposed revisions to its Transmission Formula Rate (Formula Rate) contained in Attachment DD (section 36) of the New York Independent System Operator, Inc. (NYISO) Open Access Transmission Tariff (OATT)¹ to comply with the requirements of Order No. 864 – a final rule addressing excess or deficient accumulated deferred income taxes (ADIT) resulting from tax rate changes.² As discussed below, we find that NY Transco’s proposed revisions partially comply with the requirements of Order No. 864. We also reject NY Transco’s requested effective date of January 26, 2020. Accordingly, we accept NY Transco’s proposed revisions, effective January 27, 2020, and we direct NY Transco to submit a further compliance filing within 60 days of the date of this order.

I. Background

A. ADIT

2. ADIT arises from timing differences between the method of computing taxable income for reporting to the Internal Revenue Service (IRS) and the method of computing income for regulatory accounting and ratemaking purposes. As a result of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act) reducing the federal corporate income tax

¹ New York Independent System Operator, Inc., NYISO Tariffs, NYISO OATT, 36 OATT Attachment DD - Rules to Allocate the Cost of NY Tra (4.0.0).

² *Pub. Util. Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019), *order on reh’g and clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

rate from 35% to 21%, a portion of an ADIT liability that public utilities collected from customers will no longer be due to the IRS and is considered excess ADIT.

B. Order No. 864

3. In Order No. 864, the Commission focused on ensuring that transmission formula rates properly address excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and any future tax rate changes consistent with the Commission's regulations regarding tax normalization³ and in a transparent manner.⁴ The Commission required public utility transmission providers with transmission formula rates under an Open Access Transmission Tariff, a transmission owner tariff, or a rate schedule to revise their transmission formula rates to address excess and deficient ADIT by incorporating the following three major revisions: (1) a mechanism to deduct any excess ADIT from or add any deficient ADIT to their rate bases (Rate Base Adjustment Mechanism); (2) a mechanism to decrease or increase their income tax allowances by any amortized excess or deficient ADIT, respectively (Income Tax Allowance Adjustment Mechanism); and (3) a new permanent ADIT worksheet that will annually track information related to excess or deficient ADIT (ADIT Worksheet).⁵

4. The Commission stated that it will evaluate a public utility's proposed revisions on a case-by-case basis.⁶ Of note, the Commission stated that it expects public utilities with transmission formula rates to make their proposed revisions effective January 27, 2020.⁷ In addition, the Commission required that such public utilities capture the full regulatory liability for excess ADIT resulting from the Tax Cuts and Jobs Act in rates, beginning on the effective date of any proposed tariff provision.⁸ In other words, the Commission required that the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act must be returned to transmission formula rate customers.⁹

³ 18 C.F.R. § 35.24 (2021).

⁴ Order No. 864, 169 FERC ¶ 61,139 at P 113.

⁵ *Id.* PP 3-5.

⁶ *Id.* PP 30, 43, 66. The Commission also allowed public utilities to demonstrate that their existing formula rates and ADIT-related mechanisms, including those established by a Commission-approved settlement, meet the requirements of Order No. 864. *Id.* P 74; *see also id.* P 101.

⁷ *Id.* P 100.

⁸ *Id.* P 45.

⁹ *Id.*

5. Further, the Commission found that the accounting guidance regarding excess and deficient ADIT that the Commission previously adopted in Docket No. AI93-5-000 remains applicable and the Commission did not propose any changes to that guidance.¹⁰

II. NY Transco's Compliance Filing

6. NY Transco states that, to satisfy the Rate Base Adjustment Mechanism requirements of Order No. 864, it proposes to add a mechanism to deduct any excess ADIT from or add any deficient ADIT to its rate base to ensure rate base neutrality. NY Transco states that it proposes to include an Income Tax Allowance Adjustment Mechanism to decrease or increase income tax allowances by any amortized excess or deficient ADIT, in order to return excess ADIT to, or recover deficient ADIT from, ratepayers.¹¹ NY Transco also states that it included a new permanent ADIT Worksheet as Attachment 11 to its Formula Rate to annually track information related to excess or deficient ADIT.¹² NY Transco also states that Attachment D to its filing contains workpapers, which support various calculations on its ADIT Worksheet.¹³ NY Transco requests an effective date of January 26, 2020, for its proposed revisions.¹⁴

III. Notice and Responsive Pleadings

7. Notice of NY Transco's compliance filing was published in the *Federal Register*, 85 Fed. Reg. 40,636 (July 7, 2020), with interventions and protests due on or before July 21, 2020. None were filed.

IV. Discussion

8. As discussed below, we find that NY Transco's proposed revisions partially comply with the requirements of Order No. 864. Accordingly, we accept NY Transco's proposed revisions, effective January 27, 2020, and direct NY Transco to submit a further compliance filing within 60 days of the date of this order.

¹⁰ *Id.* P 31 (citing *Accounting for Income Taxes*, Docket No. AI93-5-000 (Apr. 23, 1993), <https://www.ferc.gov/enforcement-legal/enforcement/accounting-matters/ai93-5-000>).

¹¹ Compliance Filing at 4-5.

¹² *Id.* at 4.

¹³ *Id.* at 8.

¹⁴ *Id.* at 9.

1. Rate Base Adjustment Mechanism

9. The Rate Base Adjustment Mechanism is a mechanism used by public utilities to deduct any excess ADIT from or add any deficient ADIT to their rate bases.¹⁵ The Commission stated that this mechanism ensures that all public utilities with transmission formula rates offset their rate bases by any amortized excess and deficient ADIT, thus maintaining rate base neutrality.¹⁶

10. The Commission required that the Rate Base Adjustment Mechanism apply to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates.¹⁷ The Commission stated that it will evaluate proposed Rate Base Adjustment Mechanisms on a case-by-case basis. The Commission also clarified that public utilities must clearly demonstrate in their compliance filings how their proposed mechanisms adjust rate base for excess and deficient ADIT through their transmission formula rates.¹⁸

a. NY Transco's Compliance Filing

11. NY Transco states that, to satisfy the Rate Base Adjustment Mechanism requirements of Order No. 864, it proposes revisions to add a new line 24a to its Formula Rate. NY Transco states that it currently tracks adjustments to deferred taxes in accordance with Generally Accepted Accounting Principles and Commission policy. Specifically, NY Transco states that it records amounts associated with deficient ADIT to Account 182.3 as a regulatory asset and amounts associated with excess ADIT to Account 254 as a regulatory liability.¹⁹

12. NY Transco states that the new line 24a will remove any excess or deficient ADIT from rate base, and that its inputs will come from its ADIT Worksheet. NY Transco further states that Note A provides that NY Transco treats the excess and deficient balances within Accounts 182.3 and 254 as part of its Financial Accounting Standards Board 106 or 109 adjustments, as reflected in Attachments 6a and 6b and shown in ADIT Accounts 190, 282, and 283. Additionally, NY Transco states that the average of the beginning-of-year and end-of-year excess or deficient ADIT balances on line 14 of its ADIT Worksheet ties directly to line 24a, demonstrating rate base neutrality. NY

¹⁵ Order No. 864, 169 FERC ¶ 61,139 at P 28.

¹⁶ *Id.*

¹⁷ *Id.* P 29.

¹⁸ *Id.* P 30.

¹⁹ Compliance Filing at 5.

Transco states that, beginning from the effective date of the Tax Cuts and Jobs Act (January 1, 2018), all excess ADIT will be returned to customers. NY Transco states these proposed revisions ensure that its Formula Rate will maintain rate base neutrality now and in the future.²⁰

b. Commission Determination

13. We find that NY Transco's proposed revisions to incorporate a Rate Base Adjustment Mechanism comply with the requirements of Order No. 864. The proposed Rate Base Adjustment Mechanism allows NY Transco to deduct any excess ADIT or add any deficient ADIT calculated in the proposed ADIT Worksheets from rate base, thus preserving rate base neutrality for transmission formula rate customers.²¹ Further, the proposed Rate Base Adjustment Mechanism may be applied to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates.

2. Income Tax Allowance Adjustment Mechanism

14. The Income Tax Allowance Adjustment Mechanism is a mechanism used by public utilities to decrease or increase their income tax components of their formula rates by any amortized excess or deficient ADIT, respectively. This mechanism ensures that public utilities compute the income tax components in their costs of service by making provisions for any excess or deficient ADIT following changes in tax rates.²²

15. In Order No. 864, the Commission required that the Income Tax Allowance Adjustment Mechanism apply to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates. The Commission stated that it will evaluate proposed Income Tax Allowance Adjustment Mechanisms on a case-by-case basis.²³

a. NY Transco's Compliance Filing

16. NY Transco states that, to satisfy the Income Tax Allowance Adjustment Mechanism requirements of Order No. 864, it proposes to amortize the amounts in Account 182.3 and Account 254, as appropriate, to Account 410.1 or Account 411.1, consistent with previous Commission guidance.²⁴

²⁰ *Id.*

²¹ Order No. 864, 169 FERC ¶ 61,139 at P 114.

²² *Id.* P 42.

²³ *Id.* P 43.

17. NY Transco proposes to revise its Formula Rate to permit amortization of excess or deficient ADIT to be included in the income tax calculations.²⁵ Specifically, NY Transco proposes to add a new line 68a (Income Tax Allowance Adjustment – (Excess) / Deficient Income Taxes) to page 3 of its Formula Rate. NY Transco also proposes to alter the “Total Income Taxes” formula in line 69 to incorporate the balance from line 68a.²⁶ NY Transco states that a similar adjustment is reflected in new line 57a of Attachment 4 (Incentives) to track the necessary adjustments through the incentive rate treatment worksheets.²⁷ Finally, NY Transco proposes to add a new Note O to explain in detail the purpose and function of new line 68a.²⁸

b. Commission Determination

18. We find that NY Transco’s proposed revisions comply with Order No. 864’s Income Tax Allowance Adjustment Mechanism requirements. We find that NY Transco’s Formula Rate allows NY Transco to decrease or increase the income tax components of its Formula Rate by any amortized excess or deficient ADIT, respectively, and may be applied to future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates.

3. ADIT Worksheet

19. The ADIT Worksheet is a new permanent worksheet that annually tracks information related to excess and deficient ADIT.²⁹ The Commission found that the ADIT Worksheet will provide transparency for excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and future local, state, and federal tax rate changes that are included in transmission formula rates.³⁰ The Commission stated that it will evaluate the proposed ADIT Worksheets on a case-by-case basis.³¹

²⁴ Compliance Filing at 6; *see also Acct. & Ratemaking Treatment of Accumulated Deferred Income Taxes & Treatment Following the Sale or Ret. of an Asset*, 165 FERC ¶ 61,115 (2018).

²⁵ Compliance Filing at 6.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Order No. 864, 169 FERC ¶ 61,139 at P 62.

³⁰ *Id.* PP 62, 63, 69, 71.

20. The Commission required that, at a minimum, the ADIT Worksheet must contain five specific categories of information, which are discussed below.³² In addition, the Commission stated that it expects public utilities to identify each specific source of the excess and deficient ADIT, classify the excess or deficient ADIT as protected or unprotected, and list the proposed amortization period associated with each classification or source. The Commission found that such information will provide enough detail to verify excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and future tax rate changes.³³ Further, the Commission acknowledged that a public utility or its transmission formula rate might have some unique attribute that requires additional categories of information to provide interested parties and the Commission with a complete understanding of that public utility's treatment of excess and deficient ADIT.³⁴

a. Category 1

21. The first category of information is how any ADIT accounts were remeasured and the excess or deficient ADIT contained therein.³⁵

22. As the Commission explained in *Accounting for Income Taxes*, a public utility shall adjust its ADIT liabilities and assets for the effect of the change in tax laws or rates in the period that the change is enacted. The adjustments shall be recorded in Accounts 190 (ADIT), 281 (ADIT-Accelerated Amortization Property), 282 (ADIT-Other Property), and 283 (ADIT-Other).³⁶

i. NY Transco's Compliance Filing

23. NY Transco states that it proposes to add a new permanent ADIT Worksheet to the Formula Rate, which details how the ADIT accounts are re-measured following a change in federal, state, or local income tax rates.³⁷ NY Transco notes that its Attachment D workpapers support various calculations on its ADIT Worksheet.³⁸

³¹ *Id.* P 66.

³² *Id.* PP 62, 66.

³³ *Id.* P 65.

³⁴ *Id.* P 66.

³⁵ *Id.* PP 52, 62.

³⁶ *Accounting for Income Taxes* at 8.

³⁷ Compliance Filing at 7-8.

ii. Commission Determination

24. We find that NY Transco's proposed revisions partially comply with the Order No. 864 category 1 requirements. We find that the ADIT Worksheet provides the source of the excess or deficient ADIT, which complies with Order No. 864. However, the ADIT Worksheet does not demonstrate how any ADIT accounts were re-measured. To satisfy the Category 1 requirements of Order No. 864, NY Transco must provide the pre-tax rate change and post-tax rate change ADIT account balances, in addition to the resulting excess or deficient ADIT already provided. Further, such information must be provided at a level of detail such that interested parties can identify the source (i.e., the originating accounts) of excess or deficient ADIT and verify excess or deficient ADIT resulting from the Tax Cuts and Jobs Act and future tax rate changes.³⁹ Accordingly, in the compliance filing ordered below we direct the NY Transco to revise its ADIT Worksheet to include pre-tax rate change and post-tax rate change ADIT account balances, as well as the resulting excess and deficient ADIT, at the level of detail described here.

25. Although NY Transco's workpapers, submitted as Attachment D to its Compliance Filing, provide the re-measurement information contemplated by Order No. 864, we find the re-measurement worksheet does not satisfy Order No. 864's category 1 requirements because the worksheet is not part of NY Transco's Formula Rate. One way that NY Transco could meet these category 1 requirements is by including in the Formula Rate a version of the re-measurement worksheets with the required information described in the previous paragraph. Alternatively, NY Transco could revise its ADIT Worksheet to include additional columns that demonstrate the pre- and post-tax rate change ADIT account balances. In addition, we clarify that the re-measurement information we are directing NY Transco to include need not be provided on a permanent basis. Instead, NY Transco may submit revisions to its formula rate that provide that the inputs to the re-measurement portion be populated only during an annual update following a tax rate change.⁴⁰

b. Category 2

26. The second category of information is the accounting for any excess or deficient amounts in Accounts 254 (Other Regulatory Liabilities) and 182.3 (Other Regulatory Assets), respectively.⁴¹

³⁸ *Id.* at 8.

³⁹ Order No. 864, 169 FERC ¶ 61,139 at P 65.

⁴⁰ *Id.* PP 52, 62.

⁴¹ *Id.*

27. As the Commission explained in *Accounting for Income Taxes*, if as a result of action by a regulator, it is probable that the increase or decrease in taxes payable due to the change in tax law or rates will be recovered from or returned to customers through future rates, then an asset or liability shall be recognized in Accounts 182.3 or 254, as appropriate. That asset or liability is also a temporary difference for which a deferred tax asset or liability shall be recorded in Accounts 190 or 283, as appropriate.⁴²

i. NY Transco's Compliance Filing

28. NY Transco proposes to provide Attachment 11 and a new ADIT Worksheet with columns for Deferred Tax Asset (Liability) and to include Note A, a column for ADIT Offset to P&L, and Note B, a column for (Excess) Deficient ADIT Tax Activity post-Tax Cuts and Jobs Act.⁴³

ii. Commission Determination

29. We find that NY Transco does not comply with the Order No. 864 ADIT Worksheet category 2 requirement. Note A to NY Transco's proposed ADIT Worksheet explains how NY Transco will re-measure ADIT accounts upon a change in income tax law, and that it will make a corresponding change in regulatory assets (Account 182.3) and regulatory liabilities (Account 254) to reflect the return of/collection from excess/deficient deferred taxes to/from customers. However, this note does not provide the information necessary to determine exactly what amounts on the proposed ADIT Worksheet have been included in either Account 254 or Account 182.3. Accordingly, in the compliance filing ordered below, we direct NY Transco to submit a compliance filing modifying its ADIT Worksheet to clearly display the deficient ADIT amounts that are included as regulatory assets in Account 182.3 and excess ADIT amounts that are included as regulatory liabilities in Account 254 (e.g., by adding new columns and/or rows).

c. Category 3

30. The third category of information is whether the excess or deficient ADIT is protected or unprotected.⁴⁴ As further discussed below, protected ADIT is subject to the Tax Cuts and Jobs Act's normalization requirements, whereas unprotected ADIT is not.

⁴² *Accounting for Income Taxes* at 8.

⁴³ Compliance Filing at 7.

⁴⁴ Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

i. NY Transco's Compliance Filing

31. NY Transco proposes to include in its ADIT Worksheet a Column (H) that will identify balances as protected or unprotected.⁴⁵ Additionally, Column (A) identifies whether the excess or deficient ADIT is property, or non-property related.

ii. Commission Determination

32. We find that NY Transco's ADIT Worksheet complies with the Order No. 864 Category 3 requirements because NY Transco appropriately identifies whether the excess or deficient ADIT is protected or unprotected.

d. Category 4

33. The fourth category of information is the accounts to which the excess or deficient ADIT are amortized.⁴⁶

34. Under the Commission's Uniform System of Accounts, public utilities should record the amortization of excess and deficient ADIT recorded in Accounts 254 and 182.3, respectively, by recording offsetting entries to Account 411.1 (Provision for Deferred Income Taxes – Credit, Utility Operating Income) or Account 410.1 (Provision for Deferred Income Taxes, Utility Operating Income), as appropriate.⁴⁷

i. NY Transco's Compliance Filing

35. NY Transco proposes to list the amortization amounts in ADIT Worksheet Column (F) and to include Note E, which states that the amortization will occur through FERC income statement Accounts 410.1 and 411.1, retroactive to January 1, 2018, and starting in 2020.⁴⁸

ii. Commission Determination

36. We find that NY Transco does not comply with the Order No. 864 ADIT Worksheet category 4 requirement because it does not show the accounts to which excess or deficient ADIT are amortized.⁴⁹ Note E provides that excess or deficient ADIT will be

⁴⁵ Compliance Filing at 7.

⁴⁶ Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

⁴⁷ 18 C.F.R. pt. 101 (2021).

⁴⁸ Compliance Filing, ADIT Worksheet.

⁴⁹ See Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

amortized to Accounts 411.1 and 410.1, retroactive to January 1, 2018, and starting in 2020. However, neither Note E nor the rest of the ADIT Worksheet provide the information necessary to determine exactly what amounts on the proposed ADIT Worksheet have been recorded to either Account 411.1 or Account 410.1. Accordingly, in the compliance filing ordered below, we direct NY Transco to revise its ADIT Worksheet to clearly display the deficient ADIT amounts that are recorded to Account 410.1 and excess ADIT amounts that are recorded to Account 411.1 (e.g., by adding new columns and/or rows).

e. Category 5

37. The fifth category of information is the amortization period of the excess or deficient ADIT being returned or recovered through the rates.⁵⁰ The Commission stated that it will determine whether the proposed amortization periods for any excess and deficient ADIT resulting from the Tax Cuts and Jobs Act are just and reasonable.⁵¹ As such, the Commission required public utilities to provide supporting documentation necessary to justify their proposed amortization periods.⁵²

38. The Commission stated that public utilities should follow the guidance provided in the Tax Cuts and Jobs Act for protected excess ADIT.⁵³ The Tax Cuts and Jobs Act requires public utilities to return protected excess ADIT no more rapidly than over the life of the underlying asset using the Average Rate Assumption Method.⁵⁴ The Commission also stated that, while the Tax Cuts and Jobs Act does not mention protected deficient ADIT specifically, the Commission expects that public utilities will recover such protected deficient ADIT in the same manner prescribed for protected excess ADIT.⁵⁵

39. The Tax Cuts and Jobs Act does not specify a method to calculate amortization schedules for unprotected excess and deficient ADIT. Accordingly, the Commission stated that it will evaluate proposed amortization periods for unprotected ADIT on a case-by-case basis⁵⁶ and that public utilities can propose amortization schedules that

⁵⁰ *Id.*

⁵¹ *Id.* PP 65, 104.

⁵² *Id.* P 65.

⁵³ *Id.* P 44.

⁵⁴ Where a public utility's books and underlying records do not contain the vintage account data necessary, it must use an alternative method. *Id.*

⁵⁵ *Id.* at n.71. We note that we similarly expect public utilities to recover unprotected deficient ADIT in the same manner as unprotected excess ADIT.

appropriately balance the respective circumstances of those public utilities and their customers, provided the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act is returned to customers.⁵⁷

i. NY Transco's Compliance Filing

40. NY Transco proposes to amortize protected (plant-based) excess or deficient ADIT using the Average Rate Assumption Methodology.⁵⁸ NY Transco states that, under IRS policy, the immediate flow through of an excess tax reserve to a public utility's customer is prohibited and for protected ADIT, the excess should be reduced and flowed through no more rapidly than under the Average Rate Assumption Method, or over the remaining life of the property that gave rise to the reserve for ADIT.

41. For unprotected ADIT, NY Transco proposes a straight-line amortization over seven years, which approximates the period of time needed to turn around most of the significant unprotected items with a corresponding minor impact on rates.⁵⁹ Additionally, NY Transco proposes to amortize unprotected deficient ADIT related to federal net operating loss carry-forwards on a straight-line basis over 10 years, instead of seven years, in order to avoid rate shock for consumers. NY Transco states that amortizing the deficient ADIT in this manner will reduce the yearly impact to one million dollars. NY Transco believes that the proposed amortization periods are the best option to reduce the immediate impact on customers.

ii. Commission Determination

42. We find that NY Transco's proposed revisions comply with the Order No. 864 Category 5 requirements. We accept NY Transco's proposal to amortize protected excess or deficient ADIT using the Average Rate Assumption Method, and to amortize unprotected excess or deficient ADIT over seven years, i.e., the timeframe the associated ADIT will turn over. We find that NY Transco's proposed amortization periods are just and reasonable because they are not longer than a reasonable estimate of the remaining lives of the underlying assets.⁶⁰ We now turn to NY Transco's proposal to recover

⁵⁶ *Id.* The Commission also stated that it will evaluate requests to amortize excess and deficient ADIT using an amortization period approved in a state proceeding on a case-by-case basis. *Id.* P 47.

⁵⁷ *Id.* P 46.

⁵⁸ Compliance Filing at 6.

⁵⁹ *Id.* at 7.

⁶⁰ *Emera Me.*, 165 FERC ¶ 61,086, at P 45 (2018). *See also PJM Interconnection*,

deficient unprotected ADIT associated with federal net operating loss carry-forwards on a straight-line basis over 10 years, instead of seven years. The Commission has previously found a public utility's proposal to collect deficient ADIT over a longer time period than that proposed to return excess ADIT to be consistent with or superior to the requirements of the final rule because it provides rate mitigation to customers.⁶¹ Accordingly, we find NY Transco's proposed 10-year amortization period for such deficient ADIT to be just and reasonable because it passes through the benefits of the Tax Cuts and Jobs Act to customer in a timely manner while avoiding rate shock.

f. Additional ADIT Worksheet-Related Requirements

i. Populated ADIT Worksheets

43. The Commission required that public utilities with transmission formula rates submit populated ADIT Worksheets with excess and deficient ADIT resulting from the Tax Cuts and Jobs Act.⁶² The Commission stated that any interested party will have an opportunity to comment on that populated information.⁶³

(a) NY Transco's Compliance Filing

44. NY Transco provides a populated ADIT Worksheet as Attachment 11 to its Formula Rate.⁶⁴ NY Transco states that its populated ADIT Worksheet reflects 2020 beginning balances, projected 2020 activity, and forecasted 2020 year-end balances. NY Transco states that this demonstrates the data and information that will be provided during each Annual Update.⁶⁵

(b) Commission Determination

45. We find that NY Transco's submission of a populated ADIT Worksheet complies with Order No. 864.

L.L.C., 167 FERC ¶ 61,083, at P 33 (2019); MISO 2018 Order, 163 FERC ¶ 61,163 at P 56.

⁶¹ *ISO-New England, Inc.*, 181 FERC ¶ 61,027, at P 14 (2022).

⁶² Order No. 864, 169 FERC ¶ 61,139 at P 63.

⁶³ *Id.* P 104.

⁶⁴ Compliance Filing at 5.

⁶⁵ *Id.* at 8.

ii. Future Tax Rate Changes

46. The Commission required the ADIT Worksheet to apply to future tax rate changes.⁶⁶ The Commission found that, because the ADIT Worksheet will provide transparency for excess and deficient ADIT included in transmission rates following future tax rate changes, public utilities are no longer required to seek Commission approval prior to including excess and deficient ADIT in their transmission rates.⁶⁷ The Commission stated that, for future tax rate changes, it expects public utilities to provide supporting documentation for the excess and deficient ADIT inputs to the ADIT Worksheet to customers as part of the annual update process.⁶⁸ The Commission also stated that, as with any other transmission formula rate input, customers can request information about, and challenge, inputs to the ADIT Worksheet as part of the annual update process.⁶⁹

(a) NY Transco's Compliance Filing

47. NY Transco states that its ADIT Worksheet can accommodate future tax rate changes.⁷⁰

(b) Commission Determination

48. We find that NY Transco's proposed ADIT Worksheet complies with Order No. 864's requirements to apply to future tax rate changes because the ADIT Worksheet is applicable to future federal, state, and local tax rate changes.⁷¹ The Commission's finding here (that the ADIT Worksheet will provide transparency for excess and deficient ADIT included in transmission rates following future tax rate changes) is separate and distinct from our findings discussed above as to whether the ADIT Worksheets meet the requirements of Order No. 864. We reiterate the Commission's finding in Order No. 864 that, for future tax rate changes, we expect public utilities to provide supporting documentation for the excess and deficient ADIT inputs to the ADIT Worksheet to customers as part of the annual update process.⁷² Additionally, as discussed in Order

⁶⁶ Order No. 864, 169 FERC ¶ 61,139 at P 62.

⁶⁷ *Id.* PP 48, 69.

⁶⁸ *Id.* P 65.

⁶⁹ *Id.* P 49.

⁷⁰ Compliance Filing at 7-8.

⁷¹ Order No. 864, 169 FERC ¶ 61,139 at P 62.

No. 864, as with any other transmission formula rate input, customers can request information about and challenge those inputs as part of the annual update process.⁷³

iii. Effective Date

(a) NY Transco's Compliance Filing

49. NY Transco requests an effective date of January 26, 2020, which it states is sixty days following the date Order No. 864 was published in the Federal Register.⁷⁴ NY Transco states that it will begin flowing ADIT-related amounts to customer in accordance with the terms of its Formula Rate calculated as of the effective date of the Tax Cuts and Jobs Act, January 1, 2018.⁷⁵ NY Transco states that it expects to reflect these amounts beginning in its annual projection for rate year 2021.⁷⁶

(b) Commission Determination

50. We deny NY Transco's requested January 26, 2020, effective date. Order No. 864 required parties to make changes to their tariff effective January 27, 2020.⁷⁷ Accordingly, in the compliance filing ordered below, we direct NY Transco to file the revised tariff record in eTariff format with a January 27, 2020 effective date.

The Commission orders:

(A) NY Transco's proposed revisions are hereby accepted, effective January 27, 2020, subject to a further compliance filing, as discussed in the body of this order.

(B) NY Transco is hereby directed to submit a further compliance filing within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

⁷² *Id.* P 65.

⁷³ *Id.* P 49.

⁷⁴ Compliance Filing at 9.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Order No. 864, 169 FERC ¶ 61,139 at P 100.

Kimberly D. Bose,
Secretary.