

June 21, 2022

BY ELECTRONIC FILING

Ms. Kimberly D. Bose, Secretary
Ms. Debbie-Anne A. Reese, Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: The New York Independent System Operator, Inc., et al.
Proposed Addition of Rate Schedule 19 to NYISO OATT
Docket No. ER22-___**

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act (“FPA”) and Part 35 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) regulations and consistent with the Commission’s *State Voluntary Agreements to Plan and Pay for Transmission Facilities* Policy Statement,¹ the New York Independent System Operator, Inc. (“NYISO”), as administrator of the NYISO Open Access Transmission Tariff (“OATT” or “Tariff”), on behalf of Central Hudson Gas & Electric Corporation (“Central Hudson”), Consolidated Edison Company of New York, Inc. (“Con Edison”), Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), New York State Electric & Gas Corporation (“NYSEG”), Orange and Rockland Utilities, Inc. (“O&R”) and Rochester Gas and Electric Corporation (“RG&E”) (collectively referred to herein as the “Applicants” or “State-Regulated TOs”) submits via eTariff² this filing to amend the NYISO

¹ *State Voluntary Agreements to Plan and Pay For Transmission Facilities*, 175 FERC ¶ 61,225 (2021) (“Policy Statement”).

² The NYISO is submitting this filing in FERC’s eTariff system on the Applicants’ behalf solely in the NYISO’s role as the Tariff Administrator. The burden of demonstrating that the proposed tariff amendments are just and reasonable rests on the Applicants, the sponsoring parties. The NYISO takes no position on any substantive aspect

OATT to add a new Rate Schedule 19 and make related, conforming amendments to Section 2.7 of the NYISO OATT (“Conforming Amendments”). Pursuant to the Cost Sharing and Recovery Agreement, dated as of June 17, 2022 by and among the New York Transmission Owners³ and, for a limited purpose, the New York State Public Service Commission (“NYPSC”) (the “CSRA”) filed contemporaneously herewith by the Applicants, Rate Schedule 19 provides a tariff-based mechanism for regional allocation and recovery of the costs of new local transmission projects selected and authorized by the NYPSC as necessary to meet requirements of New York State law. The Conforming Amendments to Section 2.7 of the OATT are technical in nature and intended to account for Rate Schedule 19’s CLCPA Facilities Charge (“CFC”) and LIPA CFC as part of the NYISO billing and settlement processes.

Consistent with the Policy Statement, and as described further in the Applicants’ Joint Testimony (Attachment C hereto),⁴ the Applicants have developed with the express consent and approval of the NYPSC, the proposed rate schedule to implement under the NYISO OATT the allocation and recovery of costs shared among the NYTOs under the CSRA.⁵ The Commission’s acceptance of proposed Rate Schedule 19 will advance New York’s public policies relating to clean electricity supply across the state. Pursuant to Rate Schedule 19, the NYTOs will recover and allocate across New York to electricity consumers the costs of certain local transmission upgrades selected and approved under state law and policy as necessary to allow existing and new clean energy resources to be delivered into and throughout New York. These transmission upgrades are expected to create “on ramps” to the high-voltage (200 kV and above) transmission system and “off ramps” from that bulk electric system to local loads.⁶ Studies have shown that these on ramps and off ramps are needed in New York to reach the milestones and mandates under its Climate Leadership and Community Protection Act (“CLCPA”).⁷

The CSRA provides that the costs of local transmission upgrades identified by the Applicants and approved by the NYPSC as being driven primarily by the need to meet CLCPA targets (the “Approved Local CLCPA Projects”) will be shared under the CSRA among the

of this filing at this time. Unless otherwise defined herein, capitalized terms used in this transmittal letter shall have the meanings ascribed to them in the NYISO OATT.

³ The New York Transmission Owners (“NYTOs”) are comprised of the Applicants, the Long Island Power Authority (“LIPA”), and the New York Power Authority (“NYPA”). Both LIPA and NYPA are non-jurisdictional utilities pursuant to Section 201(f) of the Federal Power Act. As signatories to the CSRA, LIPA and NYPA join in this filing and support the acceptance of the CSRA. However, because NYPA does not have a local transmission and distribution system, it will not have projects subject to cost recovery pursuant to the proposed Rate Schedule 19.

⁴ See Attachment C, Exhibit No. NYTO-1, Prepared Direct Testimony of John J. Borchert, David C. Clark, Bart D. Franey, Dana Lazarus, and Alan Trotta (“Joint Testimony”).

⁵ The CSRA is closely related and is being submitted separately under FPA section 205 for eTariff purposes. At a future time, the Applicants will file under FPA section 205 *pro forma* formula rate templates (including proposed ROE(s)) and informational update protocols as attachments to Rate Schedule 19.

⁶ See Joint Testimony at p. 12 (explaining that “on ramps” are for “moving existing and future renewable generation resources connected to the local transmission and distribution system onto the bulk transmission system and “off ramps” are for “moving the generation from the bulk system to the LT&D system where it can be consumed by loads”).

⁷ Climate Leadership and Community Protection Act, Chapter 106 of the laws of 2019.

Applicants, LIPA, and NYPA and recovered under Rate Schedule 19 on a volumetric load-ratio share basis. It provides this because Approved Local CLCPA Projects allow for the development of clean resources whose energy will be used by customer-beneficiaries across the state.⁸ Rate Schedule 19 establishes the tariff basis under the FPA to effectuate the CSRA's contemplated statewide allocation and recovery of Approved Local CLCPA Project costs. As explained herein, Rate Schedule 19 is just and reasonable and not unduly discriminatory and should be accepted for filing without further proceedings.

I. Background

A. New York's Nation-Leading Climate Mandate

The State of New York has enacted nation-leading climate legislation in the CLCPA. Among other things, the CLCPA requires 70 percent of all of New York's electricity to come from renewable sources by 2030 ("70 x 30"), a 100 percent reduction in greenhouse gas emission from the electricity sector by 2040 ("100 x 40"), and 9,000 MW of offshore wind generation ("OSW") by 2035. The state also has enacted the Accelerated Renewable Energy Growth and Community Benefit Act,⁹ recognizing that the NYTOs' local transmission and distribution systems play a key role in the CLCPA-mandated renewable energy transition. The Accelerated Renewables Act requires the NYPSC to establish distribution and local transmission capital plans "for each utility in whose service territory the power grid study identified distribution upgrades and local transmission upgrades" that are determined "necessary or appropriate" to achieve New York's climate mandates.¹⁰ Likewise, the Accelerated Renewables Act requires the State-Regulated TOs and LIPA to "make local transmission upgrades in accordance with a schedule approved by the [NYPSC] or, in the case of LIPA, the LIPA Board of Trustees."¹¹

A. New York's Need for Local Transmission and Distribution Projects to Deliver CLCPA-Driven Clean Power Supply Across the State

At the high-voltage, bulk electric system level, the NYISO's public policy transmission planning process ("PPTPP") set forth in NYISO OATT Attachment Y has been effective and has identified and selected for regional cost allocation several regional bulk transmission facilities needed to attain New York public policy requirements.

While substantial progress is being made at the bulk transmission level under the PPTPP,¹² studies prepared pursuant to the Accelerated Renewables Act have identified needs to expand

⁸ See Joint Testimony at pp. 20-21.

⁹ Accelerated Renewable Energy Growth and Community Benefit Act, 2020 N.Y. Sess. Laws, ch. 58, Part JJJ (McKinney 2020) ("Accelerated Renewables Act").

¹⁰ *Id.* at § 7.3.

¹¹ See *Order Accepting Compliance Filings*, NYPSC Case 20-E-0197, issued May 12, 2022, at p. 3 ("State Authorizing Order").

¹² The PPTPP process under the NYISO OATT operates in parallel with local transmission and distribution planning and projects. The Commission has explained that the State Agreement Approach complements but "is not needed for Order No. 1000" compliance and that FERC's consideration of state cost allocation agreements (like the

and/or upgrade the NYTOs' existing local transmission and distribution systems to alleviate bottlenecks arising through changes in demand and statewide resource mix. In particular, projects that provide "on ramps" to, and "off ramps" from, the high-voltage transmission highway have been identified as necessary and appropriate to ensure deliverability of new, CLCPA-driven clean electricity supply across the state.¹³ To address local transmission and distribution needs driven by the CLCPA's climate mandates, the Accelerated Renewables Act directs the states' regulated utilities to identify, propose, and, subject to NYPSC approval, develop local transmission and distribution solutions.¹⁴ While the NYTOs, in collaboration with the NYISO and other stakeholders, continue to develop the details of the coordinated grid planning process for identifying such local transmission solutions that the NYPSC will ultimately consider and approve, the NYPSC has already found that certain local transmission projects proposed by the NYTOs are a high priority and require immediate attention.

Specifically, the NYPSC has identified areas on the transmission network in New York that are "in critical need of ... local transmission investment" because existing renewable generation there "is already experiencing curtailments" and that strong renewable generation developer interest in those areas "exceeds the capability of the local transmission system."¹⁵ The NYPSC directed certain of the NYTOs to submit new or revised solutions to address these areas using certain guidance provided.¹⁶ In accordance with that directive, on March 8, 2022, Central Hudson, NYSEG, National Grid, and RG&E filed a petition with the NYPSC seeking approval for certain local transmission projects designed to efficiently and cost effectively address those local transmission needs.¹⁷ The NYPSC has also found that integrating the CLCPA's target of 9,000 MW of OSW into New York's grid requires developing the system in a "well-coordinated"¹⁸ way "that optimizes POIs [points of interconnection]"¹⁹ that are currently scarce in the downstate region, where the OSW will be delivered into New York, and has authorized Con Edison to file a petition for approval of its local transmission projects designed to address these issues.²⁰

CSRA) does not require findings that they (or their corresponding cost allocation methods) comply with Order No. 1000. *See, e.g., PJM Interconnection, L.L.C.*, 179 FERC ¶ 61,024, at P 2 (2022) (quoting *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214, at P 142 (2013)).

¹³ *See Order on Power Grid Study Recommendations*, at pp. 20-21, NYPSC Case 20-E-0197, issued Jan. 20, 2022 ("OSW Order").

¹⁴ *See Accelerated Renewable Act* at § 7.

¹⁵ *Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals*, at p. 34, NYPSC Case 20-E-0197, issued Sept. 9, 2021 ("Phase 2 Order").

¹⁶ *Id.* at p. 35.

¹⁷ Petition of Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Rochester Gas and Electric Corporation; Identifying Area of Concern Needs and Recommended Solutions, NYPSC Case 20-E-0197, filed Mar. 9, 2022 ("Areas of Concern Petition"). The Areas of Concern Petition includes detailed cost estimates of the proposed local transmission upgrades.

¹⁸ OSW Order at p. 18.

¹⁹ *Id.* (quoting the *Initial Report on the Power Grid Study*, at p. 62).

²⁰ Because the State of New York is expected to issue its next solicitation for OSW later this year, the NYPSC stated that "time is of the essence" to provide "potential bidders greater transparency regarding the availability of POIs that can realistically be used to inject their generation into New York City." *Id.* Noting the "recognized difficulty in

B. The Development of the CSRA and Rate Schedule 19

Approved Local CLCPA Projects will facilitate deliverability of large amounts of new renewable energy to all consumers across New York. The NYSPC requested that the Applicants develop and propose for its review prior to submission to FERC a mechanism under the NYISO OATT to allocate to and recover from all beneficiaries across the state the costs of local transmission upgrades.²¹ Among others, the State-Regulated TOs and LIPA proposed use of a voluntary participant funding agreement among the NYTOs to be accepted by the NYSPC prior to submission to FERC.²² The Applicants further proposed that the costs of Approved Local CLCPA Projects be funded by the NYTOs and allocated statewide based on load-ratio share. Because the renewable energy supplies required under the CLCPA benefit all New York ratepayers and are load-ratio cost allocated, it follows that the Approved Local CLCPA Projects that integrate and deliver those supplies would have the same beneficiaries and should be cost allocated on the same basis.²³ Upon review, the NYSPC held this approach to be appropriate and accepted the Applicants' proposed approach for a participant funding agreement and cost allocation mechanism.²⁴

The Applicants agree with and support the NYSPC's findings, and have voluntarily developed the CSRA being submitted in a companion filing and the proposed Rate Schedule 19 being submitted herein. The Applicants filed the CSRA and Rate Schedule 19 with the NYSPC on January 7, 2022. In response to third-party comments, they submitted a revised version of the CSRA on April 20, 2022. On May 12, 2022, the NYSPC issued the State Authorizing Order accepting both the agreement and rate mechanism as compliant with its earlier Phase 2 Order.²⁵

II. Description of Filing: Proposed Rate Schedule 19 Is Just and Reasonable and Should Be Accepted for Filing

A. Proposed Rate Schedule 19 Is Consistent with FERC's Policy Statement

finding feasible and cost-effective POIs in space-constrained lower Manhattan," the NYSPC has authorized Con Edison to submit a comprehensive petition addressing its Brooklyn Clean Energy Hub project. *Id* at p. 22. Con Edison filed that petition on April 15, 2022. *See* Petition of Consolidated Edison Company of New York, Inc. for Approval to Recover Costs of Brooklyn Clean Energy Hub, NYSPC Case 20-E-0197, filed Apr. 15, 2022.

²¹ *Order on Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, at pp. 8-11, NYSPC Case 20-E-0197, issued May 14, 2020.

²² *See* Utility Transmission and Distribution Investment Working Group Report, at pp. 52-53, NYSPC Case 20-E-0197, filed Nov. 2, 2020 ("2020 State Working Group Report"). NYPA was not a party to this filing or subject to the NYSPC's orders. *See also* Joint Testimony at pp. 11-13.

²³ *See* Phase 2 Order at P 23. *See also* 2020 State Working Group Report at p. 3.

²⁴ *See* Phase 2 Order at pp. 30-31 ("the Commission believes the participant funding model can efficiently accomplish the balancing necessary to achieve an equitable cost distribution throughout the State. Thus, the next step would be development of an agreement among the Utilities [NYTOs], and the Commission understands that effectuating cost recovery of a voluntary statewide participant funding agreement would require FERC's approval.').

²⁵ *See* State Authorizing Order at pp. 10-11, 13-14.

The enclosed rate schedule is consistent with the Policy Statement and should be accepted for filing. As explained in the attached Joint Testimony,²⁶ Rate Schedule 19 provides a tariff-based mechanism to implement statewide cost allocation of local transmission projects approved by the NYPSC as necessary and appropriate to reach CLCPA mandates on a timely basis. Because state law contemplates that Approved Local CLCPA Projects be selected and approved by the NYPSC, they are state-prioritized transmission facilities. The CSRA provides for the sharing of the costs of Approved Local CLCPA Projects among the NYTOs, while Rate Schedule 19 appropriately provides the tariff mechanism to recover from New York electricity customers the costs assigned to each of the participating NYTOs under the CSRA based on a statewide, volumetric load-ratio share. Together, the CSRA and Rate Schedule 19 will facilitate the expeditious development of state-prioritized transmission facilities by using formula rate templates and, because their benefits extend beyond the geographic regions in which they are located, a statewide cost allocation.

B. Rate Schedule 19 and the Conforming Amendments Merit Acceptance

The Applicants propose to add a new Rate Schedule 19 to the NYISO OATT (section 6.19). Harnessing the NYISO's technical, administrative, and billing capabilities, the rate schedule calculates and allocates to New York load-serving entities ("Responsible LSEs")²⁷ on a volumetric load-ratio basis a new CLCPA Facilities Charge ("CFC Charge"), or in the case of LIPA, a "LIPA CFC Charge."²⁸ The CFC Charge is a cost-of-service charge derived from formula rates which, as further described below, will be filed with the Commission in a subsequent, separate submittal(s) and that will be attached to Rate Schedule 19.²⁹

The Conforming Amendments are ministerial revisions to Section 2.7 of the NYISO OATT that add provisions that will include the CFC Charge and the LIPA CFC Charge under Section 2.7.2.6 and recognize these new charges as part of the billing and settlement processes administered by NYISO. Under Rate Schedule 19, the CFC Charge and the LIPA CFC Charge will be allocated statewide on a load-ratio share basis, calculated volumetrically based on Actual Energy Withdrawals by all Responsible LSEs.

Rate Schedule 19 is based upon and substantively similar to other NYISO rate schedules previously accepted by the Commission, including charges for public policy transmission projects

²⁶ See Attachment C, Joint Testimony at pp. 14-15.

²⁷ The NYISO OATT defines an LSE as, "An entity, including a municipal electric system and an electric cooperative, authorized or required by law, regulatory authorization or requirement, agreement, or contractual obligation to supply Energy, Capacity and/or Ancillary Services to retail customers located within the NYCA [New York Control Area], including an entity that takes service directly from the ISO to supply its own load in the NYCA."

²⁸ Given LIPA's non-jurisdictional status, its ROE and capital structure used to derive the LIPA CFC Charge are determined by LIPA's Board of Trustees. With regard to NYPA, and as noted in n.3, *supra*, because NYPA does not have a local transmission and distribution system, NYPA will not have a CFC Charge calculated through Rate Schedule 19 at the present time.

²⁹ See Joint Testimony at p. 16.

selected under Attachment Y to the NYISO OATT for purposes of regional cost allocation. It replicates many of the provisions found in Rate Schedules 10 (establishing charges to recover costs for bulk transmission projects selected under Attachment Y to the NYISO OATT), 13 (establishing the NY Transco Facilities Charge), and 17 (establishing the Western New York Facilities Charge).³⁰

1. FERC Precedent Supports Statewide Cost Allocation for Approved Local CLCPA Projects

In accordance with the CSRA, the Applicants propose that the revenue requirements for Approved Local CLCPA Projects by an Applicant or LIPA, as applicable, will be recovered in accordance with the applicable terms set forth in Rate Schedule 19.³¹ Allowing statewide cost recovery for statewide public policy-driven local transmission is consistent with Commission precedent. The CLCPA, a duly enacted law passed by the New York State legislature and signed by its governor, constitutes New York public policy. Moreover, Approved Local CLCPA Projects will address transmission needs driven by that public policy. This fact alone should be found sufficient to allow recovery of the Applicants' project costs for purposes of FPA section 205. Approved Local CLCPA Projects are designed to proactively facilitate integration of current and future generation, reinforcing the just and reasonable nature of these local transmission improvements. This is in the public interest because it improves deliverability of existing clean energy resources and incentivizes the entrance of new clean energy resources in the best suited areas available for development.

The Applicants emphasize, however, that proposed Rate Schedule 19 does not by itself create or produce transmission use charges. Such charges and implementation of Rate Schedule 19 depend on later submission and acceptance of each of the Applicant's formula rate templates, which will be submitted separately for Commission review under FPA section 205. Accordingly, acceptance of Rate Schedule 19 does not include or imply any form of acceptance or pre-approval of costs or revenue requirements.³² Specific costs for individual projects will be subject to separate acceptance under FPA section 205 as the respective Applicants populate revenue requirements pursuant to formula rate templates that account for new projects when they occur and to otherwise update formula rate inputs annually pursuant to FERC-approved procedures for such formula rates.³³

2. Statewide Cost Allocation of the CFC Charge is Appropriate

³⁰ *Id.* at pp. 19-20.

³¹ CSRA § 3.1.

³² State Authorizing Order at p. 11 ("While the Commission agrees that timely progress is needed to achieve the state's CLCPA goals, the Commission declines to pre-approve certain development costs at this time, as suggested by ACENY. This Order only addresses the Compliance Filings and does not make any determinations with respect to specific Phase 2 projects or their associated costs.").

³³ *See* Joint Testimony at p. 20.

As the Commission is aware, New York's electricity system is transitioning so that it can support a fully decarbonized economy. The active involvement of the state has been a critical aspect of this transition. As explained above and detailed further in the attached Joint Testimony,³⁴ the Approved Local CLCPA Projects will be selected by the NYPSC in an open and transparent process, then developed, constructed, owned, and operated by the designated regulated utilities to further New York's CLCPA mandates and meet Accelerated Renewables Act infrastructure requirements. For a local transmission project to be selected by the NYPSC for statewide cost allocation under the CSRA and Rate Schedule 19, the NYPSC must find that the project is needed and appropriate to attain the CLCPA requirements.³⁵ As the CLCPA and Accelerated Renewables Act are New York state law (enacted to benefit all New Yorkers), the NYPSC in selecting Approved Local CLCPA Projects will have found that all New York ratepayers will benefit such that statewide cost allocation is just and reasonable.

Not only is statewide cost allocation for Approved Local CLCPA Projects consistent with NYPSC determinations under New York law,³⁶ but it is also consistent with the Commission's "beneficiaries pay" approach to cost allocation and recovery of transmission project costs that provide widespread benefits. The CSRA and Rate Schedule 19 comprise a participant funding arrangement that conforms to the Commission's voluntary funding policies.³⁷ Because the environmental, public health, and other benefits of a free-flowing decarbonized electric system that Approved Local CLCPA Projects will help deliver accrue statewide, a cost allocation confined to local customers only would present a free-ridership problem that would be unfair to consumers in local areas where upgrades are needed. Although New York law and NYPSC orders are not binding on FERC, the Commission has found and reiterated that state input is a critical ingredient to efficient and cost-effective transmission system improvement to accommodate a rapidly changing network topology.³⁸

Further to this point, the NYPSC has expressly held that the benefits of clean energy supply resources in New York (including as mandated by the CLCPA) benefit loads statewide and thus determined that a statewide cost allocation on a load-ratio share basis is appropriate under the circumstances.³⁹ The proposed load-ratio share cost allocation approach is the same basis used to allocate the costs of existing, NYPSC-approved purchase obligations for renewable energy credits, offshore wind renewable energy credits, and the nuclear power zero emission credits in New York.⁴⁰ Statewide cost allocation of Approved Local CLCPA Projects will foster the proposal, development, and construction of local transmission projects that otherwise may not have been

³⁴ See *id.* at pp. 13-14, 16.

³⁵ See CSRA Article 2.

³⁶ See Phase 2 Order at pp. 22-23

³⁷ See pp. 5-6, *supra*.

³⁸ See Policy Statement at PP 2, 6. See also *Joint Federal-State Task Force on Electric Transmission*, 175 FERC ¶ 61,224 (2021).

³⁹ Phase 2 Order at pp. 22-23.

⁴⁰ *Id.* at p. 23.

undertaken due to concerns of allocating their costs only to customers in the same local utility footprint as such projects.⁴¹

Importantly, as NYISO is a single-state Independent System Operator (“ISO”), this cost allocation is limited to New York ratepayers under Rate Schedule 19. Specifically, Rate Schedule 19’s cost allocation is to Responsible LSEs, which are limited to those serving load in New York. It does not allocate any costs to through-and-out customers and other off-system loads. In other words, loads and consumers outside of the NYISO footprint will not be allocated any costs for Approved Local CLCPA Projects.

3. The Volumetric Load-Ratio Share Methodology Is an Appropriate Means to Effectuate the Statewide Cost Allocation

Approved Local CLCPA Project revenue requirements will involve costs that are tied directly to accomplishing statewide CLCPA goals by alleviating constraints within local transmission circuits and providing on and off ramps to the high-voltage transmission network in New York. Under the proposed approach, the costs of Approved Local CLCPA Projects will be allocated to Responsible LSEs based upon their actual withdrawals of energy, only after project-level cost submissions are made with the FERC in accordance with the procedures set forth in Rate Schedule 19. As the Approved Local CLCPA Projects will enable New York consumers to benefit from the statewide availability of renewable energy, allocating the costs of these projects based on energy withdrawals is “roughly commensurate” with such energy and the associated public policy benefits.

4. The TCC Provisions in Rate Schedule 19 Are Appropriate and Consistent with Similar Provisions in Other NYISO Rate Schedules

Rate Schedule 19’s treatment of the Approved Local CLCPA Projects provides comparable treatment to the rates recovered under Attachment H of the NYISO OATT.⁴² By way of background, Transmission Congestion Contracts (“TCCs”) represent “[t]he right to collect or obligation to pay Congestion Rents in the Day-Ahead Market for Energy associated with a single MW of transmission between a specific POI and POW...”⁴³ Attachment H allocates the revenues derived from the sale of TCCs to each NYTO in proportion to the contribution that each NYTO’s transmission facilities make toward supporting the TCCs sold in each auction as well as assessments to them for outages. The alternative structure for the Approved Local CLCPA Projects in Rate Schedule 19 is the same structure that FERC has previously approved for facilities recovered under OATT Rate Schedules 10, 12, 13, 15, 16, and 17.⁴⁴ The overall design adjusts

⁴¹ See State Authorizing Order at p. 14 (“...the Joint Utilities retain the right to seek appropriate cost recovery for projects approved by the Commission in the future.”).

⁴² See Joint Testimony at pp. 15-16.

⁴³ NYISO OATT § 1.20.

⁴⁴ See *id.*, Rate Schedules 10 (establishing charges to recover costs for bulk transmission projects selected under Attachment Y to the NYISO OATT); 12 (establishing the Highway Facilities Charge); 13 (establishing the NY Transco Facilities Charge); 15 (establishing the Marcy South Series Compensation Facilities Charge); 16 (establishing the Short-Term Reliability Process Facilities Charge for a Regulated Transmission Solution in the

the revenue requirement charged to Responsible LSEs to account for the financial benefits of increased transmission capability associated with the Approved Local CLCPA Projects, as monetized through the NYISO-administered TCC market, as well as provide for the assessment of outage charges to the facility owner to the extent that the facilities awarded Incremental TCCs are out of service for any hour in the Day-Ahead Market. In essence, the Incremental TCC revenue to the facility owner acts as an offset to the project's revenue requirement, while outage charges to the facility owner are recoverable as part of the rate mechanism. This is consistent with the treatment provided to the NYTOs' rate recovery under Attachment H to the NYISO OATT.

5. LIPA- and NYPA-Specific Considerations

LIPA and NYPA are non-jurisdictional transmission owner signatories to the CSRA; as such, the agreement and rate schedule contain provisions particular to them. Specifically, because LIPA is an instrumentality of the New York State, review and approval of its rates and charges are governed by Article 5, Title 1-A of the New York Public Authorities Law, Sections 1020-f(u) and 1020-s.⁴⁵ Under this authority, LIPA's Board of Trustees, after consultation with the New York State Department of Public Service ("DPS"), reviews and sets LIPA's rates and charges "at the lowest level consistent with sound fiscal and operating practices of the authority and which provide for safe and adequate service."⁴⁶ FERC has recognized LIPA's non-jurisdictional status under Section 201(f) of the FPA and applied a comparability review standard to the incorporation of LIPA's rates and charges into the NYISO OATT.⁴⁷ In addition, as explained in the attached Joint Testimony, while NYPA is a party to the CSRA and is a Responsible LSE that will be allocated costs under the proposed Rate Schedule 19, NYPA will not have Approved Local CLCPA Projects because NYPA does not have a local transmission and distribution system.⁴⁸

The CSRA accommodates this statutory and jurisdictional framework. For example, Section 2.1 of the CSRA provides that LIPA's equivalent rate elements for a return on equity and capital structure will be established and approved by the LIPA Board of Trustees pursuant to New York State law and are subject to prior presentation and consultation with the DPS. Section 2.3 of the CSRA recognizes that any formula rate to be adopted by LIPA for an Approved Local CLCPA Project will be approved by the Board of Trustees under New York State law and subject to review by the Commission under the same comparability standard that is applied to LIPA's current transmission service charges under Attachment H of the NYISO OATT. As an implementing

Short-Term Reliability Process); 17 (establishing the Western New York Facilities Charge). *See also* Joint Testimony at pp. 15-16.

⁴⁵ New York Pub. Auth. Law, Art. 5, §§ 1020-f(u) and 1020-s.

⁴⁶ *Id.* §1020-f(u).

⁴⁷ The Commission has held that it will apply a "comparability standard," rather than the standard under section 205 of the Federal Power Act, when evaluating non-jurisdictional transmission tariffs such as LIPA's. *See Cent. Hudson Gas & Elec. Corp.*, 88 FERC ¶ 61,138, at 61403 (1999). *See also New York Indep. Sys. Operator, Inc.*, 100 FERC ¶ 61,070, at P 3 (2002) (stating that LIPA's "transmission tariffs are evaluated under a 'comparability standard,' rather than section 205 of the FPA...."); *New York Indep. Sys. Operator, Inc.*, 111 FERC ¶ 61,366, at P 12 (2005) (stating that LIPA's TSC rates also are not subject to review under section 206 of the FPA).

⁴⁸ Joint Testimony at pp. 15-16.

mechanism, Section 3.2 of the CSRA further provides that the return on equity and capital structure for a specific Approved Local CLCPA Project under Rate Schedule 19 will be reviewed by the DPS and subject to comparability review by the Commission. Should LIPA undertake a NYPSC-designated Approved Local CLCPA Project, it will implement its cost recovery in accordance with the CSRA and utilize a formula rate that would be first approved by the LIPA Board of Trustees and submitted for review by the Commission under the applicable comparability standard as a LIPA-specific formula rate under Rate Schedule 19.⁴⁹

By contrast, as referenced above, NYPA is party to the CSRA only in its capacity as a load-serving entity. NYPA has signed the agreement to demonstrate its support for it and its consent to be allocated a portion of the costs of the Approved Local CLCPA Projects on a load-ratio share basis. NYPA will not itself be allocating costs of transmission projects under Rate Schedule 19 because it does not have a local transmission and distribution system and therefore will not have local transmission projects approved through this process. In any event, NYPA has its own cost recovery mechanisms under the NYISO OATT, including the NYPA Transmission Adjustment Charge, through which it allocates and recovers its transmission costs.

III. Request for a Commission Order Within 60 Days

As discussed above, pursuant to the Accelerated Renewables Act, the NYPSC has required the Applicants to identify local transmission upgrades needed to achieve the New York's climate goals as set out in the CLCPA. The first consolidated NYPSC filing by the State-Regulated TOs and LIPA (as applicable) of identified upgrades is required to occur in January 2023, and the State-Regulated TOs have already filed petitions for cost recovery of projects needed more urgently, as directed by the NYPSC. These NYPSC filings involve projects to address certain identified "areas of concern"⁵⁰ as well as to create interconnection points (or "on ramps") for offshore wind.⁵¹ Given their urgent need, the NYPSC is expected to act on one or both NYPSC petitions in the coming months.

It is therefore important and in the public interest for the FPA-required tariff foundations to be in place when local transmission projects eligible for cost allocation and recovery under the CSRA and Rate Schedule 19 are approved so that the relevant Applicant may proceed to construction as expeditiously as possible. The proposed Rate Schedule 19 is an essential building block for the framework established under the Accelerated Renewables Act. Therefore, the Applicants request that the Commission act with its typical expedition and issue an order accepting Rate Schedule 19 for filing with an effective date of August 22, 2022 (*i.e.*, the first day following the end of the statutory 60-day notice period), without further proceedings.

C. Description of the Applicants

1. Central Hudson

⁴⁹ See Joint Testimony at p. 16.

⁵⁰ See Areas of Concern Petition at pp. 1-2.

⁵¹ See OSW Order at pp. 21-22.

Central Hudson is a corporation created and organized under the laws of New York, with its principal offices in Poughkeepsie, New York. Central Hudson is an electric and natural gas utility engaged in, among other things, the businesses of: (i) distributing natural gas for residential, commercial, and industrial use; and (ii) transmitting and distributing electric power to wholesale and retail customers, and transmitting electric power on behalf of third parties. Central Hudson's transmission of electric power in interstate commerce is regulated by the Commission. Central Hudson is a wholly-owned subsidiary of CH Energy Group, Inc. and indirect subsidiary of Fortis Inc., a Canadian company located in St. John's Newfoundland and publicly traded on the Toronto stock exchange. Other than Central Hudson, none of its United States affiliates or subsidiary companies has issued shares of debt and only Fortis Inc., has issued equity securities to the public.

2. Con Edison

Con Edison is a regulated utility operating in New York City and Westchester County in New York and a wholly-owned subsidiary of Consolidated Edison, Inc. Con Edison is engaged in the generation, transmission, distribution and wholesale and retail sale of electric power in New York City, and Westchester County, the distribution and retail sale of natural gas in parts of New York City and Westchester County and the generation, distribution, and retail sale of steam in parts of New York City. Con Edison is a participant in the NYISO's electricity markets.

3. National Grid

National Grid is a subsidiary of National Grid USA, a registered public utility holding company with an electric and gas utility subsidiary operating in New York, and electric utility subsidiaries operating in Massachusetts, New Hampshire, Rhode Island, and Vermont. National Grid is National Grid USA's principal New York subsidiary that provides both electric transmission and electric distribution service to customers in New York. National Grid has divested all of its generation and power marketing assets and supplies electricity to approximately 1.5 million customers in New York solely as a provider of last resort ("POLR") in accordance with state policy and law. National Grid also provides local gas distribution services (including POLR gas services) to approximately 550,000 retail customers in upstate New York.

4. NYSEG

NYSEG is a New York corporation and franchised electric and gas public utility regulated by both the Commission and the NYPSC. NYSEG is engaged in, among other things, the business of purchasing, transmitting, generating, distributing, and selling electric power and natural gas. NYSEG currently owns approximately 65 MW of generation, consisting primarily of hydroelectric facilities. NYSEG's transmission system is under the operational control of the NYISO. NYSEG provides transmission service and collects wholesale transmission charges pursuant to the NYISO OATT. NYSEG is a wholly owned indirect subsidiary of Avangrid Networks, Inc. ("Avangrid Networks").

5. O&R

O&R is a wholly-owned subsidiary of Consolidated Edison, Inc. and is a regulated utility operating in Orange, Rockland and part of Sullivan counties in New York and, through its wholly-owned subsidiary Rockland Electric Company, in parts of New Jersey. O&R is engaged in the transmission, distribution and wholesale and retail sale of electric power and the distribution and retail sale of natural gas. O&R is a participant in the NYISO's electricity markets.

6. RG&E

RG&E is an electric transmission and electric and gas distribution public utility organized and operating under the laws of the State of New York and a wholly-owned indirect subsidiary of Avangrid Networks. RG&E serves retail and wholesale customers in western New York and owns approximately 57 MW of hydroelectric generation. RG&E is a Transmission Owner in the New York Control Area under the terms of the Independent System Operator – Transmission Owner Agreement by and among the NYTOs and the NYISO. RG&E owns facilities used in the provision of transmission and interconnection services under the NYISO OATT. NYSEG and RG&E each have unregulated affiliates that develop and operate renewable energy generation facilities in New York, that are planned and located entirely outside of NYSEG's and RG&E's Transmission Districts and do not directly interconnect to either companies' transmission system.

D. Waiver, Effective Date, Notice and Filing Requirements

Applicants request that the Commission grant any waivers of the Commission's rules and regulations that are necessary for acceptance of this filing and the proposed revisions to the NYISO OATT submitted herewith. Additionally, Applicants request that the Commission accept the proposed revisions to the NYISO OATT (including Rate Schedule 19) for filing with an effective date of August 22, 2022 which is 61 days from the date of this filing.

III. List of Documents

In accordance with the Commission's eTariff regulations, Applicants are submitting an eTariff XML filing package containing the following materials:

1. This Transmittal Letter;
2. Attachment A: A blacklined version of the proposed revisions to Section 2.7 of the NYISO OATT;
3. Attachment B: Clean versions of proposed Rate Schedule 19 to the NYISO OATT and the proposed revisions to Section 2.7 of the NYISO OATT; and
4. Attachment C: Joint Testimony.

IV. Correspondence and Communications

All correspondence and communications concerning the above-captioned proceedings should be addressed to the following persons:⁵²

For Central Hudson:

Paul A. Colbert
Associate General Counsel – Regulatory
Affairs
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
pcolbert@cenhud.com

For Con Edison and O&R:

Susan J. LoFrumento
Associate Counsel
Consolidated Edison Co. of New York, Inc.
Orange and Rockland Utilities, Inc.
4 Irving Place
New York, NY 10003
lofrumentos@coned.com

For National Grid:

David C. Lodemore
Senior Counsel
Niagara Mohawk Power Corporation
d/b/a/ National Grid
40 Sylvan Road
Waltham, MA 02451-1120
david.lodemore@nationalgrid.com

For NYSEG and RG&E:

Danielle K. Mechling
Senior Counsel
Avangrid Networks
New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
180 Marsh Hill Road
Orange, CT 06477
Danielle.mechling@avangrid.com

For the NYTOs:

Andrew W. Tunnell
Balch & Bingham LLP
1710 Sixth Ave. North
Birmingham, AL 35203
atunnell@balch.com

⁵² The Applicants request waiver of Rule 203(b)(3) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.203(b)(3) (2022), to the extent necessary to permit more than two persons to be included on the official service list on their behalf in this proceeding.

V. Persons on Whom This Filing Is Being Served

The Applicants have served a copy this filing on the NYPSC.⁵³ The Applicants have confirmed with the NYISO that a complete copy of this filing will be posted on the NYISO's website at www.nyiso.com. The NYISO has also informed the Applicants that it will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees.

VI. Miscellaneous

There are no expenses or costs included in this filing that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.⁵⁴

Respectfully submitted,

/s/ Andrew W. Tunnell

Lyle D. Larson
Andrew W. Tunnell
Abigail C. Fox
Balch & Bingham LLP
1710 Sixth Avenue North
Birmingham, Alabama 35203
(205) 251-8100
llarson@balch.com
atunnell@balch.com
afox@balch.com

*Counsel to the New York Transmission
Owners*

⁵³ 18 C.F.R. § 35.13(b)(3).

⁵⁴ 18 C.F.R. § 35.13(b)(7), (d)(3).

Ms. Kimberly D. Bose

June 21, 2022

Page 16

/s/ Paul A. Colbert

Paul A. Colbert
Associate General Counsel – Regulatory
Affairs
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
pcolbert@cenhud.com

/s/ Susan J. LoFrumento

Susan J. LoFrumento
Associate Counsel
Consolidated Edison Co. of New York, Inc.
Orange and Rockland Utilities, Inc.
4 Irving Place
New York, NY 10003
lofrumentos@coned.com

/s/ Danielle K. Mechling

Danielle K. Mechling Senior Counsel
Avangrid Networks
New York State Electric & Gas Corporation
Rochester Gas and Electric Corporation
180 Marsh Hill Road
Orange, CT 06477
Danielle.mechling@avangrid.com

/s/ David C. Lodemore

David C. Lodemore
Senior Counsel
Niagara Mohawk Power Corporation
d/b/a/ National Grid
40 Sylvan Road
Waltham, MA 02451-1120
david.lodemore@nationalgrid.com

/s/ Susan J. LoFrumento

Susan J. LoFrumento
Associate Counsel
Consolidated Edison Co. of New York, Inc.
Orange and Rockland Utilities, Inc.
4 Irving Place
New York, NY 10003
lofrumentos@coned.com

/s/ Lisa Zafonte

Lisa Zafonte
Assistant General Counsel
Long Island Power Authority
333 Earle Ovington Boulevard, Suite 403
Uniondale, NY 11553
lzafonte@lipower.org
Signing in Support of Applicants' Filing

Dated: June 21, 2022