

ENGLEMAN FALLON, PLLC

1717 K Street, N.W., Suite 900, Washington, D.C. 20006
www.efenergylaw.com

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Submitted Via eTariff Filing

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

**Re: *LS Power Grid New York Corporation I*
Limited Depreciation Rate Filing and Clean-Up Revisions
Docket No. ER23-____-000**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act (“Section 205”),¹ and Section 35.12 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) regulations,² the New York Independent System Operator (“NYISO”), as administrator of the NYISO Open Access Transmission Tariff (“OATT” or “Tariff”),³ submits via eTariff on behalf of LS Power Grid New York Corporation I (“LSPG New York”) a request to update its existing depreciation rates to add a depreciation rate not previously included in Attachment 7 of its Formula Rate Template, as set forth in Section 6.10.7.2.1 of Attachment 1 to Rate Schedule 10 of the NYISO OATT. Specifically, LSPG New York proposes to add a depreciation rate for Account No. 390, a category not originally implicated by the transmission facilities constructed in response to a project selected by the NYISO Board of Directors pursuant to the NYISO’s Public Policy Transmission Planning Process. Further, as described below, LSPG New York proposes to use a depreciation rate for Account No. 390 recently approved for the New York Power Authority,⁴ a partner with LSPG New York in construction of the above-referenced project. LSPG New

¹ 16 U.S.C. § 824d (2018).

² 18 C.F.R. § 35.13 (2022).

³ NYISO submits this filing on behalf of LSPG New York solely in its role as administrator of the NYISO OATT. The burden of demonstrating that the proposed tariff amendments are just and reasonable rests with LSPG New York, the sponsoring party. The NYISO takes no position on any substantive aspect of this filing at this time. Capitalized terms not otherwise defined herein shall have the meaning specified in the NYISO OATT.

⁴ *N.Y. Indep. Sys. Oper., Inc.*, Delegated Letter Order, Docket No. ER22-2581-000.

York's request is being submitted as a single-issue Section 205 filing, consistent with Commission precedent.⁵

Utilities must obtain Commission authorization “to change prices charged for power sales or transmission services (whether determined by stated rates or formula rates) to reflect a change in depreciation,”⁶ by filing with the Commission pursuant to Section 205.⁷ LSPG New York's use of a single-issue Section 205 filing to seek Commission authorization to revise its depreciation rates is appropriate and fully consistent with Commission precedent. Moreover, FERC has found that using a single-issue Section 205 filing to revise depreciation rates is appropriate, because such filing “only affects the timing of recovery of the costs and does not change the overall amount of recovery.”⁸ Finally, as explained below, LSPG New York's Protocols expressly allow a single-issue Section 205 filing to update depreciation rates.⁹

In addition, LSPG New York requests Commission approval of certain limited clean-up revisions to its Formula Rate Template. The revisions are minor in nature and only intended to address discrete issues identified by LSPG New York and do not change the rates collected by LSPG New York through the Formula Rate Template.

LSPG New York requests that the proposed revisions be made effective December 27, 2022.

I. BACKGROUND

A. Description of LSPG New York

LSPG New York is a transmission-only company initially formed to develop, own, and operate transmission projects in the NYISO region. It is organized under the laws of the State of New York. LSPG New York, jointly with the New York Power Authority, was selected through NYISO's Order No. 1000 competitive process for Public Policy Transmission Needs to develop new 345 kV transmission facilities between the existing Marcy and Edic substations near Utica, New York and the existing New Scotland and Rotterdam substations near Albany, New York (the “Project”). The Project is subject to certain cost cap, return on equity, and equity capital structure commitments defined in the Protocols and the Settlement Agreement in ER20-716.¹⁰ The Project is being energized in segments, with the initial segment energized on May 28, 2021.

⁵ See *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32 (2012) (finding that a filing limited to a change in depreciation rates is properly reviewed as a single-issue filing because the filing “only affects the timing of recovery of the costs and does not change the overall amount of recovery.”)

⁶ *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs., Regs. Preambles 1996-2000 ¶ 31,104 at p. 31,695 & n.25 (2000), 65 Fed. Reg. 47,664 (July 27, 2000).

⁷ *Id.*

⁸ *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32.

⁹ NYISO OATT, Section 6.10.7.2.2, Section 5.I.

¹⁰ LS Power Grid New York Corporation I, Offer of Settlement, filed in Docket No. ER20-716-001 on Apr. 1, 2021 (“Settlement Agreement”).

B. Settlement Agreement and LSPG New York's Formula Rate

On December 31, 2019, NYISO, on behalf of LSPG New York, filed a request for acceptance of its Formula Rate Template and Protocols (together, "Formula Rate") to determine and recover the costs of LSPG New York's initial investment in transmission facilities located in the NYISO region, *i.e.*, the Project, and authorization to establish certain rate incentives.¹¹ The Commission accepted LSPG New York's Formula Rate, suspended it for a nominal period to be effective May 27, 2020, subject to refund, and established hearing and settlement judge procedures.¹²

On April 9, 2021, NYISO, on behalf of LSPG New York, filed the Settlement Agreement concerning LSPG New York's Formula Rate. The Settlement Agreement set out depreciation rates for certain account numbers and LSPG New York agreed that the settled depreciation rates would stay in effect for at least six years after the Project commences full commercial operation ("Depreciation Moratorium").¹³ The Settlement Agreement did not contain a depreciation rate for Account No. 390, nor was one necessary for the Project. The Commission approved the Settlement Agreement.¹⁴ On August 17, 2021, as amended on November 5, 2021, NYISO filed, on behalf of LSPG New York, revised tariff records in compliance with the Settlement Agreement. The Commission accepted the tariff revisions.¹⁵

II. DESCRIPTION OF THE FILING

A. Proposed Depreciation Rates

Consistent with Commission precedent, the Formula Rate Template includes stated depreciation rates for transmission and general plant. The depreciation rates are set forth in Attachment 7. The current stated depreciation rates were agreed to as part of the Settlement Agreement in Docket No. ER20-716, and included accounts needed for the transmission facilities included as part of the Project.

Recently, consistent with applicable requirements and criteria, LSPG New York constructed a control center and backup control center located within the NYISO region that was not part of the Project proposal. The office space associated with the control centers is appropriately included in Account No. 390. Because Account No. 390 was not included in the

¹¹ LS Power Grid New York Corporation I, Transmittal Letter, filed in Docket No. ER20-716-000 on Dec. 31, 2019.

¹² *N.Y. Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,159 (2020).

¹³ Settlement Agreement at Section III.B.4.3.5. Section III.B.4.3.5 of the Settlement Agreement includes a table setting out depreciation rates for certain accounts and states that "The above depreciation rates shall stay in effect for a period of at least six years after the Project commences full operation . . ." The listed accounts do not include Account No. 390.

¹⁴ *N.Y. Indep. Sys. Operator, Inc.*, 175 FERC ¶ 61,210 (2021).

¹⁵ *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER20-716-005 and ER20-716-006 (delegated letter order).

approved Attachment 7, LSPG New York does not have a Commission-approved depreciation rate for Account No. 390. LSPG New York proposes to add Account No. 390 to the stated depreciation rates in Attachment 7. Adding a depreciation rate for Account No. 390 does not violate the Depreciation Moratorium because Account No. 390 was not an account included in the Settlement Agreement¹⁶ and the control center was not part of the “Project Costs” for the “Segment A Project.”¹⁷

As a transmission-only company that is constructing its first transmission asset, which is only partially in-service, LSPG New York lacks an operating history upon which to base a depreciation study. The Commission has authorized companies that do not yet own operational transmission facilities to use the depreciation rates of a proxy for the new entity’s depreciation rates. In this instance, LSPG New York believes that the New York Power Authority’s recently approved depreciation rate for Account No. 390 approximates the appropriate rate. The New York Power Authority is a partner in the Project that ultimately drove the need for new control centers. The New York Power Authority recently filed in Docket No. ER22-2581 to revise its depreciation rates, which the Commission approved on September 23, 2022.¹⁸ LSPG New York proposes to use the New York Power Authority’s depreciation rate for Account No. 390, *i.e.*, 1.75 percent. LSPG New York has discussed this proposal with parties to the Settlement Agreement and none has expressed opposition.

B. Corrections To LSPG New York’s Formula Rate Template

Upon initial use of its Formula Rate Template, LSPG New York identified two errors in Appendix A and labeling items in Appendix A, Attachment 2, and Attachment 3 that it proposes to correct as part of this limited filing. The corrections are described as follows:

- Appendix A, Page 4, Line 104 (Return and Taxes) refers to Lines 69 and 71. The correct references, based on the line description, should be to Lines 74 and 76.
- Appendix A, Page 4, Line 106 (Base Carrying Charge) refers to Lines 100, 101, and 99. The correct references, based on the intended calculation, should be to Lines 104, 105, and 103.

¹⁶ Settlement Agreement at Section III.B.4.3.5.

¹⁷ The Settlement Agreement defines “Project Costs” as “all capital costs incurred to develop, construct, and place the Segment A Project in service excluding Third Party Costs, Project Development Costs, Other Project Capitalized Costs, and Unforeseeable Costs in excess of 5% of the Cost Cap.” Settlement Agreement at Section III.A.3.1.5. Segment A Project includes “the various components of the Double-Circuit Marcy to New Scotland Project (T027) proposed jointly by LSPGNY and the NYPA and selected by the NYISO Board of Directors as the more efficient or cost-effective transmission solution from the competing projects to address the public policy-based transmission need to increase Central East transfer capability by at least 350 MW, as identified by the NYPSC.” *Id.* at Section III.A.3.1.1. The control center is not part of the Double-Circuit Marcy to New Scotland Project proposed jointly by LSPG New York and the New York Power Authority.

¹⁸ *N.Y. Indep. Sys. Oper., Inc.*, Delegated Letter Order, Docket No. ER22-2581-000 (accepting New York Power Authority’s revised depreciation rates).

- Appendix A, Page 3, Lines 57-62 (Taxes Other Than Income) refer to FERC Form No. 1 at Page 263, Column (i). Following revisions to the FERC Form No. 1, the appropriate reference is now Column (l).
- Attachment 3 (Cost Support), Lines 191-203 in the currently un-lettered column between columns (a) and (b) are a shaded input range containing references to year 2021. These cells should be blank in the unpopulated template and then be populated with the appropriate rate years for each formula rate update. To avoid confusion after removing the year 2021 labels, LSPG New York also proposes to label this range “Year” with the letter (b), and then re-letter the remaining columns (c) and (d) for continuity. This presentation is consistent with that of other monthly data input ranges in Attachment 2 and Attachment 3.
- Revising labels that are currently in red type to black type on Attachment 2 (Cost Support) and Attachment 3 (Cost Support).¹⁹

LSPG New York has also made several non-substantive formatting revisions, for example, changing date formats and how blank cells are represented, that improve usability of the Formula Rate Template. Together, these ministerial revisions will reflect the intended and proper calculations for the respective lines, ensure proper functioning of the check value on Attachment 4, Line 69, Column (q), and reduce confusion.

III. CONTENTS OF THE FILING

This submission includes, along with the transmittal letter, the following documents:

- Attachment A: Clean version of the proposed revisions to the NYISO OATT²⁰
- Attachment B: Marked version of the proposed revisions to the NYISO OATT²¹

IV. SERVICE

LSPG New York has confirmed with NYISO that a complete copy of this filing will be posted on the NYISO website at www.nyiso.com. NYISO has also informed LSPG New York that it will send an electronic link to this filing to the official representative of each of its customers and each participant on its stakeholder committees. LSPG New York will also serve on all parties on the official service list for Docket No. ER20-716-000.

¹⁹ Given the nature of the change, it will not appear in the marked version.

²⁰ A clean version of the Formula Rate Template in its native Excel format that reflects the proposed changes is also being submitted as part of this filing.

²¹ The cells with formatting changes are marked in red.

V. OTHER FILING REQUIREMENTS

None of the costs proposed to be recovered 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.²²

VI. REQUESTED EFFECTIVE DATE

Pursuant to Section 35.13(b)(2) of the Commission's regulations, LSPG New York respectfully requests that the proposed revisions be made effective December 27, 2022.

VII. COST OF SERVICE, REVENUE INFORMATION, AND REQUEST FOR WAIVERS

As no cost of service or rate design change is being made as part of this filing, LSPG New York requests that the Commission find good cause to waive Section 35.13 of the Commission's regulations.

In addition to the waivers and exemption specifically requested above, LSPG New York respectfully requests that the Commission grant any additional waivers of its rules and regulations it may deem necessary to approve this rate application by the requested effective date.

VIII. CORRESPONDENCE AND COMMUNICATIONS

The following persons are authorized to receive notices and communications with respect to this Application:

Michael R. Engleman
Engleman Fallon, PLLC
1717 K Street, NW
Suite 900
Washington, DC 20006
Tel. (202) 464-1330
mengleman@efenergylaw.com

D. Eric Arzola
LS Power Development, LLC
16150 Main Circle Drive
Suite 310
Chesterfield, MO 63017
Tel. (646) 567-8422
earzola@lspower.com

LSPG New York respectfully requests that the individuals identified above be placed on the Commission's official service list in this proceeding and be designated for service pursuant to Rule 2010.

²² 18 C.F.R. § 35.13(b)(7), (d)(3).

IX. CONCLUSION

For all the reasons set forth above, LSPG New York respectfully requests that the Commission accept for filing its proposed depreciation rate for Account No. 390 and the discrete clean up revisions to the Formula Rate Template effective December 27, 2022.

October 27, 2022

Respectfully submitted,

/s/ Michael R. Engleman

Michael R. Engleman
Engleman Fallon, PLLC
717 K Street, NW, Suite 900
Washington, DC 20006
Tel. (202) 464-1332
mengleman@efenergylaw.com

***Counsel for LS Power Grid New York
Corporation I***