



2000 Pennsylvania Avenue NW
Suite 6000
Washington, DC 20006
(202) 298-1800 Phone
(202) 338-2416 Fax

Gary D. Bachman
202-298-1880
gdb@vnf.com

SUBMITTED VIA E-TARIFF FILING

October 24, 2024

Honorable Debbie-Anne A. Reese
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *New York Power Authority*
Docket No. ER25-____-000

Dear Secretary Reese:

Pursuant to section 205 of the Federal Power Act (“FPA”)¹ and Part 35 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) regulations,² New York Power Authority (“NYPA”) submits this request for (i) approval of a modified base rate of return on equity (“ROE”) of 10.98 percent, and (ii) acceptance of related revisions to Section 14.2.3.1 of Attachment H of the New York Independent System Operator, Inc. (“NYISO”) Open Access Transmission Tariff (“OATT”) to amend the ROE contained in the NYPA transmission formula rate template (“Formula Rate”), which calculates NYPA’s net annual transmission revenue requirement (“ATRR”) for its investments in transmission facilities located throughout New York State.³

NYPA respectfully submits that its proposal, as demonstrated by this transmittal letter and the attached testimonies and exhibits, is just and reasonable, and should be accepted without suspension or hearing to become effective on November 1, 2024. NYPA, due to its non-

¹ 16 U.S.C. § 824d (2023).

² 18 C.F.R. pt. 35 (2023).

³ The tariff revisions proposed herein governing the collection of NYPA’s revenue requirement will become part of the NYISO OATT. Accordingly, the NYISO is submitting this filing in FERC’s e-Tariff system on NYPA’s behalf solely in its role as the Tariff Administrator. However, the burden of demonstrating that the proposed tariff amendments are just and reasonable rests on NYPA, the sponsoring party. The NYISO takes no position on any substantive aspect of the filing at this time.

jurisdictional status, requests waiver of the Commission’s notice requirements to permit this effective date.⁴

I. BACKGROUND

A. NYPA and its Formula Rate

NYPA is a corporate municipal instrumentality and a political subdivision of the State of New York, organized under the laws of New York, and operates pursuant to Title 1 of Article 5 of the New York Public Authorities Law. NYPA is a “municipality” within the meaning of section 3(7) of the FPA and is a “state instrumentality” within the definition of section 201(f) of the FPA and therefore is exempt from the requirements of Part II of the FPA.⁵ It is engaged in the generation, transmission, and sale of electricity at wholesale and retail throughout New York and is a founding member of the NYISO. As the largest state-owned power organization in the United States, NYPA has taken responsibility for constructing, owning, and operating critical segments of transmission infrastructure throughout the State.

NYPA’s bulk power transmission system currently encompasses 1,569 circuit miles and consists of facilities ranging from 115 kV to 765 kV. Many of these facilities comprise backbone paths necessary for critical North-South and West-East energy transfers to downstate load. Lacking distribution facilities or a defined geographical service territory of its own, NYPA has, since the inception of the NYISO, recovered its cost of owning and maintaining its backbone transmission facilities through the NYPA Transmission Adjustment Charge (“NTAC”), a charge assessed to virtually all loads in the NYISO and a component in NYPA’s Formula Rate.⁶ NYPA’s Formula Rate also recovers the costs of its New York bulk power transmission facilities not considered part of the NYPA backbone.

B. New York Climate Legislation

NYPA’s over \$4.5 billion investment in constructing and expanding its transmission infrastructure and generation⁷ over 2024 to 2030 is instrumental to achieve the requirements of

⁴ In accordance with the use of prior-year actual costs under NYPA’s Formula Rate, the requested November 1, 2024 effective date would affect two months of calendar year 2024’s cost data and be reflected in transmission rates commencing on July 1, 2025, the date of NYPA’s next annual update.

⁵ 16 U.S.C. §§ 796(7) and 824(f).

⁶ See *Cent. Hudson Gas & Elec. Corp.*, 86 FERC ¶ 61,062 at p. 61,212, *order on reh’g*, 88 FERC ¶ 61,138 at pp. 61,403-04 (1999), *reh’g granted in part*, 90 FERC ¶ 61,045 (2000), *clarified on denial of reh’g*, 95 FERC ¶ 61,008 (2001). The NTAC, which is assessed on a load-ratio share basis, is described in section 14.2.2.2.1 of the NYISO OATT. See NYISO OATT, Att. H, Annual Transmission Revenue Requirement, § 14.2.2.2 (NTAC Calculation).

⁷ Testimony of Scott Tetenman, Exh. No. NYPA-200 at 6-7 (“Tetenman Testimony”), as set forth in Appendix D to this filing. NYPA expects to invest over \$4.5 billion dollars over 2024 to 2030. It plans to invest \$2.2 billion in

New York State’s ambitious clean energy mandate known as the Climate Leadership and Community Protection Act (“CLCPA”), enacted in 2019.⁸ The CLCPA requires a 40% statewide reduction in greenhouse gas emissions from 1990 levels by 2030 and an 85% reduction by 2050; a minimum of 70% statewide electric generation produced by renewable energy by 2030; a 100% emissions-free electric demand system by 2040; and the procurement of at least 9 gigawatts (“GW”) of offshore wind by 2035, 6 GW of photovoltaic solar generation by 2025, and 3 GW of energy storage resources by 2030 (collectively, the “CLCPA Requirements”).⁹ Additionally, the Accelerated Renewable Energy Growth and Community Benefit Act (“Accelerated Renewable Energy Act”) requires the State to provide for the construction of expanded transmission and distribution infrastructure sufficient to ensure that new renewable energy generation projects used to meet the CLCPA Requirements can be timely and cost-effectively delivered to load.¹⁰ NYPA’s multi-billion-dollar investment is designed specifically to address the state’s initiative to transition the region from fossil fuel generation to reliable renewable power.

transmission infrastructure, \$1.2 billion in generation facilities (primarily at its Niagara facility) and \$1.1 billion in general and intangible plant.

⁸ 2019 N.Y. Laws, ch. 106 (“CLCPA”).

⁹ CLCPA, §§ 2(1)(a) and 7(a); N.Y. Energy Conservation Law § 75–0107(1); N.Y. Pub. Serv. Law §§ 66-p(2), (5).

¹⁰ 2020 N.Y. Laws, ch. 58, Part JJJ. This Petition refers to the goals set by CLCPA as CLCPA Requirements. We note that while Accelerated Renewable Energy Act calls them “CLCPA targets,” the legislation indicates that these are binding requirements. *See, e.g.*, Accelerated Renewable Energy Act § 4 (codified at N.Y. Pub. Serv. Law § 94-c(2)(b)):

“CLCPA targets” shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

See also id., § 2(1)(b) (“the state shall take appropriate action to ensure that . . . renewable energy can be efficiently and cost effectively injected into the state’s distribution and transmission system for delivery to regions of the state where it is needed. In particular, the state shall provide for timely and cost-effective construction of new, expanded and upgraded distribution and transmission infrastructure as may be needed to access and deliver renewable energy resources.”). Consistent with these requirements, the Accelerated Renewable Energy Act also provides that the public interest would be served by “expediting the regulatory review for the siting of major renewable energy facilities and transmission infrastructure necessary to meet the CLCPA [Requirements].” *Id.* § 2(4)(a).

II. SUMMARY OF REQUESTED ACTION

In this filing, NYPA requests the Commission accept a new base ROE of 10.98 percent which is supported by the analysis and testimony of Joshua C. Nowak¹¹ of Concentric Energy Advisors, Inc. The requested base ROE is well within the zone of reasonableness of 1) 8.87 percent to 12.32 percent based on the results of the Commission-approved methodology that averages two models (i.e., the two-step Discounted Cash Flow (“DCF”) and the Capital Asset Pricing Model (“CAPM”)) and 2) 8.80 percent to 12.25 percent based on the results of averaging three models (i.e., the two-step DCF, CAPM and Risk Premium), based on the cost of equity estimates for a proxy group established by Mr. Nowak for the DCF and CAPM analyses.¹² As Mr. Nowak explains, because FERC decisively addressed an important ROE methodology proceeding on October 17, 2024 — the 2022 remand of a U.S. Court of Appeals for the District of Columbia case — by determining that the inclusion of the Risk Premium method could not be justified, it was appropriate in this application for NYPA to adopt the two-model method noted above.¹³ Nonetheless, because FERC has relied upon the Risk Premium model in several recent decisions¹⁴ and its MISO Remand Order did not foreclose entirely the use of a Risk Premium model in future proceedings, Mr. Nowak presented the results of two different ROE analyses, one using two models (DCF and CAPM), and the other using three models (DCF, CAPM and Risk Premium).¹⁵

NYPA’s current base ROE is the result of a 2016 settlement that initiated NYPA’s transmission Formula Rate. The settlement was filed on September 20, 2016, in Docket No. ER16-835-000,¹⁶ and approved by the Commission on January 19, 2017.¹⁷ The settlement provided a base ROE of 8.95 percent, which has been used by NYPA in its transmission Formula

¹¹ See Testimony of Joshua C. Nowak, Exh. No. NYPA-100 at 5 (“Nowak Testimony”), as set forth in Appendix C to this filing.

¹² *Id.* at 36-39 (including Figure 12, “Cost of Equity Capital Summary”).

¹³ *Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Order on Remand, 189 FERC ¶ 61,036 (2024), PP 1, 19-24 (“MISO Remand Order”).

¹⁴ See, e.g., *Entergy Arkansas, Inc.*, Opinion No. 575, 175 FERC ¶ 61,136, PP 244-45, *order on reh’g*, 176 FERC ¶ 61,155 (2021); *DATC Path 15, LLC*, Opinion No. 879, 177 FERC ¶ 61,115, PP 24, 212-13 (2021); *Pacific Gas and Elec. Co.*, 178 FERC ¶ 61,175, PP 1, 20, 266 (2022); *Constellation Mystic Power, LLC*, 176 FERC ¶ 61,019, PP 15, 176, *order on reh’g*, 177 FERC ¶ 61,106 (2021), *order on reh’g*, 178 FERC ¶ 61,116 (2022).

¹⁵ Nowak Testimony at 3-6, 36-37 (discussing ROE issues raised in *MISO Transmission Owners v. FERC*, 45 F.4th 248, 264 (D.C. Cir. 2022) (“MISO v. FERC”), MISO Remand Order, and citing cases).

¹⁶ See Article III, Paragraph 3.1 of NYPA Offer of Settlement, Docket No. ER16-835-000 (filed Sept. 30, 2016).

¹⁷ See *N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,043 (2017).

Rate since its inception in 2016.¹⁸ Mr. Nowak's testimony addresses the current economic and capital market conditions that affect NYPA's cost of equity today,¹⁹ which are far different than those that applied in 2016.

As outlined in the expert testimony of Scott Tetenman, NYPA expects to invest over \$4.5 billion in constructing and expanding clean energy transmission infrastructure, generation facilities and supporting plant through 2030.²⁰ NYPA's investment plays a significant role in achieving the state's ambitious clean power initiatives, and as Mr. Tetenman explains, additional capital spending in renewable generation may materialize in light of NYPA's expanded legislative authority enacted by the State in 2023.²¹ NYPA plans to finance these investments with a combination of internally generated funds and accessing the debt markets.

Based upon the witnesses' testimony and evidence, NYPA's proposal represents a fair return on its equity capital because it 1) appropriately recognizes the risks of transmission investment in today's environment; 2) allows NYPA to attract capital on reasonable terms, as it continues to invest substantially in infrastructure to benefit New York and its electric customers; and 3) and will maintain NYPA's financial integrity.

If granted, this proposed increase in NYPA's base ROE will help NYPA remain in a strong financial position and enable it to raise the capital needed to support clean energy grid expansion projects for the benefit of the State and NYPA's customers.

III. THE PROPOSED ROE IS JUST AND REASONABLE

The 10.98 percent base ROE proposed by NYPA is just and reasonable, is the median value and within the zone of reasonableness calculated under both the Commission's two-model method (using the two-step DCF and CAPM models) and the three-model method (two-step DCF, CAPM and Risk Premium). Mr. Nowak's testimony explains in detail how he applied these models.²²

¹⁸ See Tetenman Testimony at 3. In addition, FERC granted NYPA the RTO Participation Adder of 0.50% in its Order dated March 31, 2016, in Docket No. ER16-835. See *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268 (2016).

¹⁹ Nowak Testimony at 8-18.

²⁰ Tetenman Testimony at 6-7. NYPA expects to invest over \$4.5 billion dollars over 2024 to 2030. It plans to invest \$2.2 billion in transmission infrastructure, \$1.2 billion in generation facilities (primarily at its Niagara facility) and \$1.1 billion in general and intangible plant.

²¹ Tetenman Testimony at 7.

²² Nowak Testimony at 24-37.

ROE plays a critical role in determining access to investment capital because investors will only invest in opportunities where they are able to receive a return that is commensurate with the associated risks. Accordingly, as both Messrs. Nowak and Tetenman note, notwithstanding NYPA's municipal status, FERC should recognize that the risk to NYPA of its transmission investments is not determined by whether it is a municipal or investor-owned entity; but rather, the risk is determined by the type of investment at issue.²³ The Commission's precedents have long reinforced this point.

For example, the Commission has held that, while non-jurisdictional public power entities do not raise equity capital through the issuance of stock, they nevertheless provide internal sources of funding for investment, and such funding comes at a cost.²⁴ Utilities and their investors must commit huge sums of money to expand the transmission grid with new and upgraded facilities. Funding will be provided only if investors anticipate an opportunity to earn a return that is sufficient to compensate for the associated risks and commensurate with returns available from alternative investments of comparable risk.

Mr. Nowak's testimony on proxy group selection is consistent with this approach which the Commission has previously accepted, *i.e.* that investor-owned companies in the proxy group reflect a risk similar to that faced by NYPA for its investments in transmission facilities. As Mr. Nowak explains, it is well-founded that governmental utilities like NYPA, which do not have equity securities traded on the marketplace, can rightly invoke a proxy group of companies that do.²⁵ These companies can serve as a proxy for NYPA's cost of common equity, which for NYPA is referred to as its "Net Position" under the Governmental Accounting Standards. Because the use of a utility's funds, not its source, determines the cost of capital under corporate

²³ See *id.* at 19-24 (discussing proxy group comprised of investor-owned utilities comparable to NYPA); Tetenman Testimony at 2-3.

²⁴ See, e.g., *AES Power Inc.*, 74 FERC ¶ 61,220 at p. 61,745 (1996) ("We find that it is reasonable for TVA to include a 10 percent margin in its rate. First, it is extremely unlikely that a business enterprise the size of TVA could rely solely on debt financing because lenders would be unwilling to make such loans, or the cost would be prohibitive (reflecting the risk of 100 percent debt financing). TVA, like any other similar business, must provide internal funding for a portion of its expenses. The fact that the financing is funded internally rather than through the sale of common stock makes it no less of a cost."); *Midwest Indep. Transm. Sys. Operator, Inc.*, 106 FERC ¶ 61,219 at P 31 (2004) ("Consistent with our policy outlined in Order No. 2000, we continue to encourage participation of all transmission owners in RTOs, including cooperatives and municipals. Their participation will enhance the reliability and economic benefit of RTOs and ensure appropriate RTO size and scope. It is unlikely that Wolverine or any other small transmission owner will participate in an RTO without proper and equitable compensation for their transmission facilities. We find that once Wolverine and MPPA become participating members of Midwest ISO by turning over control of their transmission facilities to Midwest ISO, they should receive the same 12.88 percent ROE afforded to other transmission owners in Midwest ISO.").

²⁵ Nowak Testimony at 21-22 (discussing similar holdings of *City of Vernon, Calif.*, Opinion No. 479, 111 FERC ¶ 61,092 (2005)).

financing principles, Mr. Nowak explains the appropriateness of using a proxy group for NYPA consisting of publicly traded utility companies.²⁶

Mr. Nowak employed a national proxy group composed of 28 electric utilities with investment grade credit ratings from S&P Global Ratings (“S&P”) or Moody’s Investors Service (“Moody’s”) (“Proxy Group”),²⁷ and he utilized the Proxy Group in his DCF and CAPM calculations.²⁸

With respect to the selection of the Proxy Group companies themselves, Mr. Nowak included all companies with an investment grade credit rating from S&P or Moody’s. Because NYPA is rated AA by S&P and Aa1 by Moody’s, as a practical matter, there are no companies that the Value Line investment research service classifies as “Electric Utilities” within one notch of NYPA’s S&P and Moody’s credit rating. For this reason, Mr. Nowak explains that it was appropriate to relax the usual standard of confining the Proxy Group only to companies one notch above or below NYPA’s rating and instead include all investment grade companies in the Proxy Group.²⁹

Consistent with the Commission’s latest guidance in the MISO Remand Order,³⁰ Mr. Nowak’s analysis of the most appropriate base ROE for NYPA is based on a composite ROE produced by the two-model method (i.e., the two-step DCF and CAPM methodologies).³¹ Under the MISO Remand Order, the Commission also instructs that the two-model method is the most appropriate to construct a composite zone of reasonableness. Mr. Nowak’s testimony identifies that zone of reasonableness as 8.87 percent to 12.32 percent. Mr. Nowak also presented the results of the three-model method, which identifies a zone of reasonableness from 8.80 percent to 12.25 percent. The results of these two analyses are summarized below.³²

²⁶ *Id.* at 21-24.

²⁷ *Id.* at 18-24 (including Figure 5, “Proxy Group”).

²⁸ *Id.* at 24-32.

²⁹ *Id.* at 18-19, 21-24 (describing Proxy Group selection procedure).

³⁰ MISO Remand Order at PP 19-24.

³¹ Nowak Testimony at 3-6 (discussing predecessor orders to MISO v. FERC, e.g., *Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, Opinion No. 569, 169 FERC ¶ 61,129 (2019), *order on reh’g*, Opinion No. 569-A, 171 FERC ¶ 61,154, *order addressing reh’g arguments and setting aside prior order in part*, Opinion No. 569-B, 173 FERC ¶ 61,159 (2020)).

³² *Id.* at 38-39.

Model	Lower Bound	Median	Upper Bound
Two-Step DCF	7.35%	10.21%	11.60%
CAPM	10.38%	11.75%	13.03%
Risk Premium	8.66%	10.39%	12.11%
Three-Model Average	8.80%	10.78%	12.25%
Two-Model Average	8.87%	10.98%	12.32%
Recommended Base ROE	10.98%		
Capital Structure	50%/50%		

Though it does not affect his ROE analysis, Mr. Nowak also testifies that NYPA's current capital structure contained in its Formula Rate of 50 percent debt and 50 percent equity should allow NYPA to achieve a reasonable rate of return and allow NYPA access to capital markets for significant borrowings that are expected over the next five years.³³ Because its capital structure for transmission ratemaking purposes is conservative relative to NYPA's actual equity ratio of 64 percent common equity (i.e., its Net Position), customers get the benefit of a NYPA's credit profile which allows NYPA to access debt at lower rates.

In accordance with Mr. Nowak's testimony explaining that the two-model method is the approach most consistent the Commission's recent guidance, the Commission should accept NYPA's proposed base ROE of 10.98 percent, the resulting median ROE.

IV. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER OF NOTICE REQUIREMENT

NYPA requests that the Commission accept the modified base ROE to become effective, without suspension or hearing, on November 1, 2024. In recognition of NYPA's non-jurisdictional status, the Commission has granted waiver of its statutory 60-day notice requirements previously to NYPA when requested,³⁴ and has consistently done so for other municipal utilities.³⁵ NYPA requests waiver of the notice requirements to allow the earliest practicable recognition in transmission rates of the increased cost of capital facing NYPA and to

³³ *Id.* at 38.

³⁴ *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240 at PP 2, 31, 33 (2012) (permitting NYPA's revised transmission revenue requirement to become effective on five days' notice subject to FERC's decisional processes; NYPA not subject to FERC-imposed rate suspension obligations).

³⁵ *City of Azusa, Calif.*, 138 FERC ¶ 61,049 at PP 2, 20, 22 (2012) (explaining that municipal utility not subject to FERC-imposed rate suspension obligations and permitting revised revenue requirement to become effective on one day's notice subject to hearing or settlement); *City of Pasadena, Calif.*, 137 FERC ¶ 61,045 at PP 2, 20, 22 (2011) (same; permitting effective date on seven days' notice); *City of Riverside, Calif.*, 136 FERC ¶ 61,137 at PP 27, 29 (same; permitting effective date on 30 days' notice) (2011).

avoid the complexity of administering a partial month of revenue collection that would result from an implementation date that would normally apply to a 60-day order for a filing made today.

Alternatively, should it set for hearing or settlement procedures the appropriate level of the base ROE, the Commission should nonetheless allow the proposed new base ROE to become effective without suspension, consistent with Commission precedent applicable to non-jurisdictional utilities. Despite its non-jurisdictional status, NYPA commits to making appropriate refunds if the resolution of the base ROE in this proceeding results in NYPA collecting revenues in excess of that which would apply using a base ROE ultimately determined to be just and reasonable. This is consistent with NYPA's past practice under its Formula Rate.

V. CONTENTS OF THE FILING

In addition to this Transmittal Letter, which provides a detailed description of the approval requested and the bases for the request, this filing contains the following components:

- Appendix A: Clean version of the proposed revisions to the NYISO OATT;³⁶
- Appendix B: Redline version of the proposed revisions to the NYISO OATT;
- Appendix C: Direct Testimony and Exhibits of Joshua C. Nowak (Exhibit Nos. NYPA-100 – NYPA-102); and
- Appendix D: Direct Testimony of Scott Tetenman (Exhibit No. NYPA-200).

VI. OTHER REQUESTED WAIVERS

Based on its status as a non-jurisdictional utility, NYPA respectfully requests that it be exempt from FERC's filing fees and from compliance with any requirements of section 35.13 of the Commission's regulations not otherwise satisfied by this filing.³⁷ Granting such exemptions has been the Commission's established practice with respect to non-jurisdictional utilities such as

³⁶ A clean version of the Formula Rate template in native Excel format that reflects the proposed changes, confined to Schedules D1, D2 and F2 and Work Paper DA, is also being submitted with this filing.

³⁷ 18 C.F.R. § 381.108 ("States, municipalities and anyone who is engaged in the official business of the Federal Government are exempt from the fees required by this part and may file a petition for exemption in lieu of the applicable fee."). See also *Transmission Agency of No. Calif. v. FERC*, 495 F.3d 663 at 673-74 (D.C. Cir. 2007); *N.Y. Indep. Sys. Operator*, 140 FERC ¶ 61,240 at PP 36-37 (granting NYPA's requested waiver of section 35.13 of the Commission's regulations because NYPA is not subject to the Commission's regulatory filing requirements, and granting NYPA's requested exemption from the filing fee); *City of Vernon, Calif.*, Opinion No. 479, 111 FERC ¶ 61,092 at P 44 ("Vernon [a municipal utility] in and of itself is not subject to section 205. It is for this reason we affirm the judge's excusing Vernon from the Commission's regulatory filing requirements.").

NYPA.³⁸ In the event any additional waivers are required in connection with this filing, NYPA respectfully requests that the Commission grant such waivers.

VII. SERVICE

NYPA has 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 NYPA 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. This will ensure that all New York load-serving entities receive notice of this filing.

VIII. CORRESPONDENCE AND COMMUNICATIONS

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

Vincent Zuccarelli*
Director, Transmission Revenue
New York Power Authority
123 Main Street White Plains, NY
10601
Tel: (914) 287-3302
Vincent.Zuccarelli@nypa.gov

Gary D. Levenson*
Principal Attorney
New York Power Authority
123 Main Street
White Plains, NY 10601
Tel: (914) 390-8030
Gary.Levenson@nypa.gov

Gary D. Bachman*
Xena Burwell*
Van Ness Feldman, LLP
2000 Pennsylvania Ave., NW
Suite 6000
Washington, DC 20006
Tel: (202) 298-1880
gdb@vnf.com
xburwell@vnf.com

³⁸ While NYPA concedes that its ROE proposal is FERC-jurisdictional due to the collection of its ATRR through the FERC-jurisdictional NYISO OATT, *N.Y. Indep. Sys. Operator*, 140 FERC ¶ 61,240 at P 30, the Commission has repeatedly recognized that NYPA is otherwise exempt from most obligations under Part II of the Federal Power Act and its implementing regulations. *See, e.g., N.Y. Indep. Sys. Operator, Inc., N.Y. Power Auth.*, 180 FERC ¶ 61,004 at P 55 (2022) (granting NYPA's requested waiver of section 35.13 of the Commission's regulations because NYPA is not subject to the Commission's regulatory filing requirements); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268 at PP 69-70 (same); *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240 at PP 36-37 (same).

NYPA respectfully requests that the individuals identified above with an asterisk be placed on the Commission's official service list in this proceeding and be designated for service pursuant to Rule 2010.³⁹

IX. CONCLUSION

For the reasons set forth above, NYPA requests that the Commission accept for filing the modified base ROE of 10.98 percent and related tariff revisions filed herewith to become effective November 1, 2024.

Respectfully submitted,

/s/ Gary D. Bachman

Gary D. Bachman

Xena Burwell

Van Ness Feldman, LLP

2000 Pennsylvania Ave, NW

Washington, DC 20006

Telephone: (202) 298-1800

Counsel for the New York Power Authority

Attachments: Appendices A-D

³⁹ 18 C.F.R. § 385.2010. To the extent necessary, NYPA requests waiver of Rule 2010(k) so as to allow the individuals indicated above to be placed on the official service list.