

Appendix D

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

)	
New York Power Authority)	Docket No. ER25-____-000
)	

**PREPARED DIRECT TESTIMONY
OF SCOTT TETENMAN
ON BEHALF OF NEW YORK POWER AUTHORITY**

October 24, 2024

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I. INTRODUCTION

1 **Q. Please state your name and business address.**

2 A. My name is Scott Tetenman. My business address is 123 Main Street, White Plains, NY
3 10601.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am the Senior Vice President of Finance for the New York Power Authority (“NYPA”),
6 which is a corporate municipal instrumentality and political subdivision of the State of
7 New York.

8 **Q. Would you please summarize your educational and professional background?**

9 A. I received a bachelor’s degree in business administration from Northeastern University in
10 1991 and attained a Master of Business Administration degree in Finance from the
11 University of Miami in 1992.

12 My professional experience includes 14 years in NYPA’s Finance Department; three
13 years as the Manager of Finance and Treasury for an anaerobic digestion company; five
14 and one-half years as the Vice President of Finance for a coal mining entity; three and
15 one-half years as the Vice President of Structured Finance for a small commercial bank;
16 and 11 years working in the securities industry and related fields.

17 I have submitted testimony on behalf of NYPA to the Federal Energy Regulatory
18 Commission (“FERC” or “Commission”) on several occasions, most recently in 2024 in
19 Docket No. EL24-108-000 in support of incentives and cost containment for NYPA’s
20 investment in the Propel NY Project. Prior to that, I provided direct testimony in support

1 of both changing depreciation rates in Docket No. ER22-2581 and requesting
2 transmission incentives and cost containment for NYPA's Smart Path Connect Project in
3 Docket No. ER22-1014.

4 II. PURPOSE AND SCOPE OF TESTIMONY

5 **Q. What is the purpose and scope of your testimony in this proceeding?**

6 A. The purpose of my testimony is to support NYPA's request for an increase in its base rate
7 of return on equity ("ROE") for its transmission formula rate from what it currently is
8 today (8.95 percent) to 10.98 percent, as recommended in the accompanying ROE expert
9 testimony of Joshua Nowak of Concentric Energy Advisors, Inc. As part of that support,
10 I will provide the historical and current context for NYPA's base ROE request, including
11 the need for a base ROE that 1) appropriately recognizes the risks of transmission
12 investment in today's environment; 2) allows NYPA to attract capital on reasonable
13 terms, as it continues to invest substantially in transmission and generation infrastructure
14 to benefit New York and its electric customers; 3) maintain its financial integrity; and 4)
15 results in a just and reasonable transmission formula rate for NYPA.

16 III. HISTORICAL CONTEXT FOR NYPA'S BASE ROE REQUEST

17 **Q. Has FERC recognized that municipal and government-owned transmission systems**
18 **have an investment risk similar to those owned by Investor-Owned Utilities?**

19 A. Yes. In FERC Opinion No. 479, issued on April 19, 2005 and related orders involving the
20 City of Vernon ("Vernon"), FERC stated that Vernon's ROE could be set by reference to
21 the market-based return for similar-risk publicly traded companies.¹ FERC's finding

¹ See generally *City of Vernon*, 111 FERC ¶ 61,092 at PP 84-103 (2005).

1 comports with financial theory that states that the risk of a particular investment is not
2 determined by the type of entity that makes the investment but rather, it is determined by
3 the risk of the particular investment. NYPA's business risk in developing and
4 modernizing its transmission system to serve New York State is no different than that of
5 an investor-owned utility ("IOU"). In the Midcontinent Independent System Operator,
6 Inc. ("MISO") region, municipal transmission owners earn the same cost of equity as
7 IOU transmission owners.² The same is true for the municipal transmission owners
8 within ISO New England.³

9 **Q. Does NYPA receive funding from the State of New York?**

10 A. No, it does not. It funds its capital investment with internally generated funds and
11 borrowings from the market.

12 **Q. When did FERC approve NYPA's current base ROE?**

13 A. NYPA's current base ROE results from a settlement that initiated NYPA's transmission
14 formula rate that replaced its then-existing stated rate. The settlement was filed on
15 September 30, 2016 in Docket No. ER16-835-000.⁴ FERC approved the settlement on
16 January 19, 2017.⁵ The base ROE provided by that settlement (8.95 percent) has been
17 used by NYPA in its transmission formula rate since its 2016 inception.⁶

² See *Midwest Indep. Transm. Sys. Operator, Inc.*, 100 FERC ¶ 61,292 (2002), *reh'g denied*, 102 FERC ¶ 61,143 (2003), *on appeal*, *Public Serv. Comm'n of the C'wealth of Ky. v. FERC*, 397 F.3d 1004 (D.C. Cir. 2005), *on remand*, 111 FERC ¶ 61,355 (2005).

³ See Settlement Agreement of Docket No. EL16-19 issues by New England Transmission Owners, Docket No. ER20-2054-000 (filed June 15, 2020) (indicating that all Participating Transmission Owners ("PTOs") in ISO New England, whether investor-owned utilities or municipal utilities, earn the same base ROE used in the formula rate applicable to all PTOs); *see also* Letter Order approving settlement, 173 FERC ¶ 61,270 (2020).

⁴ See Article III, Paragraph 3.1 of NYPA Offer of Settlement, Docket No. ER16-835-000 (filed Sept. 30, 2016).

⁵ See *New York Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,043 (2017).

⁶ 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 New York Indep. Sys. Operator, Inc.* 154 FERC ¶ 61,268 (2016).

1 **Q. What approach did NYPA use to determine its base ROE in Docket No. ER16-835-**
2 **000?**

3 A. At the time NYPA filed its testimony and throughout that proceeding, FERC required the
4 use of the two-step discounted cash flow methodology adopted in Opinion No. 531.⁷ In
5 Opinion No. 531, FERC found that for public utilities, “the ROE . . . should be based on
6 the same DCF methodology the Commission has used in natural gas pipeline and oil
7 pipeline cases for many years—the two-step, constant growth DCF methodology, or two-
8 step DCF methodology.”⁸

9 **Q. Has FERC changed its approach for determining the base ROE for electric**
10 **transmission owners since Opinion 531?**

11 A. Yes, it has. In Opinion No. 569-A,⁹ involving transmission owners in MISO, the
12 Commission concluded that the base ROE should be an average of the results of three
13 ROE approaches: 1) the Two-Step Discounted Cash Flow Model (“DCF”); 2) the Capital
14 Asset Pricing Model (“CAPM”); and 3) the Bond Yield Plus Risk Premium approach
15 (“Risk Premium”). The Commission’s use of the Risk Premium approach was appealed
16 to the U.S. Court of Appeals for the District of Columbia Circuit (“Court”). The Court
17 issued its decision on August 9, 2022¹⁰ stating that the Commission “failed to offer a
18 reasoned explanation for its decision to reintroduce the risk-premium model [...] after
19 initially, and forcefully, rejecting it” and that the Commission “adopted that significant

⁷ *Martha Coakley, Mass. Atty. General, et al. v. Bangor Hydro-Elec. Co., et al.*, Opinion No. 531, 147 FERC ¶ 61,234 (issued June 19, 2014), *order on paper hearing*, Opinion No. 531-A, 149 FERC ¶ 61,032 (2014), *order on reh’g*, Opinion No. 531-B, 150 FERC ¶ 61,165 (2015).

⁸ *Id.* at P 13 (footnote omitted).

⁹ *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).

¹⁰ *MISO Transmission Owners v. FERC*, 45 F.4th 248, 264 (D.C. Cir. 2022).

portion of its model in an arbitrary and capricious fashion”¹¹

Q. Has the Commission addressed the remand by the Court?

A. On October 17, 2024, the Commission issued its Order on Remand in Docket Nos. EL14-12-106 and EL15-45-015 (Opinion Nos. 569, 569-A and 569-B)¹² in which the Commission determined that there is insufficient record evidence to include the Risk Premium model in the Commission's ROE methodology. As a result, the Commission reversed its decision in Opinion Nos. 569-A and 569-B that included the Risk Premium model in its ROE methodology.

Q. What ROE approach has Mr. Nowak used in his analysis?

A. Mr. Nowak's uses the DCF and CAPM models only (excluding the Risk Premium). His analysis results in a base ROE of 10.98 percent and a ROE range of reasonableness of 8.87 percent to 12.32 percent. For reference, he also presents the results of using the three models based upon Opinion No. 569-A.

Q. Do you have any other comments on NYPA's base ROE?

A. NYPA's current base ROE of 8.95 percent was determined over eight years ago using the base ROE methodology that the Commission had approved at that time and resulting from a settlement. It has been superseded by a two-model methodology that the Commission adopted in its Order on Remand issued October 17, 2024. Given this passage of time, NYPA seeks to update its base ROE to comport with the current Commission approach which reflects current financial information and results in a base

¹¹ *Id.* at 264.

¹² *Ass'n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 189 FERC ¶ 61,036.

1 ROE that is “reasonably sufficient to assure confidence in the financial soundness of the
2 utility...and should be adequate under efficient and economical management, to maintain
3 and support its credit, and enable it to raise the money necessary for the proper discharge
4 of its public duties.”¹³

5 IV. NYPA’S CAPITAL INVESTMENT PROGRAM

6 **Q. Please describe the capital investment NYPA expects to make during the period**
7 **2024 to 2030.**

8 A. NYPA owns and maintains 1,569 circuit miles of high voltage transmission lines, which
9 represents just under one third of New York State’s bulk power transmission system.
10 NYPA is in the middle of constructing the Smart Path Connect Project, a greater than
11 \$800 million transmission upgrade expected to be completed in 2025. During the 2024 to
12 2030 period, NYPA will also construct and put into service Propel NY, a more ambitious
13 project which expands the opportunities for offshore wind injection on Long Island
14 through new electric transmission lines, new substations, and existing substation
15 upgrades. NYPA is developing Propel NY with its partner, NY Transco. NYPA and NY
16 Transco estimate that the total capital cost to put the Propel NY Project in service will be
17 approximately \$2.8 billion. NYPA estimates that its share of the total capital cost to be
18 \$520.0 million (assuming an 18.5% ownership) and potentially as much as \$840 million
19 should NYPA choose to exercise its option to increase its ownership share to 30%.
20 Construction is anticipated to begin in 2026 (though much project development work is
21 occurring in 2024 and will occur during 2025), and the anticipated in-service date for the

¹³ *Midwest Indep. Transm. Sys. Operator, Inc.*, 106 FERC ¶ 61,302, P 13 (2004) (quoting *Bluefield*, 262 U.S. at 693).

1 Propel NY Project is May 2030.

2 NYPA is in the middle of its Transmission Life Extension and Modernization (“TLEM”)
3 Program which will continue through 2030. NYPA anticipates investing \$726 million on
4 these efforts through 2030, of which \$481 million has been invested through 2023.

5 Through its TLEM Program, NYPA has and will continue to address impending end-of-
6 life obsolescence of crucial transmission system assets. In addition, NYPA will be
7 investing \$617 million in its Niagara Hydro facility over 2024 to 2030 as part of Next
8 Gen Niagara Project, a program to modernize and extend the operating life of the Niagara
9 Hydroelectric facility.

10 Overall, NYPA plans to invest over \$4.5 billion dollars from 2024 to 2030, comprised of
11 \$2.2 billion in transmission infrastructure, \$1.2 billion in generation facilities (primarily
12 at its Niagara facility) and \$1.1 billion in general and intangible plant.

13 **Q. Has NYPA recently been given expanded authority to develop renewable generation**
14 **projects to help New York achieve its Climate Leadership and Community**
15 **Protection Act (“CLCPA”) requirements?**

16 A. Yes. The 2023-2024 (New York) State Budget Enactment significantly expands NYPA’s
17 role in the renewable energy sector by giving NYPA authority to develop, own and
18 operate new renewable generation projects. NYPA’s efforts in this area, either on its own
19 or in partnership with other entities, will further place demands on NYPA’s capital
20 investment, which amounts have not been included in the capital investment amounts
21 above for the 2024 to 2030 period.¹⁴

¹⁴ NYPA has not yet determined the capital investment requirements related to its greatly expanded role in renewable energy development, but expects such capital investment requirements to be significantly additive to the \$4.5 billion for its other capital investment needs described above.

1 **Q. How does NYPA plan to finance these significant investments?**

2 A. NYPA plans to finance these investments with a combination of internally generated
3 funds and accessing the debt markets. Internally generated funds result from net income
4 (called “net position” by the Governmental Accounting Standards Board (“GASB”)) and
5 noncash expenses, like depreciation. It is key for NYPA to earn a fair return on its equity
6 capital (net position) to increase internally generated funds to help finance its significant
7 capital program.

8 **Q. What are NYPA’s current bond ratings?**

9 A. In September 2024, NYPA received updated ratings from all four rating agencies. S&P
10 Global Ratings assigned its 'AA' rating to NYPA’s proposed \$400 million Power
11 Authority of the State of New York revenue bonds, series 2024A (green bonds). S&P
12 Global Ratings also affirmed its AA rating on NYPA’s \$1.25 billion senior revenue
13 bonds and AA- rating on the authority's \$1.57 million subordinate notes (Series 2017)
14 with a stable outlook for all long-term ratings.¹⁵ Fitch Ratings (“Fitch”) assigned an AA
15 rating to the \$400 million Revenue Bonds Series 2024A (Green Bonds), affirmed its AA
16 rating on NYPA’s \$1.6 billion of senior revenue bonds and subordinate notes (Series
17 2012) with a stable outlook.¹⁶ Fitch also affirmed an AA- rating with stable outlook for
18 NYPA’s Transmission Project Revenue Bonds.¹⁷ Moody’s Investors Service
19 (“Moody’s”) upgraded its rating from Aa2 to Aa1 and affirmed the stable outlook of
20 NYPA’s senior debt. Moody’s also upgraded the transmission resolution revenue bonds

¹⁵ S&P Global Ratings, Ratings Direct, Summary: New York State Power Authority dated September 16, 2024.

¹⁶ Fitch Ratings, New York Power Authority dated September 16, 2024.

¹⁷ *Id.*

1 to Aa3 from A1 and affirmed the stable outlook.¹⁸ Kroll Bond Rating Agency (“KBRA”)
2 assigned an AA+ rating to the authority’s Revenue Bonds Series 2024A (Green Bonds)
3 with a stable outlook. KBRA also upgraded its rating on NYPA’s transmission resolution
4 revenue bonds to AA from AA- with a stable outlook¹⁹ and upgraded NYPA’s general
5 resolution revenue bonds to AA+ from AA and affirmed its stable outlook.²⁰ As is
6 evident, NYPA has healthy debt ratings from the major credit rating services, which it
7 desires to retain, especially as it utilizes the debt markets to finance its planned
8 significant capital investments through 2030.

9 **Q. How will NYPA’s significant capital investment plan for the period 2024 to 2030**
10 **impact its credit metrics upon which the rating entities rely?**

11 A. The significant capital investment will put pressure on NYPA’s credit metrics during this
12 period. NYPA is fortunate to be entering this heavy capital investment period in a strong
13 financial position, which is reflected in the current credit ratings. The increase in its base
14 ROE requested herein will help NYPA to remain in a strong financial position and
15 maintain its current credit ratings that attract investors to NYPA’s debt instruments, to the
16 benefit of its customers.

17 **Q. Does this conclude your direct testimony?**

18 A. Yes, it does.

¹⁸ The Bond Buyer at <https://www.bondbuyer.com/news/new-york-state-power-authoritys-outlook-revised-to-positive-by-moodys>. [can only use this link with a Bond Buyer account. Any other way to access this Moody information?] Could use: American Public Power Association; <https://www.publicpower.org/periodical/article/moodys-kbra-upgrade-ratings-assigned-nypa-revenue-bonds>.
September 17, 2024

¹⁹ KBRA Public Finance Surveillance Report, Power Authority of the State of New York (NYPA) – Transmission Resolution dated September 27, 2024.

²⁰ KBRA Public Finance Rating Report, Power Authority of the State of New York, General Resolution dated September 17, 2024.