

**UNITED STATES OF AMERICA**

**BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**New York Power Authority** )  
**New York Independent System Operator,** ) **ER25-198-000**  
**Inc.** )

**EXPLANATORY STATEMENT  
IN SUPPORT OF UNCONTESTED OFFER OF SETTLEMENT**

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”),<sup>1</sup> the New York Power Authority (“NYPA”), on behalf of the active Settling Parties (each a “Settling Party” and collectively the “Settling Parties”),<sup>2</sup> submits this explanatory statement in support of an Uncontested Offer of Settlement (“Settlement” or “Settlement Agreement”) to resolve all of the issues set for hearing in Docket No. ER25-198-000.

**I. INTRODUCTION**

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

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<sup>1</sup> 18 C.F.R. § 385.602 (2024).

<sup>2</sup> The Settling Parties include the following: NYPA; Multiple Intervenors (an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located in New York State) and its members; New York Association of Public Power, and Municipal Electric Utilities Association of New York. The City of New York, Consolidated Edison Company of New York, Inc. and the New York State Public Service Commission (the “Other Parties”) participated in settlement proceedings but are not parties to this Settlement and do not take a position on the Settlement. In accordance with their customary way of participating in settlements, FERC Staff is not a “Settling Party,” but participated in the proceeding. The participation of the New York Independent System Operator, Inc. (“NYISO”) in this proceeding is limited solely to its role as tariff administrator, and the NYISO takes no position with respect to the substantive issues in the Settlement.

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.<sup>3</sup> 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.<sup>4</sup> NYPA’s Formula Rate also recovers the costs of its New York bulk power transmission facilities not considered part of the NYPA backbone.

This proceeding was initiated by NYPA to revise its formula rate included in Attachment H to section 14.2.3.1 of the NYISO Open Access Transmission Tariff (“OATT”). Specifically, on October 24, 2024, NYPA submitted a filing pursuant to section 205 of the Federal Power Act

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<sup>3</sup> 16 U.S.C. §§ 796(7) and 824(f).

<sup>4</sup> 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).

(“FPA”),<sup>5</sup> Part 35 of the Commission’s regulations,<sup>6</sup> requesting the following: : (i) a modified base rate of return on equity (“ROE”) of 10.98 percent, and (ii) related revisions to Section 14.2.3.1 of Attachment H of the NYISO OATT to amend the ROE contained in the Formula Rate, which calculates NYPA’s net annual transmission revenue requirement (“ATRR”) for its investments in transmission facilities located throughout New York State.

On December 23, 2024, the Commission issued an order accepting the proposed base ROE of 10.98% for filing, effective November 1, 2024, subject to refund and to the outcome of hearing and settlement procedures.<sup>7</sup>

By order dated December 31, 2024, Acting Chief Administrative Law Judge Andrew Satten issued an order designating Judge Patricia M. French as the Settlement Judge.<sup>8</sup> Virtual settlement conferences were held before Judge French on January 24, April 10, May 7, May 8, and October 27, 2025.<sup>9</sup> The Settling Parties exchanged several rounds of proposals through October 23, 2025. On October 27, the Settling Parties agreed to a settlement in principle as reflected in the Uncontested Offer of Settlement.<sup>10</sup>

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<sup>5</sup> 16 U.S.C. § 824d.

<sup>6</sup> 18 C.F.R. Part 35 (2025).

<sup>7</sup> *New York Power Authority*, 189 FERC ¶ 61,228 at Ordering Paragraph (A) (2024) (“December 23 Order”).

<sup>8</sup> *See, Order of Chief Judge Designating Settlement Judge*, Docket No. ER25-198-000 (Dec. 31, 2024).

<sup>9</sup> *See, Order Scheduling First Settlement Conference*, issued January 8, 2025; *Order Scheduling Second, Third and Fourth Settlement Conferences*, issued January 27, 2025; *Order Scheduling Fifth Settlement Conference*, issued October 27, 2025.

<sup>10</sup> In accordance with Ordering Paragraph (D) of the December 23 Order, Administrative Law Judge French submitted Status Reports to the Commission and the Chief Judge on January 30, 2025; March 27, 2025; May 22, 2025; July 16, 2025; September 11, 2025; and November 10, 2025.

## **II. SUMMARY OF SETTLEMENT AGREEMENT**

The Settling Parties have engaged in settlement negotiations resulting in a Settlement Agreement that comprehensively resolves all issues in this proceeding. A summary of the provisions of the Settlement Agreement is included below. The Settlement Agreement binds each of the Settling Parties to the terms and conditions included therein.

Article I sets forth the procedural history of this proceeding.

Article II describes the scope of the Settlement Agreement. Article 2.1 clarifies that the Settlement Agreement resolves all outstanding issues pertaining to NYPA's formula rate in Docket No. ER25-198-000, including those accepted and set for hearing or settlement in Ordering Paragraphs (A) and (B) of the Commission's December 23 Order.

Article III sets forth the terms and conditions of the Settlement Agreement. Article 3.1 confirms that the Settling Parties agree to be bound by the terms of the Settlement Agreement. Article 3.2 establishes that the company-wide base ROE that will apply for all of NYPA's transmission investments is 9.75%. The Settling Parties agree not to seek a change in the base ROE for the period of November 1, 2024 through October 31, 2029. Starting November 1, 2029, the base ROE shall continue in effect unless or until modified by the Commission pursuant to Sections 205 or 206 of the FPA.

Article 3.3 provides that for purposes of rate recovery under the Formula Rate, NYPA shall utilize a capital structure of 51% equity and 49% debt. The Settling Parties agree not to seek a change in the capital structure for the period of November 1, 2024 through October 31, 2029. Starting November 1, 2029, the capital structure shall continue in effect unless or until modified by the Commission pursuant to Sections 205 or 206 of the FPA.

Article 3.4 provides that the Formula Rate revisions necessary to implement the provisions of the Settlement are included in red-lined and clean format in Appendices A and B to the Settlement Agreement.

Article 3.5 describes the stay-out period, during which the Settling Parties agree not to make any filing pursuant to sections 205 or 206 of the FPA that seeks to change the base ROE value of 9.75%, the capital structure, or any other term inconsistent with the terms of the Settlement through October 31, 2029.

Article 3.6 provides that the Settling Parties agree that for purposes of calculating refunds for transmission service provided during the period from November 1, 2024, to the date the Commission accepts this Settlement Agreement and NYPA incorporates the Settlement into its ATRR, the changes to formula rate inputs in Attachment H and the charges or credits produced therefrom, will be incorporated into the Annual Update for the next Rate Year following the Commission's acceptance of this Settlement Agreement. At that time, NYPA will prepare and submit with the Annual Update a worksheet detailing the refund and interest calculation. Except as otherwise specified pursuant to a Commission order, all refunds or surcharges shall be determined with interest calculated in accordance with 18 C.F.R. § 35.19a.

In Article 3.7, the Settling Parties agree either to support or not to oppose the Settlement Agreement and not to take any position adverse to the express terms of the Settlement Agreement in any proceedings before the Commission that relate to the Settlement and NYPA. Article 3.7 also recognizes that the Settlement Agreement does not restrict Settling Parties' ability to question NYPA's application of the formula rate template or implementation protocols or the actual costs proposed to be recovered and related to NYPA's yearly revenue requirement, whether through

annual updates to NYPA's formula rates or otherwise, in accordance with NYPA's Formula Rate Implementation Protocols.

Article 3.8 provides that to the extent the Commission does not approve all aspects of the Settlement Agreement, the Settling Parties will have 30 days to withdraw their support for the Settlement Agreement.

Articles IV, V, VI, and VII address the general provisions of the Settlement Agreement including effective date, precedential effect and standard of review. Article 4.1 states that the Settlement shall be effective on the date on which the Commission issues an order approving the Settlement without modification. Article 5.1 provides that the Settlement shall not constitute a precedent in any future proceeding.

Article 6.1 establishes that the standard of review for any change to the Settlement proposed by a Settling Party shall be the "public interest" application of the just and reasonable standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956), and *Fed. Power Comm'n v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm'n*, 558 U.S. 165 (2010). The ordinary just and reasonable standard of review (rather than the "public interest" standard), as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), shall apply for changes to the Settlement sought by FERC acting *sua sponte*, the Settling Parties acting unanimously, or at the request of any non-settling party or a non-party to this proceeding.

Article VII contains certain miscellaneous provisions and reservations of rights.

### III. RESPONSES TO REQUIRED QUESTIONS

In accordance with the Chief Administrative Law Judge's December 15, 2016, *Amended Notice to the Public on Information to be Provided with Settlement Agreements and Guidance on the Role of Settlement Judges*, the Settling Parties provide the following responses to the questions identified by the Chief Administrative Law Judge:

**A. Does the settlement affect other pending cases?**

No, the Settlement does not affect other pending cases.

**B. Does the settlement involve issues of first impression?**

No, the Settlement does not involve issues of first impression.

**C. Does the settlement depart from Commission precedent?**

No, the Settlement does not depart from Commission precedent.

**D. Does the settlement seek to impose a standard of review other than the ordinary just and reasonable standard with respect to any changes to the settlement that might be sought by either a third party or the Commission acting *sua sponte*?**

No. Article 6.1 of the Settlement provides that any changes sought by a third party or the Commission acting *sua sponte* are subject to the ordinary just and reasonable standard of review (rather than the "public interest" standard) as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008).

### IV. REQUEST FOR SHORTENED COMMENT PERIOD

Due to the narrowness of the issues addressed in this Settlement, which is uncontested by any active party or FERC Staff, NYPA believes there is good cause to shorten the initial comment period and for reply comments to be waived. NYPA is authorized by the Settling Parties, the Other Parties and FERC Staff to request that the initial comment period be shortened to 7 days and, because there is no need for replies, that reply comments be waived. Accordingly, comments on the Settlement would be due on November 24, 2025.

## V. CONCLUSION

The Settlement Agreement fully resolves all issues that were set for hearing in Docket No. ER25-198-000, in a fair and reasonable manner that is in the public interest. Commission approval of the Settlement will avoid the expense and risk associated with hearing proceedings and any subsequent litigation. For these reasons, NYPA respectfully requests that a shortened comment period be established; that the presiding Administrative Law Judge certify the Settlement Agreement to the Commission as soon as possible following the shortened comment period; and, that the Commission approve the Settlement Agreement without condition or modification at the earliest possible date following certification.

Respectfully submitted,

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