

VIA ELECTRONIC TARIFF FILING

May 4, 2015

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

**Re: *New York Independent System Operator, Inc. et al.*, Compliance Filing
Docket No. ER15-572-000**

Dear Ms. Bose:

In compliance with the *Order on Transmission Formula Rate, Return on Equity, Cost Allocation, and Transmission Incentives* issued by the Federal Energy Regulatory Commission (“Commission”) in the above-captioned proceeding on April 2, 2015,¹ New York Transco, LLC (“NY Transco”), Consolidated Edison Company of New York, Inc. (“Con Edison”), Orange & Rockland Utilities, Inc. (“O&R”), Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), New York State Electric & Gas Corp. (“NYSEG”), Rochester Gas and Electric Corp. (“RG&E”), and Central Hudson Gas & Electric Corp. (“Central Hudson”)² respectfully submit this compliance filing. NY Transco and the NYTOs are referred to in this filing as the “Filing Parties.”

I. COMMUNICATIONS

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¹ *New York Independent System Operator, Inc. et al.*, 151 FERC ¶ 61,004 (2015) (“April 2015 Order”).

² Con Edison, O&R, National Grid, NYSEG, RG&E and Central Hudson are sometimes referred to herein as the “New York Transmission Owners,” or more simply, the “NYTOs.”

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II. LIST OF DOCUMENTS SUBMITTED

The Filing Parties respectfully submit the following documents for filing:

1. A Transmittal letter;
2. A clean version of the New York Independent System Operator, Inc. ("NYISO") Open Access Transmission Tariff ("OATT"), Section 36, Attachment DD - Rules to Allocate the Cost of NY Transco LLC Transmission Facilities and Formula Rates, which reflects proposed revisions in compliance with the April 2015 Order (Attachment A); and
3. A redline and strikeout version of NYISO OATT, Section 36, Attachment DD - Rules to Allocate the Cost of NY Transco LLC Transmission Facilities and Formula Rates, which reflects the proposed revisions in compliance with the April 2015 Order (Attachment B).

III. BACKGROUND

On December 4, 2014, NY Transco and the NYTOs submitted an application providing a proposed transmission cost-of-service formula rate template and formula rate implementation protocols for NY Transco to recover the costs associated with five transmission projects that NY Transco will develop and own.³ The Filing Parties also requested several transmission rate incentives.

³ *New York Transco, LLC, et al.*, Application for Acceptance of Transmission Formula Rate and Approval of Transmission Rate Incentives and Cost Allocation Method, Docket No. ER15-572-000 (filed Dec. 4, 2014).

The April 2015 Order accepted in part, and rejected in part, the transmission rate incentives requested by the Filing Parties.⁴ The April 2015 Order also accepted and suspended, for a nominal period, the formula rate proposal, subject to refund, and established hearing and settlement judge procedures for certain formula rate issues.⁵ The Commission directed the Filing Parties to make a compliance filing within 30 days of the April 2015 Order: (1) revising the formula rate protocols (“Protocols”) to add the New York Association of Public Power’s (“NYAPP”) proposed Section 3(e)(ix) and to revise Section 4(b) regarding interested parties’ rights with respect to requests for information on intercompany allocations and listing project specific data; and (2) removing from the proposed tariff the cost allocation for all five projects.⁶

IV. REVISIONS TO FORMULA RATE PROTOCOLS

The Protocols are located in Section 36.3.1.2 of Attachment DD of the NYISO OATT. The April 2015 Order directed the Filing Parties to revise Section 3(e) of the Protocols to include NYAPP’s proposed language, which identifies the specific amounts included in the Annual Update related to each transmission incentive project with a derivation value for each project.⁷ In addition, the Commission directed the Filing Parties to revise Section 4(b) of the Protocols to be consistent with the transparency requirements outlined in *Midwest Independent Transmission Sys. Operator, Inc.*⁸ Specifically, the Commission asked the Filing Parties to remove the limitations on seeking information related to costs or allocations.⁹

In compliance with the April 2015 Order, the Filing Parties have added the following language proposed by NYAPP as new Section 3(e)(vi) of the Protocols:

Shall identify the specific amounts included in the Annual Update related to each transmission incentive project, a citation to the proceeding in which FERC granted the incentive, and provide a derivation of the value for each such project.

The Filing Parties also have revised Section 4(b) of the Protocols to remove the following text:

Information requests shall not solicit information concerning costs or allocations where the costs or allocation methods have been determined to be appropriate by FERC in the context of prior NY Transco Annual Updates, except that such information requests shall be permitted if they (i) seek to determine if there has been a change in circumstances, (ii) are in connection with corrections pursuant to Section 6, or (iii) relate to costs or allocations that have not previously been challenged and adjudicated by FERC.

⁴ April 2015 Order at PP 75-100.

⁵ *Id.* at PP 140-148.

⁶ *Id.* at Ordering Paragraphs (E) and (F).

⁷ *Id.* at P 144.

⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61,149 (2013), *reh’g denied*, 146 FERC ¶ 61,209 (2014).

⁹ April 2015 Order at P 146.

V. COST ALLOCATION

The cost allocation tables for each project are located in Section 36.2 of Attachment DD of the NYISO OATT.¹⁰ In the April 2015 Order, the Commission noted that Power Supply Long Island and New York Power Authority have not agreed to pay the percentage of costs allocated to their transmission districts under the Filing Parties' proposed cost allocation method for the TOTS and AC Projects.¹¹ Thus, the Commission rejected the Filing Parties' proposed cost allocation and directed the Filing Parties to make a compliance filing removing the cost allocation for all five projects from the proposed tariff.¹²

In compliance with the April 2015 Order, the Filing Parties have removed the percentage of costs attributable to each transmission district from the cost allocation tables in Section 36.2 of Attachment DD of the NYISO OATT.

The Filing Parties are submitting simultaneously herewith a request for rehearing of the April 2015 Order challenging, *inter alia*, the Commission's rejection of their proposed cost allocation. The ultimate resolution of the cost allocation issue by the Commission on rehearing, by a court on appeal, or otherwise may cause a later retroactive adjustment to the cost allocation submitted by the Filing Parties.¹³

VI. SERVICE

The Filing Parties will serve each person designated on the official service list compiled by the Secretary in this proceeding.

VII. TARIFF EFFECTIVE DATE

The Filing Parties request an effective date for the revised tariff section of April 3, 2015.

¹⁰ Section 36.2 of Attachment DD only includes tables allocating the costs of the three TOTS Projects. There are no cost allocation tables to remove with respect to the AC Projects.

¹¹ *Id.* at P 185.

¹² *Id.* at P 188, Ordering Paragraph (F).

¹³ See, e.g., *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 300 (D.C. Cir. 2001) ("The filed rate doctrine simply does not extend to cases in which buyers are on adequate notice that resolution of some specific issue may cause a later adjustment to the rate being collected at the time of service.") (internal quotations omitted).

VIII. CONCLUSION

WHEREFORE, NY Transco and the New York Transmission Owners respectfully request that the Commission accept this compliance filing, without requiring any modifications.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010.

Dated at Washington, D.C., this 4th day of May, 2015.

/s/ Carlos L. Sisco

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