



January 15, 2021

**VIA E-TARIFF**

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

Re: Incorporation of NextEra Energy Transmission New York, Inc., Formula Rate into the New York Independent System Operator, Inc. Open Access Transmission Tariff, Docket No. ER21-\_\_\_\_-000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act<sup>1</sup> and Part 35 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") regulations,<sup>2</sup> the New York Independent System Operator, Inc. ("NYISO"), as administrator of the NYISO Open Access Transmission Tariff ("OATT" or "Tariff"), hereby submits via eTariff on behalf of NextEra Energy Transmission New York, Inc. ("NEET New York") revisions to the NYISO Open Access Transmission Tariff ("OATT") to (i) incorporate the formula rate template and implementation protocols previously approved by the Commission for NEET New York as NYISO OATT Section 6.10.9, Attachment 3 to Rate Schedule 10; and (ii) incorporate the previously approved cost allocation for NEET New York's Empire State Line Project ("ESL Project") into NYISO OATT Section 31.8.4, Appendix E to Attachment Y. NEET New York requests an effective date of March 17, 2021, (i.e., the day following the end of the statutory 60-day notice period), for the enclosed revisions.<sup>3</sup>

**I. List of Documents Submitted**

NEET New York submits the following documents with this filing letter:

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 CFR Part 35 (2018).

<sup>3</sup> The NYISO submits this filing on behalf of NEET New York solely in its role as administrator of the OATT. The burden of demonstrating that the proposed tariff amendments are just and reasonable rests with NEET 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 OATT.

1. A clean version of the proposed revisions to the OATT (Attachment I);
2. A blacklined version of the proposed revisions to the OATT (Attachment II); and
3. A native (Microsoft Excel) version of the NEET New York formula rate (Attachment III).

## **II. Copies of Correspondence**

Communications regarding this pleading should be addressed to:

*For NEET New York:*

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## **III. Background**

NEET New York is a wholly-owned direct subsidiary of NextEra Energy Transmission, LLC (“NEET”), and is incorporated under the Transportation Corporation Laws of New York. NEET New York was formed to develop, construct, finance, own, operate, and maintain high-voltage electric transmission facilities in the NYISO region as a portfolio.

On September 30, 2016, in Docket No. ER16-2719-000, NEET New York submitted for filing with the Commission a proposed formula rate template and associated implementation protocols. NEET New York also requested Commission approval of several rate incentive treatments incorporated in the formula rate template: (i) a base return on equity (“ROE”) of 10.5 percent and a 50 basis point ROE Adder for Regional Transmission Organization/Independent System Operator participation (RTO/ISO Participation Adder); (ii) a regulatory asset account for NEET New York’s prudently incurred pre-commercial and formation costs for later recovery, with carrying charges; and (iii) a hypothetical capital structure of 60 percent equity and 40 percent debt, to remain in effect until the first transmission project is placed in service. At the time, NEET New York explained that the formula rate template would be a NEET New York tariff and that it was not yet incorporated into the NYISO OATT. By delegated letter order issued in Docket No. ER16-2719-000 on February 16, 2017, NEET New York’s filing was accepted

and suspended for a nominal period, to be effective November 30, 2016, as requested, subject to refund and further Commission order.<sup>4</sup>

On November 3, 2017, the Commission issued a further order accepting and suspending NEET New York's September 30 Filing for a nominal period to be effective November 30, 2016, subject to condition, and setting the base ROE of the Formula Rate for hearing and settlement judge procedures.<sup>5</sup> The November 2017 Order also granted NEET New York: (1) recovery of all pre-commercial and formation costs that are not capitalized through the establishment of a regulatory asset account, with carrying charges accruing beginning on November 30, 2016; (2) the use of a hypothetical capital structure of 60 percent equity and 40 percent debt prior to its first transmission project going into service; and (3) a 50 basis point ROE adder for NEET New York's participation in NYISO.

Separately, on October 20, 2017, in Docket No. ER18-125-000, NEET New York requested approval of certain incentive rate treatments for its investment in the ESL Project, a Public Policy Transmission Project pursuant to Attachment Y of the OATT. The NYISO selected NEET New York's ESL Project on October 17, 2017 in response to the Western New York Public Policy Transmission Need identified by the New York State Public Service Commission on July 20, 2015 in Case No. 14-E-0454. In its filing to the Commission, NEET New York requested that the Commission grant authorization of the following incentives: (i) recovery of 100% of prudently incurred costs in the event the ESL Project must be abandoned for reasons outside of NEET New York's reasonable control ("Abandoned Plant Incentive"); (ii) inclusion of 100% Construction Work In Progress ("CWIP") in rate base; (iii) an incentive return on equity adder of 50 basis points ("ROE Incentive Adder"); and (iv) an incentive return on equity adder of 50 basis points for independent transmission ownership ("Transco Adder"). The Commission granted the requests for the ROE Incentive Adder and the Transco Adder, subject to the resulting ROE being within the zone of reasonableness for NEET NY in Docket No. ER16-2719-000, *et al.*, and the Commission also granted the Abandoned Plant Incentive and CWIP incentive.<sup>6</sup>

On May 25, 2018, NEET New York filed an offer of settlement ("Settlement Agreement") in Docket No. ER16-2719-000. The Settlement Agreement resolved all of the issues set for hearing and settlement procedures in Docket No. ER16-2719-000, including a base ROE, as well as NEET NY's incentive rate treatments for the ESL Project and certain issues associated with NEET NY's potential development of a separate set of transmission projects in New York, the "AC Transmission Projects."<sup>7</sup> Relevant here, the

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<sup>4</sup> *NextEra Energy Transmission New York, Inc.*, 158 FERC ¶ 62,109 (2017).

<sup>5</sup> *NextEra Energy Transmission New York, Inc.*, 161 FERC ¶ 61,138 (2017) ("November 2017 Order").

<sup>6</sup> *NextEra Energy Transmission New York, Inc.*, 162 FERC ¶ 61,196 (2018).

<sup>7</sup> While NEET New York ultimately was not selected as a developer of the AC Transmission Projects, the Settlement Agreement provides for the recovery of "Project Development Costs" incurred by NEET New York related to its participation in the Public Policy Transmission Planning Process for the AC Transmission

Settlement Agreement also included a cost allocation for recovery of the costs of the ESL Project. The Settlement Agreement was approved by the Commission on August 17, 2018.<sup>8</sup>

#### **IV. Description of the Proposed Tariff Revisions**

The enclosed revisions to the OATT are submitted consistent with the Settlement Agreement reached in Docket No. ER16-2719-000. In particular, article 4(a) of the Settlement Agreement provides:

As necessary, NEET NY will make appropriate filings (“Implementation Filings”) to FERC to implement the foregoing terms of this settlement agreement, including filings to (i) propose revisions to the NEET NY formula rate and rate incentive treatment to reflect the foregoing rate treatments with respect to the Empire State Line Project; (ii) to the extent NEET NY is selected as the developer of the AC Transmission Project, propose revisions to the NEET NY formula rate to reflect the rate incentive treatment and terms applicable for the AC Transmission Project as discussed herein; and (iii) incorporate the NEET NY formula rate into the NYISO Tariff.<sup>9</sup>

The tariff revisions submitted herewith include limited modifications to Rate Schedule 10 and Attachment Y of the OATT. Rate Schedule 10 establishes the Regulated Transmission Facilities Charge (“RTFC”) for the recovery of costs associated with a regulated transmission project that is eligible for cost recovery in accordance with the NYISO Comprehensive System Planning Process (“CSPP”). The ESL Project is a Public Policy Transmission Project that is being developed as a regulated transmission project through the CSPP. Section 6.10.4.2 of Rate Schedule 10 requires a filing with the Commission for approval of the revenue requirement for a project to be recovered through a RTFC. To that end, and in light of the Commission’s prior approval of the formula rate for NEET New York, NEET New York proposes a new Attachment 3 to Rate Schedule 10 to be used in the calculation of the RTFC associated with the ESL Project.

The tariff revisions attached herewith propose to include a new Section 6.10.9.1, which provides that Attachment 3 to Rate Schedule 10 establishes the RTFC for NEET New York. Proposed Section 6.10.9.2 provides that the revenue requirement for NEET New York shall be determined in accordance with the Formula Rate Template and Formula Rate Protocols, which are included as Sections 6.10.9.2.1 and 6.10.9.2.2, respectively. The NEET New York Formula Rate Template included in Section 6.10.9.2.1

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Public Policy Transmission Needs identified by the New York State Public Service Commission on December 17, 2015 in Case No. 12-T-0502 prior to the NYISO’s selection of one or more competing developers’ projects to address the AC Transmission Public Policy Transmission Needs.

<sup>8</sup> *NextEra Energy Transmission New York, Inc.*, 164 FERC ¶ 61,117 (2018).

<sup>9</sup> Settlement Agreement, Art. 4(a).

is the same template previously approved by the Commission, with several limited corrections to references. In particular, NEET New York fixed several incorrect internal references on lines 92, 93, and 94 of Appendix A of the template, and corrected a reference in an introductory sentence above the table beginning on line 66 of Attachment 4 of the template. The template also includes the corrections filed with NEET New York's revised compliance filing submitted on March 29, 2019, in Docket No. ER16-2719-007, which was accepted by Commission letter order dated July 9, 2019.<sup>10</sup> Lastly, Section 6.10.9.3 provides that NEET New York's Project Development Costs associated with the AC Transmission Project shall be allocated to Responsible LSEs consistent with the existing cost allocation methodology provided in Section 31.8.2 of the Tariff for the AC Transmission Public Policy Transmission Need, while NEET New York's costs associated with the ESL Project shall be allocated to Responsible LSEs consistent with the cost allocation methodology for the Western New York Public Policy Transmission Need that was included as section 3.5(b) of the Settlement Agreement approved by the Commission and which, as discussed below, is now being incorporated into the NYISO Tariff at Section 31.8.4.

Attachment Y governs the CSPP, setting forth the NYISO process for reliability planning, economic planning, Public Policy Requirements planning, cost allocation and cost recovery, and the interregional planning process. Within Attachment Y, Sections 31.5.5.4.2 and 31.5.5.4.3 address the default load ratio based cost allocation methodology for Public Policy Transmission Projects, as well as the process for establishing an alternative cost allocation methodology. As noted above, the Settlement Agreement established a cost allocation methodology for the ESL Project to be used in lieu of the default load ratio based cost allocation methodology. Therefore, a new Section 31.8.4 is included to set forth the ESL Project cost allocation methodology that was approved in section 3.5(b) of the Settlement Agreement. As discussed above, this new Section 31.8.4 is cross-referenced in Section 6.10.9.3 as the cost allocation for the portion of NEET New York's revenue requirement related to the ESL Project.

## **V. Effective Date**

NEET New York respectfully requests that the proposed tariff revisions become effective on March 17, 2021, (i.e., the day following the end of the statutory 60-day notice period).

## **VI. Service**

The NYISO has informed NEET New York that it will send an electronic link to this filing to the official representative of each of its customers, each participant on its stakeholder committees, and the New York State Public Service Commission. The NYISO

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<sup>10</sup> *NextEra Energy Transmission New York, Inc.*, Docket Nos. ER16-2719-004 et al., Letter Order (issued July 9, 2020).

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has also informed NEET New York that it will post the complete filing on its website at [www.nyiso.com](http://www.nyiso.com).

## **VII. Conclusion**

For the reasons discussed herein, NEET New York respectfully requests that the Commission accept the proposed revisions to the OATT attached hereto with an effective date of March 17, 2021.

Respectfully submitted,

/s/ Justin P. Moeller

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