

SUBMITTED VIA E-TARIFF FILING

February 22, 2017

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

**Re: *New York Independent System Operator, Inc.*, Docket No. ER17-____-000
Request for Acceptance of Updated Depreciation Rates**

Dear Ms. Bose:

In accordance with section 205 of the Federal Power Act (“FPA”)¹ and Order No. 618² of the Federal Energy Regulatory Commission (“Commission” or “FERC”), the New York Power Authority (“NYPA”) hereby submits this request for acceptance of updated depreciation rates, which will be used in the calculation of charges for transmission services provided under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”). Specifically, NYPA proposes to update its stated depreciation rates used in calculating transmission charges under NYPA’s transmission formula rate (“Formula Rate”), which is contained in Section 14.2.3 of Attachment H of the NYISO OATT.³

NYPA submits this request as a single-issue FPA section 205 filing, consistent with Commission precedent⁴ and the terms of NYPA’s recent uncontested Offer of Settlement approved in Docket No. ER16-835-000 (“Settlement”).⁵ NYPA seeks an effective date for the proposed updated depreciation rates of March 1, 2017, in accordance with the terms of the Settlement.

¹ 16 U.S.C. § 824d (2012).

² *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs., Regulations Preambles 1996-2000 ¶ 31,104, at p. 31,695 n.25 (2000) (“Order No. 618”).

³ The tariff revisions proposed herein updating NYPA’s depreciation rates 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.

⁴ See *Ameren Ill. Co.*, 141 FERC ¶ 61,264, at P 32 (2012).

⁵ See *N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,043, at P 4 (2017). The Settlement was accepted by the Commission on January 19, 2017. See *id.* at P 3.

I. BACKGROUND

A. Description of NYPA

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.⁶ NYPA is engaged in the generation, transmission, and sale of electric power and energy at wholesale and retail throughout New York, and is a founding member of the NYISO. NYPA's bulk power transmission system encompasses approximately 1,400 circuit miles and consists of facilities ranging from 115 kilovolts ("kV") to 765 kV. As the largest state-owned power organization in New York, NYPA has taken responsibility for constructing, owning, and operating critical segments of transmission infrastructure throughout New York.

B. Background on the Instant Depreciation Rate Filing

On January 29, 2016, NYPA made a section 205 filing in Docket No. ER16-835-000 to convert its stated rate to a formula rate that determines NYPA's annual transmission revenue requirement ("ATRR") associated with facilities it has transferred to the NYISO's functional control, which the NYISO utilizes to provide transmission service under the NYISO OATT. The January 29 Filing proposed depreciation rates for inclusion in the Formula Rate. On March 31, 2016, the Commission issued an order accepting NYPA's Formula Rate and setting it for hearing and settlement judge procedures.⁷ Subsequently, the parties reached the Settlement, which resolved all issues in Docket No. ER16-835-000.⁸ The Settlement was approved by the Commission on January 19, 2017.⁹

Of relevance to this filing is Section 3.4 of the Settlement, which concerns NYPA's depreciation rates.¹⁰ The Settlement provides that NYPA will make a single-issue section 205 filing to establish updated depreciation rates based on a new depreciation study, to be effective March 1, 2017.¹¹ This filing constitutes the single-issue filing required by the Settlement to update NYPA's depreciation rates based on the new study.

⁶ NYPA 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. 16 U.S.C. § 824(f). Notwithstanding anything contained in this filing, NYPA, as a state entity, does not waive its non-jurisdictional status under Part II of the FPA.

⁷ *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268, at P 2 (2016).

⁸ *See N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,043, at P 3 ("The Settlement resolves all issues in this proceeding.").

⁹ *Id.*

¹⁰ New York Power Authority Offer of Settlement, Docket No. ER16-835-000, Art. III, Section 3.4 (filed Sept. 30, 2016) ("Settlement").

¹¹ The parties to the Settlement specifically agreed that the section 205 filing to update NYPA's depreciation rates would be a single-issue section 205 filing. *See* Settlement, at Section 3.4. The Settlement requires this single-issue filing to be made following the opportunity for the parties to the Settlement to review and confer with NYPA regarding the new depreciation study for a period of 75 days ("Depreciation Study Review Period") after NYPA notifies them that the study is complete. *See id.* NYPA notified the parties that the Depreciation Study was complete on October 5, 2016 and provided the requisite opportunity to review and confer. On November 21, 2016, the Municipal Electric Utilities Association ("MEUA") submitted informal information requests regarding the new depreciation study, which NYPA responded to on December 16, 2016 and December 21, 2016. NYPA also discussed the new study and MEUA's information requests in a conference call with MEUA's consultant. On

NYPA engaged the Alliance Consulting Group to conduct the new depreciation study (“Depreciation Study”) of NYPA’s transmission and general utility plant depreciable assets as of December 31, 2015. The Depreciation Study is attached hereto as Exhibit No. NYP-003, and is described in more detail below.

II. THE PROPOSED DEPRECIATION RATES ARE JUST AND REASONABLE

NYPA proposes to update its stated depreciation rates for transmission and general plant in its Formula Rate based on the Depreciation Study prepared by the Alliance Consulting Group. Although utilities need not seek prior approval for revised depreciation rates for accounting purposes, they must obtain Commission authorization “[t]o change prices charged for power sales or transmission services (whether determined by stated rates or formula rates) to reflect a change in depreciation.”¹² To make such a change, a utility must make a filing with the Commission pursuant to FPA section 205.¹³

NYPA’s use of a single-issue section 205 filing to seek Commission authorization to update its depreciation rates is appropriate and fully consistent with the Settlement and Commission precedent. The Settlement expressly provides that the filing to be made by NYPA to update its depreciation rates is to be a single-issue filing, and all parties to the Settlement expressly agreed to or did not oppose a stipulation that this filing would be a single-issue filing.¹⁴ Moreover, FERC has found that using a single-issue section 205 filing to update depreciation rates is appropriate, because such filing “only affects the timing of recovery of the costs and does not change the overall amount of recovery.”¹⁵ Indeed, single-issue depreciation filings are quite common and have been accepted by FERC in a number of recent cases.¹⁶ NYPA’s use of a

January 9, 2017, the City of New York also provided informal comments to NYPA. Although these comments were submitted after the close of the Depreciation Study Review Period (which occurred on December 19, 2016), NYPA provided a written reply to those comments in a letter dated February 21, 2017. No other party submitted comments to NYPA. The Depreciation Study Review Period has closed, the parties have been afforded the opportunity to confer with NYPA, and NYPA has responded to all comments received. Accordingly, NYPA is now making the instant filing.

¹² Order No. 618, FERC Stats. & Regs. ¶ 31,104 at p. 31,695 & n.25.

¹³ *Id.* at p. 31,695 n.25.

¹⁴ Settlement, at Section 3.4 (“NYPA shall make a single-issue FPA section 205 filing to establish new stated depreciation rates, to be effective March 1, 2017, based on the new depreciation study. The Parties agree that the FPA section 205 filing to update NYPA’s depreciation rates shall be a single-issue section 205 filing.”). The parties to the Settlement also agreed to a moratorium on changes to NYPA’s Formula Rate until April 1, 2020, with the exception of the changes to NYPA’s depreciation rates proposed herein. *See* Settlement, at Section 3.11.

¹⁵ *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32 (“Ameren Illinois’ filing seeks to change one component of its rate which only affects the timing of recovery of the costs and does not change the overall amount of recovery. The change to the depreciation accrual rates does not change the value of the underlying asset, and would not result in any over- or under-recovery of costs. In this circumstance, we find that it is appropriate to consider the change in depreciation alone”) (footnote omitted); *see also Xcel Energy Servs.*, 121 FERC ¶ 61,284, at P 72 n.81 (2007); *Boston Edison Co.*, 65 FERC ¶ 61,311, at pp. 62,425-27 (1993), *reh’g denied*, 66 FERC ¶ 61,337 (1994).

¹⁶ *See, e.g., Old Dominion Electric Coop.*, 133 FERC ¶ 61,261 (2010) (letter order); *American Transmission Co., LLC*, Docket No. ER17-191-000 (Dec. 15, 2016) (letter order); *Southern Company Servs.*, Docket No. ER16-2312-000 (Sept. 30, 2016) (letter order); *Southern Company Servs.*, Docket No. ER14-2665-000 (Oct. 2, 2014) (letter order); *American Transmission Co.*, Docket No. ER12-212-000 (Dec. 21, 2011) (letter order); *Arizona Public Service Co.*, Docket ER11-4184-000 (Sept. 26, 2011) (letter order); *ITC Midwest LLC*, Docket No. ER10-2110-000 (Sept. 2, 2010) (letter order).

single-issue filing to update its depreciation rates is appropriate and should be accepted by the Commission.

As demonstrated by this filing, NYPA's proposed depreciation rates are just and reasonable and fully supported by the Depreciation Study. The depreciation rates were developed using standard depreciation methodologies, and "allocate the cost of utility property over its useful service life in a systematic and rational manner."¹⁷ Accordingly, the Commission should accept them without suspension or hearing.

A. Proposed Depreciation Rates and Effect on Depreciation Expense

NYPA's updated depreciation rates for transmission and general plant are supported by the testimony and exhibits of Mr. Dane A. Watson, which are attached to this filing as Attachment C.¹⁸ Mr. Watson sponsors and explains the Depreciation Study (Ex. No. NYP-003) prepared by the Alliance Consulting Group, and recommends changes to NYPA's depreciation rates based on the Depreciation Study.¹⁹ The recommended change in depreciation rates would produce an overall decrease of \$4.6 million in annual depreciation expense for all accounts compared to rates currently in effect, if the proposed rates were used to develop calendar year 2015 depreciation accruals. This overall decrease consists of a decrease of \$833 thousand in depreciation expense for transmission accounts and a decrease of \$3.8 million for general plant accounts.²⁰ Appendix A of the Depreciation Study shows the computation of the proposed depreciation rates. Appendix B of the Depreciation Study shows the change in depreciation expense for the various accounts by comparing the accruals resulting from the existing depreciations rates with the accruals that would result from the proposed depreciation rates.²¹ As explained in Mr. Watson's testimony, the primary factors influencing the change in depreciation rates are changes in the terminal retirement dates for transmission assets and the lives for general plant assets.²² These factors decreased depreciation expense for transmission and general assets.²³

¹⁷ Order No. 618, FERC Stats. & Regs. ¶ 31,104 at p. 31,694; *see also* Uniform System of Accounts General Instruction No. 22 for Depreciation Accounting. In Order No. 618, the Commission declined to prescribe one single method for determining utility depreciation rates—finding that flexibility was needed—and instead determined, more generally, that utilities should use appropriate methods of depreciation to "allocate in a systematic and rational manner the cost of property to the periods during which the property is used in utility operations, *i.e.*, over its estimated useful service life." Order No. 618, FERC Stats. & Regs. ¶ 31,104 at p. 31,694.

¹⁸ Direct Testimony of Dane A. Watson, Ex. No. NYP-001 (hereinafter "Watson Testimony").

¹⁹ Watson Testimony at 3-4. The revised depreciation rates for existing project locations/accounts are provided in a table on pages 14-17 of Mr. Watson's testimony. The depreciation rates for new projects that are not covered by the revised depreciation rates for existing project locations/accounts are shown in a table on pages 18-19 of Mr. Watson's testimony. These rates would also apply to new plant that is added to accounts for a particular project where NYPA lacked depreciable plant as of 12/31/2015 (or all plant had been fully depreciated). *See* Watson Testimony at 4, 18-19.

²⁰ *See* Watson Testimony at 13; Depreciation Study, Ex. No. NYP-003, Executive Summary. These values are provided for illustrative purposes only. Pursuant to Section 3.4 of the Settlement, depreciation accruals using the new rates will not begin until March 1, 2017, and will not be reflected in NYPA's ATRR until its rates are updated on July 1, 2018 due to the NYPA Formula Rate's use of a historical test period.

²¹ Watson Testimony at 4.

²² *Id.* at 5.

²³ *Id.*

B. Depreciation Study Methodology

Mr. Watson's testimony and the attached Depreciation Study explain in detail the process for developing the Depreciation Study, as well as the methodologies, assumptions, and procedures used to complete the Depreciation Study and to calculate the updated depreciation rates. In terms of process, the Depreciation Study encompassed four distinct phases:

Phase 1: Data Collection and Field Interviews. Historical data was compiled from continuing property records and general ledger systems and validated for accuracy by comparing them to multiple financial system sources. Audit of this data was validated against historical data from prior periods, historical general ledger sources, and field personnel discussions.²⁴ Numerous discussions were conducted with NYPA engineers and field operations personnel to obtain information that would assist in formulating life and salvage recommendations for the Depreciation Study and to ensure an understanding of how NYPA utilizes assets and the environment of those assets.

Phase 2: Initial Data Analysis. As a part of this phase, an actuarial analysis was performed. NYPA's detailed property records information was used to develop observed life tables for life analysis. These observed life tables were compared to industry standard tables to determine historical life characteristics. Net salvage analysis consisted of compiling historical salvage and removal data by group to determine values and trends in gross salvage and removal cost. This information was carried forward into Phase 3 for the evaluation process.

Phase 3: Evaluation and Analysis of Information. The Phase 3 evaluation process synthesized the analysis, interviews, and operational characteristics into a final selection of asset lives and net salvage parameters. The historical analysis from Phase 2 was further enhanced by incorporating recent or future changes in the characteristics or operations of assets to the extent revealed in Phase 1. Phases 2 and 3 allowed the depreciation analyst to validate the asset characteristics as seen in the accounting transactions with actual NYPA operational experience.

Phase 4: Calculation of Depreciation Rates and Documenting the Corresponding Recommendations. This phase involved the calculation of accrual rates, making recommendations, and documenting the conclusions in the final report.²⁵

In terms of methodology, the Depreciation Study "was conducted under a traditional depreciation study approach for useful life and net salvage."²⁶ The straight-line, average life group, remaining-life depreciation system was employed.²⁷ This methodology has been adopted

²⁴ As Mr. Watson describes in his testimony, NYPA provided appropriate plant accounting data to complete the Depreciation Study. NYPA maintains its plant accounting records according to the Uniform System of Accounts. For many years, NYPA has maintained vintage plant accounting records by plant account for plant in service. NYPA has also maintained depreciation reserves at the account and subaccount level with gross salvage and cost of removal history. See Watson Testimony at 7.

²⁵ Watson Testimony at 5-7.

²⁶ Depreciation Study, Ex. No. NYP-003, Executive Summary.

²⁷ See Watson Testimony at 8, 13; Depreciation Study, Ex. No. NYP-003 at 14.

by numerous state commissions and FERC.²⁸ In this system, “the annual depreciation expense for each group is computed by dividing the original cost of the asset less accumulated depreciation reserve less estimated net salvage by its respective average life group [“ALG”] remaining life.”²⁹ Remaining lives were calculated according to standard ALG expectancy techniques, using the Iowa Survivor Curves noted in the calculation.³⁰ The computations of the annual account level depreciation rates are shown in Exhibit No. NYP-003, Appendix A.³¹ These proposed depreciation rates were developed using well-established methodologies and principles, as described in greater detail in Mr. Watson’s testimony and the Depreciation Study, and should be accepted by the Commission.

C. Description of Amendments to Attachment H of the NYISO OATT

NYPA’s current depreciation rates are stated in Schedule B-3 of the Formula Rate Template, which is contained in Section 14.2.3.1 of Attachment H of the NYISO OATT. NYPA proposes to amend Schedule B-3 to reflect the updated depreciation rates supported by this filing and the Depreciation Study.³² A clean version of Section 14.2.3.1 of Attachment H of the NYISO OATT reflecting these proposed changes is included with this filing as Attachment A, while Attachment B identifies the changes to Schedule B-3 in redline format.

D. Impact on Transmission Charges

NYPA’s updated depreciation rates will result in a decrease in NYPA’s annual depreciation expense. NYPA’s use of the updated depreciation rates would reduce its annual depreciation expense by approximately \$4.6 million annually (based on December 31, 2015 plant balances), if the proposed rates were used to develop calendar year 2015 depreciation accruals.³³ Although the rates would change effective March 1, 2017, NYPA’s current *billed* charges for transmission service will not change immediately due to the natural lag in NYPA’s Formula Rate. This treatment is consistent with the Settlement, which provides that NYPA’s updated depreciation rates are to be captured in rates beginning with the true-up of calendar year 2017 data, which will occur as a part of the July 1, 2018 Annual Update:

NYPA shall book depreciation accruals using its existing depreciation rates until the new depreciation rates become effective on March 1, 2017. . . . Depreciation accruals resulting from the new depreciation rates established in the single-issue section 205 proceeding will first be captured in rates beginning with the 2018 Annual Update in accordance with the Template and Protocols, and the true-up of

²⁸ Depreciation Study, Ex. No. NYP-003, Executive Summary.

²⁹ Watson Testimony at 8.

³⁰ Depreciation Study, Ex. No. NYP-003 at 14; Watson Testimony at 13.

³¹ Watson Testimony at 8.

³² In the proposed Schedule B-3, NYPA has not modified the depreciation rates for the Long Island Sound Cable, an asset not included in Mr. Watson’s Depreciation Study. NYPA recovers the cost of the cable from the Long Island Power Authority through debt service and, consistent with past practice, NYPA uses a 30-year depreciable life for the cable based on the 30-year term of the bonds purchased to construct the facility in 1991.

³³ See Watson Testimony at 13; Depreciation Study, Ex. No. NYP-003, Executive Summary & Appendix B. However, as noted above, changing the depreciation rates does not change the total amount that NYPA ultimately recovers for depreciation in its Formula Rate, only the timing of such recovery. See *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32.

calendar year 2017 during the 2018 Annual Update will reflect book depreciation accruals based on the new rates from March 1, 2017 onward.³⁴

In accordance with the Settlement, NYPA proposes to begin booking depreciation accruals using the new depreciation rates starting on March 1, 2017. As a part of the 2018 Annual Update, NYPA will true-up calendar year 2017 data by comparing its actual 2017 ATRR (which will reflect the new depreciation rates from March 1, 2017 onward) with the ATRR collected by the NYISO during 2017. The difference, with interest, will be incorporated as a true-up to the charges for the July 2018-June 2019 Rate Year. Accordingly, although the reduced depreciation rates would go into effect March 1, 2017, the reduction will first be reflected in billed charges during the 2018-2019 Rate Year due to the natural lag in the Formula Rate.

III. CONTENTS OF THE FILING

In addition to this transmittal letter, which provides a detailed description of the approvals requested and the bases for those requests, this filing contains the following components:

- Attachment A: Clean Version of NYISO OATT;
- Attachment B: Redlined Changes to NYISO OATT;
- Attachment C: Prepared Direct Testimony & Exhibits of Dane A. Watson (Exhibit Nos. NYP-001 – NYP-003); and
- Attachment D: Clean Version of Proposed Formula Rate Template in Native Excel File Format.

IV. EFFECTIVE DATE AND REQUESTED WAIVER

The Settlement provides that “[a]ny change in depreciation rates that results from that future single-issue section 205 filing will be implemented prospectively, effective March 1, 2017.”³⁵ Accordingly, NYPA requests an effective date for the depreciation rates proposed in this filing of March 1, 2017, the effective date agreed upon by the parties to the Settlement. As the Commission’s regulations generally require not less than 60 days’ prior notice, NYPA respectfully requests a waiver of those regulations to use the effective date agreed upon in the Settlement.³⁶ Good cause exists to grant such waiver because it is necessary to fully implement the terms of the Settlement.³⁷ Moreover, such waiver is appropriate because NYPA has provided the parties to the Settlement with a copy of the Depreciation Study and the opportunity to comment well in advance of the instant filing, all in accordance with the Settlement.³⁸ Finally, it

³⁴ Settlement, at Section 3.4.

³⁵ *Id.*

³⁶ See *Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at p. 61,338, *reh’g denied*, 61 FERC ¶ 61,089 (1992) (noting that the Commission will generally grant waiver of the 60-day notice requirement where the effective date is prescribed by contract or a settlement, because “[i]n these instances, there is a contractual commitment as to the effective date which the Commission has already accepted”).

³⁷ See 18 C.F.R. § 35.2 (2016).

³⁸ See *supra* note 11.

is appropriate to waive the 60-day prior notice requirement because NYPA's proposed depreciation rates will result in reduced annual depreciation expense and thus represent an annual rate decrease, as described above.³⁹

V. OTHER WAIVERS

Based on its status as a non-jurisdictional utility, NYPA respectfully requests that, to the extent necessary, 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.⁴⁰ NYPA's filing, including the attached testimony and exhibits, fully supports the proposed depreciation rates and demonstrates that they are just and reasonable. However, in the event any additional waivers are required in connection with this filing, NYPA respectfully requests that the Commission grant such waivers.

VI. COMMUNICATIONS

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

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³⁹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 157 FERC ¶ 61,068, at P 10 n.14 (2016) ("We will waive the Commission's 60-day prior notice requirement because NIPSCO's proposed depreciation rates represent a rate decrease."); see also *Cent. Hudson Gas & Elec. Corp.*, 60 FERC ¶ 61,106, at p. 61,338 (noting FERC will generally grant waiver of the 60-day notice requirement where a filing reduces a rate or charge, such as a rate decrease).

⁴⁰ See 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."); *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240, at PP 36-37 (2012) (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); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268, at PP 69-70 (granting NYPA's request for waiver of section 35.13 and request for exemption from filing fee); *City of Vernon*, Opinion No. 479, 111 FERC ¶ 61,092, at P 44 ("Vernon 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."), *order on reh'g*, Opinion No. 479-A, 112 FERC ¶ 61,207 (2005), *reh'g denied*, Opinion No. 479-B, 115 FERC ¶ 61,297 (2006), *vacated in part sub nom., Transmission Agency of N. Cal. v. FERC*, 495 F.3d 663 (D.C. Cir. 2007).

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 2010.⁴¹

NYPA understands that the NYISO will provide an e-mail notification of this filing to all NYISO market participants on NYPA's behalf.

VII. CONCLUSION

For the reasons set forth above, NYPA requests that the Commission accept for filing, effective March 1, 2017, the updated depreciation rates and related tariff revisions filed herewith.

Respectfully submitted,

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Counsel for the New York Power Authority

Dated: February 22, 2017

Attachments: Attachments A-D

⁴¹ 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.