Appendix D

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. ER17-___-000

AFFIDAVIT OF MARY ANN SORRENTINO

I, Mary Ann Sorrentino, being duly sworn, depose and say:

1. My name is Mary Ann Sorrentino and I am employed by the New York State Department of Public Service (NYDPS) as a Utility Supervisor in the Office of Electric, Gas and Water. My business address is Three Empire State Plaza, Albany, New York, 12223-1350. I received a Bachelor of Science Degree in Chemical Engineering from Clarkson University in 1991. I have testified numerous times before the New York State Public Service Commission. My current responsibilities with the NYDPS include: the oversight and review, analysis, evaluation and recommendation of cost allocation and rate design studies pertaining to electric utilities in New York State; review and recommendations related utility asset transfers, and oversight and review of tariff modifications of New York electric utilities.

Purpose and Summary of Affidavit

2. In this affidavit, I will: (i) describe the New York Public Service Commission (NYPSC) proceeding to examine upgrades across the Central East and Upstate New York/Southeast New York portions of the Alternating Current (AC) transmission system (referred to as the AC Transmission Upgrades); and, (ii) present a method to implement the NYPSC preferred cost-containment incentive mechanism, to the extent practicable.

NYPSC AC Transmission Upgrades Proceeding

3. By NYPSC Order issued in November 2012, the NYPSC initiated the AC Proceeding. The NYPSC indicated that studies performed by the New York Independent System Operator, Inc. (NYISO) identified persistent congestion on AC electric transmission facilities located in the corridor that traverses the Mohawk Valley, the Capital, and the Lower Hudson Valley regions of New York State. The NYPSC solicited written public Statements of Intent from developers and transmission owners proposing projects to increase the transfer capacity through the congested transmission corridor. The Statements of Intent were to include preliminary cost estimates for the project.[1]

4. In April 2013, the NYPSC required NYDPS Staff to develop a straw proposal addressing mechanisms for allocating risk between developers and ratepayers, among other things.[2] The NYDPS straw proposal, which was filed in July 2013, identified multiple risk sharing methods. In August 2014 the NYPSC issued a notice seeking comments on NYPSC Advisory Staff recommendations in the AC Proceeding. NYPSC Advisory Staff recommended that the NYPSC "require applicant bids to include risk sharing of cost overruns or underruns (80/20) between ratepayers and independent developers/investor-owned utility shareholders."

5. In December 2014, the NYPSC issued an Order addressing developer cost estimates in its transmission line siting process under Article VII of the New York Public Service

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[1] Case 12-T-0502, AC Transmission Proceeding, Order Instituting Proceeding (issued November 30, 2012).

[2] Case 12-T-0502, AC Transmission Proceeding, Order Establishing Procedures for Joint Review Under Article VII of the Public Service Law and Approving Rule Changes (issued April 22, 2013).

Law, since cost was a criterion by which projects would be selected or rejected. The NYPSC indicated:

> The [NYPSC] believes a transmission developer who intends to seek regulated rates should be incented to produce accurate cost estimates in the Article VII process, and then to meet them, particularly since cost is one of the criteria by which projects will be selected or rejected. The developer should be entitled to a reasonable base rate-of-return up to the amount of its estimates, but should not receive compensation at the same level for the actual costs that exceed those estimates. The Advisory Staff recommendation, which recognizes this principle, is a reasonable approach for risk-sharing and is therefore adopted. Accordingly, if actual costs come in above a bid, the developer should bear 20% of the cost overruns, while ratepayers should bear 80% of those costs. If actual costs come in below a bid, then the developer should retain 20% of the savings.
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> Furthermore, if the developer seeks incentives from FERC above the base return-on-equity otherwise approved by FERC, then the developer should not receive any incentives above the base return-on-equity on any cost overruns over the bid price. The bid price would therefore cap the costs that may be proposed to FERC for incentives. The [NYPSC] believes this approach to be consistent with FERC policies and reflects FERC's underlying objectives of balancing customer and utility interests, and FERC's policies encouraging innovative risk and reward sharing arrangements.

Pursuant to its December 2014 Order, the NYPSC required developers to file risk-sharing methodologies as a prerequisite to being selected to construct the AC Transmission Upgrades.[3]

6. In December 2015, the NYPSC indicated that, due to the uncertainty of the FERC's acceptance of the NYPSC's preference for a cost-containment mechanism, bids should be sought from all developers assuming traditional full recovery and assuming the NYPSC cost sharing preference.[4]

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[3] Case 12-T-0502, et al., AC Transmission Proceedings, Order Establishing Modified Procedures for Comparative Evaluation (issued December 16, 2014), pp. 42-45.

[4] Case 12-T-0502, Order Finding Transmission Needs driven by Public Policy Requirements (issued December 17, 2015), pp. 48-49.

NYPSC Preferred Cost-Containment Mechanism

7. In the event the actual capital cost of a project exceeds the bid price, the NYPSC preferred cost-containment mechanism would require the developer to absorb 20% of the cost that exceeds the bid, whereas ratepayers would be responsible for 80% of those excess capital costs. If the actual capital costs of the project are below those contained in the bid, the developer would retain 20% of the cost underrun and ratepayers would retain 80% of the underrun.

8. In the NYPSC preferred cost containment measure, the developer would not be allowed to depreciate or to earn any return on debt or equity costs on 20% of the capital expenditures that exceed the bid price. Additionally, the cost containment measure preferred by the NYPSC would disallow return on equity incentives on the portion (80%) of the overrun that is allowed to earn a return.

9. In the NYPSC preferred cost-containment mechanism, most of the disallowance would be attributable to the return on the capital investment. Conversely, a small amount of the disallowance would be attributable to return of the investment (i.e., depreciation).

10. The NYPSC recognizes that FERC policies allow for full recovery of prudently incurred costs and provide developers with a return equity on all prudently incurred costs that fall within a zone of reasonableness. Further, FERC has allowed different rates of return on a single capital investment by granting a higher return on the estimated cost of an investment and a lower return on the capital cost overrun.[5]

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[5] Docket No. ER15-572-000, New York Independent System Operator, Inc., Order on Transmission Formula Rate, Return on Equity, Cost Allocation, and Transmission Incentives, 151 FERC ¶61,004 (issued April 2. 2015), at ¶99.

11. To fully implement the NYPSC preferred approach while adhering to the FERC policy of full recovery of prudently incurred costs would require an allowed return on equity that changes annually as the net plant declines. As a result, it would be difficult, if not impossible, to administer or ensure that the overall equity return in a given year would remain within the FERC-determined zone of reasonableness.

12. To achieve the NYPSC's preferred cost containment mechanism to the extent practicable, while adhering to FERC's policies, we recommend that FERC reduce the allowed return on equity on any capital cost overrun. The reduced return on the capital cost overrun would be set such that the overall equity return on the prudently-incurred costs of the entire project is at the bottom of the zone of reasonableness, as determined by the FERC. This recommendation balances ratepayer interests with the developer's ability to earn a reasonable, regulated rate of return on the entire project while complying with the FERC's policies. This approach would also further the NYPSC's goal of providing an incentive to developers to provide realistic bids and thereafter manage project costs.

13. Under the recommended approach, the capital expenditure contained in the bid would be allowed a return on equity at the base level plus any earned incentives, as well as the allowed return on debt.

14. In addition, twenty percent of the capital expenditure above the amount contained in the bid would not be allowed to earn any return on equity or debt.

15. Further, eighty percent of the capital expenditure above the amount contained in the bid would be allowed a return on equity at the base level, which would be reduced to acknowledge the disallowed debt associated with 20% of the capital expenditure overrun; a debt cost incurred by the developer.

16. In order to determine the resulting allowed return on equity on the cost overrun, the amount determined in paragraph 15 is divided by the capital cost of the overrun.

17. In order to determine the return on equity for the entire project, the returns calculated pursuant to paragraphs 13 and 15 would be divided by the capital costs of the project. This return on equity would be compared to the FERC-determined zone of reasonableness. If the resulting project return on equity is outside the zone of reasonableness, the allowed equity return applied to 80% of the capital cost overrun would be adjusted such that the project return on equity is equal to the bottom of the zone of reasonableness.

18. The cost containment method recommended herein could be applied symmetrically (i.e., in situations where actual capital costs are below those included in developers' bids).

19. This concludes my affidavit.

ATTESTATION

I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth herein are true to the best of my knowledge, information, and belief.

Mary Ann Sorrentino

Mary Ann Sorrentino
Dated: March 27, 2017

Subscribed and sworn to before me this 27th day of March, 2017

Carol Elizabeth Coyne

Notary Public

My Commission expires:

CAROL ELIZABETH COYNE
Notary Public, State of New York
Qual. in Rensselaer Co. No. 02CO4940511
Commission Expires July 18, 20 18