

Attachment E

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**LS POWER GRID NEW YORK)
CORPORATION I)**

Docket No. ER20-____-000

**DIRECT TESTIMONY
OF
JOSEPH L. MYERS**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**LS POWER GRID NEW YORK)
CORPORATION I)**

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JOSEPH L. MYERS**

I. INTRODUCTION AND EXPERIENCE

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Joseph L. Myers. My business address is One Tower Center, 21st Floor,
East Brunswick, New Jersey, 08816.

Q. IN WHAT CAPACITY ARE YOU EMPLOYED?

A. I am Senior Vice President and Chief Accounting Officer for LS Power Development,
LLC (“LSP Development”), which is the general partner and manager of LS Power
Associates, L.P. (“LS Power”), which is an indirect owner of LS Power Grid New York
Corporation I (“LSPG-NY” or “Company”). LSP Development is a Delaware limited
liability company and the employer of the majority of the staff for LS Power.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am testifying on behalf of LSPG-NY.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.

A. I obtained a Bachelor of Science in Commerce, majoring in Accounting, from Rider
University (previously Rider College) in 1984. I received a Masters of Business
Administration with a concentration in Finance from St. John’s University of New York
in 1994. I am licensed as a Certified Public Accountant in the State of New Jersey.

1 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE.**

2 A. From 1984 to 1987, I held staff accounting positions with Louis Linowitz and Company
3 and Whittaker, Clark, and Daniels, Inc. From 1987 to 1996, I was employed by Asea
4 Brown Boveri, Inc. (ABB), where I held several financial positions at both the corporate
5 and operational levels, including Financial Controller, Manager of Financial Analysis,
6 and Supervisor of Consolidations. My responsibilities included project finance
7 accounting, business analysis, project control, business systems implementation,
8 forecasting, budgeting, financial reporting, and taxation. From 1996 to 1998, I was
9 employed by Datascope Corporation in Paramus, New Jersey, as the Operations
10 Controller for the Patient Monitoring Division. In this capacity, I was primarily
11 responsible for operational and financial control, strategic planning, and the financial
12 evaluation of product development opportunities. From 1998 to 2004, I was employed as
13 the Controller for Consolidated Edison Development, Inc., a wholly owned subsidiary of
14 Consolidated Edison Inc., where I was responsible for the accounting, financial reporting,
15 financial planning and analysis, and tax matters for power generation and infrastructure
16 projects including the development and evaluation of potential investment opportunities.
17 From 2004 to 2007, I was the Director of Corporate Accounting for Foster Wheeler Ltd.
18 located in Clinton, New Jersey. I was responsible for the coordination and management
19 of the corporate accounting function, including the preparation of financial statements
20 and other financial reports; and responsible for developing and administering sound
21 accounting principles to assure accurate financial reporting. I also was the Sarbanes
22 Oxley Compliance Officer for the corporate headquarters. In 2007, I joined LS Power
23 and over time assumed my current responsibilities.

1 **Q. BRIEFLY DESCRIBE YOUR RESPONSIBILITIES AS SENIOR VICE**
2 **PRESIDENT AND CHIEF ACCOUNTING OFFICER.**

3 A. I manage LSP Development's corporate accounting organization to ensure that financial
4 information for all LS Power business activities, including those of LSPG-NY, is
5 collected, summarized, and reported in accordance with accounting principles generally
6 accepted in the United States. Further, LSP Development's corporate accounting
7 organization helps to ensure that the books and records of LSPG-NY are maintained in a
8 manner consistent with sound regulatory policies and procedures to reflect compliance
9 with rules established and regulatory orders issued by the Federal Energy Regulatory
10 Commission ("Commission") and other applicable regulatory bodies.

11 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE A REGULATORY**
12 **COMMISSION?**

13 A. Yes. I have submitted testimony before the Public Utility Commission of Texas in
14 Docket Nos. 40604 and 43950 and the Federal Energy Regulatory Commission in Docket
15 ER16-453, ER17-135, and ER19-605.

16 **II. PURPOSE OF TESTIMONY**

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A. The purpose of my testimony is to describe LSPG-NY's accounting methods in support
19 of LSPG-NY's formula rate filing, including accounting for equity contributions,
20 accounting for federal income tax liability, and affiliate charges.

21 **III. DESCRIPTION OF LSPG-NY'S ACCOUNTING**

22 **Q. PLEASE DESCRIBE HOW LSPG-NY ACCOUNTS FOR COSTS AND WILL**
23 **ACCOUNT FOR REVENUES THAT RESULT FROM ITS BUSINESS**
24 **OPERATIONS?**

25 A. LSPG-NY uses and will continue to use the accrual method of accounting as required by
26 Generally Accepted Accounting Principles ("GAAP") to record revenues and costs.

1 Because LSPG-NY will be a transmission-only public utility regulated by the
2 Commission, these revenues and costs are recorded and will continue to be recorded in
3 accounts prescribed by the Commission's Uniform System of Accounts.

4 **Q. HOW WILL LSPG-NY RECORD EQUITY CONTRIBUTIONS?**

5 A. As discussed by Mr. Willick in his testimony, Exhibit No. LSPG-NY-100, LSP
6 Transmission Holdings, LLC ("LSP Transmission Holdings") owns all of the
7 membership interests of LS Power Grid New York Holdings, LLC, which in turn owns
8 all the membership interests of LSPG-NY. LSP Generation IV, LLC owns all of the
9 membership interests of LSP Transmission Holdings. All of the membership interests of
10 LSP Generation IV, LLC are owned by LS Power.

11 LS Power, through LSP Transmission Holdings, will commit its equity
12 requirement for LSPG-NY. LSPG-NY will record the receipt of such capital
13 contributions from LSP Transmission Holdings as equity on its balance sheet.

14 **Q. HOW WILL LSPG-NY RECORD TRANSACTIONS FOR ACCOUNTING**
15 **PURPOSES?**

16 A. Transactions will be recorded on the books of LSPG-NY. Consequently, the financial
17 books and records of LSPG-NY will reflect the assets, liabilities, equity, and results of
18 operations for LSPG-NY.

19 **Q. WILL LSPG-NY RECORD INCOME TAXES?**

20 A. Yes. LSPG-NY is a corporation and will be directly liable for the payment of income
21 taxes.

22 **Q. HOW WILL LSPG-NY RECORD LEASE PAYMENTS RELATED TO**
23 **TRANSMISSION ASSETS OR RIGHTS OF WAY?**

24 A. As noted in the testimony of Mr. Carroll (page 6), the NYPSC required that the existing
25 owners of rights-of-way make those rights-of-way available for LSPG-NY. The NYPSC

1 Order did not, however, address the terms on which the transmission assets or rights-of-
2 way would be made available. LSPG-NY has not negotiated the terms of any such
3 arrangements. To the extent that the transmission assets or rights-of-way are obtained
4 under standard lease terms, rent payments will be recorded as an operating expense in
5 Account 567 (Rents). To the extent the transmission assets or rights-of-way are acquired
6 under a capital lease in which an upfront payment is involved, the upfront payment will
7 be recorded in Account 101.1, Property under capital leases, and amortized over the life
8 of the lease to Account 567, Rents. The unamortized balance of the capital lease will be
9 reflected in the Formula Rate in Appendix A, Page 2 as an addition to Rate Base. The
10 unamortized balance of the capital lease included in Rate Base will only reflect cash
11 outlays of upfront capital lease payments.

12 **Q. HAS THE COMMISSION APPROVED THIS TREATMENT OF UPFRONT**
13 **LUMP SUM PAYMENTS FOR TRANSMISSION ASSETS OR RIGHTS-OF-**
14 **WAY?**

15 A. Yes, in NextEra Energy Transmission New York, Inc., 162 FERC ¶ 61,196 (2018) PP 90-
16 92, the Commission approved this treatment of up front lump sum lease payments under
17 similar circumstances to those faced by LSPG-NY.

18 **Q. WILL LSPG-NY HAVE CONTROLS IN PLACE TO ENSURE THAT CAPITAL**
19 **LEASE PAYMENTS INCLUDED IN RATE BASE ARE NOT INCLUDED IN**
20 **OTHER COMPONENTS OF RATE BASE?**

21 A. Yes, consistent with the Commission's order referenced above, LSPG-NY will establish
22 controls to ensure that any upfront capital lease payments included within rate base are
23 not included in other components of rate base, e.g., Prepayments.

1 **Q. PLEASE DESCRIBE THE TYPES OF COSTS LSPG-NY EXPECTS TO INCUR**
2 **AND HOW AFFILIATE COSTS ARE DIRECT-CHARGED OR ALLOCATED**
3 **TO LSPG-NY.**

4 A. LSPG-NY will incur (i) native costs and (ii) both direct and allocated costs from its
5 affiliates. With respect to the former, LSPG-NY's native costs are expected to consist of
6 billings from third parties pursuant to contracts entered into directly by LSPG-NY. These
7 costs will be directly recorded on LSPG-NY's books at cost.

8 With respect to the latter, LSPG-NY will receive services from its affiliates such
9 as treasury and finance, accounting and financial reporting, tax accounting, legal, human
10 resources, information technology, engineering and project oversight, executive
11 management, operations and maintenance, and regulatory compliance. Services provided
12 by affiliates will be provided at cost. LS Power and its subsidiaries operate under the
13 principle that the costs of all goods and services provided by one affiliate to another will
14 be directly assigned to the company receiving the goods or services whenever possible.
15 Costs that cannot be directly assigned are indirect costs, which are grouped into cost
16 categories. Indirect costs will be allocated using a Direct Labor Ratio methodology,
17 when appropriate, or based on an analysis of the cost driver(s) or cost causation, where
18 identifiable.

19 All affiliate employees that provide services to LSPG-NY (with the exception of
20 human resources, information technology, certain executive management and certain
21 operations and maintenance functions) charge their time to LSPG-NY based on the actual
22 time spent working on matters for LSPG-NY. On a monthly basis, all collected time
23 during the month will be charged to LSPG-NY based on the number of hours multiplied
24 by an hourly charge rate comprised of a fully loaded labor charge, which includes:
25 salaries and wages, lost time, incentive compensation, health care, workers'

1 compensation insurance, other benefits, and payroll taxes. Any employee-related
2 expenses incurred to perform services are reimbursed at cost by LSPG-NY. All employee
3 expense requests are approved by management before reimbursement.

4 Because human resources, information technology, and certain executive
5 management costs (“Business Support Costs”) support the entire LS Power enterprise
6 rather than individual affiliates and specific projects, a time-based allocation factor has
7 been developed that allocates these Business Support Costs based on the total direct
8 hours charged to LSPG-NY as a percentage of the total LS Power enterprise-wide hours
9 for the same period (“Direct Labor Ratio”).

10 Certain types of indirect non-labor costs (e.g., office facilities) are allocated using
11 a time based allocation methodology driven by office location. These costs are primarily
12 an extension of labor as they are office and overhead costs based on office location that
13 enable employees to perform the services necessary for each LS Power company. Other
14 types of indirect non-labor costs may be allocated based on labor, cost driver(s) or cost
15 causation, depending on the nature of the cost. Indirect labor costs are primarily
16 allocated using the Direct Labor Ratio, but may, at times, be based on an analysis of the
17 cost driver(s) or cost causation, where identifiable.

18 **Q. HOW IS THE LABOR LOADING RATE DETERMINED?**

19 A. The labor loading rate is set at or below the actual costs to reflect payroll-related costs
20 including payroll taxes, workers compensation insurance, medical insurance, dental
21 insurance, life insurance, accidental death insurance, long-term disability insurance,
22 401K contributions, and incentive compensation costs.

1 **Q. ARE LSPG-NY'S ACCOUNTING METHODS CONSISTENT WITH GAAP AND**
2 **THE COMMISSION'S UNIFORM SYSTEM OF ACCOUNTS?**

3 A. Yes.

4 **Q ARE THERE ANY CONTROLS IN PLACE TO MONITOR THE COSTS**
5 **RELATED TO LSPG-NY**

6 A. Yes, LS Power has established a formal process for review and approval of costs
7 including costs related to LSPG-NY. Additionally, costs are reviewed periodically to
8 track expenses and to monitor charges to LSPG-NY.

9 **IV. SUPPORT FOR RATE DETERMINATION FOR REGULATORY ASSET**
10 **TREATMENT**

11 **Q. IS LSPG-NY SEEKING AUTHORITY FOR REGULATORY ASSET**
12 **TREATMENT FOR ITS PRUDENTLY INCURRED COSTS THAT ARE NOT**
13 **CAPITALIZED, SUCH AS PRE-COMMERCIAL AND FORMATION COSTS?**

14 A. Yes. As discussed in Mr. Willick's testimony, Exhibit No. LSPG-NY-100, LSPG-NY
15 was formed to develop transmission projects located in NYISO. In order to participate in
16 NYISO's regional transmission planning and solicitation process, LSPG-NY was
17 required to incur costs long before the project will be placed in-service. LSPG-NY was
18 required to incur organization and administrative costs to develop and compete
19 successfully for the right to construct a transmission project in NYISO. LSPG-NY is
20 requesting authority to defer as a regulatory asset its prudently incurred costs that are not
21 capitalized such as pre-commercial and formation costs, for which it will be seeking
22 future rate recovery. LSPG-NY proposes to defer as a regulatory asset in Account 182.3,
23 Other Regulatory Assets, prudently incurred costs that are not capitalized and were
24 incurred prior to LSPG-NY first charging customers a rate under its Formula Rate, which
25 will be part of Attachment H to the NYISO Open Access Transmission Tariff ("NYISO
26 Tariff"). Without a Commission order granting LSPG-NY the authority to defer these

1 non-capitalized costs as a regulatory asset, it may be more difficult to recognize a
2 regulatory asset for pre-commercial and formation costs for GAAP financial reporting
3 purposes, which would impose a financial burden on LSPG-NY.

4 **Q. IS LSPG-NY SEEKING AUTHORITY FOR REGULATORY ASSET**
5 **TREATMENT FOR ANY OTHER COSTS?**

6 A. Yes. As discussed in Mr. Willick's testimony, Exhibit No. LSPG-NY-100, LSPG-NY
7 submitted a proposal for Segment B in response to a request from the New York Public
8 Service Commission¹. Pursuant to Section 31.5.6.3 of the NYISO Tariff the costs
9 incurred by LSPG-NY associated with preparing the proposed solution in response to the
10 NYISO request for proposals are recoverable. LSPG-NY proposes to defer as a
11 regulatory asset in Account 182.3, Other Regulatory Assets, prudently incurred costs
12 associated with preparing a proposal for Segment B in response to the NYISO request for
13 proposals.

14 **Q. WHAT TYPES OF COSTS WILL LSPG-NY INCLUDE IN THE REGULATORY**
15 **ASSET ACCOUNT, IF APPROVED?**

16 A. LSPG-NY will include its prudently incurred costs that are not capitalized, including
17 costs associated with obtaining the necessary approvals from the Commission,
18 participation in regional transmission planning, as well as organization and administrative
19 costs. In addition, LSPG-NY will include costs associated with submission of a proposal
20 in the NYISO process for Segment B. These costs would ordinarily be booked as
21 expenses when incurred. Once LSPG-NY is able to recover current expenses through the
22 Formula Rate, it will cease to book such expenses to the regulatory asset and will recover

¹ State of New York Public Service Commission Order, December 17, 2015, Case 12-T-0502.

1 such current expenses through the Formula Rate.

2 **Q. IS LSPG-NY SEEKING COMMISSION APPROVAL TO APPLY A CARRYING**
3 **CHARGE TO BALANCES INCLUDED IN THIS REGULATORY ASSET**
4 **ACCOUNT?**

5 A. Yes. As part of this filing, LSPG-NY is requesting Commission approval to apply a
6 carrying charge to any amounts eligible for deferral to this regulatory asset account.

7 When the regulatory asset is established, LSPG-NY will accrue carrying costs at a rate
8 equal to its allowance for funds used during construction (“AFUDC”) on the unamortized
9 cost balances, including the balance of deferred carrying costs, until a rate is first charged
10 by LSPG-NY through the NYISO Tariff. At the time LSPG-NY first includes the
11 regulatory asset in its rates for recovery through the NYISO Tariff, LSPG-NY will stop
12 calculating this carrying charge using the AFUDC rate, and will begin to calculate this
13 carrying charge at its weighted cost of capital rate. When applying these rates, LSPG-NY
14 will calculate the carrying charge semi-annually. Any such carrying charges will be
15 recorded by debiting Account 182.3 and crediting Account 421, Miscellaneous Non-
16 operating Income.

17 **Q. WHEN WILL THE REGULATORY ASSET BE ESTABLISHED?**

18 A. LSPG-NY will establish the regulatory asset and will begin accruing carrying costs on
19 the regulatory asset effective as the requested effective date of the filing, March 2, 2020.

20 **Q. OVER WHAT PERIOD IS LSPG-NY SEEKING TO RECOVER THE**
21 **REGULATORY ASSET BALANCE?**

22 A. LSPG-NY is seeking approval to amortize the regulatory asset balance over a ten year
23 period starting from the date it begins to recover the regulatory asset as part of the
24 revenue requirement under its Formula Rate.

25 **Q. DOES COMMISSION APPROVAL OF REGULATORY ASSET TREATMENT**
26 **IN THIS DOCKET GUARANTEE RECOVERY OF THE DEFERRED COSTS?**

A. No. LSPG-NY recognizes that a new filing with the Commission will be required at the time LSPG-NY seeks to include amortization of the regulatory asset account in rates.

V. SUPPORT FOR RATE DETERMINATION FOR ACQUISITION ADJUSTMENT PROVISION

Q. IS LSPG-NY SEEKING AUTHORITY TO RECOVER ACQUISITION PREMIUMS THROUGH ITS FORMULA RATE?

A. Yes. LSPG-NY requests the recovery of acquisition premiums through a Net Acquisition Adjustment input in its Formula Rate to facilitate potential acquisition transactions related to rights-of-way and existing facilities. LSPG-NY believes its proposal meets each prong of the Commission's substantial benefits test.

Q. DESCRIBE THE COMMISSION'S PRECENT ON ACQUISITION PREMIUMS

A. Under Commission policy, rate recovery of an existing facility is generally limited to the original cost of the facility, and recovery of acquisition premiums, including goodwill, in cost-based rates is allowed only if the acquisition is prudent and provides measureable, demonstrable benefits to ratepayers.² Acquisition premiums, including goodwill, are excluded from rates absent a filing under FPA section 205 and Commission authorization.³

Q. DESCRIBE HOW LSPG-NY WILL ACCOUNT FOR THE ELECTRIC PLANT ACQUIRED.

A. Consistent with the requirements of Electric Plant Instruction No. 5 of the Commission's Uniform System of Accounts, the cost of acquired plant, including any related incidental expenses, will be charged to Account 102, Electric Plant Purchased or Sold. The original

² *Ameren Corporation.*, 140 FERC ¶ 61,034, at PP 10-11 (2014).

³ *Policy Statement on Hold Harmless Commitments.*, 155 FERC ¶ 61,189 at P 18 (2016).

costs of the electric plant acquired are credited from Account 102, and debited to the appropriate electric plant in service accounts, with a concurrent credit to Account 108, Accumulated provision for depreciation of electric utility plant, for the depreciation applicable to the original cost of the electric plant acquired. Amounts remaining in Account 102 are removed by crediting Account 102, and debiting Account 114, Electric Plant Acquisition Adjustments. Subject to Commission approval, the acquisition adjustment in Account 114 will be amortized to Account 406, Amortization of Electric Plant Acquisition Adjustments, over the remaining life of the plant.

Q. HOW WILL THE ACQUISITION PREMIUMS BE RECOVERED THROUGH RATES?

A. LSPG-NY will recover the acquisition premiums through a Net Acquisition Adjustment cost input included in its rate base. The Net Acquisition Adjustment represents the gross acquisition adjustment in Account 114 less the Accumulated provision for amortization of electric plant acquisition adjustments in Account 115. The amortization of the acquisition premium is captured in Account 406 and included as a cost input under depreciation and amortization expense. All cost input balances will be supported by company schedules, data, and appropriate internal controls to track the costs. LSPG-NY will not recover any Net Acquisition Adjustment costs without first seeking authorization from the Commission.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes.

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AFFIDAVIT

JOSEPH L. MYERS, being duly sworn, deposes and states: that the Direct Testimony of JOSEPH L. MYERS was prepared by him or under his direct supervision, that the statements contained therein and the Exhibits attached thereto are true and correct to the best of his knowledge and belief, and that he adopts such prepared testimony as his direct testimony in this proceeding.



Joseph L. Myers

Subscribed and sworn before me this 17th day of December

/s/ _____
Name: Nyasia Ramos
Notary Public State Of: New Jersey
My commission expires: 10/5/2021

NYASIA RAMOS
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50047094
My Commission Expires 10/5/2021

