

SUBMITTED VIA ETARIFF FILING

August 1, 2022

The Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: New York Power Authority; Single Issue Depreciation Rate Filing**  
**Docket No. ER22 - \_\_\_\_ - 000**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> and Section 35.13 of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) regulations,<sup>2</sup> the New York Power Authority (“NYPA”) proposes to update the depreciation rates included in its Formula Rate used to determine its Annual Transmission Revenue Requirement.<sup>3</sup> NYPA submits this request as a single-issue FPA Section 205 filing, consistent with Commission precedent<sup>4</sup> and the terms of NYPA’s settlement Protocols approved in Docket No. ER16-835-000.<sup>5, 6</sup> NYPA proposes that the Formula Rate Template (as set forth in Section 14.2.3.1 of Attachment H to the NYISO OATT) be revised to update the depreciation rates to reflect the most recent transmission

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<sup>1</sup> 16 U.S.C. § 824d (2016 & Supp. II 2018).

<sup>2</sup> 18 C.F.R. § 35.13 (2021).

<sup>3</sup> Capitalized terms not otherwise defined herein shall have the meaning specified in Attachment H, Sections 14.2.3.1 (Formula Rate Template) and 14.2.3.2 (NYPA Formula Rate Implementation Protocols) of the New York Independent System Operator, Inc. (“NYISO”) Open Access Transmission Tariff (“OATT”). These NYISO OATT sections constitute the NYPA Formula Rate. If not defined therein, capitalized terms not otherwise defined herein shall have the meaning specified in Section 1 of the NYISO OATT.

<sup>4</sup> See *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32 (2012) (finding that a filing limited to a change in depreciation rates is properly reviewed as a single-issue filing because the filing “only affects the timing of recovery of the costs and does not change the overall amount of recovery.”).

<sup>5</sup> See *N.Y. Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,043 (2017) (order accepting NYPA’s uncontested Offer of Settlement on January 19, 2017).

<sup>6</sup> NYISO submits this filing on behalf of NYPA solely in its role as administrator of the NYISO OATT. The burden of demonstrating that the proposed tariff amendments are just and reasonable rests with NYPA, the sponsoring party. NYISO takes no position on any substantive aspect of this filing at this time.

and general plant asset depreciation studies, which are included with this filing.<sup>7</sup> NYPA requests that the proposed tariff revisions be made effective October 1, 2022, at which time NYPA would implement the revised depreciation rates.

Utilities must obtain Commission authorization “to change prices charged for power sales or transmission services (whether determined by stated rates or formula rates) to reflect a change in depreciation,”<sup>8</sup> by filing with the Commission pursuant to FPA Section 205.<sup>9</sup> 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 Commission precedent. 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.”<sup>10</sup> Finally, as explained below, NYPA’s Protocols expressly allow a single-issue Section 205 filing to update depreciation rates.<sup>11</sup>

## **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.<sup>12</sup> 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. Development of Depreciation Rates for NYPA**

When NYPA’s transmission formula rate was approved by Commission order on January 19, 2017, NYPA retained the obligation, consistent with the terms of the accepted settlement, to

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<sup>7</sup> The proposed changes in this filing appear solely on Schedule B3 (Depreciation and Amortization Rates) of the Formula Rate Template.

<sup>8</sup> *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs. Preambles 1996-2000 ¶ 31,104 at p. 31,695 & n.25 (2000), 65 Fed. Reg. 47,664 (July 27, 2000).

<sup>9</sup> *Id.*

<sup>10</sup> *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32.

<sup>11</sup> NYISO OATT, Section 14.2.3.2.5(c).

<sup>12</sup> 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). NYPA recognizes that its transmission revenue requirement is subject to FERC jurisdiction since its charges are collected under the NYISO OATT, a FERC-jurisdictional tariff. Notwithstanding this or anything contained in this filing, NYPA, as a state entity, does not waive its non-jurisdictional status under Part II of the FPA.

file for a change to its depreciation rates.<sup>13</sup> NYPA made this request on February 22, 2017, in Docket No. ER17-1010.<sup>14</sup> The parties in that proceeding reached an uncontested settlement which established the depreciation rates currently in use. The Commission approved that settlement on November 21, 2017. According to the terms of the settlement, the depreciation rates became effective March 1, 2017. Given the passage of time and the level of transmission investment by NYPA since December 31, 2015 (the date of asset data used to determine the current depreciation rates), it is appropriate to update those depreciation rates at this time.

Finally, in accordance with Section 14.2.3.2.5(c) of the Protocols, NYPA retains the discretion to make a “limited filing pursuant to Section 205 to change stated values in the Formula Rate for amortization/depreciation rates” and further that the “sole issue in any such limited Section 205 filing shall be whether such proposed changes or recovery are just and reasonable, and shall not include other aspects of the Formula Rate.”

## **II. EXPLANATION AND PURPOSE OF PROPOSED CHANGES**

### **A. Proposed Depreciation Rates and Effect on Depreciation Expense**

The purpose of this filing is to adjust NYPA’s transmission Formula Rate pursuant to Section 205 to reflect depreciation rate revisions calculated in accordance with the depreciation studies prepared by Mr. Dane Watson, Partner of Alliance Consulting Group, an independent third-party depreciation consultant providing expert service to the utility industry.<sup>15</sup> NYPA last updated its transmission and general depreciation rates over five years ago. Generally, utilities update depreciation studies every three to five years, where possible.<sup>16</sup> Accordingly, this filing to update NYPA’s depreciation studies is consistent with standard utility practice. Since NYPA last updated its transmission and general depreciation rates, NYPA has added \$750 million in transmission plant and \$183 million in general plant (net of retirements in both categories). This is a 34% increase in transmission plant and a 14% increase in general plant.<sup>17</sup>

Both the depreciation study for the Transmission Plant and the depreciation study for the General Plant are attached to Mr. Watson’s testimony. Mr. Watson’s testimony states that the

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<sup>13</sup> *N.Y. Indep. Sys. Operator, Inc.*, Offer of Settlement § 3.4 (Depreciation Rates), Docket No. ER16-835-000 (filed Sept. 30, 2016) (NYPA to make single-issue FPA Section 205 filing to establish new depreciation rates to be effective March 1, 2017).

<sup>14</sup> NYPA filed for the single-issue depreciation change to its tariff in Docket No. ER17-1010. Because NYPA requested a depreciation rate decrease, FERC opened a concurrent FPA Section 206 investigation in Docket No. EL17-67 to determine whether a further rate decrease was appropriate. Both the ER17-1010 and EL17-67 dockets were concluded via the settlement as described in the accompanying text.

<sup>15</sup> Prepared Direct Testimony & Exhibits of Dane Watson on Behalf of New York Power Authority (“Watson Test.”) (attached hereto as Attachment D). Mr. Watson also performed the last depreciation study for NYPA filed in Docket No. ER17-1010.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> Mr. Watson’s depreciation studies determine depreciation rates for all transmission and general assets. However, a portion of NYPA’s assets, such as generation step-up transformers for example, are excluded facilities under NYPA’s Formula Rate, and therefore some assets do not appear on Schedule B3 which contains the proposed new depreciation rates.

primary factors influencing the change in depreciation rates are changes in the expected lives and net salvage for transmission assets and changes in expected lives, adopting a fixed life approach for certain general assets and including net salvage for general assets.<sup>18</sup> These factors increased depreciation expense for transmission and decreased depreciation expense for general plant assets. According to the accompanying testimony of Mr. Scott Tetenman, Senior Vice President of Finance for NYPA, using asset data as of December 31, 2021, the change in depreciation rates would result in an \$8.7 million increase in transmission depreciation expense and a \$1.1 million decrease in general plant expense.<sup>19</sup>

## **B. Depreciation Study Methodology**

Mr. Watson's testimony explains in detail the process taken in each depreciation study to determine the respective depreciation rates, as well as the methodologies, assumptions, and procedures used. As part of the depreciation studies, Mr. Watson conducted a statistical life study, a net salvage analysis, and an analysis of recorded depreciation reserves for all NYPA's transmission and general plant and equipment. Both depreciation studies calculate depreciation on a straight-line basis that includes an average life group (broad group or lifespan) procedure and remaining-life technique.

As the testimony further explains, both depreciation studies deploy methodologies generally comparable to the prior NYPA practices. There are two exceptions. First, the current study moves away from a life span procedure for transmission lines employed in the prior transmission facility depreciation study performed in 2016 where NYPA set an 80-year life span for each transmission line.<sup>20</sup> Driven by the dramatic increase in new and expanded renewable generation across the state, NYPA has significantly increased its capital spending to complete transmission projects that increase transfer limits from those resources to load centers.<sup>21</sup> Accordingly, this study recommends the use of varying lives for each account based, in part, on the impact on existing facilities' lives due to the efforts to address end of life issues and to replace lower voltage with higher voltage facilities that increase transfer capability and reliability.<sup>22</sup> This is the traditional actuarial approach that uses a normal remaining life calculation and is consistent with techniques that are standard in the industry and long accepted by the Commission. Second, the study uses a fixed-life approach for high volume, low value general plant items, such as office furniture, computer equipment and communications equipment. This is a well-accepted approach for these items. For the aforementioned reasons, the proposed depreciation rates are just and reasonable.

## **III. CONTENTS OF THE FILING**

This submission includes, along with the transmittal letter, the following documents:

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<sup>18</sup> *Id.*

<sup>19</sup> Prepared Direct Testimony of Scott Tetenman at 6 (attached hereto as Attachment C).

<sup>20</sup> Watson Test. at 8-9.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> *Id.* at 9.

- Attachment A: Clean version of the proposed revisions to the NYISO OATT<sup>23</sup>
- Attachment B: Blacklined version of the proposed revisions to the NYISO OATT
- Attachment C: Prepared Direct Testimony of Scott Tetenman
- Attachment D: Prepared Direct Testimony & Exhibits of Dane Watson

#### **IV. PERSONS RECEIVING A COPY OF THIS FILING**

NYPA has confirmed with the NYISO that a complete copy of this filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). The NYISO has also informed NYPA that it will send an electronic link to this filing to the official representative of each its customers and each participant on its stakeholder committees. Such NYISO market participants include the Interested Parties maintained on the NYPA Exploder List.

#### **V. OTHER FILING REQUIREMENTS**

None of the costs proposed to be recovered have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.<sup>24</sup>

#### **VI. REQUESTED EFFECTIVE DATE**

Pursuant to Section 35.13(b)(2) of the Commission's regulations, NYPA respectfully requests that the proposed depreciation rates be made effective October 1, 2022.<sup>25</sup>

#### **VII. COST OF SERVICE, REVENUE INFORMATION, AND REQUEST FOR WAIVERS**

As no cost of service or rate design change is being made as part of this filing, NYPA requests that the Commission find good cause to waive Section 35.13 of the Commission's regulations.

Moreover, NYPA has good cause to request waiver of any filing fees and Section 35.13 filing requirements due to its municipality status described above. NYPA is a "municipality" within the meaning of Section 3(7) of the FPA and is a "state instrumentality" within the meaning of Section 201(f) of the FPA.<sup>26</sup> It is the established practice of the Commission to exempt municipalities from paying applicable filing fees and from compliance with Section

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<sup>23</sup> A clean version of the Formula Rate Template reflecting the changes proposed herein in its native Excel format is also being submitted as part of this filing.

<sup>24</sup> 18 C.F.R. § 35.13(b)(7), (d)(3).

<sup>25</sup> *Id.* § 35.13(b)(2).

<sup>26</sup> 16 U.S.C. § 824(f) ("No provision in this subchapter shall apply to, or be deemed to include . . . a State or any political subdivision of a State . . . or any agency, authority, or instrumentality of any one or more of the foregoing . . ."); *see also Village of Bergen v. FERC*, 33 F.3d 1385, 1389 (D.C. Cir. 1994).

35.13 of the Commission's regulations. Accordingly, NYPA respectfully requests exemption from any applicable filing fees and from any filing requirements of Section 35.13.<sup>27</sup>

In addition to the waivers and exemptions specifically requested above, NYPA respectfully requests that the Commission grant any additional waivers of its rules and regulations it may deem necessary to approve this rate application by the requested effective date.

## **VIII. CORRESPONDENCE AND COMMUNICATIONS**

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

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New York Power Authority  
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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.

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<sup>27</sup> The Commission has granted such exemptions to NYPA when previously requested. *See, e.g., N.Y. Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,004 at P 55 (2022) (granting NYPA exemption from compliance with Section 35.13 of Commission's regulations); *N.Y. Power Auth.*, 169 FERC ¶ 61,125 at P 48 (2019) (waiving filing fees for NYPA as requested due to its status as a municipal utility organized under the laws of New York State); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268 at PP 69-70 (2016) (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.*, 140 FERC ¶ 61,240 at PP 36-37 (2012) (same).

<sup>28</sup> Pursuant to Commission Rule, 18 C.F.R. § 385.101(e), NYPA requests waiver of Rule 203(b)(3), in order to permit more than two persons to be included on the service list.

## **IX. CONCLUSION**

For all the reasons set forth above, NYPA respectfully requests that the Commission accept for filing its proposed depreciation rate effective October 1, 2022.

Respectfully submitted,

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