

Attachment B

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

Orange and Rockland Utilities, Inc.

Docket No. ER24-____-000

DIRECT TESTIMONY OF DR. PAUL A. DUMAIS

On Behalf of Orange and Rockland Utilities, Inc.

March 25, 2024

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Exhibit No. O&R-002 – Resume of Dr. Paul A. Dumais

Exhibit No. O&R-003 – Transmission Formula Rate Template

Exhibit No. O&R-004 – Support for Depreciation Rates

I. INTRODUCTION

Q. Please state your name, position, and business address.

A. My name is Dr. Paul A. Dumais. I am the CEO of Dumais Consulting LLC, with an address of 38578 Kilgore Court, Waterford, Virginia, 20197.

Q. On whose behalf are you testifying in this proceeding?

A. I am testifying on behalf of Orange and Rockland Utilities, Inc. ("O&R").

Q. Describe your professional and educational background.

A. I have over 40 years of experience in the electric and natural gas industries in the areas of regulatory strategy, regulatory policy, and ratemaking, including revenue requirements (cost of service), cost allocation and rate design. Through Dumais Consulting LLC, I provide Federal Energy Regulatory Commission ("FERC" or "Commission")-related ratemaking services, including electric transmission formula rates, ancillary services revenue requirements (including reactive power) and natural gas and electricity cost of service, cost allocation and rate design. I consult regularly with several transmission owners on their formula rates and FERC accounting issues, including income tax considerations. I have substantial experience in New York transmission ratemaking through my involvement both with New York Transco, LLC in the past and with several New York transmission owners, assisting several in obtaining transmission formula rates similar to what O&R is requesting here. Prior to forming Dumais Consulting in September 2018, I was employed by Avangrid Networks and its predecessor companies in the northeast United States in senior level positions. In this capacity, I focused on asset management

1 and capital budgeting, large customer service and state and federal regulatory
2 and ratemaking matters, including FERC regulatory strategy and policy,
3 transmission formula rates, interconnections, and regional transmission
4 organization stakeholder participation. I was Vice President of Regulatory for
5 New York Transco while serving as Avangrid's representative to this New York
6 transmission owner joint venture. I received a Bachelor of Science Degree in
7 Business Administration with an emphasis in Accounting from the University
8 of Maine in Augusta in 1982. I received a Master of Science Degree in Business
9 Administration from the University of Southern Maine in 1986. Lastly, I was
10 awarded a Doctorate Degree in Strategic Leadership from Regent University in
11 2013.

12 **Q. Have you submitted expert testimony in the past to FERC or to any other**
13 **regulatory bodies?**

14 A. Yes, I have. I provide my FERC and state testimony experience as part of my
15 resume contained in Exhibit No. O&R-002.

16

17 **II. PURPOSE AND SCOPE OF TESTIMONY**

18 **Q. What is the purpose of your testimony in this proceeding?**

19 A. The purpose of my testimony is to present a transmission formula rate and
20 protocols by which O&R will recover the costs, under the New York
21 Independent System Operator, Inc. ("NYISO") Open Access Transmission
22 Tariff ("OATT") of 1) local transmission upgrades determined by the New
23 York State Public Service Commission ("NYPSC") to be necessary or

1 appropriate to meet New York State climate and renewable energy goals as
2 required by New York State law and recoverable pursuant to Rate Schedule 19
3 of the NYISO OATT (referred to as “CLCPA Eligible Projects,” “Approved
4 Local Transmission Upgrades,” or “Schedule 19 Projects”) and 2) regulated
5 transmission projects that are eligible for cost recovery under Rate Schedule 10
6 of the NYISO OATT in accordance with the NYISO’s Comprehensive System
7 Planning Process (“CSPP”) requirements set forth in Attachment Y of the
8 NYISO OATT (“Schedule 10 Projects”).

9 **Q. Are you sponsoring any exhibits in addition to this testimony?**

10 A. Yes. I am sponsoring the following exhibits:

11 Exhibit No. O&R-001 – Direct Testimony of Dr. Paul A. Dumais

12 Exhibit No. O&R-002 – Resume of Dr. Paul A. Dumais

13 Exhibit No. O&R-003 – Transmission Formula Rate Template

14 Exhibit No. O&R-004 – Support for Depreciation Rates

15 **Q. Please describe O&R.**

16 A. O&R is a wholly-owned subsidiary of Consolidated Edison, Inc. It is a regulated
17 utility incorporated in the State of New York operating in Orange, Rockland and
18 part of Sullivan counties in New York and, through its wholly-owned subsidiary
19 Rockland Electric Company, in parts of New Jersey. O&R is engaged in the
20 transmission, distribution and wholesale and retail sale of electric power and
21 natural gas. O&R is a participant in the NYISO’s electricity markets.¹

¹ In this filing, O&R is not proposing changes to its existing, stated transmission rates in Attachment H of the O&R Open Access Transmission Tariff or Attachment H of the NYISO OATT as it relates to O&R’s wholesale transmission service charge under the NYISO OATT.

1 **Q. How is your testimony organized?**

2 A. I first present background information that forms the context of this O&R filing.
3 I then present the formula rate template (“Formula Rate Template”) by which
4 O&R proposes to recover the revenue requirements for Approved Local
5 Transmission Upgrades and Schedule 10 Projects. Lastly, I present the formula
6 rate implementation protocols (“Formula Rate Implementation Protocols”) by
7 which stakeholders can engage and review the annual formula rate
8 informational filings and annual updates to be made by O&R. The Formula
9 Rate Template and the Formula Rate Implementation Protocols are collectively
10 referred to herein as the “Formula Rate.”

11

12 **III. BACKGROUND INFORMATION – SCHEDULE 19 PROJECTS**

13 **Q. Describe the law or laws that were enacted in New York concerning**
14 **renewable energy requirements that will result in Approved Local**
15 **Transmission Upgrades.**

16 A. The State of New York has enacted climate legislation in the Climate
17 Leadership and Community Protection Act (“CLCPA”). Among other things,
18 the CLCPA requires 70 percent of all of New York’s electricity to come from
19 renewable sources by 2030, a 100 percent reduction in greenhouse gas
20 emissions from the electricity sector by 2040, and 9,000 MW of offshore wind
21 generation (“OSW”) by 2035. The state also has enacted the Accelerated
22 Renewable Energy Growth and Community Benefit Act (“Accelerated
23 Renewables Act”) recognizing that certain utilities’ local transmission and

1 distribution systems play a key role in the CLCPA-mandated renewable energy
2 transition.² The Accelerated Renewables Act requires the NYPSC to establish
3 distribution and local transmission capital plans for each utility in whose service
4 territory distribution upgrades and local transmission upgrades are necessary or
5 appropriate to achieve New York’s climate mandates, and for the utilities to
6 implement and make the local transmission upgrades consistent with those
7 plans, in accordance with a schedule approved by the NYPSC or, in the case of
8 LIPA, the LIPA Board of Trustees.

9 **Q. Has the NYPSC established these distribution and local transmission**
10 **capital plans for each utility?**

11 A. The NYPSC is in the process of doing this. To date, the NYPSC has identified
12 areas on the transmission and distribution networks in New York that may be
13 in critical need of local investment because existing renewable generation in
14 these areas is being curtailed today or because renewable generation developer
15 interest in those areas exceeds the capability of the local transmission system.
16 The NYPSC directed Central Hudson, NYSEG, National Grid and RG&E to
17 submit solutions to address these areas and, on February 16, 2023, approved the

² The utilities subject to local transmission and distribution mandates under the Accelerated Renewables Act include Central Hudson Gas & Electric Corporation (“Central Hudson”), Consolidated Edison Company of New York (“Con Edison”), Long Island Power Authority (“LIPA”), New York State Electric & Gas Corporation (“NYSEG”), Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), O&R, and Rochester Gas and Electric Corporation (“RG&E”). These utilities are sometimes referred to herein as “New York Transmission Owners” or “NYTOs.”

1 development of these projects.³ The NYPSC has also found that integrating the
2 CLCPA's target of 9,000 MW of OSW into New York's grid requires
3 developing the transmission system in a well-coordinated way that optimizes
4 points of interconnection that are currently scarce in the downstate region,
5 where the OSW will be delivered into New York. As a result, the NYPSC
6 authorized Con Edison to file a petition for approval of its local transmission
7 projects designed to address these issues, and on April 20, 2023, approved a
8 scalable version of Con Edison's Brooklyn Clean Energy Hub Project for
9 development, while deferring consideration of the project's eligibility for cost
10 recovery under Rate Schedule 19 of the NYISO OATT to a later date when the
11 feasibility of OSW interconnection is clarified.⁴ Further, the NYPSC has
12 directed the development of,⁵ and in August 2023 approved,⁶ a NYTO proposal
13 for a "coordinated grid planning process" through which, using various scenario
14 (including capacity expansion modeling) analyses and with the benefit of broad

³ State of New York Public Service Commission, Case 20-E-0197, *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, Order Approving Phase 2 Areas of Concern Transmission Upgrades (February 16, 2023).

⁴ State of New York Public Service Commission, Case 20-E-0197, *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, Order Approving Cost Recovery For Clean Energy Hub (April 20, 2023).

⁵ State of New York Public Service Commission, Case 20-E-0197, *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals (September 9, 2021).

⁶ State of New York Public Service Commission, Case 20-E-0197, *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, Order Approving a Coordinated Grid Planning Process (August 17, 2023).

1 stakeholder engagement, any such CLCPA Eligible Projects may be identified
2 for NYPSC approval. O&R requests FERC approval of the proposed Formula
3 Rate, as any Schedule 19 Projects approved by the NYPSC to satisfy CLCPA
4 requirements and assigned to O&R would be included therein.

5 **Q. Please describe how the revenue requirements of these Schedule 19**
6 **Projects/Approved Local Transmission Upgrades are to be recovered from**
7 **customers.**

8 A. By Order dated September 9, 2021,⁷ the NYSPC requested that Central
9 Hudson, Con Edison, National Grid, NYSEG, O&R and RG&E (each, an
10 “Eligible Transmission Owner”) develop and propose for its review, prior to
11 submission to FERC, a mechanism under the NYISO OATT to allocate and
12 recover from all beneficiaries across the state the costs of CLCPA Eligible
13 Projects. On January 7, 2022, the Eligible Transmission Owners, having
14 consulted with LIPA, the NYISO and the NYPSC staff, proposed the use of a
15 voluntary participant funding agreement among the NYTOs to be accepted by
16 the NYPSC prior to submission to FERC. They further proposed that the
17 costs be funded by the Eligible Transmission Owners and LIPA and allocated
18 statewide based on load-ratio share, consistent with how the costs of the
19 renewable energy supplies required under the CLCPA are allocated. Because
20 both the renewable energy supplies required by state law, and the CLCPA
21 Eligible Projects that integrate and deliver them, have the same statewide

⁷ State of New York Public Service Commission, Case 20-E-0197, Order dated September 9, 2021, P 48-49.

1 beneficiaries, it follows that they should have the same statewide cost
2 allocation. Upon review, the NYPSC held this approach to be appropriate,
3 and by Order dated May 12, 2022, accepted the proposed participant funding
4 agreement (called the “Cost Sharing and Recovery Agreement” or “CSRA”)
5 and cost allocation mechanism (described in new Rate Schedule 19 of the
6 NYISO OATT).

7 **Q. Has the Commission accepted the CSRA and Rate Schedule 19 under**
8 **Section 205 of the Federal Power Act?**

9 A. Yes. On August 19, 2022, the Commission issued an “Order Accepting
10 Proposed Cost Sharing and Recovery Agreement, Rate Schedule, Tariff
11 Revisions and Certificates of Concurrence” accepting the CSRA, Rate
12 Schedule 19 and certain conforming amendments to the NYISO OATT.⁸

13 **Q. Describe Rate Schedule 19.**

14 A. Rate Schedule 19 of the NYISO OATT establishes a CLCPA Facilities
15 Charge (“CFC Charge”) and a LIPA CFC Charge as part of the NYISO billing
16 and settlement process and provides for the recovery of costs of each
17 transmission project eligible for cost recovery under the CSRA. Rate
18 Schedule 19 establishes that the costs of each eligible project shall be
19 allocated on a load ratio share basis, calculated volumetrically based upon
20 Actual Energy Withdrawals by Load Serving Entities, excluding Withdrawal
21 Billing Units for Exports and Wheel Through. It establishes that the NYISO

⁸ See *Consolidated Edison Co. of New York, Inc., et al.*, 180 FERC ¶ 61,106 (2022).

1 will calculate the CFC Charge for CLCPA Eligible Projects of each NYTO by
2 starting with each NYTO's applicable annual transmission revenue
3 requirement ("ATRR") and adjusting for settlements related to any
4 Incremental Transmission Congestion Contracts ("Incremental TCCs")
5 associated with the CLCPA Eligible Projects, including any outage charges
6 for the Incremental TCCs. It will allocate the result on a load ratio share basis
7 to Load Serving Entities ("LSEs") in New York.

8 **Q. What additional approvals are needed from FERC for O&R to recover**
9 **costs under Rate Schedule 19?**

10 A. Under Rate Schedule 19 of the NYISO OATT, the CFC Charge is a cost-of-
11 service charge derived from transmission formula rates. The purpose of this
12 filing is to receive FERC's acceptance under Section 205 of the Formula Rate
13 that O&R will use to determine its ATRR to be used by the NYISO to
14 determine O&R's CFC Charges under Rate Schedule 19. O&R's Formula
15 Rate is proposed to be added as Attachment 5 to Rate Schedule 19 (Section
16 6.19.10) of the NYISO OATT.

17 **Q. Do you anticipate that the any order from the NYPSC on future O&R**
18 **Schedule 19 Projects will contain a specified return on equity and capital**
19 **structure that will need to be included in O&R's Formula Rate?**

20 A. No, I do not. As the NYPSC did in its February 16, 2023 Order approving the
21 projects proposed by Central Hudson, NYSEG, National Grid, and RG&E, I
22 expect future NYPSC orders to refer to the CSRA which obligates O&R and
23 the other NYTOs to utilize the NYPSC authorized return on equity and capital

1 structure in its Formula Rate. Later in my testimony, I discuss how the
2 proposed Formula Rate accommodates the return on equity and capital
3 structure determined for Schedule 19 Projects by the NYPSC.

4 **Q. Has the NYPSC assigned any Schedule 19 Projects to O&R?**

5 A. The NYPSC has not to date assigned any Schedule 19 Projects to O&R.

6 Nonetheless, O&R is proposing this Formula Rate to be prepared in the event
7 the NYPSC does so.

8

9 **IV. BACKGROUND INFORMATION – SCHEDULE 10 PROJECTS**

10 **Q. Please describe Rate Schedule 10?**

11 A. Rate Schedule 10 (Section 6.10) of the NYISO OATT establishes the
12 Regulated Transmission Facilities Charge (“RTFC”) for the recovery of the
13 costs of a regulated transmission project that is eligible for cost recovery in
14 accordance with the NYISO’s CSPP requirements set forth in Attachment Y
15 of the NYISO OATT. Rate Schedule 10 can be used to recover the costs of
16 various project types (as described in Rate Schedule 10), including, but not
17 limited to⁹ (1) a Designated Public Policy Project that is a Public Policy
18 Transmission Project, or a part of a Public Policy Transmission Project, that
19 the NYISO Board of Directors has selected pursuant to Section 31.4.8.3 of
20 Attachment Y of the NYISO OATT as the more efficient or cost-effective

⁹ Projects eligible for cost recovery under Rate Schedule 10 can also arise from the NYISO’s reliability planning process, which is part of the CSPP.

1 solution to a Public Policy Transmission Need (“PPTN”), (2) Designated
2 Network Upgrade Facilities pursuant to Section 22.9.6 of Attachment P to the
3 NYISO OATT and associated with a Public Policy Transmission Project
4 selected by the NYISO Board of Directors as the more efficient or cost
5 effective transmission solution to address a PPTN, and (3) a Public Policy
6 Transmission Project proposed by a Developer in response to a request by the
7 NYPSC or Long Island Power Authority in accordance with Section 31.4.3.2
8 of Attachment Y of the NYISO OATT.

- 9 **Q. Please further describe Rate Schedule 10?**
- 10 A. Rate Schedule 10 also describes what projects are not eligible for recovery
11 thereunder (see Section 6.10.1 of Rate Schedule 10 to the NYISO OATT) and
12 provides information on the revenue requirement and cost recovery
13 methodology for eligible projects (see Sections 6.10.2, 6.10.3, and 6.10.4 of
14 Rate Schedule 10 to the NYISO OATT) and on cost containment related to
15 Designated Public Policy Projects (see Section 6.10.6 of Rate Schedule 10 to
16 the NYISO OATT). It also contains a section on cost recovery for LIPA and
17 NYPA (see Section 6.10.5 of Rate Schedule 10 to the NYISO OATT); a
18 formula rate and protocols for LS Power Grid New York (see Attachment 1 to
19 Rate Schedule 10 of the NYISO OATT); the formula rate and protocols for a
20 PPTN project of NYPA (see Attachment 2 to Rate Schedule 10 of the NYISO
21 OATT); a formula rate and protocols for Next Era Transmission New York
22 (see Attachment 3 to Rate Schedule 10 of the NYISO OATT); and the rate

1 mechanism for the recovery by Consolidated Edison of New York (see
2 Attachment 4 to Rate Schedule 10 of the NYISO OATT).

3 **Q. Does O&R currently have any projects eligible for recovery under**
4 **Schedule 10?**

5 A. O&R currently does not have any projects eligible for recovery under
6 Schedule 10. As with Schedule 19 Projects, O&R's intent in requesting this
7 Formula Rate is to prepare now for the cost recovery of eligible projects in the
8 future.

9
10 **V. TRANSMISSION FORMULA RATE TEMPLATE**

11 **Q. Describe O&R's proposed transmission Formula Rate by which it would**
12 **recover the revenue requirement of Schedule 19 Projects and Schedule 10**
13 **Projects.**

14 A. I present the proposed Formula Rate Template in Exhibit No. O&R-003. The
15 proposed Formula Rate Template determines ATRRs using projected data for
16 a calendar year rate year, with an annual true-up adjustment to reconcile actual
17 revenue for the rate year to the actual ATRR for that same rate year. The
18 proposed Formula Rate is consistent with transmission formula rates approved
19 by FERC and in use throughout the United States and is identical to that recently
20 approved by the Commission for Con Edison.¹⁰ The unpopulated Formula Rate

¹⁰ *Consolidated Edison Company of New York, Inc and New York Independent System Operator, 185 FERC § 61,091 (October 31, 2023).* In addition, the Commission recently approved Rate Schedule 19 formula rates for NYSEG and RG&E (*New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation and New York Independent System Operator, 185 FERC § 61,164 (December 4, 2023)*) as well as for Central Hudson *185 FERC § 61,217 (December 22, 2023)*.

1 Template is proposed to be included in Section 6.19.10.2.2 of Attachment 5 to
2 Rate Schedule 19 of the NYISO OATT.

3 **Q. Describe Exhibit No. O&R-003.**

4 A. Exhibit No. O&R-003 contains the proposed Formula Rate Template,
5 populated with proxy data to enable its ease of use, and consisting of several
6 worksheets necessary to determine and publish the ATRRs for O&R's Schedule
7 19 Projects and Schedule 10 Projects.¹¹ The Index to the Formula Rate
8 Template is a list of all the worksheets contained in the Formula Rate Template.
9 Projected input data will derive from O&R's internal budgeting process, while
10 actual input data will derive from the O&R's FERC Form No. 1. The populated
11 Formula Rate Template will be provided in Excel to stakeholders well in
12 advance of the ATRR or annual true-up adjustment implementation, with ample
13 opportunity to review, question and provide feedback in accordance with the
14 protocols described in the next section.

15 **Q. How does O&R recover the costs of its transmission assets today?**

16 A. Under NYPSC ratemaking, O&R includes both its transmission and distribution
17 assets in its NYPSC jurisdictional rates. O&R has a FERC stated transmission
18 rate in Attachment H to the NYISO OATT, which is used in very limited
19 circumstances for assessing wholesale Transmission Service Charges under the
20 NYISO OATT. Revenue received under Attachment H is credited to the
21 NYPSC jurisdictional revenue requirement.

¹¹ Proxy data is provided in all data input cells for ease of use.

1 **Q. With the advent of a formula rate recovering two types of projects under**
2 **the NYISO OATT, how will O&R ensure that its Schedule 19 Projects’**
3 **ATRR and Schedule 10 Projects’ ATRR are not also recovered in NYPSC**
4 **jurisdictional rates?**

5 A. O&R will either exclude Rate Schedule 19 and Rate Schedule 10 revenue
6 requirement items from its NYPSC approved rates or provide an appropriate
7 credit to its NYPSC jurisdictional rates for recoveries of costs under Rate
8 Schedule 19 and Rate Schedule 10. Thus, O&R will ensure that the ATRR for
9 Schedule 19 Projects and the ATRR for Schedule 10 Projects are not included
10 in NYPSC jurisdictional rates.

11 **Q. What is Appendix A of Exhibit No. O&R-3?**

12 A. Appendix A of the Formula Rate Template is the worksheet that computes the
13 non-levelized ATRR for both Schedule 19 Projects and Schedule 10 Projects.
14 The allocation factors and ATRR for Schedule 19 Projects are contained in
15 Columns 4 and 5, respectively, while the allocation factors and ATRR for
16 Schedule 10 Projects are contained in Columns 6 and 7, respectively. Appendix
17 A contains rate base, operations and maintenance expense, depreciation and
18 amortization expense, taxes other than income taxes, income taxes, return and
19 revenue credits. It also contains adjustments to ATRRs for prior period
20 corrections and for annual true-up adjustments.

21 **Q. Describe the rate base section of Appendix A.**

22 A. Rate base consists of gross plant in service, accumulated depreciation, net plant
23 in service, accumulated deferred income taxes, land held for future use, and

1 other rate base items. Other base items include cash working capital, materials
2 and supplies, prepayments, and unfunded liabilities. All items are 13-month
3 average balances except accumulated deferred income taxes which are
4 beginning of year/end of year averages or a value that reflects Internal Revenue
5 Service-required proration. Column 3 contains total O&R data, where needed,
6 while Column 5 contains data related to the Schedule 19 Projects and Column
7 7 contains data related to Schedule 10 Projects. Column 4 contains the
8 allocation method used to derive the Schedule 19 Project amounts while
9 Column 6 contains the allocation method used to derive the Schedule 10
10 Projects amounts.

11 **Q. Describe how the Formula Rate derives gross plant in service, accumulated**
12 **depreciation, and net plant in service.**

13 A. Gross plant in service and accumulated depreciation amounts are contained in
14 Workpaper 1-RB Items. Workpaper 1-RB Items contain gross plant in service
15 and accumulated depreciation by function. The respective gross plant in service
16 and accumulated depreciation for Schedule 19 Projects and Schedule 10
17 Projects will be based upon O&R tracking these assets in its fixed asset system,
18 and the actual amounts will be included on appropriate FERC Form No. 1 pages
19 via footnotes. Net plant in service equals gross plant in service less
20 accumulated depreciation.

21 **Q. How do you determine the portion of electric general, electric intangible**
22 **and common gross plant in service and the applicable accumulated**

1 **depreciation to allocate to the Schedule 19 Projects and Schedule 10**
2 **Projects?**

3 A. Consistent with the construct of most formula rates accepted by the
4 Commission for transmission cost of service, the proposed Formula Rate
5 allocates to Schedule 19 Projects and Schedule 10 Projects rate base electric
6 general gross plant and electric intangible gross plant in service and the
7 applicable accumulated depreciation using a wage and salary allocator based
8 upon estimated transmission wages for the Schedule 19 Projects or Schedule 10
9 Projects. The Formula Rate derives these allocators for Schedule 19 Projects
10 and Schedule 10 Projects on Line 92 of Appendix A. The Formula Rate
11 allocates common gross plant in service¹² and the applicable accumulated
12 depreciation using the product of both a common plant allocator to determine
13 the electric transmission portion (derived on Line 95 of Appendix A) and the
14 same wage and salary allocators as used for electric general and electric
15 intangible items.

16 **Q. Describe how the Formula Rate determines accumulated deferred income**
17 **taxes included on Line 23.**

18 A. The Formula Rate derives accumulated deferred income taxes on: 1) for
19 Schedule 19 Projects, Workpaper 2a19-ADIT Current Year, Workpaper 2b19-
20 ADIT Prior Year, Workpaper 2c19-ADIT Proration Projected and Workpaper
21 2d19-ADIT Proration Actual; and 2) for Schedule 10 Projects, on Workpaper

¹² Common plant is used for both electric and natural gas business functions.

1 2a10-ADIT Current Year, Workpaper 2b10-ADIT Prior Year, Workpaper
2 2c10-ADIT Proration Projected and Workpaper 2d10-ADIT Proration Actual.
3 Only direct assigned accumulated deferred income taxes are included, such as
4 those related to accelerated depreciation attributable to the Schedule 19 Projects
5 or Schedule 10 Projects. Workpaper 2a19-ADIT Current Year and Workpaper
6 2a10-ADIT Current Year contains both the current year and prior year values
7 for Accounts 190 and 283 and the prorated value for Account 282. The prior
8 year values come from Workpaper 2b19-ADIT Prior Year or Workpaper 2b10-
9 ADIT Prior Year. The prorated values come from Workpaper 2c19-ADIT
10 Proration Projected or Workpaper 2c10-ADIT Proration Projected, which are
11 used when the Formula Rate is populated with projected data, or Workpaper
12 2d19-ADIT Proration Actual or Workpaper 2b10-ADIT Proration Actual,
13 which are used when the Formula Rate is populated with actual data. The
14 proration workpapers determine values consistent with Treasury Regulation
15 Section 1.167(l)-1(h)(6) and reflect methodologies accepted by the
16 Commission and in use in many transmission formula rates today.

17 **Q. Line 25 of Appendix A contains Excess Accumulated Deferred Income**
18 **Taxes. Please explain why this Worksheet is needed.**

19 A. Per FERC Order No. 864, the Commission requires that all transmission
20 formula rates provide for the ability, should income tax rates change, to
21 remeasure accumulated deferred income taxes, to determine the excess or
22 deficient accumulated deferred income taxes and to include such amount in rate
23 base. Workpaper 3a19-EADIT and Workpaper 3b10-EADIT provide for the

1 potential remeasurement in the future for direct assigned accumulated deferred
2 income taxes related to Schedule 19 Projects and Schedule 10 Projects.

3 **Q. Describe land held for future use.**

4 A. O&R would include here any land held for future use related to approved
5 Schedule 19 Projects or awarded or assigned Schedule 10 Projects. In other
6 words, if O&R has purchased land and that land will be used for an approved
7 Schedule 19 Project or an awarded or assigned Schedule 10 Project, O&R
8 would include, prior to the project going in service, such amounts in Workpaper
9 1-RB Items which transfers the value to Line 28, Column 5 of Appendix A.
10 This approach is consistent with FERC precedent on the rate base treatment of
11 land held for future use,

12 **Q. Describe how the Formula Rate determines cash working capital on Line**
13 **27.**

14 A. Cash working capital is equal to one-eighth of operations and maintenance
15 expenses (including administrative and general expenses) contained on Line 47,
16 consistent with FERC precedent. For Schedule 19 Projects, the cash working
17 capital is based upon Schedule 19 Project O&M on Line 47, Column 5 while
18 the cash working capital for Schedule 10 Projects is based upon Schedule 10
19 Project O&M on Line 47, Column 7.

20 **Q. Lines 28 and 29 contain materials and supplies amounts. Describe how the**
21 **Formula Rate derives these amounts.**

22 A. There are two materials and supplies lines. One is for materials and supplies
23 directly assigned to transmission. To determine the Schedule 19 Projects and

1 Schedule 10 Projects portions, the Formula Rate allocates the total amount from
2 Workpaper 1-RB Items using the Schedule 19 Projects or Schedule 10 Projects
3 transmission plant allocator. The other line contains materials and supplies
4 related to electric and gas construction. To determine the Schedule 19 Projects
5 and Schedule 10 Projects portions, the Formula Rate allocates the 100% amount
6 from Workpaper 1-RB Items using the product of the common plant allocator
7 (to determine the electric portion) and the gross electric plant allocator (to
8 determine the portion of electric that is for Schedule 19 Projects and Schedule
9 10 Projects).

10 **Q. Describe prepayments contained on Line 30.**

11 A. This item represents prepayments for O&R's electric and natural gas
12 businesses. Therefore, to determine the Schedule 19 Projects and Schedule 10
13 Projects portions, the Formula Rate allocates the 100% amount from
14 Workpaper 1-RB Items using the product of the common plant allocator (to
15 determine the electric portion) and the gross electric plant allocator (to
16 determine the portion of electric that is for Schedule 19 Projects and Schedule
17 10 Projects).

18 **Q. Describe the last rate base item – unfunded liabilities.**

19 A. Certain cost items are accrued and expensed, but not externally funded and not
20 paid for some time. For example, injuries and damages are determined,
21 estimated, and expensed when the injury or damage occurs; the amount is not
22 deposited in an external fund, and cash may not be expended for many months
23 and sometimes years. As a result, such amounts should reduce rate base. I have

1 analyzed accounts 228 and 242 and determined that three items should be
2 reflected in unfunded liabilities – allowance for injuries and damages, accrued
3 vacation and stock-based compensation. Therefore, the Formula Rate
4 determines the 13-month average rate year balance of these items in Workpaper
5 1-RB Items and then reduces rate base on Line 31 of Appendix A. Since these
6 unfunded liability items are related to O&R’s electric and natural gas businesses
7 and are predominantly payroll items, the Formula Rate allocates the 100%
8 amount from Workpaper 1-RB Items by the product of the common plant
9 allocator (to determine the electric portion) and the Schedule 19 Projects or
10 Schedule 10 Projects wage and salary allocator (to determine the respective
11 Schedule 19 Projects and Schedule 10 Projects portion).

12 **Q. Now that you have covered rate base items, describe the items that make**
13 **up the ATRR.**

14 A. The first item is Operations and Maintenance Expenses (“O&M”), which
15 begins on Line 34 of Appendix A. The Formula Rate provides for either direct
16 assigning transmission O&M (if O&R tracks O&M expenses for the Schedule
17 19 Projects or Schedule 10 Projects) or allocating transmission O&M to
18 Schedule 19 Projects or Schedule 10 Projects, but not both. EPRI dues are
19 removed from transmission O&M prior to any allocation to Schedule 19
20 Projects or Schedule 10 Projects. If the allocation approach is selected, the
21 Formula Rate allocates transmission O&M to Schedule 19 Projects and
22 Schedule 10 Projects using a Schedule 19 Projects or Schedule 10 Projects
23 transmission gross plant allocator, respectively.

1 **Q. Describe how electric administrative and general expenses (“A&G”) are**
2 **treated in the Formula Rate.**

3 A. The Formula Rate begins with total electric A&G and deducts any EPRI dues,
4 electric regulatory commission expenses, electric property insurance and
5 certain electric Account 930.2 items to arrive at adjusted A&G. It then allocates
6 adjusted A&G to Schedule 19 Projects and Schedule 10 Projects using a
7 Schedule 19 Projects or Schedule 10 Projects wage and salary allocator,
8 respectively, consistent with how A&G is treated in most transmission formula
9 rates. It then allocates any transmission regulatory expenses not directly
10 assigned to Schedule 19 Projects or Schedule 10 Projects using a Schedule 19
11 Projects or Schedule 10 Projects transmission plant allocator and directly
12 assigns any regulatory expenses incurred directly for Schedule 19 Projects or
13 Schedule 10 Projects regulatory proceedings. Lastly, it allocates electric
14 property insurance using a Schedule 19 Projects and Schedule 10 Projects gross
15 plant allocator and then determines total O&M, as is shown on Line 47.

16 **Q. Are EEI Dues included in the Formula Rate?**

17 A. EEI dues that are not related to lobbying activities are included in administrative
18 and general expenses which are included in the Formula Rate. EEI dues related
19 to lobbying activities are charged to a “below-the-line” account that is not
20 included in the Formula Rate.

21 **Q. You mentioned that O&R will exclude certain items in electric Account**
22 **930.2 from A&G. What items will O&R exclude?**

1 A. As is stated in Note L of Appendix A, O&R will exclude from the ATRR for
2 Schedule 19 Projects and the ATTR for Schedule 10 Projects any items in
3 Account 930.2 that exceed \$1 million and are not directly or indirectly related
4 to the provision of transmission service.

5 **Q. How is depreciation and amortization expense determined?**

6 A. The Formula Rate directly assigns depreciation expense related to Schedule 19
7 Projects and Schedule 10 Projects, as tracked by O&R in its fixed asset system.
8 The Formula Rate allocates general, intangible, and common electric
9 depreciation and amortization using the respective Schedule 19 Projects and
10 Schedule 10 Projects wage and salary allocator. O&R provides the depreciation
11 and amortization rates it will use in determining depreciation and amortization
12 expense on Workpaper 8-Depreciation Rates.

13 **Q. What is the source of the depreciation and amortizations rates contained**
14 **in Workpaper 8-Depreciation Rates?**

15 A. The depreciation and amortization rates contained in Workpaper 8-
16 Depreciation Rates are those most recently approved for O&R by the NYPSC
17 on April 14, 2022 in Case 21-E-0074 and Case 21-G-0073 ("2021 Rate Case").
18 To aid the Commission in its review of these rates, I provide in Exhibit No.
19 O&R-004 relevant information from the 2021 Rate Case. Included in Exhibit
20 No. O&R-004 are the depreciation rate testimony and study, along with an
21 Excel file determining the depreciation and amortization rates from the 2021
22 Rate Case, and the NYPSC order which has the joint proposal attached that
23 represents the agreement to resolve the 2021 Rate Case. The joint proposal

1 shows the depreciation and amortization rates agreed to by the parties, which
2 the NYPSC approved and which have been included in Workpaper 8-
3 Depreciation Rates.

4 **Q. What is included in taxes other than income taxes and how are these items**
5 **allocated to Schedule 19 Projects and Schedule 10 Projects?**

6 A. This category contains electric and gas other taxes (not income taxes). Included
7 in this category are payroll taxes, real estate taxes, franchise taxes and gross
8 receipts taxes. Payroll taxes consist of FICA and unemployment, and the
9 Formula Rate allocates them to Schedule 19 Projects and Schedule 10 Projects
10 using the product of the common plant allocator (to determine the electric
11 portion) and the Schedule 19 Projects or Schedule 10 Projects wage and salary
12 allocator (to determine the Schedule 19 Projects or Schedule 10 Projects
13 portion). The Formula Rate allocates real estate taxes and franchise taxes using
14 the product of the common plant allocator (to determine the electric portion)
15 and the gross electric plant allocator (to determine the Schedule 19 Projects or
16 Schedule 10 Projects portion). The Formula Rate determines the gross receipts
17 tax based upon an estimate of the respective ATRR(s) for Schedule 19 Projects
18 and Schedule 10 Projects and includes the amount in the revenue requirement.
19 This is done in Note N of Appendix A. As shown on Line 57, the Formula Rate
20 provides for the addition in the future of other tax items that may arise.

21 **Q. The next item is Income Taxes. Describe the items in this category and**
22 **how the Formula Rate determines the Schedule 19 Projects and Schedule**
23 **10 Projects component.**

1 A. Income taxes include amortization of investment tax credit (Line 62 and the
2 grossed-up amount on Line 66), amortization of excess accumulated deferred
3 income taxes (Line 63 and the grossed-up amount on Line 67), the tax effect of
4 permanent book/tax differences (line 64 and the grossed-up amount on Line 68)
5 and income taxes on the common equity and preferred stock return (line 65).
6 The Formula Rate contains the composite tax rate on Line 59 which is based
7 upon the state and federal tax rates in Note F. The Formula Rate also contains
8 the grossed-up tax rate $(1/(1-t) - \text{Line 60})$ and the income tax factor $(t/(1-t) -$
9 Line 61).

10 **Q. Describe the amortization of investment tax credit and the amortization of**
11 **excess accumulated deferred income taxes.**

12 A. The amortization of investment tax credit would be included if the Internal
13 Revenue Code provided for an investment tax credit for the Schedule 19
14 Projects or Schedule 10 Projects investments, which presently, it does not. The
15 amount would be shown on the applicable O&R FERC Form No. 1 page, via a
16 footnote. The amortization of excess accumulated deferred income taxes would
17 be determined on Workpaper 3a19-EADIT for Schedule 19 Projects and
18 Workpaper 3b10-EADIT for Schedule 10 Projects if federal or state tax rates
19 change in the future. These worksheets are included to comply with FERC
20 Order No. 864 which requires all transmission formula rates to provide for
21 remeasurement of accumulated deferred income taxes when tax rates change
22 and inclusion of the remeasured amount in rate base and the amortization in the
23 applicable ATRR.

1 **Q. Describe what is included in permanent book/tax differences.**

2 A. The Formula Rate includes permanent book/tax differences on Workpaper 4-IT
3 Permanent Differences. O&R anticipates that the only permanent book/tax
4 difference for Schedule 19 Projects and Schedule 10 Projects will be AFUDC
5 equity, which is included as part of the cost of construction on the books but
6 not for income taxes. Therefore, the Formula Rate includes the income taxes
7 related to recovering the AFUDC equity portion of book depreciation.
8 Workpaper 4-IT Permanent Differences includes the ability to add other items,
9 if authorized by the Commission. AFUDC equity depreciation related to
10 Schedule 19 Projects and Schedule 10 Projects and any other items would be
11 included in footnotes on the applicable FERC Form No. 1 page.

12 **Q. Describe the income taxes related to common equity and preferred stock**
13 **return.**

14 A. Income taxes related to common equity and preferred stock return recognizes
15 that these return items are not deductible for income taxes and, therefore, the
16 Formula Rate provides the income taxes necessary to recover these amounts,
17 which, for Schedule 19 Projects, is based upon the common equity and
18 preferred stock return determined on Workpaper 5-Project Return and
19 transferred to Line 74 of Appendix A and the Income Tax Factor on Line 61 of
20 Appendix A and which, for Schedule 10 Projects, is based upon the common
21 equity and preferred stock return on Line 74 and the Income Tax Factor on Line
22 61 of Appendix A.

1 **Q. Describe the debt and common equity and preferred stock items on Lines**
2 **70 and 71, respectively, of Appendix A.**

3 A. For Schedule 19 Projects, these items are a function of the Schedule 19 Projects
4 rate base (Line 33) and the cost of capital on Workpaper 6a19-Project Cost of
5 Capital, which provides for a different cost of capital for each Schedule 19
6 Project, if there is need for such differentiation. Workpaper 6a19-Project Cost
7 of Capital provides for using the lower of the FERC allowed return on equity
8 ceiling, as supported by the accompanying testimony of Adrien McKenzie, or
9 the NYPSC determined return on equity, consistent with the CSRA. It also
10 provides for use of the NYPSC approved capital structure, also as specified in
11 the CSRA.¹³ Lastly, Workpaper 6a19-Project Cost of Capital determines the
12 cost rates of preferred stock and long-term debt, both used in determining the
13 cost of capital.

14 For Schedule 10 Projects, these items are a function of the Schedule 10 Projects
15 rate base (Line 33) and the cost of capital on Workpaper 6b10-Project Cost of
16 Capital. Workpaper 6b10-Project Cost of Capital determines the cost rates of
17 preferred stock and long-term debt, both used in determining the Schedule 10
18 Projects cost of capital. The cost of long-term debt is the same for both
19 Schedule 19 Projects and Schedule 10 Projects. The return on equity is the base
20 return on equity eventually approved by the Commission in this proceeding plus

¹³ O&R would include the then effective NYPSC approved ROE and cost of capital for Schedule 19 Projects and does not anticipate a separate order by the NYPSC setting forth the ROE and capital structure for O&R's Schedule 19 Projects.

1 the 0.50% RTO Participation Adder that O&R is requesting herein for Schedule
2 10 Projects.

3 **Q. Describe Workpaper 5-Project Return.**

4 A. This worksheet determines the rate base for each Schedule 19 Project or
5 grouping of projects and applies the Schedule 19 Project cost of capital to
6 determine the debt and common equity and preferred stock return. The Formula
7 Rate carries the sum of these amounts forward to Appendix A.

8 **Q. How does the Formula Rate determine the rate base for each Schedule 19**
9 **Project?**

10 A. As can be seen on Workpaper 5-Project Return, the Formula Rate directly
11 assigns rate base items that can be directly assigned and allocates those that
12 cannot by using a gross plant ratio based upon Column b amounts. The Formula
13 Rate applies the project-specific weighted average cost of capital to the
14 applicable rate base to determine the project-specific return as well as the
15 common equity and preferred stock return and debt return.¹⁴ The Formula Rate
16 carries forward to Appendix A the sum of the common equity and preferred
17 stock returns and the sum of the debt returns.

18 **Q. Summarize the Schedule 19 Projects and Schedule 10 Projects ATRR**
19 **calculations at this point.**

20 A. Line 73 of Appendix A is the sum of operations and maintenance expense,
21 depreciation and amortization expenses, taxes other than income taxes, income

¹⁴ Workpaper 5-Project Return provides, for efficiency, the ability to group individual Schedule 19 Projects that are part of a larger project that receive the same weighted average cost of capital.

1 tax expense and common equity and preferred stock return and debt return
2 (Column 5 is for Schedule 19 Projects while Column 7 is for Schedule 10
3 Projects). The remaining items to be included in the Formula Rate are revenue
4 credits, prior Formula Rate corrections and the annual true-up adjustment.

5 **Q. Please describe the “revenue credits” that will be included in the Formula**
6 **Rate.**

7 A. The Formula Rate includes and credits any revenues recorded in Rent from
8 Electric Property (Account 454) or Other Electric Revenues (Account 456) that
9 directly apply to the Schedule 19 Projects or Schedule 10 Projects. O&R will
10 show any such revenue in a footnote on FERC Form No. 1 pages 300-301 and
11 include any amounts on Lines 98 and 99, which are carried forward to Line 74
12 on Appendix A. The Formula Rate shows the respective ATRRs for Schedule
13 19 Projects and Schedule 10 Projects before any corrections and the true-up
14 adjustment on Line 75 of Appendix A.

15 **Q. Describe Workpaper-9, Prior Formula Rate Corrections.**

16 A. The Formula Rate provides the ability for O&R to make any necessary
17 corrections to prior actual ATRRs that are beyond being included in an annual
18 true-up adjustment. The Formula Rate provides for these corrections in
19 Workpaper 9-Corrections, which also includes interest at the FERC determined
20 interest rates (18 C.F.R. Section 35.19a).

21 **Q. Explain the “annual-true-up adjustment.”**

22 A. As explained above, O&R initially will determine the Schedule 19 Projects’
23 and Schedule 10 Projects’ ATRRs using the Formula Rate populated with

1 projected data for the rate year. After it has completed its FERC Form No. 1
2 for that same rate year, O&R will reconcile the revenue received, which would
3 be based upon the projected ATRRs, with the actual ATRRs determined using
4 the Formula Rate populated with actual data. The difference is the annual true-
5 up adjustment, before including interest. The Formula Rate determines this
6 amount on Workpaper 7a19-True-up Adjustment (for Schedule 19 Projects)
7 and Schedule 7b10-True-up Adjustment (for Schedule 10 Projects), and both
8 include interest (using the FERC determined interest rates from 18 C.F.R.
9 Section 35.19a) from the middle of the rate year to the middle of the period
10 during which such true-up adjustment is included in the revenue requirement.
11 The sum of the true-up amount plus interest is the respective Annual True-up
12 Adjustments.

13 **Q. What revenue requirement amount will be provided to the NYISO for**
14 **state-wide cost allocation under Rate Schedule 19?**

15 A. The Formula Rate shows the sum of the ATRR plus corrections plus the Annual
16 True-up Adjustment on Line 78. Any FERC approved ROE Adder on Line 79
17 would not apply to Schedule 19 Projects. Therefore, there are no Line 79 and
18 80 values for the Schedule 19 Projects. O&R will provide the Line 78 amount
19 (or individual project ATRRs from Workpaper 10a19-Schedule 19 ATRRs, if
20 needed), effective each January 1, to the NYISO for allocation to LSEs in New
21 York pursuant to Rate Schedule 19 of the NYISO OATT. As described above,
22 the NYISO will adjust this amount by any Incremental TCC settlements or

1 outage charges for Incremental TCCs before billing such amount to load serving
2 entities in New York, consistent with Rate Schedule 19.

3 **Q. What revenue requirement amount will be provided to the NYISO for**
4 **allocation of Rate Schedule 10 Projects?**

5 A. The Formula Rate shows the sum of the ATRR plus corrections plus the Annual
6 True-up Adjustment on Line 78. The Formula Rate also includes
7 accommodation for any ROE Adder on Line 79, if FERC approved an ROE
8 Adder Incentive¹⁵ for any Schedule 10 Project.¹⁶ The Formula Rate determines
9 the value of a 100-basis point ROE Adder on Workpaper 11-ROE Adder. The
10 Formula Rate then uses this amount to determine the value of any specific ROE
11 Adder for a Schedule 10 Project on Workpaper 10b10-Schedule 10 ATRRs.
12 The Formula Rate then carries this amount forward to Line 79 of Appendix A.
13 Line 80 is the total ATRR. O&R will provide the Line 80 amount (or individual
14 project ATRRs from Schedule 10b10-Schedule 10 ATRRs, if needed), effective
15 each January 1, to the NYISO for allocation according to the NYISO approved
16 cost allocation approach. As described above for Schedule 19 Projects, the
17 NYISO will adjust this amount by any Incremental TCC settlements or outage
18 charges for Incremental TCCs before billing such amount under Rate Schedule
19 10.

¹⁵ O&R would need to file for FERC approval pursuant to Section 219 of the Federal Power Act for project-specific incentives.

¹⁶ The RTO Participation Adder of 0.50% requested in this proceeding by O&R for Schedule 10 Projects is included with and added to the base ROE on Column (d) of Line 3 of Workpaper 6b10-Project Cost of Capital.

1 **Q. Describe Workpaper 10a19-Schedule 19 ATRRs and Workpaper 10b10-**
2 **Schedule 10 ATRRs.**

3 A. In these two worksheets, the Formula Rate determines the ATRR for each
4 individual project comprising the total Schedule 19 Projects ATRR and total
5 Schedule 10 Projects ATRR contained in Appendix A. Individual project
6 revenue requirements would be needed if different Schedule 10 Projects receive
7 different cost allocations or if FERC grants one or more ROE Adders for a
8 Schedule 10 Project.

9 These worksheets develop ATRR component factors based upon the total
10 ATRR for Schedule 19 Projects or Schedule 10 Projects and apply the factors
11 to the individual Schedule 19 Projects or individual Schedule 10 Projects to
12 determine the ATRR components and the total ATRR. For Schedule 19
13 Projects, since the total return is determined on Workpaper 5-Project Return,
14 these amounts are carried over to column 12 of Workpaper 10a19-Schedule 19
15 ATRRs, leaving only the income taxes to be determined for each Schedule 19
16 Project on Workpaper 10a19-Schedule 19 ATRRs.

17 **Q. Does O&R expect that Schedule 19 Projects could receive different cost**
18 **allocations?**

19 A. It does not currently, as the CRSA anticipates all Schedule 19 Projects being
20 allocated to all LSEs in New York based on a volumetrically calculated load
21 ratio share. Nevertheless, O&R is building this flexibility into the proposed
22 Formula Rate should the CSRA signatories agree to different cost allocations
23 for individual Schedule 19 Projects in the future.

1 **Q. Are there any other comments you have on the Formula Rate?**

2 A. Yes, there are. On lines 81 through 97 of Appendix A, the Formula Rate
3 calculates several of the allocators used in Appendix A and in other worksheets.
4 The Formula Rate also contains several footnotes at the bottom of Appendix A,
5 one of which provides the definition of the acronyms used for the various
6 allocators. Lastly, Workpaper 8-Depreciation Rates contains the depreciation
7 rates to be used to determine transmission, general, intangible, and common
8 depreciation and amortization expense included in ATRRs. These depreciation
9 rates are those approved by the NYPSC. O&R will continue to use these
10 depreciation rates until the NYPSC orders changes and O&R receives approval
11 from FERC to use the changed depreciation rates. It is O&R's intent that any
12 changes to these depreciation rates would be implemented simultaneously for
13 both NYPSC ratemaking and for this Formula Rate.

14 **Q. What is the process for O&R to request transmission rate incentives for**
15 **any of its Schedule 19 Projects?**

16 A. Consistent with the CSRA, O&R would only request the CWIP Incentive
17 (100% CWIP in rate base) for Schedule 19 Projects if first approved by the
18 NYPSC. As for the Abandonment Incentive, the CSRA provides for recovery
19 of the costs of Schedule 19 Projects abandoned for reasons beyond the control
20 of the transmission owner. O&R thus may request the Abandonment Incentive
21 from FERC once it is ordered to develop a Schedule 19 Project. The CSRA

1 does not contemplate O&R requesting any other transmission incentives for
2 Schedule 19 Projects.¹⁷

3 **Q. Can O&R request transmission rate incentives for any of its Schedule 10**
4 **Projects?**

5 A. Yes. Unlike for Schedule 19 Projects that are subject to the requirements of the
6 CSRA, O&R can request Commission approval of any applicable transmission
7 rate incentive for Schedule 10 Projects, provided such request is consistent with
8 FERC precedent and policy.

9

10 **VI. TRANSMISSION FORMULA RATE PROTOCOLS**

11 **Q. What is the purpose of formula rate protocols?**

12 A. The Commission considers the transmission formula itself to be the rate, not
13 the components of the formula. Therefore, periodic adjustments, typically
14 performed on an annual basis and made in accordance with the Commission-
15 approved formula, do not constitute changes in the rate itself and, accordingly,
16 do not require Federal Power Act (“FPA”) section 205 filings. However, the
17 Commission requires safeguards to be in place to ensure that the input data is
18 correct and accurate, that calculations are performed consistent with the
19 formula, that the costs to be recovered in the formula rate are reasonable and
20 were prudently incurred, and that the resulting rates are just and reasonable.
21 The reason for including formula rate protocols in formula rates for

¹⁷ See *Consolidated Edison Co. of New York, Inc., et al.*, 180 FERC ¶ 61,106 (2022), CSRA, paragraph 3.3.

1 transmission service is to provide parties specific procedures for notice and
2 review of, and challenges to, the transmission owner's annual updates. Formula
3 rate protocols afford adequate transparency to affected customers, state
4 regulators and other interested parties, as well as provide mechanisms for
5 resolving potential disputes.

6 The Commission has determined that formula rate protocols must address three
7 main issues: (1) the scope of participation (i.e., who can exchange information
8 with transmission owners); (2) the transparency of the information exchange
9 (i.e., what information is exchanged); and (3) the ability of customers to
10 challenge transmission owners' implementation of the formula rate as a result
11 of the information exchange (i.e., how the parties may resolve their potential
12 disputes.)¹⁸

13 **Q. Do the protocols you propose for O&R meet these criteria?**

14 A. Yes, they do. They are part of Attachment 5 to Rate Schedule 19 (see Section
15 6.19.10.2.1) included in this filing. The protocols for O&R are identical to
16 those approved by the Commission for Con Edison in its Schedule 19 Projects
17 and Schedule 10 Projects Formula Rate¹⁹ and very similar to those approved by

¹⁸ *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,127 at P 8.

¹⁹ *Consolidated Edison Company of New York, Inc and New York Independent System Operator*, 185 FERC § 61,091 (October 31, 2023).

1 the Commission for Central Hudson,²⁰ NYSEG, and RG&E related to Rate
2 Schedule 19 of the NYISO OATT.²¹

3 **Q. Are you familiar with other transmission owner protocols?**

4 A. Yes, I am. I am familiar with the protocols in place today for transmission
5 owners in the Midcontinent Independent System Operator, Inc. (“MISO”)
6 which were adopted by FERC in and since 2015. I am familiar with the
7 protocols in place for many transmission owners in PJM, having designed in
8 2020 the protocols for one of the PJM transmission owners. I am also familiar
9 with the protocols in place for transmission owners in New York and in New
10 England. I am also aware of FERC’s recent effort to see protocols updated for
11 transmission owners in the west and southeast United States.

12 **Q. Did you consider these transmission owner protocols in developing those**
13 **for O&R?**

14 A. Yes, I did.

15 **Q. Please describe the proposed O&R Formula Rate Implementation**
16 **Protocols.**

17 A. The proposed protocols are to be included in Section 6.19.10.2.1 of Attachment
18 5 to Rate Schedule 19 of the NYISO OATT. The protocols are organized as
19 follows:

²⁰ *Central Hudson Gas and Electric Corporation, 185 FERC § 61,217 (December 22, 2023).*

²¹ *New York State Electric and Gas Corporation and Rochester Gas and Electric Corporation, 185 FERC § 61,164 (December 4, 2023).*

- 1 a. Section 1 – Definitions – Contains the definition of key terms used
- 2 in the protocols;
- 3 b. Section 2 – Applicability – The protocols apply to the O&R
- 4 calculation of Actual Annual Transmission Revenue Requirements
- 5 (“Actual ATRRs”) and related Annual True-up Adjustments, as well
- 6 as to Projected Annual Transmission Revenue Requirements
- 7 (“Projected ATRRs”), for its Schedule 19 Projects and its Schedule
- 8 10 Projects;
- 9 c. Section 3 – Specific requirements related to the Projected ATRRs,
- 10 Actual ATRRs, Annual True-up Adjustments and Annual Updates;
- 11 d. Section 4 – Fundamental Predicates - Describe the basis of the data
- 12 on which the Formula Rate is premised;
- 13 e. Section 5 – Specific requirements related to CWIP in rate base, if
- 14 applicable;
- 15 f. Section 6 – A description of the annual review procedures, including
- 16 a timeline for the Formula Rate cycle (Section 10 includes an
- 17 example of such timeline);
- 18 g. Section 7 – Informational Filing;
- 19 h. Section 8 - Challenge Procedures
- 20 i. Section 9 – Changes to annual informational filings; and
- 21 j. Section 10: Timeline example of Formula Rate cycle.

22 **Q. Please describe Section 3 – Projected ATRRs, Actual ATRRs, Annual**
23 **True-up Adjustments and Annual Updates.**

1 A. This section of the protocols states that the respective Projected ATRRs for
2 Schedule 19 Projects and Schedule 10 Projects will be applicable to services on
3 and after January of each year, with the first Projected ATRR to be for the Rate
4 Year in which O&R expects one or more of its Schedule 19 Projects or its
5 Schedule 10 Projects to be in service (or to begin construction, if CWIP in rate
6 base is granted) or if O&R plans to purchase land held for future use. O&R
7 will update the respective Projected ATRRs for Schedule 19 Projects and
8 Schedule 10 Projects each January 1. Section 3 provides the dates by which an
9 Annual True-up Adjustments for Schedule 19 Projects and Schedule 10 Projects
10 are to be posted on the NYISO website (June 15th). It also states that an Annual
11 Update addressing both Schedule 19 Projects and Schedule 10 Projects will be
12 posted on the NYISO website by October 15th of each year, to be followed by
13 a stakeholder meeting for interested parties.

14 **Q. How do the protocols define interested party?**

15 A. Interested parties are defined as any transmission customer under the NYISO
16 OATT, the New York State Department of Public Service, the New York State
17 Department of State's Division of Consumer Protection Utility Intervention
18 Unit, other New York consumer advocacy agencies, the New York State
19 Attorney General, or any party that has standing in a O&R Formula Rate
20 proceeding under FPA section 205 or 206.

21 **Q. Continue to describe Section 3.**

22 A. Section 3 also defines the information that O&R will provide related to its
23 Annual True-up Adjustments for Schedule 19 Projects and Schedule 10

1 Projects. It also defines the information O&R will provide in its Annual
2 Updates.²² It states the Formula Rate data inputs that are fixed: (i) rate of return
3 on common equity; (ii) extraordinary property losses, and (iii) depreciation and
4 amortization expense rates. These items may only be changed through an FPA
5 Section 205 or 206 proceeding. It also provides that O&R may make a limited
6 Section 205 filing to change its rate of return on common equity ceiling for
7 Schedule 19 Projects, its base rate of return on common equity for Schedule 10
8 Projects, request recovery of extraordinary property losses, or change or add
9 new depreciation and amortization rates. O&R may request incentives pursuant
10 to FPA Section 219; provided, however, that Schedule 19 Projects are subject
11 to the limitations of the CSRA.

12 **Q. Please describe Section 4 of the protocols – Fundamental Predicates.**

13 A. This section of the protocols states that the Formula Rate is premised upon data
14 that is consistent with the FERC Uniform System of Accounts, applicable
15 FERC Form No. 1 requirements, FERC's policies governing transmission
16 formula rates, FERC's orders establishing transmission ratemaking policies and
17 procedures, and the accounting and cost allocation policies of O&R.

18 **Q. Please describe Section 5 of the protocols - Construction Work in Process.**

19 A. This section applies to O&R Section 19 Projects and Schedule 10 Projects
20 where FERC has granted O&R the CWIP Incentive (greater than 50% CWIP in
21 rate base). It states that the CWIP Incentive can only be included in rate base

²² The Annual Update includes the Schedule 19 Projects and Schedule 10 Projects Projected ATRR for the upcoming Rate Year and includes any Annual True-up Adjustments for the prior Rate Year and any Corrections for prior years.

1 when the Commission has approved this incentive for a transmission project,
2 and it imposes certain accounting and reporting requirements on O&R,
3 including that AFUDC will not be accrued simultaneously on projects where
4 CWIP is included in rate base, in order to avoid the possibility of AFUDC
5 recovery at the same time that the projects is included in rate base.

6 **Q. What is the purpose of Section 6 – Annual Review Procedures?**

7 A. Section 6 of the protocols sets out the procedures, process and timeline for
8 interested parties to review the annual Informational Filing and Annual
9 Updates. It limits interested parties' inquiries to:

- 10 1. the extent or effect of an Accounting Change;
- 11 2. whether an Annual True-up Adjustment or Annual Update fails to
12 include data properly recorded in accordance with the protocols and
13 the Fundamental Predicates or includes data not properly recorded
14 in accordance with the protocols and the Fundamental Predicates;
- 15 3. whether the costs included in an Annual Update are properly
16 accounted for (e.g., recordable and recorded in the appropriate
17 accounts) under FERC's Uniform System of Accounts and
18 otherwise consistent with O&R's accounting policies, practices, or
19 procedures;
- 20 4. whether there are errors in the current Annual Update and, if any are
21 identified, whether the same or similar errors were made in prior
22 Formula Rate filings with a further explanation identifying each
23 Formula Rate filing in which such errors were made;

- 1 5. the proper application of the Formula Rate and procedures in the
- 2 Protocols;
- 3 6. the accuracy of data and consistency with the Formula Rate of the
- 4 calculations shown in an Annual True-up Adjustment or Annual
- 5 Update;
- 6 7. the prudence of actual costs and expenditures;
- 7 8. the effect of any change to the underlying Uniform System of
- 8 Accounts or the FERC Form No. 1; or
- 9 9. any other information that may reasonably have a substantive effect
- 10 on the calculation of the respective ATRRs for Schedule 19 Projects
- 11 and Schedule 10 Projects pursuant to the Formula Rate.

12 **Q. Please describe the next section of the protocols, Section 7 – Informational**
13 **Filing.**

14 A. By February 1 of each year, at the close of the review period, O&R shall submit
15 to FERC an Informational Filing of its Annual Update and the results of the
16 Annual Review Procedures. This Informational Filing must include the
17 information that is required by Section 3, must describe any changes pursuant
18 to the Annual Review Procedures and must describe all aspects of the Formula
19 Rate or its inputs that are the subject of an ongoing dispute under the informal
20 or formal challenge procedures.

21 **Q. Describe Section 8, Challenge Procedures.**

22 A. These procedures would be invoked by an interested party if disputes with O&R
23 are not resolved. There are two levels of challenge procedures: informal and

1 formal. Informal challenges include when the interested party and O&R are
2 continuing to work to resolve differences. If an informal challenge does not
3 result in a resolved dispute, the interested party can make a formula challenge,
4 which is filed at FERC.

5 **Q. Please describe Section 9 – Changes to Informational Filings.**

6 A. This section of the protocols states that any changes to the data inputs resulting
7 from, for example, revisions to O&R's FERC Form No. 1, the result of any
8 FERC proceeding to consider the Formula Rate or the result of the procedures
9 set forth in the protocols, shall be incorporated into the Formula Rate (with
10 interest) in the Annual Update for the next effective rate year via a correction
11 or via an Annual True-up Adjustment. This approach applies in lieu of mid-
12 rate year adjustments, refunds, or surcharges.

13 **Q. Please describe the last section of the Formula Rate Implementation**
14 **Protocols?**

15 A. Section 10 contains the timeline of the Formula Rate Implementation Protocols
16 that begins with the calculation of the actual ATRRs for the prior rate year and
17 ends with the formal challenge process.

18

19 **VII. CONCLUSION**

20 **Q. Please summarize your recommendation to the Commission.**

21 A. I recommend that the Commission approve the Formula Rate Template and
22 Formula Rate Implementation Protocols for O&R contained herein.

23 **Q. Does this conclude your testimony?**

1 A. Yes, it does.

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

)
Consolidated Edison Company of New York, Inc.) Docket No. ER24-____-000
)

DECLARATION OF PAUL A. DUMAIS

I depose and state under penalty of perjury that the foregoing testimony was prepared or assembled by me or under my direction, and that I have read the questions and answers labeled as my testimony; that if asked the same questions, my answers in response would be as shown; and that the facts contained in my answers are true to the best of my knowledge, information, and belief.

Executed on March 25, 2024

/s/ Paul A. Dumais
Paul A. Dumais