



VIA ELECTRONIC FILING

July 23, 2024

Honorable Debbie-Anne A. Reese
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: New York Power Authority
Application to Modify Formula Rate Template
Deficiency Letter Response
Docket No. ER24-1866-000**

Dear Acting Secretary Reese:

The New York Independent System Operator, Inc. (“NYISO”), as administrator of the NYISO Open Access Transmission Tariff (“OATT” or “Tariff”), submits via eTariff on behalf of the New York Power Authority¹ (“NYPA”) the following response to the June 26, 2024 deficiency letter (“Deficiency Letter”) issued by the Federal Energy Regulatory Commission (“FERC” or the “Commission”) in the above-referenced proceeding regarding NYPA’s April 29, 2024 request (“April 29 Filing”) to modify its Formula Rate template in Section 14.2.3.1 of Attachment H to the NYISO OATT. Specifically, NYPA submitted a request to 1) revise the calculation of most rate base items and all capitalization items to a 13-month average in place of the existing beginning-of-year/end-of-year average; 2) add land held for future use to rate base; 3) add the amortization and interest associated with “right to use” assets to depreciation expense, operation and maintenance (“O&M”) expenses and to administrative and general (“A&G”) expenses, as appropriate; and 4) add depreciation rates for three new transmission accounts now recognized under the FERC’s Uniform System of Accounts.

The Deficiency Letter advises NYPA that the April 29 Filing in this proceeding is deficient and that additional information is required in order to process the filing. The Deficiency Letter only addresses item 3 listed above, the ratemaking for “right to use” assets. NYPA continues to believe that its proposal with regard to how to reflect the right to use assets in its transmission revenue requirement is just and reasonable and should be approved by the Commission without delay. For the reasons discussed below and in the responses to the Deficiency Letter questions, NYPA respectfully requests that the Commission permit the

¹ The 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. The NYISO takes no position on any substantive aspect of this filing at this time. Capitalized terms and initialisms not otherwise defined herein shall have the meaning specified in the NYISO OATT.

revisions to become effective on July 1, 2024 as initially requested in the April 29 Filing, the date NYPA's Annual Update to its Formula Rate takes effect for the Rate Year extending from July 1, 2024 to June 30, 2025.

NYPA's responses to the questions contained in the Deficiency Letter are included as Attachment A to this filing. Those responses demonstrate that there are no overall and little annual monetary differences between the ratemaking method proposed by NYPA pursuant to the recently issued GASB Statement Nos. 87 and 96 and the guidance described in the Commission's December 27, 2018 accounting guidance related to FASB Accounting Standards Update No. 2016-02, *Leases (Topic 842)*. Indeed, the total amount included in the transmission formula rate over the lease term is exactly the same; only the annual amounts differ slightly.

The GASB requirements, which NYPA was required to adopt due to its governmental status, are materially the same as the FASB requirements discussed in the Commission's guidance.² NYPA prefers that its ratemaking approach matches its financial reporting. For this reason and because there is no revenue requirement difference, NYPA's April 29 Filing proposed including in the annual transmission revenue requirement the amortization and interest cost determined in accordance with the GASB requirements to remain consistent with our financial reporting.

Also attached as Attachments B and C are tariff records required to be included with this filing.³

I. BACKGROUND ON 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. NYPA is a "municipality" within the meaning of section 3(7) of the FPA and is a "state instrumentality" within the meaning of FPA section 201(f).⁴ As a voluntary, founding member of the NYISO, NYPA is engaged in the generation, transmission, and sale of electric power and energy at wholesale and retail throughout New York. NYPA's bulk power transmission system encompasses 1,569 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 and owning critical segments of transmission infrastructure throughout New York. NYPA has no distribution facilities or defined geographical service territory of its own, and since the inception of NYISO,

² In addition, the GASB standards are either almost contemporaneous with, or more recent than, the December 2018 Commission guidance. GASB Statement No. 87 was issued June 2017 and GASB Statement No. 96 was issued May 2020.

³ Footnote 10 of the Deficiency Letter requires this response to "include at least one tariff record to restart the statutory timeframe for Commission action even though a tariff revision might not otherwise be needed." To satisfy that directive, NYPA is resubmitting in Attachments B and C hereto the tariff records initially submitted in the April 29 Filing (*i.e.*, Attachments B and C provide, respectively, clean and blacklined versions of the proposed changes to NYPA's Formula Rate template).

⁴ 16 U.S.C. §§ 796(7) and 824(f).

has recovered its cost of owning and maintaining its transmission facilities primarily through the NYPA Transmission Adjustment Charge (or NTAC).⁵

II. PROCEDURAL MATTERS

NYPA continues to believe the proposed ratemaking method pertaining to right to use assets in its April 29 Filing and in the testimony and exhibits of Mr. Vincent Zuccarelli produces cost recovery results that are consistent with Commission directives and supports the conclusion that the proposed tariff modifications are just and reasonable, and therefore should be approved by the Commission without delay. There were no protests or comments submitted in response to the modifications proposed in the April 29 Filing.

The Commission issued its Deficiency Letter on June 26, two days before the final day of the statutory 60-day notice period. This timing was problematic as NYPA had already prepared the necessary Formula Rate updates for submission to NYISO on June 28, 2024 in order to prepare the Projected Annual Transmission Revenue Requirement (Projected ATRR) for the Rate Year extending from July 1, 2024 to June 30, 2025. The proposed revisions had already all been included in that update calculation since there were no protests, and NYPA anticipated acceptance by June 28. The revenue requirement impacts of including these right to use asset costs as proposed (as compared to including rental expense) is small: the difference is less than 0.02% of the Projected ATRR. Therefore, NYPA requests that the Commission accept the revisions effective July 1, 2024.

Should the Commission decide in this proceeding that it prefers NYPA to use the exact method prescribed by the 2018 accounting guidance for right to use assets, or adopts an effective date after July 1, 2024, NYPA respectfully requests that it be permitted to make any necessary refunds directed by Commission action through NYPA's Prior Period Adjustment mechanism under its Formula Rate. Under this process any such refunds, inclusive of interest, would be made as part of the 2025 Annual Update. Moreover, the dollar amounts related to any such adjustment to the right to use asset accounting will be small (approximately 0.02% of the Projected ATRR), and more easily administered this way rather than through a laborious refund process directed in the middle of the Rate Year.

NYPA also recognizes that the proposal in the April 29 Filing to convert the calculation of rate base and capitalization items to a 13-month average, if made effective on a date later than July 1, 2024 as originally requested, may necessitate refunds to customers. NYPA continues to request that the July 1, 2024 effective date be honored, but if it is not, for the same reasons discussed in the prior paragraph, NYPA requests that any refunds plus interest related to this rate making provision also be handled through the Prior Period Adjustment mechanism.

III. DOCUMENTS SUBMITTED WITH THIS FILING

1. A detailed response to the questions in the Deficiency Letter ("Attachment A") which includes an exhibit in Excel format;

⁵ NYISO OATT § 14.2.2.

2. A clean version of NYPA’s proposed revisions to the NYISO OATT (“Attachment B”);⁶
3. A blacklined version of NYPA’s proposed revisions to the NYISO OATT (“Attachment C”).

IV. SERVICE

NYPA has served a copy of this filing on the service list established by the Commission for this proceeding, and certificate of service is attached to this transmittal letter. In addition, 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. The NYISO has also informed NYPA that it will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees. This will ensure that all New York load serving entities receive notice of this filing.

V. REQUEST FOR WAIVERS

To the extent necessary to permit these tariff modifications to become effective, NYPA requests that the Commission waive any and all requirements under Part 35 of the Commission’s regulations (and any other applicable regulations) not addressed by the materials described in Part III of this filing. It is the established practice of the Commission to exempt non-jurisdictional municipal utilities such as NYPA from paying applicable filing fees and from compliance with Section 35.13 of the Commission’s regulations.⁷ Accordingly, NYPA’s request for exemption from such filing requirements is appropriate.

VI. COMMUNICATIONS

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

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⁶ A clean version of the Formula Rate template in native Excel format that reflects the proposed revisions is also being submitted with this filing.

⁷ See, e.g., *N.Y. Indep. Sys. Operator, Inc., N.Y. Power Auth.*, 180 FERC ¶ 61,004 at P 55 (2022) (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); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268 at PP 69-70 (2016) (same); *N.Y. Indep. Sys. Operator, Inc.*, 140 FERC ¶ 61,240 at PP 36-37 (2012) (same).

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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 2010.⁸

VII. CONCLUSION

NYPA respectfully requests that the Commission consider this response and grant its request to modify its Formula Rate template in Section 14.2.3.1 of Attachment H to the NYISO Tariff, as set forth in the April 29 Filing, and that the Commission permit the revisions to become effective on July 1, 2024, the date of NYPA's Formula Rate Annual Update for the Rate Year extending from July 1, 2024 to June 30, 2025.

Respectfully submitted,

s/Gary D. Levenson
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Attachments A, B & C.

⁸ Pursuant to the Commission's Rules and Regulations, 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

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2023), I hereby certify that I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at White Plains, NY, this 23rd day of July, 2024.

/s/ Gary D. Levenson

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