



May 14, 2025

**BY ELECTRONIC FILING**

The Honorable Debbie-Anne A. Reese, Secretary  
Federal Energy Regulatory Commission  
Dockets Room, Room 1A  
888 First Street, N.E.  
Washington, DC 20426

**Re: New York Independent System Operator, Inc.  
Consolidated Edison Company of New York, Inc.  
Docket No. ER25-\_\_-000  
Request for Abandonment and Construction Work in Progress Incentives**

Dear Secretary Reese:

The Propel New York Energy Project (“Propel NY Project”) is a Public Policy Transmission Project selected pursuant to a competitive, FERC-authorized solicitation process conducted by the New York Independent System Operator, Inc. (“NYISO”) to meet a Public Policy Transmission Need.<sup>1</sup> The project is being constructed by New York Transco LLC (“NY Transco”) and the New York Power Authority (“NYPA”).

In connection with the project, Consolidated Edison Company of New York, Inc. (“Con Edison”) must install two breakers at the Rainey Substation in Queens, New York (“Rainey Breakers”). NYISO identified these breakers as essential to and a required upgrade for the Propel NY Project.<sup>2</sup>

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<sup>1</sup> See Exhibit Nos. CECONY-301 and CECONY-302 included as Attachment 3 to this filing, *N.Y. Indep. Sys. Operator, Inc., Long Island Offshore Wind Export Public Policy Transmission Planning Report* (June 13, 2023), available at <https://www.nyiso.com/documents/20142/38388768/Long-Island-Offshore-Wind-Export-Public-Policy-Transmission-Planning-Plan-2023-6-13.pdf> (“NYISO Planning Report”) and *N.Y. Indep. Sys. Operator, Inc., Long Island Offshore Wind Export Public Policy Transmission Planning Report, Appendix R: Con Edison Designated Public Policy Project* (June 13, 2023) (“Appendix R”). The NYISO is submitting this filing in FERC’s eTariff system on behalf of Consolidated Edison Company of New York, Inc. (“Con Edison”) solely in the NYISO’s role as the tariff administrator of the NYISO Open Access Transmission Tariff (“OATT”). The burden of demonstrating that the proposed tariff amendments are just and reasonable rests on Con Edison, the sponsoring party/applicant. The NYISO takes no position on any substantive aspect of this filing at this time. Unless otherwise defined herein, capitalized terms used in this transmittal letter shall have the meanings ascribed to them in the NYISO OATT.

<sup>2</sup> The NYISO characterized the scope of work as an upgrade to an existing transmission asset pursuant to section 31.4.11 of Attachment Y to the NYISO OATT and identified Con Edison as the Designated Entity responsible for installing plug and switch system breakers in place of the existing 1E and 6E breakers at the Rainey 345 kV substation.

The Federal Energy Regulatory Commission (“Commission” or “FERC”) should permit Con Edison to: (a) recover 100 percent of its prudently incurred costs for the Rainey Breakers if they are abandoned or cancelled for reasons beyond Con Edison’s control (such as the cancellation of the Propel NY Project) (“Abandonment Incentive”) and (b) include 100 percent of construction work in progress (“CWIP”) in rate base during the development and construction phase of the Rainey Breakers (“CWIP Incentive”).<sup>3</sup> First, the Rainey Breakers ensure reliability or reduce congestion. Because they are necessary components of a project that resulted from a fair and open regional planning process that considered and evaluated the project for reliability and/or congestion, the Rainey Breakers are rebuttably presumed to ensure reliability or reduce congestion. Moreover, the breakers themselves ensure reliability or reduce congestion because they are required for the Propel NY Project to maintain reliability and to reduce congestion. Second, there is a nexus between the Rainey Breakers investment and the Abandonment and CWIP Incentives sought because the incentive request is narrowly tailored to address the specific risks and challenges of the investment, which are tied to the risks and challenges of the Propel NY Project. Third, the Commission has already approved the Abandonment and CWIP Incentives to one or both Propel NY Project sponsors (*i.e.*, NY Transco and NYPA).<sup>4</sup> Because the Rainey Breakers are required elements of, and therefore depend upon, the Propel NY Project, the Commission should approve the same incentives for the Rainey Breakers.

Con Edison requests that the Commission make the requested incentives effective as of the date of an order on this Application with the associated tariff revisions becoming effective on July 14, 2025, the day following conclusion of the statutory 60-day notice period,<sup>5</sup> without suspension or hearing, consistent with Commission orders on similar transmission incentives<sup>6</sup> and the Commission’s statement in Order No. 679 that it will resolve incentive rate filings on paper submissions “whenever possible.”<sup>7</sup>

## I. BACKGROUND

### A. The Propel NY Project

The Propel NY Project was selected by the NYISO Board of Directors to address a public policy need identified by the New York State Public Service Commission (“Public Service Commission”) pursuant to NYISO’s Public Policy Transmission Planning Process. Under that process, the NYISO files potential public policy needs proposed by interested parties with the

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<sup>3</sup> See 18 C.F.R. §§ 35.35(d)(1)(ii), (vi).

<sup>4</sup> *N.Y. Transco LLC*, 185 FERC ¶ 61,222, at P 46 (granting abandonment incentive) and P 51 (granting CWIP incentive) (2023) (“Transco Incentives Order”); *N.Y. Power Auth.*, 185 FERC ¶ 61,102, at P 23 (2023) (“NYPA Declaratory Order”) (granting abandonment incentive).

<sup>5</sup> See *Transource Pa., LLC*, 184 FERC ¶ 61,091, at P 2 n.5 (2023) (citing 16 U.S.C. §824d(d)); *The Dayton Power & Light Co.*, 172 FERC ¶ 61,140, *order on reh’g*, 178 FERC ¶ 61,102, at P 15 (2020) (internal citations omitted), *aff’d sub nom. Dayton Power & Light Co. v. FERC*, 126 F.4th 1107 (6th Cir. 2025)).

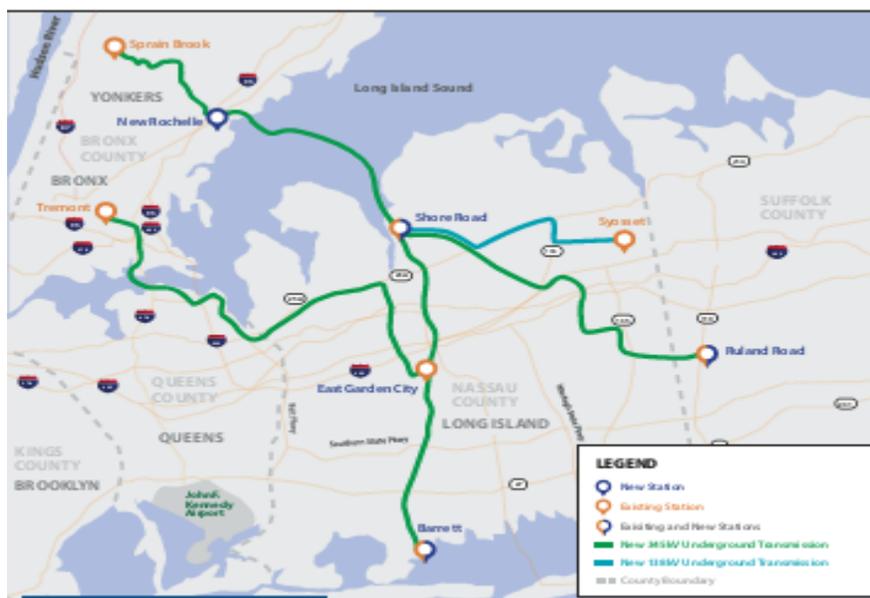
<sup>6</sup> See *Montana-Dakota Utilities Co.*, 185 FERC ¶ 61,015 (2023); *NextEra Energy Transmission Southwest, LLC*, 185 FERC ¶ 61,023 (2023) (granting abandonment incentive without suspension or hearing); *Otter Tail Power Co.*, 183 FERC ¶ 61,121 (2023) (granting CWIP and abandonment incentives without suspension or hearing).

<sup>7</sup> See *Promoting Transmission Inv. Through Pricing Reform*, Order No. 679, 116 FERC ¶ 61,057, at P 79, *order on reh’g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh’g*, 119 FERC ¶ 61,062 (2007).

Public Service Commission, who then determines whether a need exists for which the NYISO should solicit potential transmission solutions.<sup>8</sup>

On March 19, 2021, the Public Service Commission identified the need for new and upgraded transmission to increase the export capability from Long Island to New York City and the rest of New York State.<sup>9</sup> Following the Public Service Commission's order, the NYISO conducted a competitive solicitation for transmission solutions to meet the need and, from among 18 other proposals, the NYISO Board of Directors selected the Propel NY Project as the more efficient or cost-effective solution.<sup>10</sup>

The Propel NY Project consists of three new 345 kV AC tie lines from Long Island to the rest of the state, a 345 kV transmission backbone on Long Island, and required upgrades. It requires building new underground and submarine electric transmission lines, four new transmission substations located in some of the most densely populated urban and suburban areas of the country – New York City, Long Island, and Westchester County – and upgrades to existing substations, including the required work on the Rainey Breakers.<sup>11</sup>



Once in service, the Propel NY Project will increase the transfer limit of the Long Island

<sup>8</sup> See NYISO OATT, 31.4 OATT Attachment Y Public Policy Requirements Planning Process (§ 31.4).

<sup>9</sup> Case No. 20-E-0497 *In the Matter of New York Independent System Operator Inc.'s Proposed Public Policy Transmission Needs for Consideration for 2020*, and Case No. 18-E-0623, *In the Matter of New York Independent System Operator Inc.'s Proposed Public Policy Transmission Needs for Consideration for 2018*, Order Addressing Public Policy Requirements for Transmission Planning Purposes (March 19, 2021) at 17 (the "Long Island Offshore Wind Export Need Order"), available at <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={8C8F3D7A-4FEB-4B18-88F5-82CF587895C9}>.

<sup>10</sup> See NYISO Planning Report.

<sup>11</sup> It is possible that NYISO may designate Con Edison to install additional network upgrade facilities in connection with the Propel NY Project.

export interface by 2,265 MW, improve reliability and resilience for the Long Island bulk power grid, and deliver energy, including offshore wind, to load centers in southeast New York. In addition, the Propel NY Project will provide congestion relief on the Barrett-Valley Stream 138 kV path within Long Island by adding a new Barrett-East Garden City 345 kV line.<sup>12</sup> The Commission authorized NY Transco and NYPA to receive the abandonment incentive<sup>13</sup> and NY Transco to receive the construction work in progress incentive<sup>14</sup> for the Propel NY Project.<sup>15</sup> In doing so, the Commission found that the Propel NY Project qualified for the rebuttable presumption established in Order No. 679 that the project either ensured reliability or reduced the cost of delivered power by reducing transmission congestion because it was approved through the NYISO's Order No. 1000 public policy planning process.<sup>16</sup>

## **B. Upgrades Included in Project Selected by NYISO Board of Directors**

In connection with the Propel NY Project, the NYISO identified Con Edison as the Designated Entity responsible for the installation of two 345 kV breakers at the Rainey substation in Queens, New York. (*i.e.*, the Rainey Breakers).<sup>17</sup>

The Rainey Breakers project consists of Con Edison replacing the existing 345 kV open-air circuit breakers No. 1E and 6E with two 345 kV outdoor rated back-to-back gas insulated switchgear ("GIS") (breakers, disconnects, grounding switches, etc.). The new breakers will have pre-insertion resistors configured with new GIS disconnect and ground switches. The Rainey Breakers project scope includes removing the existing equipment, civil, structural and electrical bus modifications needed for the new breakers, the new GIS equipment and upgrades to the breaker's protection and control. The breakers will improve both reliability and power system transfer capability and are estimated to cost \$54 million.

## **II. INCENTIVE RATE REQUEST**

Applicants seeking incentives under Order No. 679 must demonstrate that the facilities for which incentives are sought either ensure reliability or reduce congestion, and that there is a nexus between the incentives sought and the investment being made.<sup>18</sup> Because the Rainey Breakers are required components of the Propel NY Project, they qualify for a rebuttable presumption that they ensure reliability or reduce congestion. And because the incentives are narrowly tailored to

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<sup>12</sup> See NYISO Planning Report at 10-11 ("Finally, the Board has concluded that . . . the [Project] will relieve transmission congestion and provide a myriad of additional economic and performance benefits such as, but not limited to, increased operational flexibility, improved system resiliency, reduced emissions from curtailments due to transmission system congestion, and the policy objectives on the part of New York State."); *id.* at Executive Summary at 6.

<sup>13</sup> See Transco Incentives Order at P 3, 46; NYPA Declaratory Order at P 23.

<sup>14</sup> See Transco Incentives Order at P 51.

<sup>15</sup> The Commission also conditionally granted New York Transco the 50-basis-point RTO Adder, and a 75-basis point ROE Risk Incentive adder. *See id.* at P 3, 57, 70.

<sup>16</sup> *See id.* at P 43. *See also* NYPA Declaratory Order at P 16.

<sup>17</sup> See NYISO Planning Report at 5 n.13, 11, 89; and Appendix R (identifying Con Edison as a Designated Entity "for the upgrades to [its] existing facilities in the [Propel NY Project] proposal.").

<sup>18</sup> See Order No. 679 at P 45; Order No. 679-A at P 16.

address Con Edison's specific risks and challenges in constructing the breakers, there is a nexus between the project and the requested incentives.

#### **A. Order No. 679's Rebuttable Presumption Applies to this Application**

The Commission has established a rebuttable presumption that a project meets the requirement to either ensure reliability or reduce congestion if it "results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion."<sup>19</sup> The Commission found that the Propel NY Project qualified for the rebuttable presumption because the NYISO public policy planning process meets the required criteria<sup>20</sup> and because the NYISO found that the Propel NY Project will reduce congestion by increasing export capability from Long Island to southeast New York.<sup>21</sup>

The Commission should make the same finding with respect to the Rainey Breakers. The Rainey Breakers are required components of the Propel NY Project and therefore resulted from the same planning process as the Propel NY Project. There is no basis to treat them differently for the purpose of the rebuttable presumption. Moreover, evaluating the Rainey Breakers separately would be inconsistent with the purpose of the rebuttable presumption. In Order No. 679-A, the Commission explained that the rebuttable presumption was established "for the purpose of avoiding duplication in determining whether a project maintains reliability or reduces congestion" and the Commission does not intend "to repeat the work of state siting authorities, regional planning processes, or the [U.S. Department of Energy] in evaluating these issues."<sup>22</sup> Refusing to grant the rebuttable presumption to the Rainey Breakers would require the Commission to engage in the duplicative analysis Order No. 679-A seeks to avoid.<sup>23</sup>

#### **B. The Rainey Breakers Qualify for Incentives Because They Are Needed to Maintain Reliability and to Reduce Congestion**

Even if the Commission determines that the Rainey Breakers do not qualify for the rebuttable presumption, they are eligible for transmission rate incentives because they are required as part of the Propel NY Project to maintain reliability and to reduce congestion, and thus themselves maintain reliability and reduce congestion.<sup>24</sup>

The NYISO Planning Report, included here as Exhibit Nos. CECONY-301 and CECONY-302 (set forth in Attachment 3), finds that the Propel NY Project will add substantial new transfer capacity and upgrades to the transmission infrastructure serving southeastern New York, including Long

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<sup>19</sup> See Order No. 679 at P 58; Order No. 679-A at P 49; 18 C.F.R. § 35.35(i).

<sup>20</sup> See NYPA Declaratory Order at P 16; Transco Incentives Order at P. 43.

<sup>21</sup> See NYISO Planning Report at 6 (finding that the Propel NY Project will "increase the export capability from Long Island to the rest of the state and ensuring access to Long Island's offshore wind generation").

<sup>22</sup> Order No. 679-A at P 46.

<sup>23</sup> See *id.*

<sup>24</sup> See Order No. 679 at P 57 (holding that applicants that do not qualify for Order No. 679's rebuttable presumption may still qualify for incentives if they "demonstrate that their project is needed to maintain reliability or reduce congestion by presenting a factual record that would support such findings.").

Island.<sup>25</sup> In addition, the NYISO found that “the energy produced through reduced curtailment of generation resources can be used to offset more expensive generation to meet New York State’s energy demand, resulting in production cost savings” and that production cost savings are also created by the Propel NY Project and other candidate projects reviewed by NYISO “by offsetting high-cost energy imports from neighboring regions with lower cost New York-based generation that was previously inaccessible due to transmission congestion.”<sup>26</sup>

As explained in the attached testimony of Con Edison witness Bradford L. Winer (Exhibit No. CECONY-101, as set forth in Attachment 1 to this filing), the Propel NY Project requires the Rainey Breakers to comply with system planning criteria.<sup>27</sup> Thus, the Rainey Breakers are an essential part of the Propel NY Project and are needed for the project to deliver its congestion benefits. Accordingly, if the Commission does not find that the Rainey Breakers qualify for Order No. 679’s rebuttable presumption, it should determine that they are nonetheless eligible for the requested transmission rate incentives under Order No. 679 because they enhance reliability and substantially reduce congestion.

### **C. There is a Nexus between the Requested Incentives and the Risks Presented**

#### **1. The Abandonment Incentive is Tailored to Mitigate the Risks and Challenges Associated with Development of the Rainey Breakers**

The Commission has already held that the regulatory, environmental, financial, and siting risks faced by the Propel NY Project merit the Abandonment Incentive and has granted the incentive to the project’s sponsors.<sup>28</sup> Because the Rainey Breakers are a necessary part of the Propel NY Project, they are subject to each of these risks. If any of them result in the Propel NY Project’s cancellation, the Rainey Breakers would likewise be cancelled and forced to be abandoned. The Rainey Breakers, therefore, are inextricably tied to the Propel NY Project, so there is no basis for treating them differently with respect to the risk of abandonment.

And the risks facing the \$3.2 billion Propel NY Project are significant. It requires three new underground cables and a 345 kV transmission line through densely populated areas of southwest Long Island, as well as submarine cables. This work is inherently difficult and subject to geotechnical conditions and other risks that could cause substantial delays and increased costs.

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<sup>25</sup> See NYISO Planning Report at 11 (finding that the Propel NY Project “adds a strong 345 kV backbone to the Long Island transmission system that not only allows the delivery of offshore wind power but also will effectuate the efficient transfer of power in the future, providing optionality for resource planning and expansion needed to achieve the CLCPA mandates. With the new facilities, the [Propel NY Project] provides 1) effective operability under a variety of outage conditions, 2) low cost per MW for transfer capability, expandability, and operating range, and 3) lower project cost and risks than larger projects. The project also provides consistent economic benefits across various future scenarios”).

<sup>26</sup> *Id.* at 46-48.

<sup>27</sup> See Winer Test., Exh. CECONY-101 at 8 (“By installing Rainey Breakers (two breakers in series), system planning criteria allows for the assumption that two independent breakers will not both fail to operate. The net effect of installing both breakers may therefore result in a higher power transfer capability.”).

<sup>28</sup> See Transco Incentives Order at P 46; NYPA Declaratory Order at P 24.

It is also subject to policy and market changes outside the sponsors' and Con Edison's control.<sup>29</sup> For example, the Propel NY Project could be cancelled or deemed unnecessary due to changes in federal or state policy.<sup>30</sup> Even if the Propel NY Project continues, Con Edison faces the risk that the project could be modified by changing the route or interconnection points with existing transmission facilities, which could result in the cancellation of the Rainey Breakers.

Additionally, there are several known environmental, regulatory and siting risks associated with the development of the Propel NY Project, any of which could impact the project as a whole or elements of the project (such as the Rainey Breakers), and which have been described in detail in the incentive applications by both of the Propel NY Project's sponsors.<sup>31</sup> For example, the Propel NY Project still needs to obtain all necessary permits and approvals, including (among others) siting approvals required under Article VII of the New York Public Service Law,<sup>32</sup> permits for wetlands and waterbody crossings from the U.S. Army Corps of Engineers, and other permits from New York State agencies.<sup>33</sup> While Con Edison is not itself subject to these permitting requirements in installing the Rainey Breakers, Propel NY Project's inability to receive these approvals and subsequent abandonment would directly negate the need for the Rainey Breakers.

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<sup>29</sup> The Commission has authorized the abandonment incentive based on such risks. *See Ameren Serv. Co.*, 135 FERC ¶ 61,142, at P 59 (2011).

<sup>30</sup> For example, the U.S. Department of Interior's Bureau of Ocean Energy Management ("BOEM") recently issued a letter directing "Empire Offshore Wind LLC to halt all ongoing activities related to the Empire Wind Project on the outer continental shelf to allow time for [BOEM] to address feedback it has received, including from the National Oceanic and Atmospheric Administration (NOAA), about the environmental analyses for that project." Letter from Walter D. Cruickshank, Acting Director, BOEM, to Matthew Brotmann, Secretary, Empire Offshore Wind LLC (Apr. 16, 2025), available at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/BOEM%20Director%26%23039%3Bs%20Order%20Empire%20Wind.pdf>. Due to this directive, it is uncertain whether that project will proceed to completion.

<sup>31</sup> *See* Exhibit No. CECONY-401 set forth in Attachment 4 to this filing, NY Transco LLC Transmittal Letter, Docket No. ER24-232-000, at 21-26 (Oct. 27, 2023) ("NY Transco Transmittal Letter"); Exhibit No. CECONY-402 set forth in Attachment 5 to this filing, New York Power Authority Transmittal Letter, Docket No. EL23-96-000, at 20-22 (Aug. 28, 2023) ("NYPA Transmittal Letter").

<sup>32</sup> Article VII requires the Public Service Commission to conduct a full environmental, public health, and safety impact review of the siting, design, construction and operation of all major transmission facilities in New York, as well as determine the need for the Propel NY Project. The Public Service Commission has wide ranging authority and broad discretion to impose in the Certificate any terms, conditions, limitations, or modifications of the proposed project it determines appropriate. *See* N.Y. Pub. Serv. L. § 121, *et seq.* Con Edison understands that the Propel NY Project sponsors (NY Transco and NYPA) intend to submit an environmental management and construction plan ("EM&CP") for the facilities they will own and approval for a single EM&CP for longer or complicated projects (such as the Propel NY Project) can take a year or longer and requires significant public consultation. This process opens the door to public opposition to the construction of these new facilities by a variety of stakeholders, elected officials and affected landowners. The process can involve substantial evidentiary hearings under an adjudicatory process that is quite involved, which can contribute materially and adversely to significant construction delays or even abandonment of the Propel NY Project.

<sup>33</sup> The permits likely needed from the State include permits from the New York State Department of Environmental Conservation under its State Pollution Discharge Elimination System General Permit for Stormwater Discharge During Construction activities; Utility Work Permit(s) from the New York State Department of Transportation; Coastal Consistency Certificate(s) from the New York State Department of State; and historical and archaeological clearances from the New York State Historic Preservation Office/New York Office of Parks, Recreation and Historic reservation. *See* NY Transco Transmittal Letter at 21-26; NYPA Transmittal Letter at 20-24.

Significant, as well, are the risks and challenges associated with material procurement, as raw materials such as steel have experienced heightened price volatility due to geopolitical unrest and supply chain issues since the COVID-19 pandemic. Additionally, labor and manufacturing availability, materials quality, and delivery logistics risks are significant for a development on Propel NY Project's scale. Finally, wet and extreme weather could delay the project's schedule and increase the project's costs.

Even if each of the risks described above does not on its own result in cancellation of the Propel NY Project, they could increase the costs of the project. These increased costs could, in the aggregate, lead to cancellation of the project. The Commission should also grant the Abandonment Incentive because it can also help to reduce project costs. Financial markets will demand a higher cost of debt if utilities are denied the ability to recover prudently incurred investments abandoned due to circumstances outside their control. "Upfront assurances that costs can be recovered in the event of abandonment are particularly important when it comes to expenses that must be incurred well in advance of construction."<sup>34</sup>

## **2. The CWIP Incentive is Tailored to Mitigate Financial Risk**

To mitigate financial risk and to reduce total costs for Con Edison's customers, the Commission should also authorize 100% CWIP recovery for the Rainey Breakers. The CWIP Incentive allows for the recovery of financing costs for substantial transmission investments during the construction period instead of delaying cost recovery until the transmission facilities are placed into service.<sup>35</sup> The Commission has stated that "this rate incentive treatment will advance the goals of section 219 by providing up-front regulatory certainty, rate stability, and improved cash flow, thereby reducing the pressure on an applicant's finances caused by investing in transmission projects."<sup>36</sup>

As explained by Con Edison's assistant controller Kelly McLaughlin-Martini (Exhibit No. CECONY-201, as set forth in Attachment 2 to this filing), the CWIP Incentive improves cash flows during the construction period.<sup>37</sup> To enable the Propel NY Project, Con Edison's investment in the Rainey Breakers requires a capital expenditure of approximately \$54 million over at least six years.<sup>38</sup> Having more cash flow from operations during years of very high capital expenditures would reduce Con Edison's exposure to the risks of capital market financing.<sup>39</sup>

Further, under CWIP in ratebase treatment, the overall project costs are lower for customers, as they do not need to pay compound investment returns on deferred capitalized

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<sup>34</sup> NY Transco Transmittal Letter at 31.

<sup>35</sup> *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129, at P 12 (2012) ("Incentives Policy Statement").

<sup>36</sup> *See, e.g., Midcontinent Indep. Sys. Operator, Inc.*, 184 FERC ¶ 61,034, at P 39 (2023); *PJM Interconnection, L.L.C. & Pub. Serv. Elec. and Gas Co.*, 135 FERC ¶ 61,229 (2011); *See also, PPL Elec. Utils. Corp.*, 123 FERC ¶ 61,068, at P 43, *reh'g denied*, 124 FERC ¶ 61,229 (2008).

<sup>37</sup> *See* Exh. No. CECONY-201, McLaughlin-Martini Test., at 6.

<sup>38</sup> *See id.*

<sup>39</sup> *See id.*

allowance for funds used during construction (“AFUDC”) plus investment returns on the actual investment costs. “100% CWIP Recovery will have a beneficial impact on customers because it allows them to ease in the costs of the Rainey Breakers and avoid a sudden cost increase when those facilities go into service.”<sup>40</sup> Therefore, collecting the financing costs during construction, results in lower total costs than that of an identical project constructed with an AFUDC-based recovery. In accordance with Order No. 679, developers and designated entities seeking the CWIP incentive are required to propose accounting procedures to ensure that the developer does not recover both AFUDC and corresponding amounts of CWIP in rate base.<sup>41</sup> Con Edison, as the builder for the Rainey Breakers, plans to include its respective capital expenses in separate company accounts. If the CWIP Incentive is approved for Con Edison, it will include its capital expense in a CWIP account. Con Edison will designate a project accountant that will be responsible for tracking the Rainey Breakers’ costs and ensuring all such costs are appropriate.

With respect to accounting and annual reporting requirements, the Commission also requires that developers/designated entities requesting the CWIP incentive make an annual filing with the Commission. Con Edison will submit a “CWIP Report” as part of its Annual Update process in its formula rate implementation protocols (as set forth in Section 6.19.8.2.1 of Attachment 3 to Rate Schedule 19 of the NYISO OATT).<sup>42</sup> In compliance with the requirements that an applicant seeking CWIP recovery in formula rates make an annual filing with the Commission, Con Edison proposes to satisfy this requirement through the annual filing of the FERC Form 730 report. The annual FERC Form 730 report requires Con Edison to provide information regarding transmission investment costs and project construction status, including the estimated completion date. Consistent with the Commission’s Order in Docket No. ER23-2212-001,<sup>43</sup> Con Edison proposes updates to its formula rate template (as set forth in Section 6.19.8.2.2 of Attachment 3 to Rate Schedule 19 of the NYISO OATT) to reflect CWIP recovery if its request herein is granted (see Exhibit Nos. CECONY-501 and CECONY-502, as set forth in Attachment 6 to this filing).

The Commission’s regulations also require an applicant seeking CWIP recovery to discontinue any AFUDC for investment that was included in rate base and to propose accounting procedures ensuring that customers will not be double charged for AFUDC and CWIP.<sup>44</sup> If the Commission authorizes Con Edison to include CWIP recovery in transmission rate base in its NYISO OATT Rate Schedule 10 formula rate, Con Edison will identify individually the Rainey Breakers as a transmission construction project eligible to be included in CWIP transmission rate base. Once so designated, the Rainey Breakers will not earn or accrue AFUDC. Each transmission construction project is designated with a unique project number within the construction accounting systems used by Con Edison. After construction is complete, the CWIP will be transferred to “Plant in Service” and depreciation begins.

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<sup>40</sup> See *id.* at 17.

<sup>41</sup> See *Constr. Work in Progress for Pub. Utils.; Inclusion of Costs in Rate Base*, Order No. 298, FERC Stats. & Regs. ¶ 30,455, (cross-referenced at 23 FERC ¶ 61,224), *order on reh’g*, Order No. 298-B, FERC Stats. & Regs. ¶ 30,524 (cross-referenced at 25 FERC ¶ 61,375) (1983); see also *So. Cal. Edison Co.*, 161 FERC ¶ 61,107, at PP 32, 35 (2017).

<sup>42</sup> See Order No. 697 at P 121.

<sup>43</sup> See *N.Y. Indep. Sys. Operator, Inc.*, 185 FERC ¶ 61,091, at P 62 (2023).

<sup>44</sup> 18 C.F.R. §§ 35.25(e), (f).

Con Edison respectfully requests waiver of the following filing requirements related to its requested CWIP Incentive: (i) 18 C.F.R. § 35.13(h)(38), which requires submission of a Statement BM, which is a description of an applicant’s long-range program for providing reliable and economic power, including an assessment of alternatives and an explanation of why the program is consistent with a least-cost energy supply program; (ii) 18 C.F.R. § 35.25(c)(4), which requires an applicant to develop forward-looking allocation ratios and to evaluate potential anticompetitive effects of CWIP recovery including “price squeeze” and “double whammy” concerns; and (iii) 18 C.F.R. § 35.25(g), which requires applicants to provide additional information regarding potential anti-competitive impacts of CWIP recovery, including the proposed CWIP levels included in wholesale and retail rates. There is good cause to waive such requirements here. The Commission has recognized that it designed Statement BM primarily for CWIP associated with new generation projects,<sup>45</sup> which are not relevant here, and has waived the requirement to submit Statement BM for utilities that have formula transmission rates.<sup>46</sup>

### **3. The Total Package of Incentives is Tailored to the Demonstrable Risks and Challenges of the Rainey Breakers.**

Incentive applicants must demonstrate that the total package of incentives is tailored to the project’s specific risks and challenges.<sup>47</sup> The Commission examines whether “the interrelationship between any incentives, and how any requested incentives address the risks and challenges faced by the project.”<sup>48</sup> The Abandonment Incentive will mitigate the risk of non-recovery of costs associated with the Rainey Breakers’ development in the event that the Propel NY Project is cancelled for reasons beyond Con Edison’s control. Con Edison is seeking authorization for the Abandonment Incentive to mitigate the risk of unrecovered costs if all or part of the Rainey Breakers are abandoned for reasons outside of its control, which includes a risk that the Propel NY Project is modified in light of a variety of risks and challenges outlined above such that the Rainey Breakers are no longer necessary elements of the broader Propel NY Project design. In the absence of this incentive, the risk can impede efforts to secure financing for the Rainey Breakers.

The CWIP Incentive is not a substitute for the Abandonment Incentive – these incentives address different types of risk. The CWIP Incentive addresses cash flow deficiencies and is necessary for a project of this scope given the significant funding and capital outlays that will be required during the development and construction phases while the Abandonment Incentive addresses the risk that the project will be abandoned.

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<sup>45</sup> See *Mid-Tex Elec. Coop., Inc. v. FERC*, 773 F.2d 327 (D.C. Cir. 1985).

<sup>46</sup> See, e.g., *N.Y. Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,004, at PP 48, 80-83 (2015).

<sup>47</sup> Order No. 679-A at P 27.

<sup>48</sup> *Id.* at P 21; see also *id.* at PP 6, 27; Incentives Policy Statement at P 7.

**C. The Resulting Rates are Just and Reasonable and the Commission Should Approve the Incentive Rate Treatments as Early as Possible.**

Incentive applicants must demonstrate that the proposed rate treatment is just and reasonable and not unduly discriminatory or preferential.<sup>49</sup> Con Edison's formula rates were approved in a recent settlement, which recognized Con Edison's right to seek the requested incentives.<sup>50</sup> Moreover, the requested incentives will not adversely affect Con Edison's rates for several reasons. First, granting the Abandonment Incentive will not change any current rates. The Abandonment Incentive allows an applicant to seek recovery of prudently incurred costs in a future rate proceeding and only permits recovery in the event the project is cancelled for reasons beyond the applicant's control. Thus, the Abandonment Incentive will not influence Con Edison's rates, unless and until Con Edison submits a separate Section 205 filing to recover "Abandoned Plant" costs through the applicable rate schedule (here, NYISO Rate Schedule 10).

Second, the CWIP Incentive does not affect Con Edison's level of recovery, only its timing of recovery.<sup>51</sup> The CWIP Incentive allows applicants to include CWIP in ratebase during the development and construction phases of a project. The Commission has recognized that inclusion of CWIP in ratebase may have a beneficial impact on customers because CWIP recovery eases in the costs of a transmission project, which lessens the rate impact that might otherwise occur when a large project is completed and included in rates.<sup>52</sup> Because costs are recovered early, applicants experience increases in cash flow and have lower borrowing costs, which ultimately reduce interest that would compound customer rates. The Commission has previously found that both the Abandonment and CWIP Incentives are just and reasonable under Section 205 of the FPA.<sup>53</sup>

Con Edison requests that the Commission authorize the requested incentive rate treatments to be effective as of the date of an order on this Application.<sup>54</sup> As further described herein, these

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<sup>49</sup> 18 C.F.R. § 35.35(d) (2024).

<sup>50</sup> *Consolidated Edison Co. of N.Y., Inc. et al.*, 189 FERC ¶ 61,107 (2024); Joint Offer of Partial Settlement, Docket No. ER23-2212-003, at art. 3.2(c) (Aug. 19, 2024).

<sup>50</sup> *N.Y. Indep. Sys. Operator, Inc.*, 185 FERC ¶ 61,091 (2023).

<sup>51</sup> Order No. 679-A at P 38.

<sup>52</sup> See *Construction Work in Progress for Public Utilities; Inclusion of Costs in Rate Base*, Order No. 298, 23 FERC ¶ 61,224, 1982-1985 FERC Stats. & Regs., Regs. Preambles ¶ 30,455, at 30,499, *order on reh'g*, Order No. 298-A, 25 FERC ¶ 61,375 (1983).

<sup>53</sup> See, e.g., *Am. Elec. Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 55 (2006), *order denying reh'g*, 118 FERC ¶ 61,041 (2007) (allowing recovery of 100 percent CWIP); *Allegheny Energy, Inc.*, 116 FERC ¶ 61,058, at P 74 (2006), *order on reh'g*, 118 FERC ¶ 61,042 (2007); *Am. Transmission Co., L.L.C.*, 105 FERC ¶ 61,388, at P 27 (order establishing hearing and settlement judge procedures concerning, inter alia, the company's proposal for recovery of 100 percent CWIP), *order dismissing reh'g and approving settlement*, 107 FERC ¶ 61,117 (2004); *Boston Edison Co.*, 109 FERC ¶ 61,300 (2004), *order on reh'g*, 111 FERC ¶ 61,266 (2005) (recovery of 50 percent CWIP); *S. Cal. Edison Co.*, 112 FERC ¶ 61,014, at P 58-61, *reh'g denied*, 113 FERC ¶ 61,143, at P 9-15 (2005) (granting recovery of 100 percent of prudently incurred abandoned or cancelled plant costs); *New England Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, at 61,068, 61,081-83 (recovery of 50 percent of prudently incurred cancelled plant costs), *order on reh'g*, 43 FERC ¶ 61,285 (1988); *Pub. Serv. Co. of N.M.*, 75 FERC ¶ 61,266, at 61,859 (1996), *order approving settlement*, 87 FERC ¶ 61,040 (1999) (50 percent recovery of cancelled plant costs).

<sup>54</sup> Con Edison requests that the associated tariff revisions proposed herein become effective the day following the statutory 60-day notice period.

requested incentives are narrowly tailored to the unique risks Con Edison will face in developing and constructing the Rainey Breakers for the Propel NY Project.

### **III. ADVANCED TECHNOLOGY STATEMENT**

Order No. 679 requires submission of a technology statement describing advanced technologies considered and an explanation of advanced technologies that will not be employed. While Con Edison does not seek an advanced technology incentive, it will follow good utility practices and efficient engineering design and construction practices.

### **IV. REVISIONS TO THE FORMULA RATE TEMPLATES**

Con Edison has included proposed revisions to its formula rate template (as set forth in Section 6.19.8.2.2 of Attachment 3 to Rate Schedule 19 of the NYISO OATT) to address the CWIP and Abandonment Incentives requested in this filing.<sup>55</sup>

If the Commission grants Con Edison's request for the CWIP Incentive, the 13-month average rate year amount would be included on Line 2 of Workpaper 10b10 (Schedule 10 Project ATRRs), and in ratebase on Line 27 of Appendix A of Con Edison's formula rate template.

If the Commission grants recovery of any abandoned plant costs, the 13-month average rate year amount will be included on Line 3 of Workpaper 10b10 (Schedule 10 Project ATRRs), and in ratebase on Line 28 of Appendix A of Con Edison's formula rate template.

### **V. INFORMATION REQUIRED BY THE COMMISSION'S REGULATIONS, REQUEST FOR WAIVERS, AND SERVICE**

#### **A. Documents Submitted with this Filing (Section 35.13(b)(1))**

**Attachment 1: Exhibit No. CECONY-101** – Prepared Direct Testimony of Bradford L. Winer in Support of Abandonment Incentive and accompanying exhibit (**Exhibit No. CECONY-102** – NYISO Designated Entity Letter)

**Attachment 2: Exhibit No. CECONY-201** – Prepared Direct Testimony of Kelly McLaughlin-Martini in Support of CWIP Incentive and accompanying exhibits (**Exhibit No. CECONY-202** – Comparison of Construction Costs and Revenue Requirements and **Exhibit No. CECONY-203** – CWIP v. AFUDC)

**Attachment 3: Exhibit Nos. CECONY-301 and CECONY-302** – N.Y. Independent System Operator, Inc., Long Island Offshore Wind Export Public Policy Transmission Planning Report and Appendix R: Con Edison Designated Public Policy Project (June 13, 2023)

**Attachment 4: Exhibit No. CECONY-401** – New York Transco LLC Transmittal Letter (Oct. 27, 2023)

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<sup>55</sup> See Exhibit Nos. CECONY-501 and CECONY-502, as set forth in Attachment 6 to this filing.

**Attachment 5: Exhibit No. CECONY-402** – New York Power Authority Transmittal Letter (Aug. 28, 2023)

**Attachment 6: Exhibit Nos. CECONY-501 and CECONY-502**– Clean and redline versions of the proposed revisions to the NYISO OATT (Section 6.19.8.2.2 of Attachment 3 to Rate Schedule 19)<sup>56</sup>

**B. Effective Date (Section 35.13(b)(2))**

Con Edison requests that the Commission authorize the proposed Abandonment Incentive and the CWIP Incentive for the Rainey Breakers become effective as of the date of an order on this Application without suspension or hearing and that the associated tariff revision become effective on July 14, 2025.

**C. Service (Section 35.13(b)(3))**

Con Edison 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). Con Edison has also been informed that the NYISO 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.

**D. Description of the Rate Filing (Section 35.13(b)(4))**

The basis for the requested incentives is described above in Section II.

**E. Statement of Reasons for the Rate Filing (Section 35.13(b)(5))**

See Section II, above.

**F. Requisite Agreements (Section 35.13(b)(6))**

Con Edison is not required to obtain prior agreement from other parties for the submission of this filing.

**G. Statement Regarding Illegal, Duplicative, or Unnecessary Costs (Section 35.13(b)(7))**

None of the costs relating to this filing has been alleged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

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<sup>56</sup> A clean version of Con Edison's formula rate template in native Excel format that reflects the proposed changes is also being submitted with this filing.

## **H. Request for Waiver**

To the extent they are deemed applicable to this filing, Con Edison requests a waiver of the Commission's regulations at 18 C.F.R. § 35.13(d) concerning the Period I and Period II cost data requirements. Waiver of these provisions is appropriate and should be granted, consistent with Commission precedent.<sup>57</sup>

## **VI. CORRESPONDENCE AND COMMUNICATIONS**

All notices, correspondence, and communications regarding this application should be directed to the following individuals:

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<sup>57</sup> See *Dayton Power & Light Co.*, 172 FERC ¶ 61,140, at P 74, *order addressing arguments raised on reh'g*, 173 FERC ¶ 61,154 (2020), *order on clarification and reh'g*, 174 FERC ¶ 61,119 (2021).

## VII. CONCLUSION

For the reasons set forth above, Con Edison respectfully requests that the Commission grant the rate incentive treatments addressed herein at the earliest date practicable.

Respectfully submitted,

/s/ Susan J. LoFrumento

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