



Public Service Commission

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Three Empire State Plaza, Albany, NY 12223-1350
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March 19, 2015

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. ER15-572-000 - New York Transco, LLC,
et al.

Dear Secretary Bose:

For filing, please find the Motion to File Answer and Answer of the New York State Public Service Commission in the above-entitled proceeding. The parties have also been provided with a copy of this filing, as indicated in the attached Certificate of Service. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

A handwritten signature in blue ink that reads "David G. Drexler".

David G. Drexler
Assistant Counsel

Attachment
cc: Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

| | | |
|-------------------------------------|---|-------------------------|
| New York Transco, LLC |) | |
| |) | |
| Central Hudson Gas & Electric Corp. |) | |
| Consolidated Edison Company |) | |
| of New York, Inc. |) | Docket No. ER15-572-000 |
| Niagara Mohawk Power Corp. |) | |
| d/b/a National Grid |) | |
| New York State Electric & Gas Corp. |) | |
| Orange & Rockland Utilities, Inc. |) | |
| Rochester Gas and Electric Corp. |) | |

MOTION TO FILE ANSWER AND ANSWER
OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION

MOTION TO FILE ANSWER

On December 4, 2014, the New York Investor-Owned Utilities (IOUs)¹ filed a petition seeking to establish a formula rate for allocating and recovering the costs of constructing certain transmission facilities that would be developed by the IOU's newly-created affiliate, New York Transco, LLC (Petition). On January 16, 2015, several parties, including the New York State Public Service Commission (NYPSC), submitted protests objecting to the IOU's Petition.

On February 2, 2015, the IOUs filed an Answer to the parties' objections, including the NYPSC's Protest. The NYPSC hereby moves, pursuant to Rule 212 of the Federal Energy

¹ The IOUs include Central Hudson Gas & Electric Corp., Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corp. d/b/a National Grid, New York State Electric & Gas Corp., Orange & Rockland Utilities, Inc., and Rochester Gas and Electric Corp.

Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure (18 C.F.R. §385.212), to file an Answer to the IOU's Answer. The IOUs Answer misstates and misrepresents the NYPSC's prior decisions and its positions in this proceeding.

There is good cause for the Commission to grant the NYPSC's motion and accept its Answer contained herein because it corrects factual errors presented in the IOU's Answer, and will contribute to the development of a complete and accurate record. The Commission has granted motions to file Answers based on similar grounds.² For these reasons, the Commission should grant the NYPSC's Motion to File Answer.

ANSWER

I. The IOUs Incorrectly Assert That The NYPSC Agrees The Threshold Requirement For Incentive Rate Treatment Has Been Met With Respect To The AC Upgrade Projects

The IOUs contend that "[t]he NYPSC agrees that this threshold requirement of ensuring reliability and reducing

² See, Docket No. CP11-56-000, Texas Eastern Transmission, LP, et al., Order Approving Certificates and Approving Abandonment, 139 FERC ¶61,138 (2012) (accepting answer that ensures a complete and accurate record); Docket No. CP06-335-000, et al., Maritimes & Northeast Pipeline, LLC, Order Issuing Certificate and Amending Presidential Permit, 118 FERC ¶61,137 (2007) (finding good cause to allow an answer "in order to insure a complete and accurate record"); and, Docket No. IN08-3-001, Edison Mission, Order Denying Motions to Intervene And Dismissing Requests For Clarification And Rehearing of Order Approving Stipulation And Consent Agreement, 125 FERC ¶61,020 (2008) (accepting answer because it assisted in FERC's decision-making process).

transmission congestion for incentive treatment has been met..."³
This assertion is misleading on the issue of incentives because, as the NYPSC stated in its Protest, the Commission "should reject the NY Transco's proposed rate treatment for proposed AC upgrade projects."

The NYPSC is currently addressing alternatives to the IOUs proposed AC upgrade projects, and as a result, the NYPSC stated that "it is premature at this time to authorize rate treatment for the AC projects."⁴ In accordance with that statement, the NYPSC has not yet made any final determinations regarding the AC upgrade projects. Consequently, there are no NYPSC decisions on which the IOUs can rely to demonstrate their AC upgrade projects serve to meet even the criterion of ensuring reliability and reducing congestion.

II. The IOUs Incorrectly Assert That The NYPSC Required AC Projects To Be Built Within Existing Rights-Of-Way

The IOUs claim "the NYPSC selection process has actually increased project risks and challenges by requiring that any AC Projects that it selects must be built within existing rights-of-way."⁵ This is a mischaracterization of the NYPSC's order, which simply invited project proponents to

³ IOU Answer, p. 3.

⁴ NYPSC Protest, p. 24.

⁵ IOUs Answer, p. 9.

"submit alternatives to their existing proposals, incorporating, to the maximum extent possible, projects that can be contained within the bounds of existing rights-of-way."⁶ Rather than making the IOU's projects "riskier," the NYPSC's preference for utilizing existing rights-of-way, which the IOUs already own, should reduce development costs and risks by minimizing the need to acquire additional property rights from third parties.

III. The IOUs' Characterization Of The Cost Estimates They Provided As "Unrealistically Low" Is Unsustainable

The IOUs characterize the cost estimates they provided to the NYPSC as "unrealistically low." This disingenuous statement cannot be sustained, given that the IOUs supplied their cost estimates in the context of a competitive procurement proceeding.⁷ All participants in that process, including the IOUs, understood that their estimates would serve as the basis for conducting a comparative evaluation that would support the selection, from among competing projects, of a preferred alternative. For the IOUs to claim now that the estimates they

⁶ Case 12-T-0502 et al., Order Authorizing Modification Of The Process To Allow For Consideration Of Alternative Proposals (issued February 21, 2014) (February 2014 Order), p. 4 (emphasis added).

⁷ NYPSC Protest, p. 8 (citing Case 12-E-0503, Proceeding on Motion of the Commission to Review Generation Retirement Contingency Plans, Order Accepting IPEC Reliability Contingency Plans, Establishing Cost Allocation and Recovery, and Denying Requests For Rehearing (issued November 4, 2013) (IPEC Contingency Plan Order), pp. 22, 24.

submitted in that process were "unrealistically low" undermines the purpose of competitive process. The Commission should reject the IOU's suggestion that holding them to their cost estimates will prevent developers from building new transmission, or run counter to the Commission's promotion of transmission investment under Section 219 of the Federal Power Act.

IV. The IOUs Incorrectly Suggest Their Projects Could Not Have Been Developed Absent NY Transco

The IOUs suggest that they could not have "achieved agreement to collectively or individually develop new regional transmission projects across New York State absent the formation of NY Transco."⁸ The IOUs ignore the fact that their "Transmission Owner Transmission Solutions" (TOTS) were called for by the NYPSC in order to provide potential solutions to specific and identified needs within the State. In addition, these projects were proposed significantly in advance of NY Transco being formed. The IOUs also fail to mention that several developers have proposed, without forming a "Transco," regional transmission projects that are currently competing against the IOU's AC Upgrade projects.

It is also worth mentioning that the NYPSC's IPEC Contingency Plan Order accepting the IOU's TOTS for development

⁸ IOU's Answer, p. 16.

does not require the formation of NY Transco. The TOTS projects are already under development, and are expected to be constructed. Given the above facts, and that the NYPSC may direct the IOUs to develop needed transmission projects across the State, including the TOTS, the IOUs have failed to present an adequate justification warranting Transco-related incentive adders.⁹

V. The IOUs Incorrectly State The NYPSC's Position With Respect To Cost Allocation

The IOUs further misrepresent the NYPSC's position with respect to cost allocation, by suggesting the NYPSC "would allocate 90% downstate rather than 75%."¹⁰ As the NYPSC clearly stated in its Protest, "[t]he IOUs wrongly claim the NYPSC has 'endorsed' their proposed allocation of costs."¹¹ While the NYPSC initially supported the IOU's proposed allocation in connection with the TOTS, that support was based on a conceptual framework for NY Transco that included the voluntary participation of all NYTOs, including the Long Island Power

⁹ Under the PSL, the NYPSC shall "have the power to order reasonable improvements and extensions of [electric utility] works, wires, poles, lines...and other...apparatus."⁹ The NYPSC also may prescribe the "safe, efficient and adequate property, equipment and appliances thereafter to be used," whenever the NYPSC determines that the utility's existing equipment is "unsafe, inefficient or inadequate." PSL §66(5).

¹⁰ IOU's Answer, p. 19.

¹¹ NYPSC Protest, p. 20 (citing IOU's Petition, p. 9).

Authority and the New York Power Authority, covering a suite of 18 transmission projects throughout the State. However, given that "the conceptual premise for the NYPSC's determination is no longer in place, factual questions regarding the reasonableness of allocating costs based on a NYTO-specific methodology that initially presumed a suite of 18 projects require that FERC conduct a hearing."¹² Therefore, the NYPSC does not take a position with respect to cost allocation at this time.

CONCLUSION

In accordance with the foregoing discussion, the Commission should grant the NYPSC's Motion to File Answer, and

¹² NYPSC Protest, p. 21. The NYPSC further requests that the Commission conduct a hearing to address the reasonableness of the IOU's requested equity ratio, return on equity, and debt cost, which appear excessive and inconsistent with the actual risks faced by NY Transco. The IOU's Answer cites to Appendix D of the NYPSC's Protest in acknowledging the importance and potential impact of these capitalization factors. IOU Answer, p. 12.

include the NYPSC's Answer as part of the record in this proceeding.

Respectfully submitted,



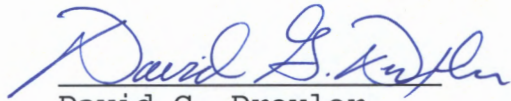
Kimberly A. Harriman
General Counsel
Public Service Commission
of the State of New York
By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: March 19, 2015
Albany, New York

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: Albany, New York
March 19, 2015

A handwritten signature in blue ink that reads "David G. Drexler". The signature is written in a cursive style and is positioned above a horizontal line.

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