NEW YORK STATE OF OPPORTUNITY. | Public Service Commission

Three Empire State Plaza, Albany, NY 12223-1350
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July 23, 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. ER15-2102-000 - New York Independent System Operator, Inc.

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Protest 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,

David G. Drexler
Assistant Counsel

Attachment
cc: Service List

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	))	Docket No. ER15-2102-000

NOTICE OF INTERVENTION AND PROTEST
OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION

INTRODUCTION

On July 2, 2015, the New York Power Authority (NYPA) filed a Petition seeking to: (i) implement a formula rate for updating, on an annual basis, its revenue requirement associated with providing transmission services under the New York Independent System Operator, Inc.'s (NYISO) Open Access Transmission Tariff; (ii) include ratemaking incentives for recovery of abandonment costs associated with its development of the Marcy-South Series Compensation (MSSC) project; and, (iii) incorporate a 50 basis point adder to its Return on equity (ROE) for participation in the NYISO. The Petition also seeks to apply NYPA's actual capital structure, capped at 60% equity, as part of its formula rate.

Pursuant to Rule 211 (18 C.F.R. §385.211) of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, the New York State Public Service Commission (NYPSC) hereby submits its Protest to certain aspects of the Petition. In particular, the NYPSC opposes the requested adder to NYPA's Return-on-Equity (ROE) for participation in the New York Independent System Operator, Inc.

(NYISO) because it is unnecessary and unwarranted where NYPA has already agreed to turn operational control of its transmission facilities over to the NYISO. In addition, the requested capital structure is excessive and unnecessary since a 50% equity ratio would adequately balance collections from customers and ensure that the utility has access to capital markets at reasonable terms. Finally, the Commission should recognize the significant nexus between several issues presented in the Petition and those raised in Docket No. ER15-572-000, which involves New York Transco, LLC (NY Transco). The Commission should defer its decision regarding the risk-sharing or performance-based incentive components of the Petition, pending the outcome of NY Transco settlement discussions.

NOTICE OF INTERVENTION

The NYPSC submits its Notice of Intervention pursuant to the Commission's Combined Notice of Filings #2, issued on July 2, 2015, and Rule 214(a)(2) (18 C.F.R. §385.214) of the Commission's Rules of Practice and Procedure. Copies of all correspondence and pleadings should be addressed to:

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PROTEST

A. The Commission Should Reject An ROE Adder For Participation in the NYISO As Unnecessary And Unwarranted

The NYPSC supports ROE incentive adders that truly provide consumer benefits, such as encouraging the use of innovative technologies or providing congestion relief. However, the Petition requests an ROE adder for continued participation in the NYISO; merely remaining in the NYISO, as it already would, is not an action that warrants an incentive. Notwithstanding the Commission's prior orders authorizing incentive-based rate treatment for public utilities to join and maintain membership in regional transmission organizations, the Commission should reject NYPA's request for such an ROE adder under these circumstances. The NYPSC maintains that an ROE adder for participation in the NYISO is unnecessary and unwarranted under the particular circumstances presented here, where NYPA is already a member of the NYISO and has transferred operational control of its transmission facilities to the NYISO. Moreover, NYPA is expected to make a similar transfer of control for any new facilities and maintain its membership.[1]

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[1] See, NYISO/Transmission Owner Agreement, http://www.nyiso.com/public/markets_operations/documents/legal_regulatory/index.jsp (requiring the NYISO to exercise operational control of the transmission facilities owned by the Transmission Owners).

An additional incentive for NYISO participation is not justified where the Commission's goals of incentivizing the creation of the NYISO and transferring operational control of their transmission facilities to the NYISO have already been achieved. Awarding NYPA an ROE incentive for what it must do in any event is not warranted since the incentive will have no effect on its behavior. Therefore, awarding a 50 basis point adder for joining the NYISO is both unnecessary and unreasonably excessive.

B. <u>The Commission Should Reject the Proposed Capital Structure As Unnecessary and Excessive</u>

It is clear from the Petition that NYPA has purposefully chosen to maintain exceedingly strong financial metrics. NYPA notes that using 2014 data would produce a 76.4% equity ratio. While NYPA's current equity ratio is above 65%, it has chosen a long-term target of 65% equity. As Moody's Investors Service (Moody's) has found, NYPA's debt ratio is, "one of the lowest of any major U.S. public power electric utility with generation in our rated universe."[2]

NYPA maintains that its proposal to cap its actual equity at 60% equity would help to maintain its strong credit profile and "AA" credit rating. However, NYPA incorrectly suggests that the costs associated with maintaining these high-

[2] Petition, Ex. PA-306, p. 11.

end financial metrics do not come at an increased cost to ratepayers, relative to investor-owned utilities.[3] While NYPA has certain tax advantages over investor-owned utilities, having financial ratios in the Aaa-range come at a cost to ratepayers due to an overall increase in equity costs. All else equal, NYPA could collect less from ratepayers while maintaining its metrics in the "Aa" range.

The NYPSC seeks to ensure a proper balance is achieved between collections from customers and ensuring that a utility has access to capital markets at reasonable terms. NYPA need not maintain financial metrics that are the best of all public power utilities in the nation in order to present a strong credit profile. Slightly lower credit metrics, due to a lower equity ratio, will in no way hinder NYPA's ability to raise capital on reasonable terms.

Utilities with much lower ratings, including every company in NYPA's proxy group with an average bond rating of "A3"/"A-" by Moody's/Standard & Poor's (S&P), regularly access the capital markets on terms that are reasonable. Municipal utility companies, even those that are rated "A"/"A" or "Baa"/"BBB" by Moody's/S&P, have issued billions of dollars of

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[3] Petition, Ex. PA-301, p. 15.

debt on reasonable terms over the past year.[4] While NYPA may argue that slightly lower financial metrics will result in slightly higher future debt expense, any such increase that materializes would be more than offset by the amount customers would save from paying debt cost rates, as opposed to equity cost rates, on a higher portion of NYPA's capital.

As the Commission should be aware, utility operations throughout the country, similar to NYPA, have equity ratios of approximately 50%.[5] The Commission, as recently as June 19, 2015, approved a 50% equity ratio in its decision regarding WPPI Energy, a not-for-profit regional municipal joint action agency.[6] WPPI Energy was accorded this capital structure because it "is within the range that the Commission has allowed for other entities reliant on non-equity financing."[7] Similarly, the equity ratio of the consolidated companies in NYPA's proxy group was 52.0% in 2014.[8] These companies have investments in not only

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4 See, Appendix A, which contains a summary of municipal utility debt issuances by rating categories for the past year.

5 See, Appendix B, which contains excerpts from the SNL Financial Focus report, dated June 24, 2015, entitled "Quality Measures: Utility Subsidiaries Calendar Years 2011-2014, and 12-Months-Ended March 31, 2015," p. 2, (noting "the common equity ratio rose slightly to 49.5% from 49.0%").

6 Docket No. ER15-1544-000, Midcontinent Independent System Operator, Inc. and WPPI Energy, Order on Transmission Rate Incentives, 151 FERC ¶ 61,246 (issued June 19, 2015).

7 Id. at ¶22.

8 Petition, Ex. PA-307.

utility operations, but also non-utility operations which are typically financed with a higher equity ratio.

The NYPSC supports a capital structure of up to 50%, as a reasonable level for the application of NYPA's formula rate. This level is in line with those of entities engaging in projects of similar risk to NYPA, including WPPI Energy and NYPA's proxy group. This level will support a strong credit profile for NYPA while maintaining its ability to access capital on reasonable terms.

In the event the Commission requires additional information, an evidentiary hearing is necessary to allow interested parties an opportunity to contest the claim that a 60% equity ratio is necessary. Such an examination is needed to ensure New York ratepayers benefit from the most cost-effective method for financing NYPA's activities while also maintaining NYPA's strong credit profile.

C. The Commission Should Defer the Risk-Sharing and Performance-based Incentive Matters Pending a Compliance Filing

As noted in the Petition, there is a significant nexus between NYPA's requests for rate treatment applicable to its Marcy-South Series Compensation (MSSC) project and the separate rate requests that are currently being addressed in settlement discussions in Docket No. ER15-572-000, which involves NY

Transco. NYPA's MSSC has been joined with the transmission solutions that the NYPSC directed several Investor-Owned Utilities affiliated with NY Transco to develop.[9]

While the Petition presents a cost containment mechanism regarding the MSSC project, it is premature to act upon this request since the application of the ROE incentive adder is subject to further discussion between NYPA and the NYPSC.[10] Likewise, the Petition indicates that "NYPA will include the same risk-sharing or performance-based incentive components that are ultimately agreed to by the NY Transco in Docket No. ER15-572-000 with respect to future competitive projects."[11] Given the nexus between the rate treatment applicable to both the MSSC project and to other projects, and the discussion of these issues in the NY Transco proceeding, the Commission should defer these matters at this time, subject to a compliance filing based on the outcome of the NY Transco proceeding.

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[9] Petition, p. 7.

[10] Petition, p. 10 (indicating that "NYPA will limit application of the RTO Participation Adder...in a manner that is mutually acceptable to NYPA and the NYPSC").

[11] Petition, p. 11.

CONCLUSION

In accordance with the discussion above, the NYPSC respectfully requests that the Commission reject the proposed ROE incentive adder, set the capital structure at 50% equity, or in the alternative set the issue for evidentiary hearing. In addition, the Commission should direct a compliance filing regarding the risk-sharing and performance-based incentive components of the Petition, consistent with the final disposition of the NY Transco proceeding.

Respectfully submitted,

Kimberly A. Harriman

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Public Service Commission
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Dated: July 23, 2015
Albany, New York

APPENDIX A

Summary: Municipal Utilities Debt Issuances By Rating Categories (July 20, 2014 to July 20, 2015)

Rating Category (S&P/Moody's)	Amount Issued ($M)	Average Coupon	Min. Term (yrs)	Max. Term(yrs)	Average Term(yrs)	# of Issuances
BBB/Baa2	$28.35	5.000%	3	17	10	15
BBB+/Baa1	$480.62	4.907%	1.82	19.84	9	25
A-/A3	$1,412.65	3.425%	0.88	30	11	194
A/A2	$2,258.70	4.216%	0.46	31	11	348
A+/A1	$1,232.12	3.869%	0.12	30	10	457
AA-/Aa3	$5,607.81	3.712%	0.24	31	11	879
AA/Aa2	$5,854.12	3.431%	0.19	35	11	2,166
AA+/Aa1	$2,211.00	3.585%	0.39	30	11	519
Total or Average	**Total is $19,085.35**	**Avg is 4.018%**	**Avg is 0.89**	**Avg is 27.98**	**Avg is 10.50**	**Total is 4,603**

Source of Data:
S&P CapitalIQ

APPENDIX B

SNL Energy
FINANCIAL FOCUS

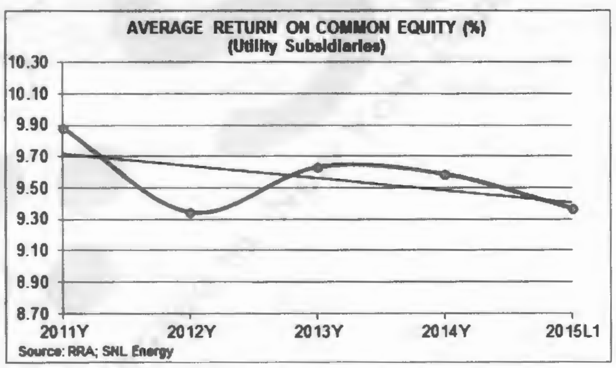
June 24, 2015

QUALITY MEASURES: Utility Subsidiaries
Calendar Years 2011-2014, and 12-Months-Ended March 31, 2015

Based on data available for the 12-months-ended March 31, 2015, financial quality for the 81 major utility subsidiaries of the RRA Index companies fell marginally, as compared to calendar-2014 measures. We attribute the slight pullback to a rise in operating expenses and lackluster demand growth in an uncertain economy. Weather was an additional negative factor during Q1 2015 in terms of utility sales.

We note, however, that utility quality metrics have generally been on the rise over the past few years. Many companies have implemented cost-cutting measures and operational efficiencies in order to offset lackluster customer and usage growth. Financial quality has also benefited from a steady stream of new regulated investment in rate base (and associated rate increases).

Earned return on equity (ROE), one of the more widely followed measures of the industry's financial performance, fell to 9.37% in the 12-months-ended March 31, 2015, from 9.59% in calendar-2014, and from 9.63% in calendar-2013, for the 81 subsidiaries. Utility ROE levels had held steady near 10% in 2006 and 2007; however, in 2009, weak sales from the recessionary economy, and other factors, including cost increases and regulatory lag, resulted in the decline in the group's average ROE. That downward trend started to reverse in early 2010, owing to a combination of positive factors, including cost-cutting, an improvement in industrial sales, and stronger sales due to weather. Recently, however, declining authorized ROEs at utilities have been a limiting factor for profits, as the average allowed ROE for electric utilities fell from 10.48% in 2009, to 9.80% in 2013, to 9.76% in calendar-2014, and to 9.67% in Q1 2015 (the averages shown for 2013, 2014, and Q1 2015 exclude ROE authorizations in Virginia that include ROE premiums of up to 200 basis points for certain generation projects). For gas utilities, the average allowed ROE was 10.19% in 2009, fell to 9.68% in 2013, but rose 10 basis points to 9.78% in 2014. The average ROE authorized gas utilities during Q1 2015 was 9.47%. (See the RRA Regulatory Focus Special Report: Major Rate Case Decisions—January-March 2015, dated April 13, 2015 for details.)



This utility subsidiary report is largely based on information contained in the SNL Energy database, compiled from the 10-K, 10-Q, and company earnings releases. With respect to ROE, it should be understood that comparisons of "earned" ROEs and "commission-authorized" ROEs may sometimes be difficult or limited in value due to numerous extenuating factors, the most significant of which relate to limitations of reported data, as "regulatory" and "financial" accounting produce differing results. Additionally, a few subsidiaries operate in multiple jurisdictions, but report on a consolidated basis, e.g., Alliant Energy's subsidiary Interstate Power operates in both Minnesota and Iowa. Also, some utility subsidiaries act as intermediate holding companies, with reported financials including other smaller subsidiaries, e.g., TECO Energy subsidiary Tampa Electric owns Peoples Gas. We also note that some companies carry traditional multi-state utility operations as "divisions," but combine those operations for reporting purposes, e.g., AGL Resources. Those companies are not included in this report.

Regarding the earnings used in this report, we have removed the effects of non-recurring items, such as discontinued operations, write-offs, mark-to-market valuation changes, prior-period tax settlements, or other one-time accounting adjustments, to the extent that information is available from SEC documents.

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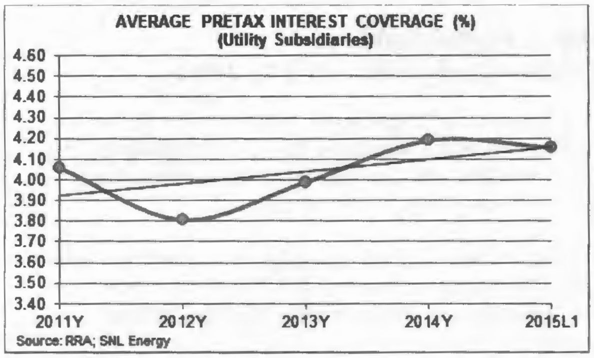
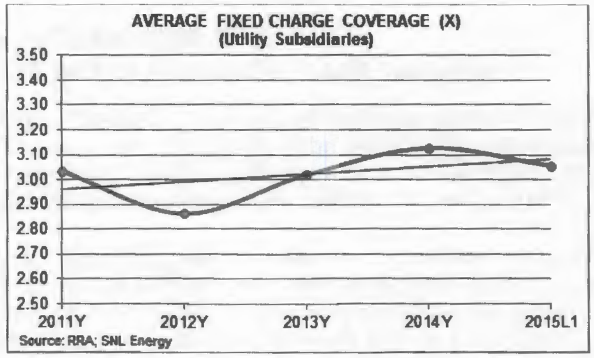
Tables 1 and 2

Tables 1 and 2 provide several years of data for the 81-utility operating company group, and are sorted alphabetically by holding company ticker. The financial measures included in these tables are discussed below.



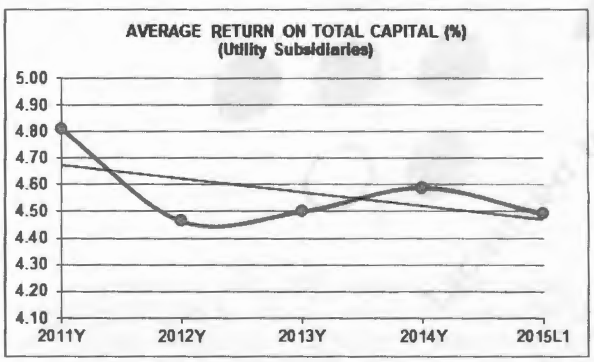


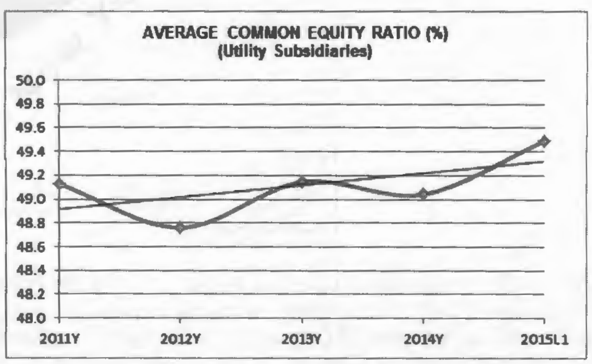
Pretax Interest Coverage – An important measure of credit quality, average pretax interest coverage stood at 4.16x for the 12-months-ended March 31, 2015, down from 4.19x for calendar-2014, but up from 3.99x for calendar-2013.

Fixed Charge Coverage - This is a broader measure of after-tax income protection for bondholders and preferred stockholders. Significant capital restructurings, in combination with increased utility cost-cutting and productivity, helped strengthen this ratio over the past few years. The industry's average overall fixed charge coverage was 3.06x for the 12-months-ended March 31, 2015, versus 3.13x for calendar-2014, and 3.02x for calendar-2013.

Return on Common Equity – The average 12-month ROE has held fairly steady in recent years, within a range of roughly 9.3% to 9.9%. Back in 2009, the earned ROE fell to 9.1% from 10.13% in the previous year, primarily because of sales slowdowns in the weak economy. The average earned ROE for the 12-months-ended March 31, 2015 was 9.37%, down from 9.59% for calendar-2014, and 9.63% for calendar-2013.

Return on Total Capital - This calculation is designed to measure the relative combined efficiency with which all forms of capital are used by a company to produce profits, by comparing pre-dividend earnings to total capital employed (including short-term debt). This measure was 4.49% for the 12-months-ended March 31, 2015, down slightly from 4.59% for calendar-2014, and 4.50% for calendar-2013.





Capital Structure Data - Table 2 displays the allocation of capital among debt, preferred stock (including minority interest and non-controlling interest), and common equity. Ratios have been fairly stable over the past several years; the common equity ratio has remained relatively steady, hovering tightly around 49%. As of March 31, 2015, the average short-term debt level fell to 4.7% from 5.0% at year-end 2014. Average long-term debt was stable at 45.1%, while the common equity ratio rose slightly to 49.5% from 49.0%.

Rob Schain
Brian Collins
Tom Serzan

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
July 23, 2015

David G. Drexler

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