

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on September 19, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair  
Diane X. Burman  
James S. Alesi  
Tracey A. Edwards  
John B. Howard

CASE 19-E-0352 - Petition of New York Transco LLC for an Order  
Approving Financing.

ORDER APPROVING FINANCING AND MAKING FINDINGS

(Issued and Effective September 19, 2019)

BY THE COMMISSION:

INTRODUCTION

In a petition filed on May 2, 2019, New York Transco LLC (NY Transco or Petitioner) requested approval, pursuant to Public Service Law (PSL) §69, to issue up to \$400 million in new long-term debt securities (the Petition). Petitioner represents that the financing is needed to complete the development and construction of an electric transmission line referred to as the New York Energy Solutions Transmission Project (NYES Project). As discussed below, this Order authorizes Petitioner to assume indebtedness in an amount not to exceed \$400 million.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (Notice) with respect to the Petition was published in the State Register on

June 19, 2019 [SAPA No. 19-E-0352SP1]. The SAPA §202(1)(a) period for submitting comments in response to the Notice expired on August 19, 2019. No comments were received.

THE PETITION

NY Transco

NY Transco explains that its corporate members are Consolidated Edison Transmission, LLC, Grid NY LLC, Avangrid Networks New York TransCo, LLC, and Central Hudson Electric Transmission LLC. Each of these members is an affiliate of a fully-regulated investor-owned utility (IOU) that operates in New York subject to regulation by the New York State Public Service Commission (Commission). According to Petitioner, NY Transco was formed to plan, develop, and own new high-voltage electric transmission facilities in New York.

In 2016, NY Transco explains, the company acquired the Transmission Owners Transmission Solutions (TOTS) electric transmission projects from New York State Electric & Gas Corporation (NYSEG), Orange and Rockland Utilities, Inc. (O&R), and Consolidated Edison Company of New York, Inc. (Con Edison).<sup>1</sup> At the same time, the Commission granted NY Transco a lightened ratemaking regulatory regime and approved a proposed financing plan up to a maximum amount of \$129 million.<sup>2</sup> NY Transco reports

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<sup>1</sup> Case 16-E-0012, New York State Electric & Gas Corporation and New York Transco LLC, Order Authorizing Transfers Subject to Conditions and Modifications (issued April 21, 2016) (TOTS Order); Case 16-E-0013, Orange and Rockland Utilities, Inc. et al., Order Authorizing Transfers Subject to Conditions and Modifications (issued April 21, 2016). According to NY Transco, the TOTS Projects are Ramapo to Rock Tavern; Frasers to Coopers Corners; and Staten Island Unbottling.

<sup>2</sup> Case 15-E-0743, New York Transco LLC, Order Providing for Lightened Ratemaking Regulation and Approving Financing (issued April 21, 2016) (Regulation Order).

that the TOTS Projects were energized in June 2016 and the company has operated and maintained the lines subject to wholesale rate regulation by the Federal Energy Regulatory Commission (FERC). Charges to ship energy over the TOTS Projects, NY Transco continues, are collected from load serving entities by the New York Independent System Operator, Inc. (NYISO) subject to a FERC-approved open access transmission tariff (OATT) which allows NY Transco to recover its cost of service for operation and maintenance of the TOTS Projects.<sup>3</sup> NY Transco represents that the TOTS Projects are under the operational control and tariff administration of the NYISO and are operated only in the wholesale marketplace.

The NYES Project

NY Transco avers that it has collaborated with Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to develop projects that might satisfy the Commission finding that there is a need for new alternating current (AC) electric transmission facilities to relieve congestion in upstate New York.<sup>4</sup> Specifically, NY Transco continues, the Commission concluded that there is a need to relieve congestion across, and replace aging infrastructure along, the "UPNY/SENY" and "Central East" electrical interfaces in New York.<sup>5</sup> Electric transmission projects that address this need would increase the amount of power that can be transmitted from upstate to downstate.

Petitioner reports that a competitive process was administered by the NYISO to procure solutions to the AC Transmission PPTN, and that the AC Transmission PPTN was divided

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<sup>3</sup> Regulation Order, p.4.

<sup>4</sup> This finding is referred to as the AC Transmission Public Policy Transmission Need (AC Transmission PPTN).

<sup>5</sup> See Case 12-T-0502, Alternating Current Transmission Upgrades, Order Instituting Proceeding (issued November 30, 2012).

into two segments: (a) Segment A, which crosses the Central East interface; and (b) Segment B, which crosses the UPNY/SENY interface. On April 8, 2019, the NYISO Board of Directors selected the NYES Project submitted by NY Transco and National Grid to address Segment B of the AC Transmission PPTN, subject to a requirement that the facility be operational by the end of 2023.

NY Transco explains that the NYES Project includes a new, 54-mile, 345 kV transmission line that begins at a new Knickerbocker switching station in Schodack, New York, and ends at the existing Pleasant Valley substation in Pleasant Valley, New York. According to NY Transco, the NYES Project will increase transfer capability, improve system resiliency, utilize existing utility rights-of-way, and retire, replace, and upgrade certain existing, aging electric transmission infrastructure.

#### Proposed Financing

NY Transco explains that it is a party to a FERC settlement order that applies to the rate treatment and cost recovery of the NYES Project (the FERC Settlement).<sup>6</sup> Pursuant to the FERC Settlement, Petitioner explains that it must maintain a capitalization structure of 47% debt and 53% equity during development and construction of the NYES Project. NY Transco represents that, to complete the development and construction of this project while maintaining the requisite capitalization structure, it needs to secure debt financing in an amount not to exceed \$400 million.

Petitioner argues that the proposed financing is for a statutory purpose and is consistent with the public interest because the NYES Project will increase the transfer capability

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<sup>6</sup> Citing Docket No. ER15-572-006, New York Independent System Operator, Inc., Letter Order Approving Offer of Settlement (issued November 16, 2017).

across a congested electric interface and improve operational flexibility of the bulk power system. According to NY Transco, its request for financing authority is similar to debt arrangements that the Commission has approved for other lightly-regulated entities. Consistent with those prior rulings, NY Transco also requests that the financing approval include the flexibility to modify, without prior Commission approval, the identity of the financing entities, payment terms, and amount financed up to the proposed financing limit.<sup>7</sup> Petitioner argues that such flexibility will improve its creditworthiness, efficiently meet its capital needs during construction, and allow it to cost-effectively refinance debt in the future.

LEGAL AUTHORITY

The Commission is authorized, pursuant to PSL §69, to approve certain financings, such as the type discussed in the Petition. Financings proposed under PSL §69 by lightly-regulated companies operating in a competitive environment may be addressed on the basis of representations made in the petition, and do not require an in-depth analysis.<sup>8</sup>

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<sup>7</sup> Case 15-M-0297, Sithe/Independence Power Partners, L.P., Order Approving Financing (issued September 21, 2015); Case 03-E-1181, Dynegy Danskammer LLC, Order Authorizing Entry Into Credit Facility and Issuance of Secured Notes (issued November 26, 2003).

<sup>8</sup> Case 17-E-0016, TC Ravenswood et al., Order Approving Transfer Subject to Acceptance of Conditions and Making Other Findings (issued April 19, 2017).

DISCUSSION AND CONCLUSION

Approval of Petitioners' financing plan is appropriate under lightened regulation.<sup>9</sup> The scrutiny applicable to fully regulated utilities may be reduced for lightly-regulated companies like NY Transco. As a result, an in-depth analysis of the proposed financing transactions is not needed. Instead, by relying on the representations that Petitioner makes in its filing, prompt regulatory action is possible.

The proposed financing appears to be for a statutory purpose and does not appear contrary to the public interest. It is therefore approved up to a maximum amount of \$400 million, as proposed. Given that Petitioner is subject to lightened regulation, it is afforded the flexibility to modify, without our prior approval, the identity of the financing entities, payment terms, and amount financed under the transactions, up to the \$400 million limit. Affording NY Transco this flexibility avoids disruption of financing arrangements and enables it to operate more effectively in competitive wholesale electric markets, thereby promoting the efficient development of these markets.

Unlike most lightly-regulated companies, however, NY Transco is affiliated with IOUs operating in New York. Those relationships warrant an increased level of attention to transactions, including financing plans, than typically would be applicable to lightly-regulated entities. NY Transco is reminded that, for purposes of any interactions, exchanges of information, and actual transactions it enters into with any

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<sup>9</sup> Prior to any construction activities, a comprehensive environmental review of the NYES Project will be conducted under PSL Article VII, which is included in the list of actions not subject to review under the State Environmental Quality Review Act. (6 NYCRR §617.5(c)(44).)

affiliated New York IOU, it will be subject to all applicable codes of conduct, affiliate transaction rules, and any other related obligations which govern the IOUs.<sup>10</sup> This includes a prohibition against including in the terms of its debt any cross-default provision with any IOU operating in New York. In addition, within 30 days of closing on any part of the proposed financing plan, NY Transco shall file with the Secretary to the Commission a report summarizing the initial amount, term, and type of debt instrument(s), and identifying the creditor(s).<sup>11</sup> The report also shall include a comparative analysis of the terms and conditions of each issuance, including call provisions, relative to financings by other transmission companies. Finally, NY Transco shall also have a continuing obligation to file reports, on or before March 1<sup>st</sup> of each year, that describes and summarizes activity related to the financing approved in this Order over the preceding calendar year.

The Commission orders:

1. New York Transco LLC is authorized to enter into the financing arrangement described in the Petition filed in this proceeding, and discussed in the body of this Order, up to a maximum amount of \$400 million, subject to the discussion in the body of this Order.

2. Within 30 days of closing on any part of the proposed financing plan, NY Transco LLC shall file with the Secretary a report summarizing the amount, term, and type of debt instrument(s), identifying the creditor(s), and presenting

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<sup>10</sup> Regulation Order, p. 16.

<sup>11</sup> We anticipate that NY Transco will execute its financing plan in multiple parts and, therefore, submit multiple compliance filings.

a comparative analysis, subject to the discussion in the body of this Order.

3. NY Transco LLC shall have a continuing obligation to file reports annually, on or before March 1<sup>st</sup> of each year, beginning on March 1, 2020 and ending with the first report submitted after the transmission line project is complete and permanent financing has been issued, that describes and summarizes activity related to the financing approved in this Order over the preceding calendar year, or the applicable portion of the calendar year that applies to the initial report.

4. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary