

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.
New York Transco, LLC
Central Hudson Gas & Elec. Corp.,
Consolidated Edison Co. of New York, Inc.,
Niagara Mohawk Power Co., d/b/a National Grid,
New York State Elec. & Gas Corp.,
Orange and Rockland Utilities, Inc.,
Rochester Gas and Electric Corp.

Docket No. ER15-572-000

(Issued April 3, 2015)

Attached is a statement by Chairman LaFleur and Commissioner Moeller, jointly dissenting in part to an order issued on April 2, 2015, in the above referenced proceeding. *New York Independent System Operator, Inc., et al.*, 151 FERC ¶ 61,004.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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MOELLER, Commissioner, and LaFLEUR, Chairman, *jointly dissenting in part*:

Instead of accepting NY Transco's 60/40 hypothetical capital structure, the Commission has set Applicants' proposed capital structure for hearing and settlement judge procedures. The Commission has consistently granted requests for hypothetical capital structures under Order No. 679 in order to provide much needed certainty for developers seeking to raise capital for developing and constructing proposed transmission projects. We believe that there is no basis for departing from Commission precedent in this case. Given that the proposed hypothetical capital structure is exactly that – hypothetical – adding additional process in this proceeding by applying hearing and settlement judge procedures is unproductive, and will result in significant delays in Commission action.

In Order No. 679, the Commission rejected requests to prescribe specific criteria or set target debt/equity ratios for evaluating hypothetical capital structures. In doing so, the Commission recognized that “an overly rigid approach to evaluating proposed capital structures may discourage the development of new transmission projects.”¹ Today's order does not merely apply an overly rigid approach to evaluating these capital structures; the majority has failed to provide any criteria or guidance as to how the Commission will evaluate these capital structures going forward. We believe the Applicants demonstrated the required nexus between the need for the requested hypothetical capital structure and the facts of this particular case, and we would have granted the requested transmission incentive.

The TOTS and AC Projects are part of a larger effort by the State of New York to ensure reliability and reduce the cost of delivered power by reducing congestion through the

¹ *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222, at P 132 (2006).

New York Energy Highway Blueprint. The Commission needs to support these and similar efforts across the country to build much-needed infrastructure through timely, decisive action, rather than introducing needless uncertainty.

Accordingly, we respectfully dissent in part.

Philip D. Moeller
Commissioner

Cheryl A. LaFleur
Chairman