

158 FERC ¶ 61,043  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

January 19, 2017

In Reply Refer To:  
New York Independent System  
Operator, Inc.  
Docket No. ER16-835-000

Van Ness Feldman, LLP  
1050 Thomas Jefferson Street, NW  
Washington, DC 20007

Attention: Gary D. Bachman, Esq.

Dear Mr. Bachman:

1. On September 30, 2016, as amended on October 5, 2016, you filed, in the above-referenced proceeding, an Offer of Settlement (Settlement) on behalf of the New York Power Authority (NYPA). On October 20, 2016, Commission Trial Staff filed comments supporting the Settlement. No other comments were filed. On November 9, 2016, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>1</sup>

2. The Settlement addresses issues that the Commission set for hearing<sup>2</sup> regarding NYPA's proposal to replace its existing stated rates for the NYPA Transmission Adjustment Charge, in Attachment H, "Annual Transmission Revenue Requirement," of the New York Independent System Operator, Inc. Open Access Transmission Tariff (NYISO OATT) with a transmission cost-of-service formula rate template and formula rate implementation protocols to determine NYPA's annual transmission revenue requirement. Article VI of the Settlement states that:

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<sup>1</sup> *New York Indep. Sys. Operator, Inc.*, 157 FERC ¶ 63,019 (2016).

<sup>2</sup> *New York Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,268 (2016).

[u]nless the Parties otherwise agree in writing, the standard of review for any modification to this Settlement (including the provisions of the NYISO OATT agreed to in this Settlement and described in Section 3.11) proposed by a Party during the Moratorium period, as described in Section 3.11, shall be the “public interest” application of the just and reasonable standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the *Mobile-Sierra* doctrine), as clarified in *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), and refined in *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165, 174-75 (2010). The standard of review for any modifications to this Settlement (including the provisions of the NYISO OATT agreed to in this Settlement and described in Section 3.11) requested by a non-Party, or requested by a Party after expiration of the Moratorium described in Section 3.11, or initiated by the Commission acting *sua sponte* will be the ordinary just and reasonable standard of review. See *Morgan Stanley Capital Group Inc.*, 554 U.S. 527. The standard of review for the single-issue section 205 filing by NYPA required by Section 3.4 will also be the ordinary just and reasonable standard of review.

3. The Settlement resolves all issues in this proceeding. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

4. NYPA is directed to file revised tariff records in eTariff format,<sup>3</sup> within 30 days of the date of this order, to reflect the Commission’s action in this order. Additionally, pursuant to section 3.4 of the Settlement, upon conclusion of the Depreciation Study Review Period, NYPA is required to file, under section 205 of the Federal Power Act,<sup>4</sup> new stated depreciation rates to be effective March 1, 2017.

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<sup>3</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

<sup>4</sup> 16 U.S.C. § 824d (2012).

5. This letter order terminates Docket No. ER16-835-000.  
By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.