

124 FERC ¶ 61,259  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Philip D. Moeller,  
and Jon Wellinghoff.

New York Regional Interconnect, Inc.

Docket No. EL08-39-000

ORDER GRANTING, IN PART, AND DENYING, IN PART,  
PETITION FOR DECLARATORY ORDER

(Issued September 18, 2008)

1. On February 12, 2008, as amended on May 28, 2008, New York Regional Interconnect, Inc. (NYRI) filed a petition for declaratory order (Petition), requesting conditional Commission approval for incentive-rate treatment for its proposed high voltage transmission project in New York (Project), as consistent with Order No. 679.<sup>1</sup> We will grant in part, and deny, in part, NYRI's request.
2. As discussed in this order, we will conditionally approve 275 basis points of return on equity (ROE) incentives for the Project.<sup>2</sup> Our approval is conditioned on the New York Public Service Commission (New York Commission) finding that the Project will ensure reliability or reduce congestion, and granting siting approval, as requested by NYRI.

---

<sup>1</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 (2006) *order on reh'g*, 119 FERC ¶ 61,062 (2007).

<sup>2</sup> The 275 basis point of ROE incentives consist of the following: 50 basis points for future participation in the New York Independent System Operator, Inc. (NYISO); 100 basis points for forming an independent transmission company (Transco); and, 125 basis points for a combined transmission and advanced technology incentive (collectively, basis point incentives).

**I. Background****A. NYRI**

3. NYRI states that it is a privately-owned corporation whose sole business is to develop, finance, construct, own and maintain the Project to gain access into the New York energy markets.<sup>3</sup> NYRI requests incentive rate treatment for a 1200 MW high-voltage direct-current (HVDC) transmission line spanning approximately 190 miles between the Edic substation in Oneida County in upstate New York and the Rock Tavern substation in southeastern New York and crossing 38 municipalities located in the NYISO's control area. NYRI estimates the cost of the Project to be \$1.8 to \$2.1 billion and expects it to be in service by 2012.

4. NYRI recognizes that the Project faces numerous permitting and siting challenges and currently seeks regulatory approval from the New York Commission. NYRI states that it plans to establish in the siting proceeding with the New York Commission that the Project increases reliability and decreases congestion, and in doing so demonstrate that the Project is entitled to a rebuttable presumption under Order No. 679.<sup>4</sup> Accordingly,

---

<sup>3</sup> NYRI states that it is a wholly-owned subsidiary of Colmac, NYRI, Inc. (Colmac NYRI), a Delaware corporation. Colmac NYRI is owned by ACI NYRI, Inc. (ACI NYRI), a Delaware corporation, and the Canadian corporations of Asgard Resources Limited (ARL), Borealis Transmission Inc. (BTI) and BPC Transmission Corporation (BPC). ACI NYRI is wholly owned by American Industries Inc. (ACI), a Delaware corporation, and neither ACI NYRI nor ACI have financial or controlling interest in any entities that own generation, transmission or distribution in the New York control area. ACI owns all or part of four Qualifying Facilities in Utah, Montana, California and Pennsylvania whose output is committed under long term contracts. ARL is owned by 6615503 Canada Inc., a Canadian family trust. BPC is a wholly-owned subsidiary of BPC Penco Corporation (BPC Penco), which is a wholly-owned subsidiary of OMERS Administration Corporation (OMERS), the administrator of the Ontario Municipal Employees Retirement System pension. BTI is a wholly-owned subsidiary of Borealis Infrastructure Corporation (Borealis) and all the participating equity of Borealis is owned by OMERS. NYRI states that ARL, 6615503 Canada Inc., BPC and BTI do not have any financial or controlling interests in any entities that own generation, transmission, or distribution assets in the United States. NYRI's Petition at 12, 13.

<sup>4</sup> On May 31, 2006, NYRI submitted to the New York Commission its initial siting application for a Certificate of Environmental Compatibility and Public Need in Case No. 06-T-0650 pursuant to Article VII of the New York Public Service Law. The  
(continued...)

NYRI stresses that its Petition does not seek a Commission determination on whether the Project satisfies the requirements of Federal Power Act (FPA) section 219. Nevertheless, NYRI provides information in its Petition intended to show that the Project increases reliability and decreases transmission congestion in the NYISO control area.

**B. Requested Incentives**

5. NYRI requests approval of incentive rate treatment for the Project under Order No. 679. Specifically, NYRI requests one of the following three options for incentive rate treatment:

Option One. A 13.5 percent ROE for the life of the Project, (i.e., with no “re-opener” or mechanism to reconsider the 13.5 percent ROE, even if the ROE is challenged), and the use of the 13.5 percent ROE for calculating the equity component of AFUDC accruing from the date of NYRI’s Petition.

Option Two. If the no re-opener is not granted, a 13.5 percent ROE for the life of the Project with allowance for funds used during construction (AFUDC) accruing from the date of NYRI’s Petition at the 13.5 percent ROE level, and the following transmission incentives to be added to any ROE established in any proceeding revisiting the established ROE to be capped at the upper end of the zone of reasonableness: (i) 50 basis points for membership in the NYISO; (ii) 150 basis points for transmission investment; (iii) 100 basis points for forming a Transco; and (iv) 100 basis points for using advanced technologies.

Option Three. A 13.5 percent ROE from the date of the Petition through the first 36 months of commercial operation with AFUDC accruing from the date of NYRI’s Petition at the 13.5 percent ROE level, and the basis point incentives to be applied to the baseline ROE beyond the first 36 months to be established in any proceeding revisiting the 13.5 percent ROE, which is capped at the upper end of the zone of reasonableness.

6. NYRI does not seek a determination from the Commission as whether the Project will maintain reliability or reduce congestion, nor does it seek a rebuttable presumption on this issue from the Commission now. Instead, NYRI asks that approval of the

---

New York Commission issued deficiency letters to NYRI on July 26, 2006, and March 24 and June 26, 2008. On August 27, 2008, the New York Commission issued a letter indicating that NYRI had corrected the deficiencies in its application and that a notice of public hearing would be issued.

requested incentives be conditional on the New York Commission granting the Project siting approval.<sup>5</sup> It further states that once the New York Commission issues a siting determination (assuming siting for the Project is approved), NYRI would file an updated application with the Commission showing that it has met the rebuttable presumption requirement of Order No. 679.<sup>6</sup> Moreover, NYRI notes that any incentive rates would be subject to a future section 205 filing to establish the rates for transmission service provided by the Project. NYRI notes that since it is not seeking section 205 rate recovery until after it obtains siting approval from the New York Commission, its ROE incentives would not impact customers' rates until after a section 205 filing is made and approved by the Commission. Accordingly, NYRI argues that its request for incentives in this proceeding is limited in scope.

7. NYRI explains that it is seeking an up-front determination for incentive treatment from the Commission because the Project requires a significant investment and presents unique financing challenges due to the lengthy and contentious permitting process not faced by other ordinary transmission investments. NYRI states that the requested ROE incentive is needed to obtain financing to assure and compensate investors and lenders for the financial risk associated with siting, permitting, building and owning the \$1.8 to \$2.1 billion Project that spans 190 miles and traverses 38 municipalities.

8. In support of its request, NYRI describes the Project's benefits and risks. NYRI estimates that New York customers will save \$570 million in 2012, \$636 million in 2015 and \$684 million by 2018 because the Project will relieve significant congestion in the region. In particular, NYRI argues that the Project will relieve two of the most highly constrained transmission interfaces in the New York System for electric power traveling into the Hudson Valley and points south, including New York City. It states that the system reliability impact study (SRIS) for the Project shows that it is expected to increase transfer limits for these interfaces by about 1200 MW, providing benefits for the entire NYISO system. NYRI further argues that the Project will increase the economic benefits of renewable resources that would otherwise be confined upstate.

---

<sup>5</sup> NYRI notes that Article VII of the New York Public Service Law requires the New York Commission to "determine the basis of the need for the facility and indicate specific benefits with respect to reliability and economy to the applicant of the interconnected network." NYRI Petition at 26, n.70.

<sup>6</sup> We note that NYRI is not seeking federal siting approval in this proceeding and has not filed for federal siting approval in any other dockets with the Commission.

9. NYRI further states that the Project is not a routine investment in transmission infrastructure. NYRI notes that it is not a public utility, and thus its choice to invest in the Project is not driven by a statutory obligation to maintain reliable electric service, which NYRI states is an obligation that often serves as the basis for routine investments. NYRI also states that it faces significant challenges as it competes in the marketplace for development and construction financing against other transmission developers that most likely have financially supportive corporate structures.

10. In addition, NYRI plans to use advanced technologies that are listed in section 1223 of the Energy Policy Act of 2005 (EPAct 2005).<sup>7</sup> NYRI contends that there is a direct nexus between the advanced technologies and the incentive rate treatment requested. Specifically, NYRI will use HVDC electric transmission line and fiber optic cables for the entire length of the Project. The Project will be a bi-polar system that will permit the transmission line to operate at 50 percent power during outages. NYRI will use underground cables for approximately 21 miles of the Project, and it will use a static var compensator.

11. With respect to risks, NYRI states that while approximately 80 percent of the Project's proposed route is on or adjacent to operating railroad rights of way and other existing rights of way, it has only obtained property rights to locate its facilities on railroad property covering 79.2 miles or 38 percent of the proposed route.<sup>8</sup> NYRI contends that the Project's success depends on its ability to obtain the remaining necessary property rights. NYRI notes that the New York State Senate has allocated \$1 million to fund Project opponents. It also states that a recently passed New York law may bar NYRI from using eminent domain to get the right-of-ways that will be necessary for the Project.<sup>9</sup>

12. NYRI also points out that the entire Project, as proposed, is within the Department of Energy's Mid-Atlantic Area National Interest Electric Transmission Corridor

---

<sup>7</sup> Pub. L. No. 109-58, § 1223, 119 Stat. 594, 953 (2005).

<sup>8</sup> NYRI's Petition at 21, n.55.

<sup>9</sup> A district court dismissed NYRI's initial challenge to the law, and NYRI now seeks a declaratory order on the law from the New York Commission.

(NIETC), which is an area designated for transmission projects that will provide needed infrastructure to reduce congestion and improve reliability.<sup>10</sup>

## **II. Notice of Filings and Responsive Pleadings**

13. Notice of NYRI's filing was published in the *Federal Register*, 73 Fed. Reg. 11,107 (2008), with interventions, protests and comments due on or before March 13, 2008. NYISO; New York City Economic Development Corporation and City of New York City; and NRG Power Marketing LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC and Oswego Harbor Power LLC (collectively, NRG Companies) filed timely motions to intervene. Central Hudson Gas and Electric Corporation (Central Hudson); the City of Utica (Utica); Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (collectively, Con Ed); New York Association of Public Power (New York Public Power);<sup>11</sup> Long Island Power Authority; New York Power Authority; New York State Electric & Gas Corporation, Niagara Mohawk, and Rochester Gas and Electric Corporation (collectively, New York Transmission Owners), filed timely comments and/or protests. The New York Commission filed a notice of intervention and comments. Between April 3, 2008 and July 21, 2008, the individuals identified in the appendix filed untimely comments opposing NYRI's Project.<sup>12</sup>

14. On March 28, 2008, NYRI filed an answer to the protests and Utica filed an amendment to its protest. NYRI filed an answer to Utica's amendment, and Con Ed filed an answer to NYRI's answer. NYRI filed an answer to Con Ed's answer.

15. On May 13, 2008, Commission staff issued a deficiency letter requesting additional information on NYRI's proposal regarding ROE and AFUDC. NYRI responded by providing two updated DCF analyses and additional information on its AFUDC proposal. Notice of NYRI's response filing was published in the *Federal Register*, 73 Fed. Reg. 33,079 (2008), with interventions, protests and comments due on or before June 11, 2008. Utica filed a timely motion to intervene and protest.

---

<sup>10</sup> See Docket Nos. 2007-OE-01 and 2007-OE-02, 73 Fed. Reg. No. 48 (2008).

<sup>11</sup> New York Public Power is an unincorporated association of nine municipal electric utilities and four rural electric cooperatives located in New York State.

<sup>12</sup> See appendix for list of dates and individuals filing comments. The individuals filing comments did not request intervenor status.

16. The New York Commission filed for an extension of time to respond to NYRI's deficiency response. NYRI filed a motion stating that it does not oppose the New York Commission's one week extension request, and the Commission issued a notice granting the extension. The New York Commission then filed supplemental comments.

17. On June 30, 2008, NYRI filed a motion to lodge.<sup>13</sup> Central Hudson, ConEd, and the New York Commission filed answers opposing NYRI's motion to lodge, and NYRI filed a response to the answers.

### **Protests and Comments**

18. Central Hudson states that NYRI's Petition is premature and should be dismissed because NYRI has not met the rebuttable presumption requirement of Order No. 679. It states that the Project will have operational and reliability impacts on Central Hudson's system, which will require it to upgrade its own transmission facilities and pay for a portion of the Project's cost. Central Hudson also states that NYISO has not evaluated the economic benefits of the Project, and Central Hudson claims that NYISO has determined the Project to be a "regulated back-stop solution" to improving reliability under its Comprehensive Reliability Planning Process (CRPP), meaning that it will only be considered if "market-based solutions" are inadequate to ensure reliability. Central Hudson claims that NYISO has already found "market-based solutions" that ensure future reliability requirements.

19. In addition, Central Hudson states that since NYRI has submitted a major supplement to its siting application, it would be best to allow the New York Commission siting process to conclude to avoid duplicative proceedings. It argues that it is not feasible for all potential customers to the Project to identify themselves because NYRI has not submitted any pricing or service proposals and the NYISO rules for cost allocation under Order No. 890 are still pending before the Commission.<sup>14</sup>

---

<sup>13</sup> Central Hudson, ConEd, and the New York Commission filed answers opposing NYRI's motion to lodge on July 11, 2008, July 14, 2008 and July 15, 2008, respectively. On July 23, 2008, NYRI filed a response to the answers.

<sup>14</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008).

20. Utica states that NYISO concluded in its 2008 Comprehensive Reliability Needs Assessment (2008 CRNA) that the Project is not needed in the next ten years, especially if New York achieves its goal of reducing electric consumption by 15 percent by 2015. Utica asserts that NYRI's management team remains mostly unknown and inexperienced, and that individual investors may be misled about the risks of the Project. Utica claims that NYRI's requested ROE punishes upstate ratepayers who oppose the Project. Utica requests that acceptance of any future section 205 filing by the Commission be conditioned on NYRI performing a cost/benefit analysis on locational-based market prices in the affected zones.

21. In its protest to NYRI's deficiency letter responses, Utica restates its opposition to the Project claiming that it is premature because it has not yet been approved by the New York Commission or met the rebuttable presumption requirement of Order No. 679. Further, Utica states that NYRI's ROE analysis is unsupported and requests that the Commission adopt its alternative DCF analysis, which is based on an adjusted northeast regional RTO proxy group, with a proposed capital structure of 53 percent debt and 47 percent equity, and a recommended ROE of 9.5 percent.<sup>15</sup>

22. Con Ed states that the Project should be rejected since it has no customers, and therefore, those affected cannot substantively comment on NYRI's Petition. It asserts that the Project would adversely affect the reliability of its system. ConEd also argues that since NYRI is seeking to have its project accepted as a regulated transmission project in New York State, it needs to qualify for such treatment under the NYISO's planning process. ConEd contends that this has not occurred, and may or may not occur in the future.

23. Con Ed also states that it is unclear how Commission approval of the ROE incentives would provide certainty needed by investors. It argues that the Commission should consider whether NYRI should hold an open season to find buyers for the capacity of the Project. It states that, at the very least, NYRI has not shown where the Commission has previously approved a request for an ROE for the life of the Project rather than a shorter period of time.

24. In addition, Con Ed argues that NYRI's Petition is premature because NYISO's Order No. 890 compliance filing dealing with cost allocation is currently pending before the Commission and that this Project needs to be vetted through the NYISO process and qualify under NYISO's tariff just like any other alternate regulated project before

---

<sup>15</sup> See Utica June 11, 2008 Response to Deficiency Letter at 12.

receiving incentive rate treatment by the Commission. Further, it states that the Project was previously rejected by the NYISO as a reliability project and does not even have a SRIS.

25. New York Public Power states that NYRI's filing should be rejected because it does not identify which ratepayers will be paying the rates that include the requested 13.5 percent ROE. It states that it appears the NYRI Project would qualify as a regulated backstop under NYISO's CRPP, but because this has not yet been approved, the Commission should reject NYRI's Petition, without prejudice to it being refiled later. Similar to Con Ed and Central Hudson, New York Public Power argues that the Project is not mature enough to be evaluated by customers or the Commission to determine the nexus between the transmission incentives being requested and the constantly-changing facts of the Project. It states that NYRI's reliance on other unrelated incentive proceedings for its incentive treatment in this case is unjustified because the Commission reviews incentive requests on a case-by-case basis.

26. If the filing is not rejected, New York Public Power requests that the Commission conduct a hearing on the ROE to determine if NYRI's proposed proxy group, zone of reasonableness, capital structure and other related rate elements are just and reasonable. It argues that NYRI provides no justification or precedent for requesting a 13.5 percent ROE with no re-opener, and that its request is above and beyond any directive in Order No. 679.

27. The New York Transmission Owners request clarification that any Commission order regarding NYRI's Petition would not control with respect to the terms and conditions that would apply to any project, including the NYRI Project, under NYISO's Comprehensive System Planning Process (CSPP) tariff provisions currently pending before the Commission. The New York Transmission Owners state that the Commission has granted NYISO an extension of time until June 4, 2008 to make its Order No. 890 compliance filing relating to the cost recovery principles applicable to transmission projects for reliability or economic needs. They argue that the Commission should not prejudge any upcoming NYISO filing because NYRI intends to be covered by the provisions of the NYISO CSPP provisions relating to any quantification of either reliability or economic benefit, the identification of customers that benefit and all related cost allocation and recovery.<sup>16</sup>

---

<sup>16</sup> *Citing Trans Bay Cable LLC*, 112 FERC ¶ 61,095 (2005) (*Trans Bay*), *order granting clarification*, 114 FERC ¶ 61,031 (2006).

28. The New York Commission requests that the Commission deny NYRI's Petition as premature until it receives siting approval because NYRI has not met the rebuttal presumption requirement of Order No. 679. Further, the New York Commission states that NYRI has failed to show how its total package of requested incentives is appropriate. For example, the New York Commission states that NYRI has no explanation for why a 400 basis point adder above the baseline ROE is appropriate and there is no mention of the relationship between the 150 basis point adder as a "transmission incentive" and the other requested incentives. The New York Commission states that NYRI has not explained how ratepayers can be assured that its Project will deliver the benefits that would justify the basis for approval of the requested incentives. The New York Commission states that the ultimate ROE should only be determined in a hearing after applicable ratepayers and interested parties have been identified. Lastly, the New York Commission claims that since there is no estimate of the debt/equity ratio applicable to the Project, there is no basis to support any ROE.

29. In its protest to NYRI's deficiency letter responses, the New York Commission restates its opposition to the Project claiming that it is premature because the siting proceeding has not yet been completed or approved, and requests a hearing regarding NYRI's ROE analysis which includes determining the proper proxy group.

30. Finally, the individuals listed in the appendix argue that the costs of the Project will be passed along to ratepayers resulting in higher electricity costs to consumers, that the Project has not yet been shown to be needed, and that the Project will ruin villages, vistas and fields along its route. They also argue that the Petition is premature, fails to promote cheaper alternative routes, and ignores the ongoing proceeding at the New York Commission.

### **III. Discussion**

#### **A. Procedural Matters**

31. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

32. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers filed in this case and will, therefore, reject them.

33. We also deny NYRI's motion to lodge and the parties' answers to NYRI's motion. The evidence, which relates to whether NYISO has approved a system reliability impact

study, is not the subject of this proceeding since NYRI is not asking for a determination on whether the Project ensures reliability or reduces congestion, and our conditional approval of incentive ROE adders for the Project in this order does not require us to make such a determination.

**B. Section 219 Requirement**

34. In EPAct 2005, Congress addressed incentive-based rate treatments for new transmission construction.<sup>17</sup> Specifically, section 1241 of EPAct 2005 added a new section 219 to the FPA directing the Commission to establish, by rule, incentive-based (including performance-based) rate treatments for electric transmission. The Commission issued Order No. 679, which set forth processes by which a public utility could seek transmission rate incentives under section 219, including the incentives requested here by NYRI.

35. Order No. 679 provided that a public utility may file a petition for declaratory order or FPA section 205 filing to obtain incentive rate treatment for transmission infrastructure investment that satisfies the requirements of FPA section 219. The applicant must demonstrate that the facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion.<sup>18</sup> Order No. 679 also established a rebuttable presumption that a project satisfies these threshold criteria for eligibility for transmission incentive treatment under section 219 if: (1) a transmission project results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the Commission; or (2) a project has received construction approval from an appropriate state commission or state siting authority.<sup>19</sup> Order No. 679-A clarified the operation of this rebuttable presumption by noting that the authorities and/or processes on which it is based (i.e., a regional planning process, a state commission, or siting authority) must, in fact, consider whether the project ensures reliability or reduces the cost of delivered power by reducing congestion.<sup>20</sup> The Commission also recognized that an applicant may wish to file a request for incentive-rate treatment for a project which is

---

<sup>17</sup> 16 U.S.C. § 824s (2006).

<sup>18</sup> *See* 18 C.F.R. § 35.35(i)(2008).

<sup>19</sup> *See id.*; Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 47.

<sup>20</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 49.

undergoing consideration in a regional planning process. But the Commission stated that it would make any resulting incentive-rate treatment contingent on the project being approved under the regional planning process.<sup>21</sup>

36. As stated above, NYRI does not ask the Commission to determine whether the Project meets the statutory standard set forth in FPA section 219.<sup>22</sup> Instead, NYRI asks for approval of rate incentives for the Project conditioned on receipt of state siting approval. Accordingly, we disagree with ConEd's argument that, because NYRI has not shown that the Project ensures reliability or reduces congestion, the Petition is premature. The Commission has previously considered requests for incentive rate treatment for projects where the state siting authority had not yet authorized construction of the projects or determined whether those projects ensured reliability or reduced congestion.<sup>23</sup> In such cases, the Commission has conditioned incentives on the applicant actually receiving such a state determination.<sup>24</sup> This approach is consistent with the approach that the Commission set forth in Order No. 679 regarding requests for incentive rate treatment filed for projects that are undergoing consideration in a regional planning process.<sup>25</sup> In light of that precedent, and based on the considerations discussed below, we will conditionally approve incentive rate treatment for the Project. In order to satisfy the section 219 standard pursuant to Order No. 679's rebuttable presumption, NYRI must provide evidence that the New York Commission not only approved the Project, but that the approval process included a finding that the Project will ensure reliability or reduce the cost of delivered power by reducing the cost of congestion.

37. We also disagree with commenters contending that the NYISO planning process has not "accepted" the NYRI Project. While the NYISO planning procedures (the CRPP)

---

<sup>21</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58, n.39.

<sup>22</sup> NYRI's Petition at 7, 26. NYRI states that reliability and congestion reduction will be demonstrated as a prerequisite to approval from the appropriate siting and permitting authority, as they are central to NYRI's application for siting approval. It states that general information is provided in this proceeding only to show that the Project increases reliability and decreases transmission congestion in the NYISO control area.

<sup>23</sup> See, e.g., *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284, at P 53 (2007).

<sup>24</sup> *Id.*

<sup>25</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 58, n. 39.

in effect at the time of NYRI's Petition stated that market-based solutions and transmission owner plans will maintain the reliability of the New York bulk power system without the need for regulated backstop or alternative regulated solutions (such as the NYRI Project), the CRPP also provides that in the event that market-based solutions do not materialize to meet a reliability need in a timely manner, the NYISO can designate transmission owners to proceed with a regulated backstop solution in order to maintain reliability. Market participants can also offer and promote alternative regulated solutions (such as the NYRI Project) which, if NYISO determines to help satisfy the identified reliability needs and regulators deem to be more desirable, may displace some or all of the transmission owner's regulated backstop solutions.<sup>26</sup> Thus, particularly here, where NYRI has agreed to condition its incentives on receiving state siting approval, we find that it would be inappropriate to reject NYRI's Petition on the basis of its status in the NYISO planning process.

### **C. 50 Basis Points for Future NYISO Participation**

38. We will grant NYRI's request for a 50 basis point incentive ROE adder for RTO participation, conditioned on NYISO approving NYRI's membership application and on NYRI's continued participation in NYISO. This incentive is further conditioned on the final ROE being within the zone of reasonable returns, to be determined when NYRI makes its future section 205 filing, and on the Project receiving state siting approval.

39. FPA section 219 states that the Commission shall provide for incentives to each transmitting utility or electric utility that joins a transmission organization.<sup>27</sup> As we emphasized in Order No. 679-A, the Commission will approve, when justified, incentives to each transmitting utility that joins a transmission organization.<sup>28</sup> The consumer benefits for participating in such an organization, including reliable grid operation, are well documented and consistent with section 219. Moreover, the Commission has previously approved 50 basis points as an appropriate adder for joining a transmission

---

<sup>26</sup> See NYISO September 18, 2007 Comprehensive Reliability Plan 2007, Final Report at 11, 13.

<sup>27</sup> 16 U.S.C. § 824s (2006).

<sup>28</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 86. Under Order No. 679, a Independent System Operator such as NYISO qualifies as a Commission-approved Transmission Organization for purposes of eligibility for the Transmission Organization incentive. Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 328.

organization.<sup>29</sup> Thus, NYRI's request for an incentive based on ISO participation is consistent with the Commission's well established policy and will be granted subject to the conditions in this order.

**D. 100 Basis Points for Transco Formation**

40. We will conditionally grant NYRI's request for a 100-basis point incentive ROE adder for forming a Transco. As a preliminary matter, we find that NYRI is a Transco that is a stand-alone transmission company that will sell transmission service at wholesale.<sup>30</sup> Its sole business is the development, financing, construction, operation and maintenance of the Project.<sup>31</sup> According to NYRI's president, neither NYRI nor any of its upstream parent companies are currently participants in the New York electricity market.<sup>32</sup> They do not own, control or have any interests in any generation, transmission or distribution assets in New York, and they do not have a franchise service territory or retail customers in New York.<sup>33</sup> Thus, NYRI has the stand-alone business structure consistent with the Commission's definition of a Transco, and it will be engaged in selling transmission services at wholesale once the project goes online.

41. The Commission has recognized and encouraged the proven track record of Transco investment in transmission infrastructure and the need for increased transmission in general. Order No. 679 concluded that certain incentives are appropriate to encourage Transco formation and new transmission infrastructure investment.<sup>34</sup> The Commission has consistently held that Transcos' for-profit nature, combined with a transmission-only

---

<sup>29</sup> See, e.g., *Potomac-Appalachian Transmission Highline, L.L.C.*, 122 FERC ¶ 61,188 (2008) (granting 50-basis points for joining an RTO), *Southern California Edison Co.*, 121 FERC ¶ 61,168 (2007) (granting 50-basis points for joining an ISO).

<sup>30</sup> 18 C.F.R. § 35.35(b)(1)(2008) (defining Transco as a "stand-alone transmission company that has been approved by the Commission and that sells transmission services at wholesale and/or on an unbundled retail basis, regardless of whether it is affiliated with another public utility").

<sup>31</sup> Christopher Thompson Feb. 11, 2008 Affidavit at 3.

<sup>32</sup> *Id.* at 4.

<sup>33</sup> *Id.*

<sup>34</sup> Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 221.

business model, enhances asset management and access to capital markets, and provides greater incentives to develop innovative services. Order No. 679 also observed that the Transco business model responds more rapidly and precisely to market signals.<sup>35</sup> Accordingly, Order No. 679 determined that Transcos satisfy section 219 of the FPA because this business model promotes increased investment in new transmission, which in turn reduces costs and increases competition.<sup>36</sup> Incentives for Transcos are further justified because the additional returns received are spent on capital.<sup>37</sup> Indeed, the Commission has previously granted 100 basis points adder to Transcos to encourage their formation and in recognition of the benefits of their business model to customers.<sup>38</sup> Accordingly, we find that the 100-point adder is appropriate for the Project because it supports NYRI's transmission-only business model, and it will help attract investment in the Project. We conditionally grant the 100-basis point ROE adder for forming a Transco subject to NYRI's ROE being within the zone of reasonable returns (as established in NYRI's section 205 filing), the Project receiving state siting approval, and NYRI forming the Transco business entity as proposed.

**E. ROE Adder for Use of Advanced Transmission Technologies and for Transmission Investment**

42. In addition to satisfying the section 219 requirement of ensuring reliability or reducing the cost of delivered power by reducing congestion, an applicant must demonstrate that there is a nexus between the incentive sought for a particular project and the investment being made. In Order No. 679-A, the Commission clarified that the nexus test is met when an applicant demonstrates that the total package of incentives requested is "tailored to address the demonstrable risks or challenges faced by the applicant."<sup>39</sup> As part of our evaluation of whether the incentives requested are tailored to address the demonstrable risks or challenges faced by the applicant, the Commission has found the

---

<sup>35</sup> *Id.* P 224.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* P 226.

<sup>38</sup> *See, e.g., ITC Holdings Corp.*, 102 FERC ¶ 61,182, at P 68, *reh'g denied*, 104 FERC ¶ 61,033 (2003); *Michigan Elec. Transmission Co., LLC*, 113 FERC ¶ 61,343, at P 17 (2005), *order on reh'g*, 116 FERC ¶ 61,164 (2006).

<sup>39</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 40.

question of whether a project is “routine” to be particularly probative. In *BG&E*,<sup>40</sup> the Commission clarified how it will evaluate projects to determine whether they are routine. Specifically, to determine whether a project is not routine, the Commission will consider all relevant factors presented by the applicant. For example, an applicant may present evidence on: (i) the scope of the project (e.g., dollar investment, increase in transfer capability, involvement of multiple entities or jurisdictions, size, effect on region); (ii) the effect of the project (e.g., improving reliability or reducing congestion costs) ; and (iii) the challenges or risks faced by the project (e.g., siting, internal competition for financing with other projects, long lead times, regulatory and political risks, specific financing challenges, other impediments).

43. For the reasons discussed below, we find that the Project is not routine, and therefore, meets the nexus test. Accordingly, we conditionally grant NYRI an additional 125 basis points as a combined incentive ROE adder for using advanced technologies and for the significant risks and challenges facing the Project.

44. As stated above, NYRI proposes three incentive options, which it states are alternatives to each other: (1) a 13.5 percent ROE for the life of the Project, (i.e., no re-opener if the 13.5 percent is challenged) and the use of the 13.5 percent ROE for calculating the equity component AFUDC accruing from the date of NYRI’s Petition; (2) a 13.5 percent ROE for the life of the Project, the 13.5 percent ROE for establishing AFUDC, and 400 basis points for transmission incentives to be added to the baseline ROE (which could be established at any time in a section 205 or 206 proceeding); or (3) a 13.5 percent ROE from the date of the Petition through the first 36 months of commercial operation, the 13.5 percent AFUDC, and 400 basis points for transmission rate incentives to be added to the baseline ROE (which would be established beyond the first 36 months of operations in a section 205 case).

45. Each of the alternatives proposed by NYRI includes an up-front ROE determination. In Order No. 679-A, we stated that the Commission would consider granting an up-front ROE if the applicant demonstrates that such a determination is important for its investment decision,<sup>41</sup> and we have granted such up-front determinations in certain circumstances. But we decline to do so here. NYRI has not yet obtained property rights for the route, it has yet not received siting approval from the New York Commission, and the Project has not yet been required by a regional planning

---

<sup>40</sup> *Baltimore Gas and Electric Company*, 120 FERC ¶ 61,084, at P 52-55 (2007).

<sup>41</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 70.

process. NYRI does not yet have customers or a rate on file at the Commission. Under these circumstances, we find that it does not serve administrative efficiency to set an up-front ROE now.

46. Nevertheless, subject to the conditions in this order, we find that the Project merits further incentive rate treatment. Considerations leading to this finding include the proposed use of advanced technologies and the scope of the Project in terms of size, investment cost, regulatory involvement, and the nature of the facilities. We conclude that under the circumstances presented here, the adders we have authorized will achieve the purposes of section 219.

47. Section 1223 of EAct 2005 defines advanced transmission technology as increasing the capacity, efficiency, or reliability of existing or new transmission facilities. The section then identifies 18 specific advanced transmission technologies.<sup>42</sup> NYRI states that the Project will use four types of advanced technologies: (1) HVDC electric transmission line for the full length of the Project; (2) fiber-optic cables; (3) underground cables for a portion of the Project; and, (4) static var compensators (SVC).<sup>43</sup> We will address the advantages of these technologies in turn.

48. NYRI proposes to construct a bi-polar HVDC transmission line that interconnects the New York State bulk power system via new alternating current/direct current converter stations and 345 kV alternating current interconnections at each terminus. The HVDC line will be designed and operated with a power flow of 1200 MW and a nominal voltage of +/- 400 kV DC. The Project is approximately 190 miles in length of which 21 miles will be constructed underground. The HVDC transmission line will enable NYRI to transmit large amounts of power over long distances with lower capital costs and line losses than an AC system. It will also have a smaller footprint than an AC line, which can help with the installation and siting of a new line. The bipolar HVDC is designed to operate as two independent electrical poles. As such, when one electrical pole is out of service, the other electrical pole will operate in a monopolar configuration at 50 percent of the rated power flow (600 MW) with the metallic return conductor providing the return path for the HVDC. Moreover, HVDC allows for the accurate and fast bi-directional control of power flow.

---

<sup>42</sup> See Pub. L. No. 109-58 § 1223, 119 Stat. 594, 953-54 (2005).

<sup>43</sup> See NYRI's Petition at 23 through 25.

49. In addition, the Project's cost will be reduced because an HVDC line only uses two conductors (one positive and one negative). Therefore, at any given power rating, the constant voltage in a DC line is lower than the peak voltage in an AC line. Further, an HVDC line will allow power transmission between unsynchronized AC distribution systems and increases system stability by preventing cascading failures from propagating from one part of a power transmission grid to another.

50. NYRI also plans to install two fiber optic cables, one underground and one overhead. NYRI notes that it will bury the fiber optic cable in a common trench with the HVDC line to minimize the environmental impact. Use of fiber optic cable will enhance the communication system and provide NYRI with internal and external voice communication capability. In addition, the fiber optic cable will enable NYRI to use advanced relay protection for faster fault detection and clearing on the HVDC line, and provide links for the protection and control of the transmission system. Further, distance relays will convey fault locations over fiber optic cable, i.e. signal relay protection equipment to reclose and/or energize the line. Fiber optic cable eliminates the need to use power line carrier, an older and ultimately more expensive technology. Fiber optic cable is also easier to handle and does better than older technologies in extreme temperatures and moisture.

51. At the Southern Converter Station, NYRI proposed to install SVC. SVCs have higher capacity and are faster and more reliable than mechanical switched capacitors. SVCs are automatic impedance-matching devices that do not have any moving parts other than circuit breakers and disconnects thereby reducing maintenance and repair costs. SVCs are also equipped with a thyristor that is electronically controlled and allows for very fast (or near instantaneous) and precise control of electric system voltage. The thyristor switches capacitors or inductors in and out of the circuit on a per-cycle basis and controls the amount of reactive power injected into or absorbed by the system to bring the system closer to unity power factor. Each SVC has a total capacity  $-75/+300$  MVar (inductive to capacitive). NYRI plans to install four banks of 75 MVar thyristor capacitors.

52. We note that the underground portion of the Project may help facilitate acceptance of the Project in highly concentrated urban and suburban portions of the route. This may help avoid substantial, costly, and time-consuming condemnations, and reduce the time and costs associated with both installation and maintenance of the transmission facility.<sup>44</sup> In sum, the advanced technologies proposed will improve capacity, efficiency and

---

<sup>44</sup> See *United Illuminating Co.*, 119 FERC ¶ 61,182, at P 74 (2007).

reliability for the Project.<sup>45</sup> Both the HVDC and fiber optics technologies will span the entire Project, and the SVCs will increase overall reliability. We find that these benefits, and risks and challenges associated with NYRI's proposed use of these advanced technologies, support our conditional approval of this incentive ROE adder.

53. In addition, the Project faces financial and regulatory risks and challenges. For example, the Project is not routine given the scope of the Project in terms of size, investment cost, regulatory involvement, and the nature of the facilities. NYRI estimates that the Project will cost \$1.8 to \$2.1 billion to place in service. Moreover, in general, the Project is financed by private investors, which means it does not have a utility parent company balance sheet or other corporate structures to support or assist it with financing.<sup>46</sup>

54. NYRI has also shown that the Project faces numerous regulatory risks not present in the normal course of doing business. First, as an independent transmission company that has been established specifically for developing the Project, NYRI does not have previous experience working within the regulatory processes. Second, the Project faces opposition from a wide range of entities. The fact that over 100 commenters, including local, state and federal officials, filed in opposition to the Project, is evidence of the significant regulatory risk.<sup>47</sup> As several public officials state, NYRI is “[f]aced with broad, and vehement opposition from civic organizations, local communities, business associations and local and state government,” and must rely on efforts to obtain incentive rate treatment in order to attract financing.<sup>48</sup> We further note that NYRI has not received siting approval from the New York Commission, is currently prevented from using

---

<sup>45</sup> See Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 298. We note that reliability in this case refers to the reliability of the project, not the transmission grid. As we have stated in this order, we make no determination at this time as to whether the Project will improve grid reliability in NYISO.

<sup>46</sup> See *Trans Bay*, 112 FERC ¶ 61,095 at P 25 (finding that a new and independent entity bears significant risk).

<sup>47</sup> See *Duquesne*, 118 FERC ¶ 61,087 at P 54.

<sup>48</sup> United States Representative Maurice D. Hinchey April 3, 2008 Comment at 1-2 (signed also by United States Representatives John J. Hall, Michael A. Acuri, United States Senator Hillary Rodham Clinton).

eminent domain to obtain all the land or existing right-of-ways needed to complete the Project, and thus faces regulatory risks.<sup>49</sup>

55. The presence of these regulatory risks creates significant uncertainty with respect to the estimated time to complete the Project, which only exacerbates the difficulty in obtaining financing. NYRI estimates that the Project will take approximately 36 months to construct once the permitting process is complete, creating a substantial lag time before the Project can yield returns for its investors. However, as discussed above, the regulatory process is, in and of itself, subject to substantial opposition. That NYRI submitted an application to the New York Commission in May of 2006 for a Certificate of Environmental Compatibility and Public Need underscores the uncertainty with respect to time to completion.

56. In Order No. 679, the Commission identified incentives that would be applicable to the type of circumstances described above. The Commission found that an applicant may request that “100 percent of prudently-incurred costs associated with abandoned transmission projects can be included in transmission rates if such abandonment is outside the control of management.”<sup>50</sup> The Commission further agreed with many commenters that “when local, state and federal (as applicable) siting authorities reject an application outright, we would view those circumstances, generally, as abandonment beyond the control of management.”<sup>51</sup> In addition, the Commission stated that allowing public utilities the opportunity, in appropriate situations, to include 100 percent of construction work in progress (CWIP) in the calculation of transmission rates provides improved cash flow for applicants and removes a disincentive to construction of transmission, which can involve very long lead times.<sup>52</sup> As an independent transmission developer, NYRI does not have an identifiable base of customers to whom CWIP and

---

<sup>49</sup> At the time of its Petition, NYRI had received rights-of-way for only 72.9 miles, or 38 percent of the proposed route for the Project.

<sup>50</sup> See Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P163.

<sup>51</sup> *Id.* P 165. The Commission also stated that the situation is less clear when siting authorities do not reject the application outright but add conditions to the application that make it uneconomical or otherwise objectionable. The Commission stated that it would evaluate, in these instances, the change in circumstances from those originally planned on a case-by-case basis. *Id.*

<sup>52</sup> *Id.* P 115, 117.

abandoned plant costs could be assigned, and, therefore, NYRI did not have the option to request such incentives. Approval of the 125 basis point ROE adder will help to account for the presence of the demonstrated risks.

57. Therefore, given that the Project proposes to make use of several advanced technologies, that the Project faces significant financial risk and regulatory challenges, and that NYRI's status as an independent developer of transmission precludes the option of requesting incentives tailored for the demonstrated risks facing the Project, the Commission finds that it is just and reasonable to grant NYRI a 125 basis point incentive ROE adder, subject to NYRI's ROE being within the zone of reasonable returns established in NYRI's section 205 filing and the Project receiving state siting approval. Though NYRI's alternative request included a combined 250 basis points for transmission investment and advanced technologies, Order No. 679-A requires each applicant to demonstrate that the total package of incentives is tailored to address the demonstrable risks or challenges facing the applicant.<sup>53</sup> Given the other incentives granted in this order, we find that a 125 basis point adder for new transmission investment and advanced transmission technologies is just and reasonable, conditioned on NYRI's ROE being within the zone of reasonable returns, to be determined when NYRI makes its future section 205 filing, and on the Project receiving state siting approval.

#### **F. Other Issues**

58. NYRI proposes to accrue AFUDC starting at the date of the Petition using a 13.5 percent rate based on its proposed return on equity until the Project obtains construction financing, at which point NYRI states that it will reset the AFUDC rate consistent with the Commission's regulations.<sup>54</sup> Since we have not approved a specific ROE for the Project at this time, we can not accept NYRI's AFUDC proposal.

59. We note, however, that under the Commission's regulations, a public utility shall accrue AFUDC on construction related costs that are incurred on a planned progressive basis using the formula and elements prescribed under Electric Plant Instruction No. 3(17)(Allowance for funds used during construction). Accordingly, NYRI must follow the Commission's regulations and capitalize an equity component of AFUDC. Further, it

---

<sup>53</sup> Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 21.

<sup>54</sup> See NYRI's May 28, 2008 deficiency letter response number 5.

must subsequently adjust the rate when it: (1) obtains construction financing at which point it shall incorporate debt financing into the AFUDC calculation, and (2) when the Commission determines the ROE for the Project. Finally, this determination is for accounting purposes only, and in no way is dispositive for setting rates.

60. In addition, we dismiss as premature issues relating to customer rate impacts, including cost allocation issues under Order No. 890, because these issues will either be decided through NYISO's CRPP process and/or when NYRI makes its section 205 filing to implement its rates for transmission service for the Project. Our goal in providing rate incentives for NYRI is to provide developers with assurances necessary for obtaining financing.

61. Further, in response to the New York Transmission Owners, this order does not prejudice the outcome of NYISO's Order No. 890 compliance filing. Moreover, parties will have the opportunity to present their concerns about NYRI's revenue requirement at the time NYRI files its section 205 filing to establish the Project's rates.

The Commission orders:

NYRI's Petition for a declaratory order in Docket No. EL08-39-000 is hereby conditionally granted, in part, and denied, in part, as discussed in the body of this order.

By the Commission. Commissioner Spitzer not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.

## **Appendix – Individual Comments**

### **Dates Filed**

#### April 3, 2008

- 1) Representative Michael A. Arcuri,
- 2) Representative John J. Hall
- 3) Representative Maurice D. Hinchey
- 4) Senator Hillary Rodham Clinton

#### April 7, 2008

- 1) Katheryne and Gerry Gall
- 2) Susan Urben

#### April 9, 2008

- 1) Senator Charles E. Schumer

#### April 14, 2008

- 1) Roann M. Destito

#### April 16, 2008

- 1) William R. Baines
- 2) Barbara A. Bonham
- 3) Robert H. Clark
- 4) Sandra S. Clark
- 5) Ronald A. Coby
- 6) Lawrence Michelitch
- 7) Cynthia and Anthony Pagano

#### April 18, 2008

- 1) Nancy Palmer

#### April 23, 2008

- 1) R. Noel Arnold, PhD.
- 2) Jason Butts

#### April 27, 2008

- 1) Diana Wooding

April 28, 2008

- 1) Elaine Allen
- 2) M. Angelo
- 3) Margaret Angelo
- 4) Rosetta C. Arnold
- 5) Anthony Calderin
- 6) Deborah Catalano
- 7) Robert H. Clark
- 8) Darlen Conklin
- 9) Judith Doran
- 10) Anthony Egan
- 11) Terry P. English
- 12) Eileen MacAvery Kane
- 13) Stan Kline
- 14) Daniel Lovullo
- 15) Maureen Lovullo
- 16) Sheila M. McGroddy
- 17) Christina Ragland
- 18) Harry Ragland
- 19) Janet Slovisky
- 20) James Toher
- 21) Marion Tritschler
- 22) Andrew Tutko
- 23) Fred Wahlis
- 24) Vincet Wahlis
- 25) Nadine Weber
- 26) Scott Wohl

April 30, 2008

- 1) R. James Goddard

May 1, 2008

- 1) Kirk Lallier
- 2) Francis S. Stedman

May 6, 2008

- 1) Thomas J. Azzolini
- 2) Rachelle Bornstein
- 3) Anthony W. Coppola
- 4) Brian Michael Daly
- 5) Carolyn A. Darling

- 6) Sarah Douglass
- 7) Angie Gray
- 8) William Howard
- 9) Myrna Langer
- 10) Ralph Langer
- 11) Ellen Marcus-Azzolini
- 12) Tom Noonan
- 13) Lynn Phillips
- 14) John R. Schmit
- 15) Nancy M. Sheppard
- 16) Glenn E. Stein
- 17) Glenda Teabo-Sandoe
- 18) Harry T. Teuschler

May 7, 2008

- 1) Abigail Axtell
- 2) Stephanie Bergmann
- 3) Miriam Bloom
- 4) Kathryn B. Coppola
- 5) V. M. Coppola
- 6) Stephanie Davis
- 7) David W. Dawkins
- 8) Carol Diffenderfer
- 9) Donald C. Ferris
- 10) Kay Glasgow
- 11) Rebecca Hochuli
- 12) Beatrice Kaplan
- 13) Betty Kaplan
- 14) Ellen Kaplan
- 15) Kenneth Kaplan
- 16) Ralph Kaplan
- 17) Ron Morgan
- 18) Deborah M. Neu
- 19) Felicia Olsovsky
- 20) Tracie Ostrander
- 21) Gary D. Peake
- 22) Gary Pratt
- 23) Michelle Riter
- 24) Judy Tarbox
- 25) Brenda L. Thomason
- 26) Craig A. Thorne

- 27) Melissa J. Vandermark
- 28) Ann Wank
- 29) Patricia Winfield

May 9, 2008

- 1) Stan Kline

May 12, 2008

- 1) William Andrews
- 2) Francis J. Brown, Jr.
- 3) Karen Chapin
- 4) Roger Chapin
- 5) Tara Chapin
- 6) Warren Cuddeback
- 7) Susan Marshall
- 8) Kathleen Meehan
- 9) Blanche Michelitch
- 10) Margaret Milfort
- 11) Cynthia and Angelo Pagano
- 12) Angela Piranio
- 13) Joan Sheil
- 14) Carolee Union
- 15) Paul Vaillan
- 16) Ralph Vierra, Jr.

May 14, 2008

- 1) Janette Purdy
- 2) William Purdy
- 3) Donald Wanser

May 19, 2008

- 1) Leslie Ahlborn
- 2) Willy Cancel
- 3) Mary Crank
- 4) Ronni and Lou DeGiulio Sr.
- 5) Kathleen Hosking
- 6) Fred von Mechew
- 7) Helene Ward

May 20, 2008

- 1) Ruth C. Ashworth
- 2) Elizabeth Davidson
- 3) Terri L. Maurizzio

May 23, 2008

- 1) Jeanne E. Fox

May 28, 2008

- 1) Todd D. Dreyer
- 2) Cynthia Fehr

June 16, 2008

- 1) Claudia S. Dote
- 2) Terry P. Dote
- 3) Nila Runnalls

June 17, 2008

- 1) Gladys Loeven

July 3, 2008

- 1) Gail McDermott

July 14, 2008

- 1) New York Attorney General Andrew M. Cuomo

July 21, 2008

- 1) Ronald A. Coby

September 8, 2008

- 1) Lisa Armas

Unidentifiable Individual Comments Filed On:

- 1) April 28, 2008
- 2) May 7, 2008
- 3) May 7, 2008

**Total: 138**