



New York Association of Public Power Files Complaint to Reduce Niagara Mohawk Power Corporation's ROE

Feb 7, 2014

Reading Time : **2 min**

FERC has not acted on the First Complaint or the MEUA Complaint. Although the FPA directs FERC to act “speedily” on complaints, the statutory time limit for action does not come into play until the proceeding is set for hearing.⁵ Because the Commission has chosen not to take any action on the ROE complaints, they have remained in administrative limbo. Meanwhile, the Commission’s recent issuances on the related issue of incentive ROEs, which involve awarding a higher ROE to compensate a developer for undertaking risky transmission investments, have indicated a move towards lower ROEs.⁶

In addition to the NYAPP and MEUA complaints, there are numerous other pending complaints regarding transmission ROEs in Florida, New England, Colorado, and the Midwest. In particular, two complaint proceedings relating to transmission rates under the ISO New England, Inc. (ISO-NE) OATT have been very closely watched by the industry. In August, the administrative law judge (ALJ) in one of the ISO-NE proceedings recommended that the base ROE for New England transmission owners be reduced from 11.14 percent to 9.7 percent.⁷ Please click [here](#) to read decision. FERC has not yet ruled on the ALJ’s initial decision.

The various complainants are not the only parties anxious for resolution. In June 2013, the Working group for Investment in Reliable and Economic electric Systems (WIRES) petitioned FERC to issue a statement of policy on transmission ROEs that would provide “greater stability and predictability regarding regulated rates of return on equity.”⁸ WIRES’s petition drew a swarm of commenters, both supporting and opposing changes in FERC’s ROE policy. On December 5, 2013, FERC Commissioner John Norris expressed his own frustrations with the

delay, stating that “[t]hese cases have lingered at FERC long enough and I think it's OK to start asking publicly, 'Where is our decision?’”²

¹ New York Association of Public Power, *Complaint of the New York Association of Public Power Challenging Base Return on Equity*, filed Feb. 6, 2014, Docket No. EL14-29-000.

² New York Association of Public Power, *Complaint of the New York Association of Public Power Challenging Base Return on Equity*, filed Sept. 11, 2012, EL12-101-000.

³ Second Complaint at 16.

⁴ Municipal Electric Utilities Association of New York State, *Complaint of the Municipal Electric Utilities Association of New York and Request for Fast Track Processing*, filed Nov. 2, 2012, Docket No. EL13-16-000.

⁵ 16 U.S.C. § 824e(b).

⁶ See e.g., *Promoting Transmission Investment Through Pricing Reform*, 141 FERC ¶ 61,129 (2012); *Pepco Holdings, Inc.*, 139 FERC ¶ 61,444 at PP 12-13 (2012).

⁷ See *Coakley v. Bangor Hydro-Electric Co.*, 144 FERC ¶ 63,012 (2013).

⁸ *Statement of Policy on Electric Transmission Rates of Return on Equity*, Petition for Statement of Policy at 1, filed June 26, 2013, Docket No. RM13-18-000.

⁹ Ester Whieldon, *Norris Pushes for FERC Action on Contentious Utility Transmission ROE Complaints*, SNL Electric Transmission Week, Dec. 16, 2013, at 2.

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