

166 FERC ¶ 61,099
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

New York Independent System Operator, Inc.

Docket No. ER19-528-000

ORDER ACCEPTING TARIFF FILING

(Issued February 8, 2019)

1. On December 11, 2018, pursuant to section 205 of the Federal Power Act (FPA),¹ the New York Independent System Operator, Inc. (NYISO) filed proposed revisions to: (1) Attachment Y of its Open Access Transmission Tariff (OATT) to clarify and enhance the Public Policy Transmission Planning Process portion of its Comprehensive System Planning Process;² (2) its *pro forma* operating agreement for nonincumbent transmission owners, which is found at Appendix H to Attachment Y of the OATT (Operating Agreement); and (3) certain miscellaneous revisions to Attachment Y. In this order, we accept NYISO's filing, effective February 10, 2019, as requested.

I. NYISO's Filing

2. NYISO states that, since implementing its Public Policy Transmission Planning Process³ in 2014, it has used that process to select a more efficient or cost-effective transmission solution to address a Western New York Public Policy Transmission Need⁴

¹ 16 U.S.C. § 824d (2012).

² Capitalized terms in this order, unless otherwise indicated, are defined as provided in NYISO's OATT.

³ The "Public Policy Transmission Planning Process" is "[t]he process by which [NYISO] solicits needs for transmission driven by Public Policy Requirements, evaluates all proposed Public Policy Transmission Projects and Other Public Policy Projects on a comparable basis, and selects the more efficient or cost effective Public Policy Transmission Project, if any, for eligibility for cost allocation under" NYISO's tariffs. NYISO, OATT, Att. Y, § 31.1.1 (22.0.0).

⁴ A "Public Policy Transmission Need" is "[a] transmission need identified by the [New York Commission] that is driven by a Public Policy Requirement," which, in turn, is "[a] federal or New York State statute or regulation, including a [New York

and is currently evaluating solutions to AC Transmission Public Policy Transmission Needs. In light of this experience, NYISO worked with its stakeholders to identify revisions to clarify, streamline, and enhance the Public Policy Transmission Planning Process. NYISO plans to implement these revisions in time for a solicitation of projects to meet identified Public Policy Transmission Needs, if any, for the 2018-2019 cycle.⁵

3. First, NYISO proposes to insert a new process step in section 31.4.4.3.1 of the OATT to hold a technical conference with Developers⁶ and interested parties prior to issuing a solicitation for solutions to a Public Policy Transmission Need. According to NYISO, the technical conference would obtain input and answer questions on NYISO's application for the particular Public Policy Transmission Need of the selection metrics contained in the OATT, any metrics identified by the New York Public Service Commission (New York Commission) in its order identifying the need, and any additional metrics that NYISO may apply to the need. NYISO contends that this new step will provide additional clarity at the start of the Public Policy Transmission Planning Process concerning the scope of the metrics that NYISO will use in evaluating proposed solutions and enhance openness and transparency. NYISO states that this proposal is in response to comments from both incumbent and nonincumbent Developers that they would like a greater understanding of how NYISO proposes to apply the selection metrics to an identified Public Policy Transmission Need before NYISO solicits solutions.⁷

4. Second, NYISO proposes to revise sections 31.4.6.6 and 31.4.6.7 of the OATT to remove the requirement that the New York Commission issue an order confirming a Public Policy Transmission Need before NYISO can move forward with its evaluation and selection process.⁸ Currently, after NYISO completes its Viability and Sufficiency

Commission] order adopting a rule or regulation subject to and in accordance with the State Administrative Procedure Act, any successor statute, or any duly enacted law or regulation passed by a local governmental entity in New York State, that may relate to transmission planning on the [Bulk Power Transmission Facilities].” *Id.*

⁵ Transmittal Letter at 2-3.

⁶ A “Developer” is “[a] person or entity, including a Transmission Owner, sponsoring or proposing a project pursuant to” NYISO’s Comprehensive System Planning Process contained in Attachment Y of the OATT. NYISO, OATT, Att. Y, § 31.1.1 (22.0.0).

⁷ Transmittal Letter at 3.

⁸ As a result of this change, NYISO also proposes to shift the deadline in section 31.4.6.6 by which a Developer must provide notice that it intends for its project to continue to be evaluated and to demonstrate that it has an executed System Impact Study Agreement or System Reliability Impact Study Agreement, as applicable. The new

Assessment⁹ of proposed solutions to a Public Policy Transmission Need, NYISO must give the New York Commission the opportunity to review all of the viable and sufficient proposed solutions and confirm whether NYISO should proceed to evaluate proposals and select the more efficient or cost-effective transmission solution. NYISO asserts that this procedural step has the potential to result in extended periods of inactivity while NYISO awaits an order from the New York Commission. Under NYISO's proposed revisions, NYISO states that the New York Commission can still consider whether to issue an order eliminating or modifying the Public Policy Transmission Need at any time prior to NYISO's selection of the more efficient or cost-effective transmission solution, but NYISO can proceed with that evaluation and selection in the meantime. If the New York Commission were to cancel a Public Policy Transmission Need, NYISO would halt its Public Policy Transmission Planning Process, and if the New York Commission were to modify the need instead, NYISO would proceed with an out-of-cycle process. NYISO states that it received no opposition from Developers to these proposed revisions.¹⁰

5. Third, NYISO proposes to add a new section 31.4.4.3.4 to Attachment Y of the OATT to require that the project description in a Transmission Interconnection Application¹¹ or Interconnection Request,¹² as applicable, must contain "the same electrical characteristics, related modeling information, and contingency information to deadline will be 15 days following NYISO's filing of the final Viability and Sufficiency Assessment with the New York Commission rather than the date of the New York Commission's order confirming the Public Policy Transmission Need. *Id.* at 4.

⁹ The "Viability and Sufficiency Assessment" contains "[t]he results of [NYISO's] assessment of the viability and sufficiency of proposed solutions to a . . . Public Policy Transmission Need." NYISO, OATT, Att. Y, § 31.1.1 (22.0.0).

¹⁰ Transmittal Letter at 3-5.

¹¹ A "Transmission Interconnection Application" is a "Transmission Developer's request, in the form of Appendix 1 to the Transmission Interconnection Procedures, to interconnect a Transmission Project to the New York State Transmission System." NYISO, OATT, Att. P, § 22.1 (4.0.0).

¹² An "Interconnection Request" is a "Developer's request, in the form of Appendix 1 to the Standard Large Facility Interconnection Procedures, in accordance with the Tariff, to interconnect a new Large Generating Facility or Class Year Transmission Project to the New York State Transmission System or to the Distribution System, or to materially increase the capacity of, or make a material modification to the operating characteristics of, an existing Large Generating Facility or Class Year

Transmission Project that is interconnected with the New York State Transmission System or with the Distribution System." NYISO, OATT, Att. X, § 30.1 (9.0.0).

perform all analyses, including thermal, voltage, stability, short circuit, and transfer limit analysis” as the project information submitted in the Public Policy Transmission Planning Process. NYISO states that the proposed language ensures transparency to all Developers by specifying the data that must be the same in both processes, which is targeted towards the information NYISO needs to evaluate the proposed interconnection. NYISO explains that the new section 31.4.4.3.5 affords an opportunity to Developers to take remedial steps within 15 days if NYISO identifies a difference in the two submittals by modifying the Transmission Interconnection Application or Interconnection Request to match the project proposal. Failure to satisfy this requirement will result in NYISO rejecting the project proposal in the Public Policy Transmission Planning Process. NYISO also proposes to clarify that a Developer may submit, at the same time as it submits a project proposal, a revised Transmission Interconnection Application or Interconnection Request that was submitted prior to a solicitation in the Public Policy Transmission Planning Process.¹³

6. Fourth, NYISO proposes to revise sections 31.2.6.2 and 31.4.4.4 of the OATT to change the interest rate owed on unused study deposit amounts refunded to a Developer as part of NYISO’s Public Policy Transmission Planning Process or Reliability Planning Process from the Commission’s interest rate to “interest actually earned on such deposits.” NYISO states that the revisions would also require NYISO to hold the study deposits in an interest-bearing account with the deposited amount being associated with the Developer. NYISO contends that these revisions are necessary because NYISO is unable to earn interest at the Commission’s interest rate and NYISO lacks the resources to cover the difference. NYISO states that the Commission has approved a similar interest rate for refunded security deposits in the competitive transmission processes of other independent system operators (ISOs) and regional transmission organizations (RTOs).¹⁴ NYISO also proposes to change the interest rate for disputed study costs owed by a Developer to be the interest actually earned to ensure consistent treatment for both NYISO and Developers.¹⁵

7. Fifth, NYISO proposes to add a new section 31.4.4.3.10 to Attachment Y of the OATT to provide that NYISO will post on its website a brief description of project proposals within five business days after the close of the solicitation window for its Public Policy Transmission Planning Process. In addition, NYISO proposes to add a new section 31.4.4.3.11 to the OATT to provide that at least 30 calendar days prior to the Viability and Sufficiency Assessment, NYISO will make available, upon request, project

¹³ Transmittal Letter at 5-6.

¹⁴ *Id.* at 6 (citing *Sw. Power Pool, Inc.*, 149 FERC ¶ 61,048, at PP 203, 205 (2014); *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,178, at P 11 (2014); *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,168, at P 83 (2015)).

¹⁵ *Id.* at 7 (citing NYISO, OATT, Att. Y, § 31.4.4.4 (17.0.0)).

proposals with Confidential Information (see below discussion) redacted. NYISO explains that these new provisions are in response to requests from stakeholders and Developers that Developers' non-confidential project information be made available earlier in the Public Policy Transmission Planning Process for their review and to better understand NYISO's calculations and analyses. NYISO states that these new provisions will improve openness and transparency while protecting project information that is defined as Confidential Information. According to NYISO, to assist with NYISO's efficient administration of the process, these new provisions also require Developers to submit both redacted and unredacted versions of their project information, similar to what PJM Interconnection, L.L.C. requires.¹⁶ NYISO states that it will review the redactions and make additional redactions or disclosures as needed.

8. Sixth, NYISO proposes to revise section 31.4.15 of the OATT to clarify the definition and treatment of Confidential Information in the Public Policy Transmission Planning Process. As revised, Confidential Information includes: all project cost information; all details of the Developer's financing arrangements; any non-public financial qualification information; and any contracts provided as part of the project information requirements. NYISO asserts that the Commission has accepted similar definitions from other ISOs/RTOs.¹⁷

9. Seventh, NYISO proposes to revise section 31.4.5.1 of the OATT to revise certain project information categories for the Public Policy Transmission Planning Process to: (1) require a detailed major milestone schedule and an expected In-Service Date;¹⁸ (2) clarify that Developers must provide a transmission and substation routing study or studies and a demonstration that they have or will have the property rights necessary to implement the project; (3) require that Developers provide a copy of a Transmission Interconnection Application or Interconnection Request, as applicable; (4) request further details with respect to permitting and other project risks, including any proposed mitigation to such risks; and (5) clarify that Developers must provide information required by NYISO's procedures. NYISO states that these clarifications arise from discussions with stakeholders and NYISO's experience in gathering and analyzing project data. NYISO also proposes to clarify in section 31.4.4.3.2 that the only

¹⁶ *Id.* (citing PJM Interconnection, L.L.C., PJM Manual 14F: Competitive Planning Process (rev.02, 2018), at 27-28).

¹⁷ *Id.* at 8 (citing Midcontinent Independent System Operator, OATT, Att. FF, § VIII.D.9; PJM Interconnection, L.L.C., PJM Manual 14F: Competitive Planning Process (rev.02, 2018), at 29-30).

¹⁸ The "In-Service Date" is "the date upon which the Transmission Project is energized consistent with the provisions of the Transmission Project Interconnection Agreement and available to provide Transmission Service under the NYISO Tariffs." NYISO, OATT, Att. P, § 22.1 (4.0.0).

alternative that a Developer may offer to project characteristics within a single project proposal is alternative routing. Further, NYISO proposes to consolidate capital cost estimate requirements and transmission and substation route planning and study requirements that are currently spread across different sections of section 31.4. Their substance is unchanged. NYISO proposes to revise section 31.4.5.2.1 to similarly clarify the informational requirements applicable to Other Public Policy Projects.¹⁹

10. Eighth, NYISO proposes to revise sections 31.4.6.5 and 31.4.11 of the OATT to clarify that the Viability and Sufficiency Assessment and Public Policy Transmission Planning Report²⁰ will identify the information and sources relied upon by NYISO in its analyses, determinations, and recommendations. NYISO states that these proposed revisions are in response to stakeholder and Developer requests for additional clarity concerning the basis of NYISO's conclusions in its planning reports.²¹

11. Lastly, NYISO proposes to revise section 31.11 of the OATT, which contains the Operating Agreement, to incorporate the clarifications and clean-ups identified in developing the operating agreement entered into between NYISO and New York Transco, LLC (NY Transco). NYISO explains that, before the Commission accepted NYISO's proposed Operating Agreement, NYISO and NY Transco had to enter into an operating agreement for certain facilities that were entering into service. In developing that operating agreement, NYISO and NY Transco identified certain clarifications to the

¹⁹ Transmittal Letter at 8-9. An "Other Public Policy Project" is "[a] non-transmission project or portfolio of transmission and non-transmission projects proposed by a Developer to satisfy an identified Public Policy Transmission Need." NYISO, OATT, Att. Y, § 31.1.1 (22.0.0).

²⁰ The "Public Policy Transmission Planning Report" is the report approved by NYISO's Board on NYISO's "evaluation of all Public Policy Transmission Projects and Other Public Policy Projects proposed to satisfy an identified Public Policy Transmission Need" and NYISO's "selection of a proposed Public Policy Transmission Project, if any, that is the more efficient or cost effective solution to the identified Public Policy Transmission Need." NYISO, OATT, Att. Y, § 31.1.1 (22.0.0).

²¹ Transmittal Letter at 9.

Operating Agreement that the Commission later accepted.²² Subsequently, NYISO explains that the Commission accepted NYISO and NY Transco's amended operating agreement with additional clarifications and clean-ups to the Operating Agreement.²³ In both filings, NYISO states that it informed the Commission that it would incorporate the clarifications and clean-ups into the Operating Agreement as part of a section 205 filing, which NYISO now proposes to do.²⁴

II. Notice of Filing and Responsive Pleadings

12. Notice of NYISO's filing was published in the *Federal Register*, 83 Fed. Reg. 64,571 (2018), with interventions and protests due on or before January 2, 2019. FirstEnergy Service Company, on behalf of its affiliates;²⁵ NY Transco; Transource Energy, LLC and its subsidiary, Transource New York, LLC; and New York Transmission Owners²⁶ filed timely motions to intervene. The New York Commission filed a notice of intervention. The New York Association of Public Power (NYAPP) and LS Power Grid New York, LLC (LS Power) filed out-of-time motions to intervene. The New York Commission and NY Transco filed comments. NYISO filed an answer to the comments.

²² *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER16-1785-001 (issued July 19, 2016) (delegated order); NYISO, Filing of Executed Operating Agreement, Docket No. ER16-1785-000 (May 25, 2016)).

²³ *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER18-2015-000 (issued Sept. 6, 2018) (delegated order); NYISO, Filing of Executed and Amended and Restated Operating Agreement, Docket No. ER18-2015-000 (July 13, 2018)).

²⁴ *Id.* at 9-10.

²⁵ FirstEnergy Service Company filed on behalf of: American Transmission Systems, Incorporated; Jersey Central Power & Light Company; Mid-Atlantic Interstate Transmission LLC; Trans-Allegheny Interstate Line Company; West Penn Power Company; The Potomac Edison Company; Monongahela Power Company; Ohio Edison Company; Pennsylvania Power Company; The Cleveland Electric Illuminating Company; The Toledo Edison Company; Pennsylvania Electric Company; and Metropolitan Edison Company.

²⁶ New York Transmission Owners consist of: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Power Supply Long Island; New York Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

A. Comments

13. The New York Commission generally supports NYISO's proposed revisions to remove the requirement that the New York Commission issue an order confirming a Public Policy Transmission Need before NYISO can move forward with its evaluation and selection process. The New York Commission agrees with NYISO that this proposal should allow NYISO to expedite its review, while preserving the New York Commission's ability to assess whether a non-transmission alternative should be pursued instead of, or in combination with, a transmission solution. The New York Commission asserts that its review of the Viability and Sufficiency Assessment remains critical to ensure proper consideration of all resources that may provide a preferable alternative to a transmission solution. Recognizing that it is unlikely that the NYISO Board could select a transmission project shortly after the Viability and Sufficiency Assessment is completed, the New York Commission asks that the Commission require NYISO to clarify in its OATT that NYISO's Board will not select the more efficient or cost-effective transmission solution to a Public Policy Transmission Need sooner than 120 days after the submission of the Viability and Sufficiency Assessment to the New York Commission. The New York Commission contends that this is the minimum amount of time necessary for the New York Commission to issue an order following public notice and comment.²⁷

14. NY Transco generally supports NYISO's proposed revisions as enhancements to the Public Policy Transmission Planning Process. However, NY Transco argues that NYISO should include additional language in section 31.4.4.3.1 of the OATT. NYISO proposes to state in section 31.4.4.3.1 that NYISO will hold a technical conference to obtain "input on the ISO's application of the selection metrics set forth in Section 31.4.8.1." However, NY Transco asks that NYISO also include the following language from NYISO's Transmittal Letter: the purpose of the technical conference is to "obtain input and answer questions on the NYISO's application for the particular Public Policy Transmission Need of the selection metrics that are contained in the tariff, any metrics identified by the [New York Commission] in its order identifying the need, and any additional metrics that the NYISO may apply to the need."²⁸ NY Transco argues that this language is necessary to clarify the purpose and scope of the newly proposed technical conference process step and is critical in providing notice to potential Developers of the nature and subject-matter of the technical conference. NY Transco recognizes that the current section 31.4.8.1 of the OATT, to which the proposed section 31.4.4.3.1 cites, includes recognition of New York Commission-identified metrics and any other metric NYISO may deem appropriate, in consultation with stakeholders. Nevertheless, NY Transco is concerned that without a clear enunciation in section 31.4.4.3.1, NYISO can determine during the selection phase that the New York

²⁷ New York Commission Comments at 2, 5-6.

²⁸ NY Transco Comments at 3-5 (quoting Transmittal Letter at 3).

Commission-identified metrics should be accounted for in a different manner or that an additional metric is necessary without providing Developers an opportunity to evaluate and address that metric (or how the metric will be analyzed) in its initial submission.²⁹

B. NYISO's Answer

15. With regard to the New York Commission, NYISO notes that “the 120-day proposal was not discussed during the stakeholder process, [but] such a requirement is unlikely to have any practical effect given the time required to complete the evaluation and selection process.”³⁰

16. NYISO asks that the Commission reject NY Transco’s suggested language. NYISO contends that NY Transco’s request inappropriately sidesteps NYISO’s stakeholder process because NYISO presented its proposal to stakeholders multiple times, made modifications to address stakeholder input (including from NY Transco), and stakeholders approved the proposed language that NYISO filed.³¹ NYISO also asserts that NY Transco’s request is unnecessary because it duplicates requirements already included in NYISO’s proposed section 31.4.4.3.1. Specifically, NYISO states that proposed section 31.4.4.3.1 references existing section 31.4.8.1 of the OATT, which NY Transco acknowledges already contains all of the categories of metrics that NYISO uses in evaluating and selecting among proposed transmission solutions in its Public Policy Transmission Planning Process (including the two that NY Transco would like to highlight).³² In response to NY Transco’s concern that NYISO could determine during the selection phase to account for a New York Commission-identified metric in a different manner or to add a metric, NYISO argues that it is not appropriate, necessary, or intended that NYISO must define at the time of the solicitation the precise manner in which it will account for or address any metric in making a project selection. Rather, NYISO contends that it must retain reasonable latitude in its application of the metrics and the precise nature of NYISO’s assessment will depend on the facts and issues raised by the specific project proposals.³³ According to NYISO, NY Transco’s request is also not a minor modification for which the Commission has the authority to direct a change in response to an FPA section 205 filing.³⁴

²⁹ *Id.* at 5-6 (citing NYISO, OATT, Att. Y, §§ 31.4.8.1.8-9 (17.0.0)).

³⁰ NYISO Answer at 5 n.10.

³¹ *Id.* at 2.

³² *Id.* at 2-4.

³³ *Id.* at 4.

³⁴ *Id.* (citing *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108 (D.C. Cir. 2017)).

III. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,³⁵ the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure,³⁶ the Commission will grant NYAPP's and LS Power's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.³⁷ We will accept NYISO's answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

20. We accept NYISO's filing, effective February 10, 2019, as requested. We find that NYISO's proposed revisions to Attachment Y of the OATT are just and reasonable. We agree with NYISO that its proposed revisions clarify, streamline, and enhance its Public Policy Transmission Planning Process. Below, we address those specific provisions about which commenters express concerns.

21. With regard to the new process step in section 31.4.4.3.1 of the OATT, pursuant to which NYISO will hold a technical conference before soliciting project proposals to obtain input on NYISO's application of the selection metrics, we find that this proposal provides additional transparency into NYISO's evaluation and selection process for Public Policy Transmission Projects. We find NY Transco's suggested additional language to be unnecessary given the reference in proposed section 31.4.4.3.1 to existing section 31.4.8.1 of the OATT. Section 31.4.8.1 sets forth the metrics NYISO will use in evaluating and selecting the more efficient or cost-effective transmission solution, including the two categories that NY Transco proposes to reference.³⁸

³⁵ 18 C.F.R. § 385.214 (2018).

³⁶ *Id.* § 385.214(d).

³⁷ 18 C.F.R. § 385.213(a)(2) (2018).

³⁸ See NYISO, OATT, Att. Y, § 31.4.8.1.8-9 (17.0.0) (requiring NYISO to: (1) "apply any criteria specified by the Public Policy Requirement or provided by the [New York Commission] and perform the analyses requested by the [New York

22. While NY Transco acknowledges this language, NY Transco nevertheless expresses concern that NYISO can determine during the selection phase to account for New York Commission-identified metrics in a different manner or to add a metric that Developers could not evaluate and address in their initial submission.³⁹ NYISO's proposal to hold a technical conference on its application of the selection metrics already provides additional clarity to Developers prior to the start of the solicitation process. We disagree with NY Transco that requiring even more granularity is necessary to render this proposal just and reasonable. As NYISO explains, the precise application of the metrics will depend on the specifics of the project proposals,⁴⁰ and we believe that NYISO needs to retain some discretion in applying the metrics to select the more efficient or cost-effective transmission solution. We note that, also in this filing, NYISO proposes to revise section 31.4.11 of the OATT to clarify that its Public Policy Transmission Planning Report, developed after NYISO's evaluation of project proposals, will identify the information and sources relied upon by NYISO, in addition to describing NYISO's assumptions, inputs, methodologies, and results, which will allow Developers to see how NYISO applied all of the metrics in selecting the more efficient or cost-effective solution to any Public Policy Transmission Need.

23. We also find just and reasonable NYISO's proposal to revise sections 31.4.6.6 and 31.4.6.7 of the OATT to remove the requirement that the New York Commission issue an order confirming a Public Policy Transmission Need before NYISO can move forward with its evaluation and selection process. This change will streamline NYISO's Public Policy Transmission Planning Process, avoiding the need for NYISO and Developers to wait for an order from the New York Commission before NYISO can proceed with evaluating project proposals. Nothing in NYISO's proposal alters the New York Commission's right to issue an order eliminating or modifying the Public Policy Transmission Need prior to NYISO's selection of the more efficient or cost-effective transmission solution or the New York Commission's siting authority. The New York Commission's proposed requirement is unnecessary as NYISO's proposal is just and reasonable as proposed. The New York Commission recognizes that it is unlikely that the NYISO Board could select a transmission project shortly after the Viability and Sufficiency Assessment is completed,⁴¹ and NYISO states that imposing a 120-day minimum time period before selection is unlikely to have any practical effect given the time required for NYISO to complete the evaluation and selection process.⁴² This is

Commission], to the extent compliance with such criteria and analyses are feasible;" and (2) "consider other metrics in the context of the Public Policy Requirement" developed by NYISO, "in consultation with stakeholders").

³⁹ NY Transco Comments at 5-6.

⁴⁰ NYISO Answer at 4.

⁴¹ New York Commission Comments at 6.

consistent with the expectation that NYISO's Public Policy Transmission Planning Process is, at a minimum, a two-year cycle.⁴³

The Commission orders:

NYISO's filing is hereby accepted, to become effective February 10, 2019, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴² NYISO Answer at 5 n.10.

⁴³ NYISO, OATT, Att. Y, § 31.4.1 (17.0.0) ("If the Public Policy Transmission Planning Process cannot be completed in the two-year cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required.").