

191 FERC ¶ 61,049
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;
Willie L. Phillips, David Rosner,
Lindsay S. See, and Judy W. Chang.

New York Independent System Operator, Inc. Docket Nos. ER24-1915-000
ER24-1915-001

New York Independent System Operator, Inc. ER24-342-000

ORDER ON COMPLIANCE

(Issued April 17, 2025)

1. On May 1, 2024, as amended on May 8, 2024, in Docket Nos. ER24-1915-000 and ER24-1915-001, New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to its Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff)¹ in compliance with the requirements of Order Nos. 2023 and 2023-A,² which amended the Commission's *pro forma* Large Generator Interconnection Procedures (LGIP), *pro forma* Large Generator Interconnection Agreement (LGIA), *pro forma* Small Generator Interconnection Procedures (SGIP), and *pro forma* Small Generator Interconnection Agreement (SGIA).³ As discussed below, we find that NYISO's filing partially complies with the

¹ Appendix A lists the OATT and Services Tariff sections filed by NYISO. Capitalized terms that are not defined in this order have the meaning specified in section 1 of the OATT or section 2 of the Services Tariff.

² *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054, *order on reh'g*, 185 FERC ¶ 61,063 (2023), *order on reh'g*, Order No. 2023-A, 186 FERC ¶ 61,199, *errata notice*, 188 FERC ¶ 61,134 (2024).

³ The *pro forma* LGIP and *pro forma* LGIA establish the terms and conditions under which public utilities that own, control, or operate facilities for transmitting energy in interstate commerce must provide interconnection service to generating facilities larger than 20 MW. The *pro forma* SGIP and *pro forma* SGIA establish the terms and conditions under which public utilities that own, control, or operate facilities for transmitting energy in interstate commerce must provide interconnection service to generating facilities no larger than 20 MW. Order No. 2023, 184 FERC ¶ 61,054 at P 2.

requirements of Order Nos. 2023 and 2023-A. Accordingly, we accept NYISO's compliance filing in part, effective May 2, 2024, as requested, and direct NYISO to submit a further compliance filing within 60 days of the date of this order. We also dismiss as moot NYISO's request for waiver of (1) any of the existing requirements in NYISO's Standard Large Facility Interconnection Procedures (Standard LFIP), SGIP, and NYISO's newly proposed "Standard Interconnection Procedures"⁴ that might otherwise prevent NYISO from performing and completing the transition cluster study process between May 2, 2024 and the date that NYISO submits its compliance filing to this order and (2) NYISO's existing SGIP if the Commission were to determine that the revisions included in the instant filing that address small generating facilities are beyond the scope of an Order No. 2023 compliance proceeding.

2. On November 3, 2023, in Docket No. ER24-342-000, NYISO submitted proposed OATT revisions to partially comply with Order No. 2023 by establishing an interim transition mechanism that sets the stage for NYISO's Order No. 2023 compliance. We accept NYISO's partial compliance filing, effective November 30, 2023, as requested.⁵

I. Background

3. On July 28, 2023, the Commission issued Order No. 2023. Order No. 2023 requires all public utility transmission providers to adopt revised *pro forma* LGIPs, *pro forma* LGIAs, *pro forma* SGIPs, and *pro forma* SGIAs. These revisions ensure that interconnection customers are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner, and will prevent undue discrimination.⁶ In Order No. 2023, the Commission adopted a comprehensive package of reforms in three general categories: (1) reforms to implement a first-ready, first-served cluster study process; (2) reforms to increase the speed of interconnection queue

⁴ NYISO states that the Standard Interconnection Procedures will apply only to those proposed interconnections that are currently subject to the Standard Large Facility Interconnection Procedures and Small Generator Interconnection Procedures located in Attachments S, X, and Z to the NYISO OATT. Transmission Projects currently subject to NYISO's Transmission Interconnection Procedures in Attachment P to the NYISO OATT will remain subject to those provisions, and transmission expansion and load projects that are currently subject to the interconnection requirements in the body of the NYISO OATT will remain subject to those requirements.

⁵ We note that the proposed OATT revisions in NYISO's partial compliance filing are effective November 30, 2023, through May 1, 2024, consistent with our action in this order to accept NYISO's Order No. 2023 compliance filing effective May 2, 2024, as requested.

⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 1.

processing; and (3) reforms to incorporate technological advancements into the interconnection process.

4. To implement a first-ready, first-served cluster study process, Order No. 2023: (1) requires transmission providers to post public interconnection information in an interactive heatmap to provide interconnection customers information before they enter the queue; (2) eliminates individual serial feasibility and system impact studies; (3) creates a cluster study; (4) creates a range of allowable allocations of cluster study costs; (5) requires transmission providers to use a proportional impact method to assign network upgrade costs within a cluster; (6) requires increased financial commitments and readiness requirements from interconnection customers, including increased study deposits, site control, commercial readiness deposits, and an LGIA deposit; (7) requires transmission providers to institute penalties for withdrawn interconnection requests; and (8) creates a transition mechanism for moving to the cluster study process adopted in Order No. 2023 from the existing serial study process.⁷

5. To increase the speed of interconnection queue processing, Order No. 2023: (1) eliminates the reasonable efforts standard for completing interconnection studies and adopts study delay penalties applicable when transmission providers fail to complete interconnection studies by the deadlines in their tariff; and (2) establishes a more detailed affected system study process in the *pro forma* LGIP, including *pro forma* affected system agreements and uniform modeling standards.⁸

6. To incorporate technological advancements into the interconnection process, Order No. 2023: (1) requires transmission providers to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and share a single interconnection request; (2) requires transmission providers to evaluate the proposed addition of a generating facility to an existing interconnection request prior to deeming such an addition a material modification; (3) requires transmission providers to allow interconnection customers to access the surplus interconnection service process once the original interconnection customer has an executed LGIA or requests the filing of an unexecuted LGIA; (4) requires transmission providers, at the request of the interconnection customer, to use operating assumptions in interconnection studies that reflect the proposed charging behavior of electric storage resources; (5) requires transmission providers to evaluate an enumerated list of alternative transmission technologies during the study process; (6) requires each interconnection customer requesting to interconnect a non-synchronous generating facility to submit to the transmission provider certain specific models of the generating facility; (7) establishes

⁷ *Id.* P 5.

⁸ *Id.* P 6.

ride through requirements during abnormal frequency conditions and voltage conditions within the “no trip zone” defined by North American Electric Reliability Corporation Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards; and (8) requires that all newly interconnecting large generating facilities provide frequency and voltage ride through capability consistent with any standards and guidelines that are applied to other generating facilities in the balancing authority area on a comparable basis.⁹

7. In Order No. 2023-A, the Commission granted certain requests for rehearing and clarification. The Commission set aside Order No. 2023 in part, to specify that: (1) where an interconnection customer is in the interconnection queue of a transmission provider that currently uses, or is transitioning to, a cluster study process and the transmission provider proposes on compliance to adopt the new readiness requirements in Order No. 2023 or a variation for its annual cluster study, the interconnection customer must comply with the transmission provider’s new readiness requirements within 60 days of the Commission-approved effective date of the transmission provider’s compliance filing, where such readiness requirements are applicable given the status of the individual interconnection customer in the queue; (2) a network upgrade that is required for multiple interconnection customers in a cluster, not part of an affected system, and may be constructed without affecting day-to-day operations of the transmission system during its construction, may be considered a stand alone network upgrade if all such interconnection customers mutually agree to exercise the option to build; (3) a transmission provider must complete its determination that an interconnection request is valid by the close of the cluster request window such that only interconnection customers with valid interconnection requests proceed to the customer engagement window; and (4) acceptable forms of security for the commercial readiness deposit and deposits prior to the transitional serial study, the transitional cluster study, the cluster restudy, and the interconnection facilities study should include not only cash or an irrevocable letter of credit, but also surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider.¹⁰

8. Additionally, in Order No. 2023-A, the Commission granted several clarifications on the following topics: (1) conflicts with ongoing interconnection queue reform efforts; (2) public interconnection information; (3) the cluster study process; (4) allocation of cluster network upgrade costs; (5) shared network upgrades; (6) withdrawal penalties; (7) study delay penalties and the appeal structure; (8) affected systems; (9) revisions to the material modification process to require consideration of generating facility additions; (10) availability of surplus interconnection service; (11) operating assumptions for

⁹ *Id.* P 7.

¹⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at P 7.

interconnection studies; (12) consideration of the enumerated alternative transmission technologies in interconnection studies; and (13) ride-through requirements.¹¹

II. NYISO's Compliance Filing (Docket Nos. ER24-1915-000 and ER24-1915-001)

9. On May 1, 2024, as amended on May 8, 2024, NYISO submitted proposed revisions to its OATT and Services Tariff to implement its new Standard Interconnection Procedures to comply with the requirements of Order Nos. 2023 and 2023-A and request independent entity variations regarding the directives in Order Nos. 2023 and 2023-A. NYISO states that the proposed tariff revisions adopt key elements of Order No. 2023, while employing independent entity variations to maximize the benefits of NYISO's existing, unique first-ready, first-served interconnection cluster study process.¹² NYISO states that these independent entity variations enable NYISO to retain well-functioning elements of its existing study process and to adopt or otherwise address the Order No. 2023 directives in light of NYISO's distinct interconnection procedures, market structure, and planning framework, along with other New York-specific considerations. NYISO also requests an independent entity variation to allow its proposed tariff revisions to incorporate small generating facilities (those 20 MW or smaller) into a single, consolidated Standard Interconnection Procedures, including its proposed cluster study process, and be subject to the same requirements as large generating facilities.¹³

10. NYISO requests that the proposed tariff revisions become effective on May 2, 2024.¹⁴ NYISO states that the requested effective date will enable NYISO to immediately transition to its new interconnection procedures in parallel with the completion of its final Class Year Study for Class Year 2023.¹⁵ NYISO explains that it intends to commence implementing the Standard Interconnection Procedures beginning

¹¹ *Id.* P 8.

¹² NYISO May 1, 2024 Compliance Filing, Transmittal Letter at 2 (Filing).

¹³ *Id.* at 99, 101.

¹⁴ *Id.* at 4.

¹⁵ In NYISO, Class Year Study refers to the current first-ready, first-served cluster study process. NYISO studies both large and small generator interconnections in this process, as well as certain transmission projects. The Class Year Study for Class Year 2023 will be the final Class Year Study conducted by NYISO. NYISO, NYISO Tariffs, Open Access Transmission Tariff, attach. HH, § 40.1 (Definitions) (0.0.0) (hereinafter, Proposed OATT). Class Year refers to the group of projects in the Class Year Study. Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

on May 2, 2024, subject to any determination or modification by the Commission. NYISO states that it must implement the new interconnection procedures expeditiously to enable it, the New York Transmission Owners (NYTO), and interconnection customers to transition to and commence pre-application work beginning on May 2, 2024, and to open the Application Window for NYISO's transition cluster study process on August 1, 2024.¹⁶

11. NYISO also petitions, under Commission Rule 207(a)(5),¹⁷ for the Commission to grant NYISO prospective temporary waivers, to the extent that the Commission determines necessary, of any of the existing requirements in NYISO's Standard LFIP, SGIP, and new Standard Interconnection Procedures that might otherwise prevent NYISO from performing and completing the transition cluster study process.¹⁸

III. Notices and Responsive Pleadings

12. Notice of NYISO's May 1, 2024 compliance filing was published in the *Federal Register*, 89 Fed. Reg. 38880 (May 8, 2024), with interventions and protests due on or before May 22, 2024. Notice of NYISO's May 8, 2024 amended compliance filing was published in the *Federal Register*, 89 Fed. Reg. 42466 (May 15, 2024), with interventions and protests due on or before May 29, 2024. An extension of time for filing comments, protests, and interventions was granted until June 12, 2024.¹⁹

13. Timely motions to intervene were filed by: AES Clean Energy Development, LLC; Calpine Corporation; Clearway Energy Group LLC; Constellation Energy Generation, LLC; Cordelio Services LLC; Cypress Creek Renewables, LLC; Natural Resource Defense Council (NRDC) and Sustainable FERC Project; New Leaf Energy, Inc.; NRG Business Marketing LLC; and Orsted Wind Power North America LLC. The New York State Public Service Commission (New York Commission) filed a notice of intervention.

14. Timely motions to intervene and comments were filed by Alliance for Clean Energy New York, Inc. (ACE-NY) and NYTOs.²⁰

¹⁶ Filing, Transmittal Letter at 5.

¹⁷ 18 C.F.R. § 385.207(a)(5) (2024).

¹⁸ Filing, Transmittal Letter at 5.

¹⁹ *N.Y. Indep. Sys. Operator, Inc.*, Notice of Extension of Time, Docket No. ER24-1915-000 (issued May 16, 2024).

15. Timely motions to intervene and protests were filed by: Advanced Energy United, American Clean Power Association and Solar Energy Industries Association (collectively, Clean Energy Associations); BlueWave Public Benefit Corp. (BlueWave); New York Battery and Energy Storage Technology Consortium (NY-BEST); and Shell Energy North America (US), L.P., Shell New Energies US, LLC, and Savion, LLC (collectively, Shell).

16. On June 13, 2024, NRDC filed a motion for leave to file and protest.

17. On June 27, 2024, NYISO and NYTOs filed answers to the comments and protests. On July 12, 2024, Clean Energy Associations filed an answer to NYISO's answer.

18. On July 29, 2024, NYISO filed a motion to reject Clean Energy Associations' July 12, 2024 answer and, in the alternative, an answer. On August 6, 2024, Clean Energy Associations filed an answer to NYISO's July 29, 2024 motion to reject Clean Energy Associations' answer and answer.

IV. Discussion

A. Procedural Matters

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

21. As discussed below, we find that NYISO's filing partially complies with the requirements of Order Nos. 2023 and 2023-A. Accordingly, we accept NYISO's compliance filing in part, effective May 2, 2024, as requested, and direct NYISO to submit a further compliance filing within 60 days of the date of this order.

²⁰ NYTOs include: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Power Authority; New York Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

1. Proposed Variations

22. As discussed further below, NYISO has proposed certain variations from the Commission's requirements in Order Nos. 2023 and 2023-A. The Commission explained in Order No. 2023 that such variations would be reviewed under the same standard allowed by Order Nos. 2003, 2006, and 845.²¹ In Order No. 2003, when adopting the *pro forma* LGIP and *pro forma* LGIA, the Commission permitted Regional Transmission Organizations/Independent System Operators (RTO/ISO) to seek "independent entity variations" for pricing and non-pricing provisions, and stated that RTOs/ISOs "shall have greater flexibility to customize [their] interconnection procedures and agreement to fit regional needs."²² The Commission stated that this approach recognizes that an RTO/ISO is less likely to act in an unduly discriminatory manner than a transmission provider that is a market participant.²³ The Commission has granted independent entity variations from interconnection-related rulemakings where the RTO/ISO demonstrates that the proposed variation: (1) is just and reasonable and not unduly discriminatory or preferential; and (2) accomplishes the purposes of the order.²⁴ It is not a sufficient justification to state that a variation conforms to current RTO/ISO practices or to the RTO's/ISO's tariff definitions and terminology.²⁵ Even if the transmission provider is an

²¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1764 (citing *Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 104 FERC ¶ 61,103, at P 826 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *Standardization of Small Generator Interconnection Agreements & Procs.*, Order No. 2006, 111 FERC ¶ 61,220, at PP 447, 549, *order on reh'g*, Order No. 2006-A, 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 116 FERC ¶ 61,046 (2006); *see Reform of Generator Interconnection Procs. & Agreements*, Order No. 845, 163 FERC ¶ 61,043, at P 556 (2018), *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019)).

²² Order No. 2003, 104 FERC ¶ 61,103 at P 826.

²³ *Id.* P 827.

²⁴ *See, e.g., ISO New England, Inc.*, 164 FERC ¶ 61,222, at P 9 (2018) (citing Order No. 2003, 104 FERC ¶ 61,103 at PP 26, 827; *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247, at P 20 (2016); *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070, at P 44 (2012)).

²⁵ *See Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,112, at P 11 (2020); *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,042, at P 14 (2020); *ISO New England Inc.*, 170 FERC

RTO/ISO, it must still justify its variations in light of the Commission's *pro forma* LGIP and/or *pro forma* LGIA and/or *pro forma* SGIP and/or *pro forma* SGIA.²⁶ We will evaluate NYISO's proposed variations from the requirements of Order Nos. 2023 and 2023-A accordingly.

2. Public Interconnection Information

23. In Order No. 2023, the Commission adopted section 6.1 (Publicly Posted Interconnection Information)²⁷ of the *pro forma* LGIP to require transmission providers to maintain and make publicly available an interactive visual representation of available interconnection capacity (commonly known as a "heatmap") as well as a table of relevant interconnection metrics that is produced in response to user-specified input about each prospective generating facility.²⁸ The table will allow prospective interconnection customers to see certain estimates of a potential generating facility's effect on the transmission provider's transmission system. Specifically, the Commission required transmission providers to post on their public website a heatmap of estimated incremental injection capacity (in megawatts (MW)) available at each point of interconnection to the whole transmission provider's footprint under N-1 conditions, as well as provide a table of results in response to a specific user's input showing the estimated impact of the addition of the proposed project (based on the user-specified MW amount, voltage level, and point of interconnection) for each monitored facility impacted by the proposed project on: (1) the distribution factor; (2) the MW impact (based on the proposed project size and the distribution factor); (3) the percentage impact on the monitored facility (based on the MW values of the proposed project and the monitored facility rating); (4) the percentage of power flow on the monitored facility before the proposed project; and (5) the percentage power flow on the monitored facility after the injection of the proposed project.

24. The Commission required that heatmaps be calculated under N-1 conditions and studied based on the power flow model of the transmission system used in the most recent cluster study or restudy, and with the transfer simulated from each point of interconnection to the whole transmission provider's footprint (to approximate Network Resource Interconnection Service (NRIS)²⁹), and with the incremental capacity at each

¶ 61,209, at P 14 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,221, at P 18 (2019); *PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,226, at P 15 (2019).

²⁶ See *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025, at P 16 (2004).

²⁷ We note that the section or article title appears in parentheses following the first usage of that section or article in this order.

²⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 135; see *pro forma* LGIP § 6.1.

point of interconnection decremented by the existing and queued generation at that location (based on the existing or requested interconnection service limit of such generation). The Commission required transmission providers to update their heatmaps within 30 calendar days after the completion of each cluster study and cluster restudy. Further, the Commission clarified that transmission providers are not required to make their heatmaps available until after their transition periods.

a. NYISO's Compliance Filing

25. NYISO proposes revisions to section 40.4.1 of Attachment HH to the OATT to incorporate, with the following independent entity variation, the Commission's revisions related to public interconnection information adopted in Order Nos. 2023 and 2023-A.³⁰ First, NYISO proposes additional language to clarify how the incremental capacity in the heatmap would be determined for use by those transmission projects that can participate in its Standard Interconnection Procedures.³¹ Second, NYISO proposes to insert language clarifying that the heatmap information is solely for informational purposes, and that an entity seeking interconnection service must do so pursuant to NYISO's interconnection procedures. Finally, NYISO proposes to specify that the heatmap would first become available 30 calendar days after the conclusion of the later of (1) the final decision period or (2) the Additional System Deliverability Upgrade Study (Additional SDU Study) decision period for the transition cluster study, and that NYISO must update the metrics within 30 calendar days after the completion of the later of the final decision period or the Additional SDU Study decision period for subsequent cluster studies.

²⁹ The *pro forma* LGIP defines NRIS service as “an Interconnection Service that allows the Interconnection Customer to integrate its Large Generating Facility with the Transmission Provider’s Transmission System (1) in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers; or (2) in an RTO or ISO with market-based congestion management, in the same manner as Network Resources. Network Resource Interconnection Service in and of itself does not convey transmission service.” *Pro forma* LGIP § 1.

³⁰ Proposed OATT, attach. HH, § 40.4 (Pre-Application Interconnection Information Available to Prospective Interconnection Customers) (0.0.0), § 40.4.1.

³¹ Filing, Transmittal Letter at 90. Specifically, the Commission’s *pro forma* LGIP states that: “These metrics are calculated . . . with the incremental capacity at each point of interconnection decremented by the existing and queued Generating Facilities” NYISO incorporates this language and adds “and with the incremental capacity at each point of injection for a Class Year Transmission Project or Cluster Study Transmission Project.” Proposed OATT, attach. HH, § 40.4 (0.0.0), § 40.4.1.

26. NYISO also requests an independent entity variation to establish an optional pre-application report process in the Standard Interconnection Procedures by which a prospective interconnection customer may request from transmission owners information concerning potential points of interconnection based on readily available data.³² NYISO states that this process creates another mechanism by which a prospective interconnection customer may obtain existing information concerning potential points of interconnection to enhance its ability to develop its project interconnection request. NYISO states that its proposed process is based on the pre-application report process that the Commission incorporated into the *pro forma* SGIP in its Order No. 792.³³ NYISO also explains that the proposed pre-application process is not a mandatory step for an interconnection customer to proceed into the cluster study process and is solely for information purposes and non-binding.

b. Commission Determination

27. We accept NYISO's proposed revisions regarding public interconnection information, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that NYISO's proposal accomplishes the purposes of the public interconnection information reforms (i.e., to maintain and make publicly available an interactive visual representation of available interconnection capacity or heatmap), because the proposed variations will clarify aspects of NYISO's process for the heatmap.

28. We find that NYISO's requested independent entity variation to clarify how the incremental capacity in the heatmap would be determined for use by those transmission projects that can participate in its Standard Interconnection Procedures is just and reasonable because this language adds transparency and clarification for those transmission projects that participate in this process. As NYISO explains, NYISO's interconnection procedures establish the requirements for the interconnection customer of a generating facility or certain transmission facilities to interconnect a new generating or transmission facility to the New York State transmission system or Commission-jurisdictional distribution system, or materially increase the capacity of, or make material

³² Filing, Transmittal at 91 (citing Proposed OATT, attach. HH, § 40.4 (Pre-Application Interconnection Information Available to Prospective Interconnection Customers) (0.0.0), § 40.4.2; *id.* attach. HH, § 40.25.4 (app. 4 to attach. HH, Pre-Application Request Form) (0.0.0)).

³³ *Id.* (citing *Small Generator Interconnection Agreements & and Procs.*, Order No. 792, 145 FERC ¶ 61,159, at PP 28-82 (2013), *clarifying*, Order No. 792-A, 146 FERC ¶ 61,214 (2014)).

modification to the operating characteristics of, an existing generating or transmission facility.³⁴

29. We find that NYISO's requested independent entity variation to clarify that the heatmap would first become available 30 calendar days after the conclusion of the last decision period that concludes its transition cluster study process, and updated within 30 calendar days of the conclusion of the last decision period at the conclusion of the prior cluster study process, as opposed to 30 calendar days after the completion of the cluster study and restudy, is just and reasonable. NYISO's proposed cluster study process, which we accept below, varies from the Commission's *pro forma* cluster study process and does not include a cluster restudy. NYISO's timeline clarifications align the Commission's proposal with the equivalent conclusion of the cluster study in the NYISO process.

30. We also find that NYISO's requested independent entity variation to establish an optional pre-application report process is just, reasonable, and accomplishes the purposes of Order Nos. 2023 and 2023-A because it provides another mechanism for further transparency to interconnection customers about potential points of interconnection.

3. Cluster Study Process

31. In Order No. 2023, the Commission revised the *pro forma* LGIP and *pro forma* LGIA to require transmission providers to study interconnection requests in clusters. The Commission added several new, and revised several existing, defined terms to facilitate this change.³⁵

32. The Commission adopted section 3.1.2 (Submission) of the *pro forma* LGIP to require an interconnection customer to select a definitive point of interconnection when executing the cluster study agreement.³⁶ The Commission adopted section 3.4.1 (Cluster Request Window), section 3.4.4 (Deficiencies in Interconnection Request), and section 3.4.5 (Customer Engagement Window) of the *pro forma* LGIP to provide a process for interconnection customers to submit a cluster study interconnection request.³⁷ The Commission adopted section 3.4.6 (Cluster Study Scoping Meetings) of the *pro forma*

³⁴ *Id.* at 11.

³⁵ Order No. 2023, 184 FERC ¶ 61,054; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

³⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 200; *see pro forma* LGIP § 3.1.2.

³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 223; *see pro forma* LGIP §§ 3.4.1, 3.4.4, 3.4.5.

LGIP to require transmission providers to hold a scoping meeting with interconnection customers in the cluster.³⁸ The Commission revised section 3.5.2 (Requirement to Post Interconnection Study Metrics) of the *pro forma* LGIP to require transmission providers to post metrics for cluster study and restudy processing time.³⁹ Additionally, the Commission required the transmission provider to include the number of calendar days after the conclusion of the transition process that the initial cluster request window will open, as well as the month and date of the opening of the annual cluster request window, in *pro forma* LGIP section 3.4.1.

33. The Commission adopted several revisions to the *pro forma* LGIP related to the process by which an interconnection customer can make an interconnection request. The Commission revised section 4.1 (Queue Position) of the *pro forma* LGIP to provide that all interconnection requests within a cluster be considered equally queued and accordingly modified the definition of “queue position.”⁴⁰ The Commission renamed and revised section 4.2 (General Study Process) of the *pro forma* LGIP to require transmission providers to perform interconnection studies within the cluster study process.⁴¹ The Commission revised section 4.4 (Modifications) of the *pro forma* LGIP to provide that moving a point of interconnection shall result in the loss of a queue position if it is deemed a material modification by the transmission provider.⁴² The Commission also revised section 4.4.1 of the *pro forma* LGIP to incorporate the material modification process as part of the cluster study process.⁴³ The Commission revised section 4.4.5 of the *pro forma* LGIP to require that an interconnection customer receive an extension of fewer than three cumulative years of the generating facility’s commercial operation date without requiring it to request such an extension from the transmission provider.⁴⁴

34. The Commission adopted revisions to the *pro forma* LGIP to implement several cluster study provisions. The Commission revised section 7 (Cluster Study) of the *pro forma* LGIP to set out the requirements and scope of the cluster study agreement, as well as the cluster study and restudy procedures.⁴⁵ The Commission revised *pro forma* LGIP

³⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 245; *see pro forma* LGIP § 3.4.6.

³⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 259; *see pro forma* LGIP § 3.5.2.

⁴⁰ Order No. 2023, 184 FERC ¶ 61,054 at PP 277, 283; *see pro forma* LGIP § 4.1.

⁴¹ Order No. 2023, 184 FERC ¶ 61,054 at P 278; *see pro forma* LGIP § 4.2.

⁴² Order No. 2023, 184 FERC ¶ 61,054 at P 283; *see pro forma* LGIP § 4.4.

⁴³ Order No. 2023, 184 FERC ¶ 61,054 at P 285; *see pro forma* LGIP § 4.4.1.

⁴⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 293; *see pro forma* LGIP § 4.4.5.

section 7.1 (Cluster Study Agreement) to provide that the transmission provider must tender to each interconnection customer that submitted a valid interconnection request a cluster study agreement no later than five business days after the close of the cluster request window.⁴⁶ The Commission revised *pro forma* LGIP section 7.2 (Execution of Cluster Study Agreement) to provide that, if the interconnection customer does not provide technical data when it delivers the cluster study agreement, the transmission provider must notify the interconnection customer of the deficiency within five business days, and the interconnection customer must cure the deficiency within 10 business days.⁴⁷ The Commission modified *pro forma* LGIP section 7.3 (Scope of Cluster Study Agreement) to provide that the stability analysis, power flow analysis, and short circuit analysis will be conducted on a clustered basis.⁴⁸

35. The Commission also modified *pro forma* LGIP section 7.4 (Cluster Study Procedures) to provide that the transmission provider shall complete the cluster study within 150 calendar days, using subgroups if it chooses. Within 10 business days of simultaneously furnishing a cluster study report and draft facilities study agreement to each interconnection customer and posting such report on its Open Access Same-Time Information System (OASIS), the transmission provider shall convene an open meeting to discuss the study results.⁴⁹ The Commission revised *pro forma* LGIP section 7.5 (Cluster Study Restudies) to require that the interconnection customer must provide, within 20 calendar days after the cluster study report meeting, a study deposit, demonstration of site control, and a commercial readiness deposit. The Commission also required the transmission provider to complete any cluster restudy within 150 calendar days.⁵⁰

36. The Commission revised section 8.5 (Restudy) of the *pro forma* LGIP to make clear that restudies can be triggered by the withdrawal or modification by a higher- or equally-queued interconnection request.⁵¹ The Commission revised sections 11.1 (Tender) and 11.3 (Execution and Filing) of the *pro forma* LGIP regarding the tendering,

⁴⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.

⁴⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.1.

⁴⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.2.

⁴⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.3.

⁴⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.4.

⁵⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see pro forma* LGIP § 7.5.

⁵¹ Order No. 2023, 184 FERC ¶ 61,054 at P 335; *see pro forma* LGIP § 8.5.

execution, and filing of the LGIA to incorporate the site control demonstrations and LGIA deposit requirements of Order No. 2023.⁵²

37. The Commission also revised Appendix 2 (formerly Appendix 3) (Cluster Study Agreement) from the *pro forma* interconnection system impact study agreement to the new *pro forma* cluster study agreement.⁵³

38. In Order No. 2023-A, the Commission modified the *pro forma* LGIP and *pro forma* LGIA definitions of “stand alone network upgrades” and *pro forma* LGIA article 5.1.3 (Option to Build) to allow an interconnection customer to exercise the option to build whether the stand alone network upgrade is attributable to a single interconnection customer, or multiple interconnection customers in a single cluster study that agree to exercise this option.⁵⁴

39. The Commission also modified *pro forma* LGIP section 3.4.5 to clarify that any interconnection request for which the interconnection customer has not executed a cluster study agreement by the end of the customer engagement window will be deemed withdrawn from the interconnection queue.⁵⁵ The Commission also modified *pro forma* LGIP section 3.4.4 to clarify that all items in *pro forma* LGIP section 3.4.2 (Initiating an Interconnection Request) must be received during the cluster request window and, if they are not, the interconnection request will be deemed withdrawn.⁵⁶

40. The Commission modified *pro forma* LGIP sections 7.3 and 8.1 (Interconnection Facilities Study Agreement) to remove the requirement for the transmission provider to tender an interconnection facilities study agreement simultaneously with the issuance of a cluster study (or restudy) report and instead add a requirement for the transmission provider to tender the interconnection facilities agreement within five business days after the transmission provider notifies the interconnection customers that no further restudies are required.⁵⁷

⁵² Order No. 2023, 184 FERC ¶ 61,054 at P 344; *see pro forma* LGIP §§ 11.1, 11.3.

⁵³ *See pro forma* LGIP, app. 2.

⁵⁴ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 141-143; *see pro forma* LGIP § 1; *see also pro forma* LGIA arts. 1, 5.1.3.

⁵⁵ Order No. 2023-A, 186 FERC ¶ 61,199 at P 159; *see pro forma* LGIP § 3.4.5.

⁵⁶ Order No. 2023-A, 186 FERC ¶ 61,199 at P 161; *see pro forma* LGIP § 3.4.4.

⁵⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at P 163; *see pro forma* LGIP §§ 7.3,

41. The Commission modified sections 3.4.2, 5.1.1.1 (Transitional Serial Study), 5.1.1.2 (Transitional Cluster Study), 7.5, and 8.1 of the *pro forma* LGIP to reflect that acceptable forms of security for the commercial readiness deposit and deposits prior to the transitional serial study, the transitional cluster study, the cluster restudy, and the interconnection facilities study should include not only cash or an irrevocable letter of credit, but also surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider.⁵⁸

42. Finally, the Commission also revised *pro forma* LGIP sections 3.4.6, 3.5.2.4 (Interconnection Service Requests Withdrawn from Interconnection Queue), and 7.5, as well as the *pro forma* LGIP definition of “interconnection study,” to remove inadvertent errors and add minor clarifying edits.⁵⁹

a. NYISO’s Compliance Filing

43. NYISO proposes revisions to sections 40.1, 40.2.4, 40.2.10, 40.5, 40.6, 40.7, 40.9.1, 40.9.2, 40.9.9, 40.10, 40.11, 40.12, 40.13, 40.14, 40.15, 40.16, 40.17, 40.18, 40.24.3, 40.24.4, 40.24.5, 40.25.1 Appendix 1, and 40.25.2 Appendix 2 of Attachment HH to the OATT to incorporate some of the cluster study process framework adopted in Order Nos. 2023 and 2023-A.⁶⁰ NYISO explains that its current Class Year Study

8.1.

⁵⁸ Order No. 2023-A, 186 FERC ¶ 61,199 at P 185; *see pro forma* LGIP §§ 3.4.2, 5.1.1.1, 5.1.1.2, 7.5, 8.1.

⁵⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 167; *see pro forma* LGIP §§ 1, 3.4.6, 3.5.2.4, 7.5.

⁶⁰ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.2 (Effective Date, Scope, & Application of Standard Interconnection Procedures) (0.0.0), §§ 40.2.4, 40.2.10; *id.*, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0); *id.*, attach. HH, § 40.6 (Queue Position/ Modification/ Withdrawal/Withdrawal Penalties) (0.0.0); *id.*, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0); *id.*, attach. HH, § 40.9 (Cluster Study Overview/NYISO Minimum Interconnection Standard/NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (0.0.0), §§ 40.9.1, 40.9.2, 40.9.9; *id.*, attach. HH, § 40.10 (Phase 1 Study Process, Development of System Models, & Phase 2 Entry Decision Period) (0.0.0); *id.*, attach. HH, § 40.11 (Phase 2 Study) (0.0.0); *id.*, attach. HH, § 40.12 (Cluster Baseline Assessment & Cluster Project Assessment) (0.0.0); *id.*, attach. HH, § 40.13 (Deliverability Studies & Cost Allocation) (0.0.0); *id.*, attach. HH, § 40.14 (Additional SDU Studies) (0.0.0); *id.*, attach. HH, § 40.15 (Final Decision Period/Additional SDU Study Decision Period) (0.0.0); *id.*, attach. HH, § 40.16

process already makes use of a first-ready, first-served cluster study.⁶¹ NYISO requests an independent entity variation to permit it to retain its Class Year Study – retitled the cluster study – with process improvements in line with the directives and purposes of Order No. 2023.

44. NYISO proposes a single, two-phase cluster study process that completes all studies through two main phases, with a total study duration of 460 days.⁶² NYISO requests an independent entity variation from the timeframes included in Order No. 2023 to align with its separate study structure and requirements.⁶³ NYISO states that the duration of the proposed cluster study process broadly aligns with the overall interconnection process timeframe adopted by the Commission in Order No. 2023. NYISO asserts that its timeframe, developed through an extensive stakeholder process, is based on a reasonably anticipated number of interconnection requests and CRIS-Only Requests⁶⁴ being submitted for a given cluster.⁶⁵ NYISO’s proposed study process includes three decision periods at different stages to provide interconnection customers

(Forfeiture of Security/Future Cost Responsibility) (0.0.0); *id.*, attach. HH, § 40.17 (Headroom) (0.0.0); *id.*, attach. HH, § 40.18 (CRIS Retention, Expiration, Transfer & External CRIS) (0.0.0); *id.*, attach. HH, § 40.24 (Miscellaneous) (0.0.0), §§ 40.24.3, 40.24.4, 40.24.5; *id.*, attach. HH, § 40.25.1 (app. 1 to attach. HH) (0.0.0); *id.*, attach. HH, § 40.25.2 (app. 2 to attach.) (0.0.0).

⁶¹ Filing, Transmittal Letter at 20, 30.

⁶² *Id.* at 30.

⁶³ *Id.* at 20, 31.

⁶⁴ Capacity Resource Interconnection Service (CRIS) is defined in the Proposed OATT as “the service provided by the ISO to Interconnection Customers that satisfy the NYISO Deliverability Interconnection Standard or that are otherwise eligible to receive CRIS in accordance with the requirements in this Attachment HH; such service being one of the eligibility requirements for participation as an ISO Installed Capacity Supplier.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0). CRIS-Only Requests is defined in the Proposed OATT as “Interconnection Customer’s request, in the form of Appendix 2 to this Attachment HH, to solely obtain CRIS or an increase in CRIS. For purposes of applying the requirements in this Attachment HH, the term CRIS-Only Request when used in connection with the Class Year Interconnection Facilities Study requirements in Attachment X and S of the OATT shall mean a Class Year Project’s request to participate in a Class Year solely to request CRIS or an increase in CRIS.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

⁶⁵ Filing, Transmittal Letter at 32.

with the opportunity to evaluate their potential costs and elect whether to proceed or withdraw, subject to increasing withdrawal penalties as the process proceeds. As further discussed below, NYISO's proposed process structure will include the following timeline: (1) a 45-calendar day Application Window (during which the interconnection customer must submit an application fee, a study deposit, a demonstration of site control, and all other required application materials); (2) a 70-calendar day customer engagement window and physical infeasibility screen; (3) a five-business day Phase 1 entry decision period; (4) a 190-calendar day Phase 1 study; (5) a 10-business day Phase 2 entry decision period; (6) a 270-calendar day Phase 2 study; and (7) a final decision period. NYISO proposes that the Application Window for clusters after the transition cluster will open 15 calendar days prior to the scheduled date of NYISO's presentation of the prior cluster study report to its Operating Committee.⁶⁶

i. Application Window

45. NYISO states that Order No. 2023 established a 45-day cluster request window, during which an interconnection customer must submit its interconnection request for a given cluster study process, with a five-business day period for the transmission provider to identify deficiencies, and a 10-business day period for interconnection customers to address any deficiencies (but no later than the end of the customer request window).⁶⁷ NYISO proposes to adopt the cluster request window, renamed the Application Window, with several proposed independent entity variations to establish additional timeframes for NYISO to identify, and for interconnection customers to address, deficiencies in an interconnection request or CRIS-Only Request. First, NYISO proposes a 10-business day period to review an interconnection request or CRIS-Only Request and to notify the interconnection customer of any deficiencies.⁶⁸ NYISO argues that five business days is insufficient because NYISO expects to receive a substantial number of submissions over a short period of time (noting that its current class year includes over 80 projects).

46. Second, NYISO proposes to establish clearer timeframes for NYISO to identify and for the interconnection customer to address deficiencies. NYISO proposes to adopt the *pro forma* LGIP 10-business day period for the customer to cure a deficiency, but includes additional timeframes that apply when the interconnection customer does not successfully cure a deficiency on its first opportunity.⁶⁹ In particular, NYISO proposes a

⁶⁶ Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), § 40.5.1.

⁶⁷ Filing, Transmittal Letter at 33.

⁶⁸ *Id.* at 34.

10-business day period for it to review additional information and identify any remaining deficiencies. The interconnection customer will then have up to another 10 business days to cure the remaining deficiency, but no later than the close of the Application Window. In addition, NYISO proposes to complete the validation of interconnection requests and CRIS-Only requests early in the customer engagement window to accommodate submissions made late in the Application Window. NYISO contends that, without such modification, it could be required to reject otherwise valid requests or information provided to cure identified deficiencies that are submitted within the Application Window due to a lack of time to confirm that the requests are valid before the completion of the window.

47. Third, NYISO proposes to establish a separate track for it to address with interconnection customers any deficiencies in their facility models, arguing that it requires more time to review such modeling than the limited validation period permits.⁷⁰ Specifically, NYISO proposes to require that deficiencies in facility models be addressed prior to the scoping meeting in the customer engagement window.⁷¹ Fourth, NYISO proposes to include a separate process by which interconnection customers must provide, and address deficiencies with, transmission owner-specific required information. NYISO explains that transmission owners require additional data to perform the Phase 1 Studies, which are discussed further below. Fifth, NYISO states that Order No. 2023 established an additional process for transmission providers to address at any time errors or incomplete data. NYISO proposes to revise this language to clarify that this is for information outside of the validation and deficiency rules, and to require that interconnection customers also provide any additional information required by NYISO or the transmission owner. Finally, NYISO proposes to insert explicit requirements that specify what actions it will take during the validation process and establish that it will notify interconnection customers that their requests are valid or, in cases in which the interconnection customers fail to address a deficiency, to withdraw the request. NYISO contends that these proposed revisions establish clear tariff rules concerning NYISO's implementation of the validation process.

48. NYISO proposes to require that the interconnection customer specify a single, definitive point of interconnection in its interconnection request submitted during the Application Window, as required by Order No. 2023.⁷² NYISO requests an independent entity variation to permit an interconnection customer to propose multiple points of

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* at 35.

⁷² *Id.* at 39.

interconnection for its project in two instances.⁷³ First, a cluster study transmission project—in other words, a transmission project that will enter NYISO’s interconnection study process⁷⁴—can provide for two points of interconnection. Second, a generation project may propose to interconnect at two points of interconnection within the same capacity region. NYISO explains that this may occur when the generation project has more than one unit and the units connect to different points on the New York State transmission system or distribution system, or when the generation project is able to connect at different voltage levels. In such case, NYISO asserts that modeling the interconnection of the single facility at the two points of interconnection is required to capture the actual impact of the project on the system so as not to overstate the project’s impact. NYISO proposes to permit an interconnection customer an opportunity to change its point of interconnection within five business days after NYISO’s publication of the cluster study project list in the customer engagement window, once the interconnection customer becomes aware of the location of the other projects participating in the same cluster, which may impact its ability to interconnect or substantially change its required upgrades and costs. NYISO states that any other modifications to the point of interconnection during the cluster study process would constitute a material modification. Finally, consistent with its current requirements, NYISO proposes to prohibit an interconnection customer, or an interconnection customer and its affiliates, from proposing a project that is mutually exclusive with projects in

⁷³ *Id.* at 40.

⁷⁴ A Cluster Study Transmission Project is defined in the Proposed OATT (in relevant part) as: “[A]n Interconnection Customer’s proposed new transmission facility that will interconnect to the New York State Transmission System or a proposed upgrade—an improvement to, addition to, or replacement of a part of an existing transmission facility—to the New York State Transmission System, for which (1) the Interconnection Customer is eligible to request and does request Capacity Resource Interconnection Service, subject to the eligibility requirements set forth in the ISO Procedures; or (2) the Interconnection Customer requests only Energy Resource Interconnection Service and the transmission facility for which it requests Energy Resource Interconnection Service is a transmission facility over which power flow can be directly controlled by power flow control devices directly connected to the Cluster Study Transmission Project without having to re-dispatch generation. Cluster Study Transmission Projects shall not include Attachment Facilities, Distribution Upgrades, Network Upgrade Facilities, System Upgrade Facilities, or System Deliverability Upgrades. The term Cluster Study Transmission Project shall include those transmission projects that were classified as a Class Year Transmission Project in the ISO’s Standard Large Facility Interconnection Procedures and satisfied the requirements to complete a Class Year Study for purposes of applying the post-interconnection study requirements.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

NYISO's interconnection queue or projects proceeding in the same Application Window. NYISO contends that this is necessary to deter speculative interconnection requests, including interconnection customers proposing multiple variations of proposed interconnections, and is required to enable the identification of physically infeasible projects.⁷⁵

49. NYISO requests an independent entity variation from the requirement that it commence its interconnection process on an annual basis.⁷⁶ NYISO states that its proposed cluster study process will require more than one year to conduct, and if NYISO were required to open the Application Window for the next study process on an annual basis, there would be substantial overlap across cluster study cycles. NYISO adds that, with its current Class Year Study, NYISO must establish a transmission system representation that forms the baseline for each cluster study. NYISO explains that this baseline cannot be finalized until the prior study process has been completed and the participants in the prior process have elected whether to accept the cost allocation for their required facilities and to post the related security. Specifically, NYISO states that it will open the Application Window – i.e., the class year process start date – 15 days prior to the scheduled date for NYISO's presentation of the cluster study report to its operating committee near the conclusion of its prior cluster study process.⁷⁷ NYISO explains that this start date provides for limited overlap between study processes, during which NYISO can accept applications and perform actions under the Application Window and customer engagement window, but does not provide for overlapping study work. NYISO contends that, in the event the prior cluster study process runs long for any reason, NYISO will extend the customer engagement window for the next process on a day-for-day basis to avoid performing overlapping studies.

50. NYISO proposes to adopt interconnection queue position requirements that it states are generally consistent with the rules in Order No. 2023, but requests certain independent entity variations to align the Commission's requirements with NYISO's interconnection process.⁷⁸ As an initial matter, NYISO notes in general that queue

⁷⁵ Filing, Transmittal Letter at 40.

⁷⁶ *Id.* at 33.

⁷⁷ *Id.* NYISO will provide preliminary initial notice of the start date shortly after the commencement of the Phase 2 study for the prior process. NYISO will then provide an updated start date 60 days prior to the scheduled date of NYISO's presentation of the cluster study report for the prior study to its Operating Committee, which provides interconnection customers with at least 45 days final notice of the upcoming Application Window.

⁷⁸ *Id.* at 44.

position plays a very limited role in the NYISO cluster study processes. NYISO states that it does not include proposed projects in the base case of an interconnection study simply because the project has a higher queue position or participated in a prior or ongoing cluster study.

51. First, NYISO proposes that queue position will be set based on the date and time of its receipt of the interconnection customer's complete submission of an interconnection request, rather than the date and time of NYISO's subsequent validation of that interconnection request.⁷⁹ NYISO contends that the date and time of validation could be subject to many factors outside of the interconnection customer's control. Second, while NYISO proposes to specify, consistent with Order No. 2023, that projects participating in the same cluster are considered equally queued and are considered to have a higher priority than requests in a subsequent cluster, NYISO proposes one exception to these requirements concerning access to limited points of interconnection, as discussed further below.⁸⁰ Finally, NYISO's proposal modifies the rules for transferring a queue position to account for the need for the acquiring interconnection customer to post the deposits required under the new cluster study process and to specify when NYISO would refund or authorize cancellation of the deposits posted by the interconnection customer transferring the project.⁸¹

ii. Cluster Study Agreement

52. NYISO states that Order No. 2023 required that the transmission provider tender the cluster study agreement to the interconnection customer no later than five business days after the close of the cluster request window and that interconnection customers execute it no later than the close of the customer engagement window.⁸² NYISO requests independent entity variations concerning the cluster study agreement process and requirements. NYISO proposes to revise the process for executing the cluster study agreement to provide for the agreement to become effective earlier in the study process. NYISO contends that it will be performing study work, including developing study base cases, early in the cluster study process, and in addition, transmission owners will be performing their physical infeasibility study during the customer engagement window. Accordingly, NYISO proposes to tender an executable version of the cluster study agreement in the Application Window as soon as practicable after it validates the interconnection request. NYISO states that, if it completes this validation within the

⁷⁹ *Id.* at 44.

⁸⁰ *See infra* P 54.

⁸¹ Filing, Transmittal Letter at 44.

⁸² *Id.* at 42.

customer engagement window, it will instead tender the agreement within 10 business days, and require execution of the agreement within 10 calendar days.

53. NYISO states that it will be performing study work in parallel with the Application Window and customer engagement window, including the development of required study cases benefitting all projects, including those that may not yet have a fully executed study agreement.⁸³ NYISO therefore proposes to insert in the interconnection request a requirement that the interconnection customer acknowledge that it will be required, following validation of its interconnection request, to execute the cluster study agreement and acknowledge and agree that it will be responsible for the study costs incurred in connection with its request. NYISO also proposes to revise its existing Class Year Study agreement form for use as the new cluster study agreement in Appendix 3 of Attachment HH with additional revisions.⁸⁴

iii. Customer Engagement Window

54. NYISO proposes to adopt the customer engagement window requirements included in Order No. 2023 with proposed independent entity variations.⁸⁵ NYISO proposes that the customer engagement window be scheduled as a 70-calendar day (rather than a 60-calendar day) period that commences on the first business day after the close of the Application Window.⁸⁶ NYISO states that it requires additional time in the customer engagement window because its proposed process includes performing additional analysis, including a physical infeasibility screening during the customer engagement window. NYISO also proposes that, in instances in which the prior study process is delayed in being completed, the customer engagement window will be extended on a day-for-day basis until the completion of the final decision period in the prior study process, to ensure that NYISO can incorporate the final results from its prior study process in the base cases for the next study process.

55. NYISO proposes to adopt the posting requirements in Order No. 2023 with the following proposed independent entity variations from the *pro forma* LGIP requirements. First, NYISO proposes to insert additional categories of information (e.g., queue position, number of proposed generator leads, the applicable connecting transmission owner and affected transmission owner, and whether the project is a Contingent Project) in the list of validated projects to further assist interconnection customers in determining the potential

⁸³ *Id.*

⁸⁴ *Id.* at 43.

⁸⁵ *Id.* at 45.

⁸⁶ *Id.* at 46.

impacts to their projects of the other projects in the same cluster.⁸⁷ Second, NYISO proposes not to anonymize the posted list of interconnection customers because NYISO asserts that doing so would represent a step backwards in transparency and would likely result in the asymmetrical and unequal disclosure of such information. Finally, NYISO states that interconnection customers may, based on their review of the project list, determine that their projects no longer remain viable or face high risk of substantial upgrades and related costs.⁸⁸ For this reason, NYISO proposes to permit interconnection customers within five business days of the posting of the project list to modify their points of interconnection or withdraw their project without a withdrawal penalty.

56. NYISO requests an independent entity variation to add a process step in its customer engagement window for the connecting transmission owner and any identified affected transmission owners to review a project's proposed interconnection to assess whether its proposed point of interconnection is physically infeasible.⁸⁹ NYISO contends that the purpose of the screening is to catch early in the study process those projects that will not be able to interconnect due to physical infeasibility, so that such projects can withdraw without incurring significant costs, time, and resources. NYISO states that as described above, in all cases, if it determines in coordination with the applicable transmission owner that a project is physically infeasible, the project will be withdrawn without penalty.⁹⁰ NYISO states that projects in the same cluster are considered equally queued with the following limited exception. Specifically, if (1) more than one project in a cluster proposes to interconnect at the same point of interconnection, and (2) all of the projects proposing to interconnect at that location are not able in the aggregate to interconnect due to a physical infeasibility, then a project with a queue position with a higher designated priority in the same cluster shall have priority over one with a lower designated priority, (including as between interconnection requests within the same cluster) for access to that point of interconnection for purposes of physical infeasibility determinations.⁹¹ NYISO explains that, in most cases, the queue position number will clearly indicate which interconnection customer has a higher priority.⁹² NYISO explains

⁸⁷ *Id.*

⁸⁸ *Id.* at 47.

⁸⁹ *Id.*

⁹⁰ *Id.* at 48 (citing Order No. 2023-A, in response to comments concerning this priority issues raised by the New York Transmission Owners, the Commission reiterated that NYISO could request an independent entity variation and explain the need for such priority rules. Order No. 2023-A, 186 FERC ¶ 61,199 at P 164).

⁹¹ *Id.* (citing proposed OATT, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.3.4).

that this “jump ball” situation does not currently occur often in New York, as in most cases an approach can be developed to permit the interconnection; however, with an increasing number of projects seeking to interconnect, there is an increased potential for such a scenario.

57. NYISO proposes to adopt the scoping meeting requirements in Order No. 2023 with several independent entity variations.⁹³ First, consistent with its current requirements, NYISO proposes to require connecting transmission owners and identified affected transmission owners to participate in the scoping meeting because they have a substantial role in the interconnection study process. Second, NYISO proposes not to use the scoping meeting to examine alternative points of interconnection or to designate such points. NYISO explains that its proposed process requires interconnection customers to specify a point of interconnection early in the customer engagement window, with limited opportunities to change.⁹⁴ NYISO contends that interconnection customers will have the opportunity to explore different potential points of interconnection through the heatmap and pre-application process. Third, NYISO proposes to consult with transmission owners when setting the date for the scoping meeting, as long as the scoping meeting will take place no later than the last business day before the close of the customer engagement window. Finally, as NYISO proposes not to adopt the anonymized requirement for its posted cluster study project list, it proposes similarly not to include the requirement that the non-disclosure agreement for the scoping meeting provide for the confidentiality of identifying information, which information would be public in NYISO’s process.

iv. Two-Phase Cluster Study

58. NYISO requests an independent entity variation to include in its Standard Interconnection Procedures a single, two-phase cluster study, with a decision period to enter each study, in place of the cluster study, cluster restudy, and individual facilities study structure adopted in Order No. 2023.⁹⁵ NYISO asserts that its proposed cluster study mirrors its existing Class Year Study requirements previously accepted by the

⁹² *Id.* at 48 n. 172. In cases in which an interconnection customer elects to modify its point of interconnection following NYISO’s posting of the cluster study project list, NYISO will modify the priority designation of those projects that changed their point of interconnection. In such case, those projects that did not change their point of interconnection will have higher priority.

⁹³ *Id.* at 49.

⁹⁴ *Id.* at 50.

⁹⁵ *Id.* at 52.

Commission, with certain modifications. NYISO explains that the Phase 1 study process will assess the local impacts of proposed interconnections, while the Phase 2 study process will assess the broader systemwide impacts of the proposed interconnection.

59. NYISO proposes that projects move directly to the cluster study without prerequisite studies in order to expedite the study process and avoid duplicative work.⁹⁶ Specifically, NYISO proposes to remove (1) the feasibility study, consistent with the Commission's directives in Order No. 2023, and (2) the system impact study (as a separate stand-alone study) and the related optional system impact study. NYISO states that, much like the cluster study process directed by Order No. 2023, NYISO's proposed cluster study will evaluate the cumulative impact of a group of projects. NYISO contends that its proposed cluster study, consistent with its existing Class Year Study, will encompass both system impact and facilities study-type analyses, including the local design and engineering evaluations included in the Commission's facilities study, which is conducted on an individual basis under the *pro forma* LGIP.⁹⁷

60. NYISO also proposes to detail in its tariff the respective responsibilities of NYISO and transmission owners for the performance of the cluster study.⁹⁸ In addition, NYISO proposes to delete the *pro forma* LGIP requirements that interconnection customers may require that NYISO use third-party consultants reasonably acceptable to the interconnection customer and NYISO to perform study work under the direction of NYISO, as the new cluster study process establishes detailed timeframes and handoffs for the performance of study responsibilities to meet tariff prescribed deadlines that are potentially subject to penalties. NYISO contends that any interconnection customer's consultants would not be bound by these requirements and could cause delays to the detailed process structure carefully developed among the responsible entities.

61. NYISO states that transmission owners will be responsible for performing the Phase 1 study (but that NYISO will be responsible for developing the system representation and base cases used for the study).⁹⁹ NYISO explains that the Phase 1 study will identify any transmission owner's Attachment Facilities,¹⁰⁰ Distribution

⁹⁶ *Id.* at 30.

⁹⁷ *Id.* at 31.

⁹⁸ *Id.* at 53.

⁹⁹ *Id.* at 54.

¹⁰⁰ Attachment Facilities are defined in the Proposed OATT as "the Connecting Transmission Owner's Attachment Facilities and the Interconnection Customer's Attachment Facilities. Collectively, Attachment Facilities include all facilities and equipment between the Generating Facility or Cluster Study Transmission Project and the

Upgrades,¹⁰¹ and Local System Upgrade Facilities,¹⁰² along with the related metering, protection, and telecommunication facilities required for the reliable interconnection of each project in accordance with Applicable Reliability Requirements, to the extent that such upgrades are not physically infeasible. The study will also provide a +30%/-15% estimate of the cost of equipment, engineering and design work, procurement and construction work, and commissioning of the identified facilities and a preliminary schedule to construct such facilities. The transmission owner will develop the draft study within 150 days after NYISO provides an updated project list and a finalized short-circuit base case, and the transmission owner will finalize the study within an additional 30 days, addressing NYISO and interconnection customer input. NYISO will present the cost estimates determined in the Phase 1 Studies to its stakeholder Transmission Planning Advisory Subcommittee for review and then to its Operating Committee for its approval. As transmission owners will be directly performing certain study work, which could

Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Facility to the New York State Transmission System or Distribution System. Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities, Distribution Upgrades, System Upgrade Facilities, or System Deliverability Upgrades.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

¹⁰¹ Distribution Upgrades are defined in the Proposed OATT as “the modifications or additions to the existing Distribution System at or beyond the Point of Interconnection that are required for the proposed Project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard. Distribution Upgrades do not include Attachment Facilities, System Upgrade Facilities, or System Deliverability Upgrades.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

¹⁰² Local System Upgrade Facilities are defined in the Proposed OATT as “the System Upgrade Facilities necessary to physically interconnect a proposed Project to the Connecting Transmission Owner’s transmission system, consistent with applicable interconnection and system protection design standards. Local System Upgrade Facilities include any electrical facilities required to make the physical connection (e.g., a new ring bus for a line connection or facilities required to create a new bay for a substation connection). Local System Upgrade Facilities also include any system protection or communication facilities that may be required for protection of the Connecting Transmission Owner’s and/or Affected Transmission Owner’s transmission facility (line or substation) involved in the interconnection. Local System Upgrade Facilities do not include System Upgrade Facilities required to mitigate any adverse reliability impact(s) of the Project(s) identified through analysis such as power flow, short circuit, or stability (e.g., replacement of a circuit breaker at a nearby substation that becomes overdutied as a result of the Project(s)).” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

result in disputes, NYISO proposes to clarify that, if a dispute arises for which it is not identified as a party, it will participate in the dispute resolution process to assist the other parties in resolving the claim or dispute.¹⁰³

62. Consistent with its current Class Year Study process, NYISO states that the Phase 2 study will assess any impacts on remaining projects resulting from projects that withdrew at the conclusion of the Phase 1 study.¹⁰⁴ NYISO will identify and submit to the transmission owner, within 60 days of the start of the Phase 2 study process: (1) any System Upgrade Facilities¹⁰⁵ required for the reliable interconnection of the projects requesting Energy Resource Interconnection Service (ERIS),¹⁰⁶ and (2) any System Deliverability Upgrades¹⁰⁷ required for projects requesting CRIS. The transmission

¹⁰³ Filing, Transmittal Letter at 53.

¹⁰⁴ *Id.* at 55.

¹⁰⁵ System Upgrade Facilities are defined in the Proposed OATT as “the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system including such changes as load growth and changes in load pattern, to be addressed in the form of generic generation or transmission projects in accordance with Section 40.9.5.1; and (ii) proposed interconnections. In the case of proposed interconnections, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed Project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

¹⁰⁶ Energy Resource Interconnection Service is defined in the Proposed OATT as “the service provided by the ISO to interconnect the Interconnection Customer’s Generating Facility or Cluster Study Transmission Project to the New York State Transmission System or to the Distribution System, in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Generating Facility or Cluster Study Transmission Project, pursuant to the terms of the ISO OATT.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

¹⁰⁷ System Deliverability Upgrades are defined in the Proposed OATT as “the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to Byways and Highways and Other Interfaces on the existing New York State Transmission System that are required

owner or NYISO (at the transmission owner's election) will have 150 days to perform the Phase 2 study and determine the draft cost estimate and a preliminary schedule for such upgrades, then an additional 30 days to address input from the interconnection customer and NYISO or the transmission owner, as applicable. In addition, NYISO contends that the transmission owner will separately update the Phase 1 study results to account for the impacts of any projects that have withdrawn and to perform sensitivities to address projects that could withdraw within the Phase 2 study process. NYISO states that transmission owners will commence such work following NYISO's provision of an updated project list and an updated short-circuit base case. NYISO explains that the transmission owner will have 175 days to perform such update, with an additional 30 days to address NYISO and interconnection customer input. After the Phase 2 study report is finalized, NYISO states that it will complete the draft cluster study report. NYISO will present the draft report to NYISO's stakeholder Transmission Planning Advisory Subcommittee and Interconnection Project Facilities Study Working Group for their review and then to the Operating Committee for its approval.¹⁰⁸

63. NYISO proposes to establish two new decision periods for its cluster study process in addition to its existing final decision period at the conclusion of the study.¹⁰⁹ NYISO states that the Phase 1 entry decision period will be a five-business day period following the customer engagement window in which the interconnection customer will elect whether to proceed to the Phase 1 study. The second decision period will be a 10-business day period following the Phase 1 study in which the interconnection customer will elect whether to proceed to the Phase 2 study. At the conclusion of the Phase 2 study, NYISO states that it will retain its existing final decision period process by which each interconnection customer elects whether to accept its project cost allocation and post full security for its allocated costs to proceed. NYISO will update cost estimates during the iterative decision rounds of the final decision period to account for projects that withdraw during that decision process to allocate the facility and upgrade costs to the remaining projects. At each iterative decision period round, each interconnection customer will elect whether to accept the costs for the Attachment Facilities and upgrades identified for its project and to either pay cash or post security for the allocated amount.¹¹⁰ If one or more projects reject their cost allocation, NYISO will re-allocate the

for the proposed Project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard for Capacity Resource Interconnection Service.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

¹⁰⁸ Filing, Transmittal Letter at 56.

¹⁰⁹ *Id.* at 57.

¹¹⁰ *Id.* at 22.

costs and perform additional rounds of the process until all remaining projects accept their allocated costs and pay cash or post security. NYISO contends that an interconnection customer that accepts its costs allocation and pays cash or posts security for the allocated amount for its project will move forward to negotiate an interconnection agreement and any construction agreements for the project.¹¹¹

64. NYISO requests an independent entity variation from the timeframes included in Order No. 2023 to align with its separate study structure and requirements.¹¹² NYISO states that the proposed timeframe for the overall cluster study process is approximately 596 days from commencement of the Application Window to its presentation of the cluster study report at the conclusion of the cluster study for its Operating Committee's approval, which is generally consistent with the overall timeframe established in Order No. 2023 (between 495 and 585 calendar days) and substantially shorter than the duration of NYISO's existing process. NYISO states that the proposed timeframe already accounts for restudies because the Phase 2 study will assess any impacts on remaining projects resulting from projects that withdrew at the conclusion of the Phase 1 study.¹¹³ In addition, NYISO asserts that it will update cost estimates during the iterative decision rounds at the conclusion of the cluster study to account for projects that withdraw during that decision process.

65. NYISO requests an independent entity variation to align its study metrics and informational reporting requirements to its proposed new interconnection study process.¹¹⁴ In particular, as NYISO proposes not to perform feasibility and system impact studies, NYISO proposes to remove the study metrics for such studies and proposes to establish new study metrics for its cluster study that align with the key process components for the Phase 1 study and Phase 2 study. NYISO states that, as NYISO's study process will only have a single ongoing cluster study, it proposes to post such metrics only following the completion of each Phase 1 study and each Phase 2 study.

66. NYISO states that its interconnection procedures apply not only to new generating facilities seeking to interconnect, but also to new and existing facilities that request to be studied solely to obtain or increase CRIS to participate in the NYISO-administered Installed Capacity markets.¹¹⁵ NYISO asserts that these projects are

¹¹¹ *Id.* at 23.

¹¹² *Id.* at 31.

¹¹³ *Id.* at 32.

¹¹⁴ *Id.* at 115.

assessed solely for deliverability and are not subject to all of the requirements and studies required for interconnection requests. NYISO requests an independent entity variation to clarify in the Standard Interconnection Procedures certain alternative or more limited requirements applicable to projects that are only seeking CRIS, including using a CRIS-Only Request form in place of the interconnection request for such applications.

67. NYISO states that, under its interconnection agreement negotiation process, it develops a final review version of the agreement with the interconnection customer and transmission owner and then, upon the parties' confirmation that they have no further changes, tenders that version to the group for execution.¹¹⁶ Accordingly, NYISO proposes to revise the timeframe for the interconnection customer to demonstrate continued site control and satisfaction of the prescribed milestones to align with this execution process. Specifically, NYISO proposes to require that the interconnection customer make the site control and milestone demonstration as a prerequisite for NYISO to tender the execution version of the interconnection agreement or to file such agreement unexecuted (unless the site control or applicable milestone is the basis of the request to file the agreement unexecuted). NYISO contends that this will ensure that the interconnection customer has satisfied this requirement before completion of the interconnection agreement and eliminate the need to immediately terminate an agreement for an interconnection customer that cannot satisfy this requirement. NYISO adds that an interconnection customer may currently request that NYISO tender the draft interconnection agreement before the decision period of the Class Year Study process, which can be executed subject to the interconnection customer agreeing to accept its cost allocation and post security in the decision period. NYISO proposes to specify the comparable time period for when in the new cluster study process the interconnection customer could request that NYISO tender an early draft agreement – i.e., after the interconnection customer has satisfied the requirements to enter the Phase 2 study.

68. NYISO proposes, consistent with Order Nos. 2023 and 2023-A, to permit interconnection customers to provide their deposits (e.g., study deposit, site control deposit, readiness deposits) in the cluster study process in the form of cash, a letter of credit, or a surety bond, while interconnection customers must satisfy any fees (e.g., the application fee) using cash.¹¹⁷ NYISO states that these are the forms of secured credit that NYISO permits for its market participants under its tariffs and which NYISO argues are the only reasonably acceptable forms of security for the types of payments due to NYISO under Attachment HH. NYISO contends that this is consistent with NYISO's

¹¹⁵ *Id.* at 35-36.

¹¹⁶ *Id.* at 85.

¹¹⁷ *Id.* at 72.

existing credit requirements for market participants. Next, NYISO requests an independent entity variation to specify how it will hold and apply such deposits, refund any cash deposits, and provide authorization to the interconnection customer to request that the issuing entity cancel a letter of credit or surety bond. NYISO states that it is necessary to establish clear rules in the tariff concerning acceptable forms of deposits, as it must quickly validate deposits submitted in the Application Window and interconnection customers must quickly provide acceptable deposits during the decision periods to proceed.¹¹⁸

v. Incorporation of Small Generating Facilities

69. NYISO states that Order No. 2023 largely proposed reforms to the Commission's *pro forma* LGIP and did not modify its *pro forma* SGIP to require small generating facilities (20 MW or less) to make use of the new process structure or cluster studies.¹¹⁹ NYISO states that there is a long-established alignment in the treatment of small and large generating facilities in NYISO's existing Class Year Study, much as there is in other RTOs/ISOs. NYISO explains that in New York, the time, costs, and impacts of the proposed interconnection of small generating facilities have proven not to be correlated to their size, but tied to their proposed points of interconnection on the system and the volume of such facilities that are now seeking to interconnect. NYISO states that there is an increasing need to assess such interconnections of small generating facilities in concert with all other proposed interconnections in New York, to appropriately identify and cost allocate the upgrades associated with such impacts, and to eliminate misalignments that can arise in interconnection studies and the base cases due to overlapping study processes. NYISO states that small generators in the Class Year Study are currently subject to heightened study deposits and financial security subject to forfeit, similar to the requirements adopted in Order Nos. 2023 and 2023-A.¹²⁰ NYISO therefore requests an independent entity variation to allow its compliance tariff revisions to incorporate small generating facilities into the new single, consolidated Standard Interconnection Procedures, including the new cluster study process. NYISO asserts that, in this way, compliance with Order No. 2023 will build on an existing mechanism in New York instead of causing small generating facilities to be misaligned with the overall interconnection study process and thereby face greater interconnection challenges than they do today. To consolidate the SGIP into the Standard Interconnection Procedures, NYISO proposes transition rules for interconnection customers in its queue that are currently participating in the existing SGIP.¹²¹ In consolidating the SGIP into the

¹¹⁸ *Id.* at 72-73.

¹¹⁹ *Id.* at 99.

¹²⁰ Nguyen at Aff. ¶ 18, 22.

Standard Interconnection Procedures, NYISO states that it proposes to retain certain of the small generator requirements in its new procedures.¹²² Specifically, NYISO proposes to: (1) incorporate from its existing SGIP in Attachment Z to the OATT the existing fast track process and 10kW inverter interconnection procedures from its SGIP, which will remain available to any project that satisfies the entry requirements for these processes;¹²³ (2) incorporate requirements from Attachment Z that clarify that, consistent with the NYISO's current rules, the Standard Interconnection Procedures do not apply to interconnections made simply to receive power from the New York State transmission system and/or the distribution system, nor to interconnections made solely for the purpose of generation with no wholesale sale for resale nor to net metering;¹²⁴ and (3) retain existing interconnection procedures that establish different rules for large and small generating facilities when determining whether a requested increase in ERIS is material and requires the submission of an interconnection request.¹²⁵

b. Comments/Protests and Answers

i. Comments in Support

70. NYTOs support NYISO's requests for independent entity variations to the extent required to adopt NYISO's proposed new process and structure.¹²⁶ NYTOs contend that

¹²¹ *Id.* at 102.

¹²² *Id.* at 103.

¹²³ *Id.* (citing Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0) (inserting from Attachment Z definitions of "10kV Inverter Process," "Fast Track Process," "Minor Modification"); *id.*, attach. HH, § 40.2 (Effective Date, Scope, & Application of Standard Interconnection Procedures) (0.0.0), §§ 40.2.7; 40.2.8; *id.*, attach. HH, § 40.23 (Fast Track Process) (0.0.0); *id.*, attach. HH, § 40.25.10 (app. 10 to attach. HH, Certification Code & Standards) (0.0.0); *id.*, attach. HH, § 40.25.11 (app. 11 to attach. HH, Certification of Equipment Packages for Generating Facilities) (0.0.0); *id.*, attach. HH, § 40.25.12 (app. 12 to attach. HH, Application, Procedures, & Terms and Conditions for Interconnecting a Certified Inverter-Based Generating Facility No Larger than 10kW ("10 kW Inverter Process")) (0.0.0).

¹²⁴ *Id.* (citing proposed OATT, attach. HH, § 40.2 (Effective Date, Scope, & Application of Standard Interconnection Procedures) (0.0.0), § 40.2.3.5).

¹²⁵ *Id.* (citing proposed OATT, attach. HH, § 40.2 (Effective Date, Scope, & Application of Standard Interconnection Procedures) (0.0.0), § 40.2.3.2).

¹²⁶ NYTOs Comments at 3.

NYISO's compliance filing will enhance efficiency, increase provision of good information to interconnection customers at several stages, provide interconnection customers with decision periods to make more informed decisions about proceeding with increased financial commitments, and increase certainty for interconnection customers so that, before posting potentially substantial security, they can count on their cost allocations without later restudies and delays that can impede project development. NYTOs state that the filing was shaped by numerous stakeholder meetings and add that NYTOs worked extensively to provide input and make sure the process was feasible. NYTOs state that, because many parts of the process are co-dependent, changes to one part can render other parts of the process infeasible.

71. NYTOs support the establishment of a definitive time period within which the interconnection customers must provide the transmission owner specific study data required for the transmission owners to perform Phase 1 studies.¹²⁷ NYTOs contend that, to ensure that no such delays occur, it is necessary to apply a deadline for the transmission owner-specific study data.

72. NYTOs support NYISO's request for an independent entity variation that will allow a connecting transmission owner and any identified affected transmission owners to determine whether it is physically feasible for a proposed project to connect at a proposed point of interconnection.¹²⁸ NYTOs state that the physical infeasibility of proposed projects is a significant concern across New York. NYTOs state that, given the likelihood of these issues arising and their potential impact on resource allocation and the timeliness of interconnection studies, it is important to allow stakeholders to proactively address these issues or remove infeasible projects from consideration early in the study process.

73. NYTOs state that Order No. 2023 suggested that feasibility studies would be rendered redundant by the shift to a cluster study process, in combination with the Commission's heatmap requirements.¹²⁹ However, NYTOs argue that New York has utilized a cluster study approach for many years and, based on the knowledge and experience acquired in that time, NYTOs believe that there is a need for physical infeasibility screening. NYTOs assert that the physical infeasibility screening process proposed by NYISO is beneficial to all parties and supports the outcomes sought by the Commission in Order Nos. 2023 and 2023-A. NYTOs add that heatmaps are retrospective and thus of limited utility in informing developers that more projects than can be accommodated are seeking to interconnect at a particular point of interconnection.

¹²⁷ *Id.* at 10.

¹²⁸ *Id.* at 11.

¹²⁹ *Id.* at 12 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 316).

Therefore, NYTOs urge the Commission to grant the requested independent entity variation to enable NYISO to conduct physical infeasibility screening.

74. ACE-NY and NYTOs support NYISO's request for an independent entity variation to apply the Standard Interconnection Procedures to small generating facilities (20 MW or less) that are interconnecting to the New York State transmission system or a FERC-jurisdictional distribution system.¹³⁰ NYTOs contend that integrating small generating facilities into the cluster study construct is a critical component of NYISO's process reforms, as it will align the process rules, eliminate the inefficiencies in the existing process that could impede the expeditious completion of studies, and provide increased certainty in the results of the interconnection studies.¹³¹

ii. Third-Party Consultants

75. Clean Energy Association argue that NYISO fails to justify removing interconnection customers' right to compel transmission providers to employ third-party consultants to expedite studies.¹³² Clean Energy Associations state that NYISO seeks to remove the interconnection customer's right to compel the transmission provider to take such reasonable steps to speed up queue processing, offering the sole justification that a third-party consultant "would not be bound by these requirements and could result in delays to the detailed process structure carefully developed among the responsible entities," and that NYISO fails to show that this deviation from the *pro forma* is just and reasonable.¹³³ Clean Energy Associations aver that NYISO only raises the specter that utilizing third-party consultants could lead to delays without providing evidence to support its position and that, for instance, the filing fails to explain why the law of torts and contract, applicable to interconnection agreements, are insufficient to hold third-party contractors accountable and indemnify the transmission provider if they do not perform their contractual obligations in a timely manner.¹³⁴ Clean Energy Associations note that the *pro forma* LGIP specifies that any third-party consultant contracted at the request of an interconnection customer shall be required to comply with relevant tariff procedures and protocols as would apply if transmission provider were to conduct the interconnection study, and that provision empowers NYISO to ensure that third-party

¹³⁰ *Id.* at 6; ACE-NY Comments at 28.

¹³¹ NYTOs Comments at 7.

¹³² Clean Energy Associations Protest at 12.

¹³³ *Id.* at 12-13.

¹³⁴ *Id.* at 13.

consultants of interconnection customers agree to contractual obligations consistent with the relevant tariff provisions.¹³⁵

76. Clean Energy Associations propose that, to the extent NYISO finds the *pro forma* LGIP language insufficient to bind third-party consultants to the requirements of its tariff, it should propose additional requirements rather than take the counter-productive step of removing the right of interconnection customers to facilitate timely study performance through the use of third-party consultants.¹³⁶ Finally, Clean Energy Associations state that interconnection customers often employ third-party consultants to help in many aspects of the interconnection process, and currently NYISO allows third-party consultants to perform study work.

77. NYISO answers that Clean Energy Associations appear to misunderstand NYISO's proposal on third-party consultants.¹³⁷ NYISO clarifies that its proposed revisions do not eliminate NYISO's, transmission owners', and affected system operators' ability to use third-party consultants to perform interconnection study work, adding that NYISO currently uses consultants to supplement its resources in performing interconnection studies and expects to continue to do so. NYISO states that, however, its proposed revisions to eliminate the requirement that an interconnection customer may compel NYISO to use consultants and enter into agreements with third-party contractors because the limited instances in which this rule was applicable under NYISO's tariff no longer apply in NYISO's new process.¹³⁸ In particular, NYISO proposes to delete the requirement that the interconnection customer may request that NYISO use a third-party consultant to perform an interconnection study if:

- (i) at the time that ISO provides a good faith estimate of the time to complete or at the time of the signing of an Interconnection Facilities Study Agreement there is disagreement as to the estimated time to complete an Interconnection Study, (ii) the Developer receives notice pursuant to Sections 30.6.3, 30.7.4 or 30.8.3 that the ISO will not complete an Interconnection Study within the applicable timeframe for such Interconnection Study, or (iii) the Developer receives neither the

¹³⁵ *Id.* (citing *pro forma* LGIP §13.4).

¹³⁶ *Id.* at 13-14.

¹³⁷ NYISO June 27, 2024 Answer at 17.

¹³⁸ *Id.* at 18.

Interconnection Study nor a notice under Sections 30.6.3, 30.7.4 or 30.8.3 within the applicable timeframe for such Interconnection Study.¹³⁹

78. NYISO argues that these process steps are not a part of NYISO's new process.¹⁴⁰ NYISO contends that new Attachment HH establishes specific cluster study timeframes by which NYISO or a NYTO must perform interconnection studies, where study delays may result in penalties. NYISO asserts that these cluster study deadlines replace the prior tariff requirements by which NYISO was required to provide good faith estimates of individual study timeframes and then to conduct such studies using reasonable efforts. NYISO states that it and transmission owners are instead responsible for meeting new stringent timing requirements in the NYISO OATT, including determining how to allocate their resources and make use of consultants as needed to achieve these tariff requirements.¹⁴¹

79. Clean Energy Associations answer that NYISO's elimination of customers' right to require use of third-party consultants to expedite the study process is unjust, unreasonable and inconsistent with Order No. 2023.¹⁴² Clean Energy Associations assert that the right of interconnection customers to compel NYISO to use a third-party consultant to conduct an interconnection study remains a valuable protection for interconnection customers to ensure that studies are completed on time. Clean Energy Associations argue that Order No. 2023 appropriately recognized that deadlines and penalties alone are insufficient protection for interconnection customers because they do not guarantee that interconnection customers will not experience delays, even under the study reforms. Clean Energy Associations argue that NYISO's proposed approach to defer accountability for any potential delays for a full 460 days, rather than the interim penalties required by Order No. 2023, makes the right to require the use of third-party consultants an essential customer protection.

80. NYISO answers that it will continue to use third-party contractors for purposes of conducting the cluster study, but that Clean Energy Associations have not provided a basis for interconnection customers to compel NYISO or the transmission owner to use a third-party contractor under the new cluster study process.¹⁴³ NYISO explains that the cluster study process consists of numerous sub-studies that apply to both individual

¹³⁹ *Id.* at 18 (citing OATT, attach. X, § 30.13 (Miscellaneous) (5.0.0), § 30.13.4).

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 18-19.

¹⁴² Clean Energy Associations July 12, 2024 Answer at 8-9.

¹⁴³ NYISO July 29, 2024 Answer at 7.

projects and the full cluster of projects, and that these study elements need to be managed and sequenced in a particular manner to ensure the performance of the cluster study across all projects within the tariff-prescribed time periods. NYISO contends that it would be exceedingly disruptive to the study process if individual developers could decide that a particular portion of the study work needs to be completed by a particular consultant, rather than by NYISO or the transmission owner or through their processes for administering the use of consultants.

iii. Cluster Study Timeline

81. Clean Energy Associations state that NYISO justifies its proposed cluster study timeline by comparing it to the total possible process range contemplated by Order No. 2023, but that this is not an apples-to-apples comparison, and the Commission should not accept it.¹⁴⁴ Clean Energy Associations state that NYISO's longer study timeline should not be measured in the aggregate because the risks to interconnection customers are not uniform at every stage of the study process, and interconnection customers' performance is not measured in the aggregate. Clean Energy Associations note that, as the study process progresses, interconnection customers face increasing study and readiness deposits, with increasing withdrawal penalty risk and increasing development costs associated with project milestones that are separate from the interconnection process.

82. Clean Energy Associations state that, in Phase 1, NYISO asks for an additional 40 days above the 150 days required by Order No. 2023 and, in Phase 2, after projects have invested more capital in the project, NYISO asks to add up to 120 days without offering justification consistent with Order No. 2023.¹⁴⁵ Clean Energy Associations contend that these delays do not provide any protection or benefit to interconnection customers. Clean Energy Associations state that NYISO's reference to existing procedures is not a justification because Order No. 2023 found the existing procedures to be unjust and unreasonable, thus rendering them inappropriate as a yardstick, and that NYISO's proposal is all the more unreasonable in the light of the proposal's lack of accountability for study delays until the completion of the entire process.¹⁴⁶ BlueWave argues that the Commission should require NYISO to comply with the original study timelines, including the 150-calendar day cluster study deadline, because protracted study timelines are one of the reasons for increased project costs and failures, and that shorter study

¹⁴⁴ Clean Energy Associations Protest at 10.

¹⁴⁵ *Id.* at 10-11.

¹⁴⁶ *Id.* at 11-12.

timelines would result in less queue backlog, fewer restudies, and fewer requests for modifications.¹⁴⁷

83. NYISO answers that the Commission should reject the protests and accept NYISO's proposed timeframe for performing the cluster study.¹⁴⁸ NYISO argues that NYISO's cluster study, while sharing a name with the Commission's *pro forma* LGIP cluster system impact study, is instead NYISO's sole, consolidated interconnection study and includes the system impact, facility study, and restudy study work that is addressed across all three of the Commission's *pro forma* LGIP studies. NYISO answers that its proposed study timeframes for its cluster study are consistent with the Commission's timeframes for the performance of the equivalent study work: in particular, NYISO's two study components for its cluster study total 460 days, which are divided between the Phase 1 study (190 days) and the Phase 2 study (270 days). NYISO explains that the Commission's *pro forma* LGIP rules require that the interconnection study work be performed over a similar time range between 390 and 480 days, which is divided between a cluster study (150 days), cluster restudy (150 days), and an individual facilities study (90 or 180 days). In addition, NYISO states that the Commission's *pro forma* LGIP timeframe can be extended by further restudies, each of which can take up to 150 days and substantially increase the overall timeframe of the *pro forma* process. Accordingly, NYISO contends that its proposed study timeframes are consistent with the *pro forma* LGIP timeframes and reasonable in light of the study work being performed.

84. NYISO argues that the Commission has clearly acknowledged that the 150-day period for the cluster system impact study concerned the *pro forma* LGIP process and clarified that different regions could require different timeframes and could propose alternative, supported tariff-prescribed study timeframes with their compliance filings.¹⁴⁹ NYISO also explains that it established the study timeframes following a detailed review of the process steps required for it and the NYTOs to perform the required study work, identifying process enhancements and eliminating where possible unneeded or duplicative study work. NYISO notes that none of the commenters have challenged NYISO's overall cluster study structure, the specific study work that is required for the

¹⁴⁷ BlueWave Protest at 8-9.

¹⁴⁸ NYISO June 27, 2024 Answer at 14-15.

¹⁴⁹ *Id.* at 16 (citing Order No. 2003-A, 186 FERC ¶ 61,199 at PP 156 (clarifying that the order did “not preempt transmission providers from proposing tariff-defined study deadlines that may differ from the *pro forma* LGIP’s 150-day schedule”), 324, 330 (“The question before the Commission in establishing the deadlines for the *pro forma* study process set forth in Order No. 2023 is whether those deadlines are reasonable as applied to that process.”)).

performance of the interconnection studies, or the timeframes set forth in the tariffs for these individual process steps. NYISO adds that its approach is not just different than the *pro forma* LGIP approach but is necessary to achieve the state climate goals and mandates for reliable interconnection of new generation.¹⁵⁰

85. NYTOs answer that Order No. 2023 affords transmission providers the discretion to continue to innovate and identify regionally-appropriate solutions, and that NYISO's cluster study process is a highly efficient process that accomplishes the Commission's goals through its unique design, which is tailored to the needs of New York and was developed through extensive engagement with stakeholders statewide.¹⁵¹ NYTOs contend that, in contrast to arguments that the study timeline should not be measured in aggregate due to risks to interconnection customers, NYISO's proposed process provides significant protection to limit the resources and capital at risk as interconnection customers move through the cluster study process.¹⁵² NYTOs state that NYISO's unique restudy process also addresses the concerns raised by Clean Energy Associations regarding the proposed timeline because it limits the need for restudies and requires that any restudies that are needed are expedited.¹⁵³ NYTOs state that interconnection customers must post full security at the conclusion of the study process such that, if the interconnection customer withdraws, the applicable NYTO can use the security to construct the upgrade if other projects are relying on it and thereby avoid a restudy, whereas the *pro forma* process includes no such mechanism, and each restudy adds 150 days to the overall timeline.

86. Clean Energy Associations argue that NYISO's unique study process does not justify extended study timelines and a lack of interim accountability.¹⁵⁴ Clean Energy Associations state that the study length works an end run around Order No. 2023's careful balance of obligations between interconnection customers and the transmission provider by eroding valuable protections for interconnection customers and removing accountability for the transmission provider.¹⁵⁵ They argue that NYISO's assertion that it is only the total timelines of the entire cluster study process and individual facilities study that matter ignores the design of the *pro forma* process, which establishes benchmarks

¹⁵⁰ *Id.* at 17.

¹⁵¹ NYTOs June 27, 2024 Answer at 3.

¹⁵² *Id.* at 4.

¹⁵³ *Id.* at 5.

¹⁵⁴ Clean Energy Associations July 12, 2024 Answer at 3.

¹⁵⁵ *Id.* at 5.

after the initial cluster study and restudy, and does not align with the experience of interconnection customers, for whom interim milestones are critically important.¹⁵⁶

iv. Surety Bonds

87. Clean Energy Associations ask the Commission to require NYISO to expand the delivery window for surety bonds to five days.¹⁵⁷ Clean Energy Associations support the use of surety bonds but argue that NYISO's proposal unduly restricts their use to such a degree that it would be infeasible for interconnection customers to use them as financial security. Clean Energy Associations state that the current timeline of next-day delivery is unreasonable and unworkable because, based on market realities and the experience of interconnection customers, a minimum turnaround of four to five days is necessary for surety bonds to be usable due to the fact that surety bonds are backed by insurance companies that cannot meet immediate payment demands. Clean Energy Associations state that surety bonds should not be deemed risky just because the underwriter processes payments within a few days, rather than within one day, and that NYISO's artificial and unrealistic processing timeline renders surety bonds practically useless, which contravenes the Commission's intent to remove "unjust and unreasonable or unduly discriminatory hurdles . . . through limitations on the acceptable forms of financial security."¹⁵⁸ Clean Energy Associations state that NYISO fails to demonstrate that a one-day turnaround for surety bond delivery is feasible or necessary, and NYISO's only justification of its requirements for accepting surety bonds for deposits is that they are "consistent with [its] existing credit requirements under its tariffs applicable to Market Participants."¹⁵⁹

88. NYISO answers that its implementation rules for the use of surety bonds are reasonable, workable, and consistent with NYISO's existing practices regularly used by its market participants.¹⁶⁰ NYISO argues that NYISO's tariff requirements and its standard form for interconnection customers' use of letters of credit and surety bonds are the same requirements currently applicable to all market participants under NYISO's tariffs.¹⁶¹ NYISO asserts that its market participants regularly make use of surety bonds

¹⁵⁶ *Id.* at 6.

¹⁵⁷ Clean Energy Associations Protest at 15-16.

¹⁵⁸ *Id.* at 16 (citing Order No. 2023-A, 186 FERC ¶ 61,199 at P 185).

¹⁵⁹ *Id.*

¹⁶⁰ NYISO June 27, 2024 Answer at 19.

¹⁶¹ *Id.* at 20.

in accordance with the requirements for such bonds that Clean Energy Associations assert are unworkable. NYISO contends that it currently holds numerous surety bonds that are subject to the terms of its standard form, including the single-day turn-around requirements. NYISO adds that it currently holds 71 surety bonds that cover 53 different market participants from 13 different surety companies totaling \$268 million.

89. NYISO contends that the one-business day payment requirement is necessary to ensure that NYISO can timely pay the obligations it incurs on behalf of interconnection customers and that it is permitted to recover unpaid costs from an interconnection customer's deposit only after the customer has failed to pay NYISO within the 30-day timeframe in section 40.24.3.4.2 of Attachment HH and the 10-business day cure period in section 40.6.4 elapses.¹⁶² NYISO explains that it must pay its third-party vendors and transmission owners and affected system owners for study costs on a timely basis and needs funds from interconnection customers to do so, and the one-day payment requirement improves NYISO's ability to pay its obligations timely in the event of an interconnection customer's default. NYISO adds that these requirements provide fair treatment to all interconnection customers and do not discriminate against those interconnection customers that post cash or letters of credit for security, as cash is subject to be drawn on immediately and letters of credit include the same one-business day payment requirement.

c. Commission Determination

90. We accept NYISO's proposed cluster study process, in part. Order No. 2023 eliminated the serial first-come, first-served study process in the *pro forma* LGIP and instead required transmission providers to use a first-ready, first-served cluster study process. We find that NYISO's proposal accomplishes the purposes of the cluster study process reforms, which make cluster studies the required interconnection study method.¹⁶³ As NYISO explains, its current Class Year Study process already makes use of a first-ready, first-served cluster study.¹⁶⁴ We grant NYISO's requested independent entity variation to permit it to retain its Class Year Study, retitled the cluster study. We address specific aspects of NYISO's proposed cluster study process below.

i. Application Window

91. We accept NYISO's proposed cluster request window, renamed the Application Window, including the requested independent entity variations, because we find that the

¹⁶² *Id.* at 20-21.

¹⁶³ Order No. 2023, 184 FERC ¶ 61,054 at P 177.

¹⁶⁴ Filing, Transmittal Letter at 20, 30.

proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that NYISO's proposal allows, as required by Order No. 2023, interconnection customers to submit an interconnection request during a specified period of 45 calendar days, with the start date to be determined by NYISO, which adequately notifies prospective interconnection customers of the formation of a new cluster without delaying the processing of the interconnection queue.¹⁶⁵

92. First, we grant NYISO's proposed independent entity variation to establish clear timeframes for NYISO to identify, and for the interconnection customer to cure, deficiencies. We find that NYISO's proposal to allow a 10-business day period to review an interconnection request, and to notify the interconnection customer of any deficiencies, is just and reasonable because we are persuaded by NYISO's argument that it needs the 10-business day period because of the substantial number of submissions NYISO expects over a short period of time (noting that its current class year includes over 80 projects).¹⁶⁶ Second, we find that NYISO's proposal to allow a further 10-business day period for the interconnection customer to cure deficiencies when it did not successfully cure deficiencies on its first opportunity is just and reasonable because, as NYISO contends, without such modification, it could be required to reject otherwise valid interconnection requests. Third, we find that NYISO's proposal to establish a separate track to address with interconnection customers any deficiencies in their facility models is just and reasonable because it will provide flexibility to interconnection customers, while still accomplishing the purposes of the Application Window: to ensure only valid interconnection requests move forward to the Engagement Window without delaying the interconnection queue. Fourth, given that transmission owners require additional data to perform the Phase 1 Studies, as further discussed below, we accept NYISO's proposal to include a separate process by which interconnection customers must provide, and address deficiencies with, transmission owner-specific required information. Also, consistent with the requirements of Order No. 2023-A, we accept NYISO's proposal to insert explicit requirements that detail that it will notify interconnection customers that their requests are valid or, in cases in which the interconnection customer fails to address a deficiency, to withdraw the request.¹⁶⁷

93. We grant NYISO's requested independent entity variation to permit an interconnection customer to propose multiple points of interconnection for its project in the following two instances: (1) a cluster study transmission project that also participates

¹⁶⁵ Order No. 2023, 184 FERC ¶ 61,054 at PP 223-224.

¹⁶⁶ Filing, Transmittal Letter at 34.

¹⁶⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at P 159.

in NYISO's cluster study process can provide for two points of interconnection as a transmission project; and (2) a generation project may propose to interconnect at two points of interconnection within the same capacity region when the generation project has more than one unit and the units connect to different points on the New York State transmission system or distribution system or when the generation project includes a three-winding transformer that enables it to connect at a different voltage level. We find that the requested independent entity variation is just and reasonable and accomplishes the purposes of the cluster request window reform by providing flexibility for interconnection customers to select a definitive point of interconnection when executing the cluster study agreement.¹⁶⁸ We find that NYISO also complies with Order No. 2023 by adopting Order No. 2023's requirement that moving a point of interconnection shall result in the loss of a queue position if it is deemed a material modification by the transmission provider.

94. We grant NYISO's requested independent entity variation to not open the application window on an annual basis because NYISO's cluster study requires more than one year to conduct, and NYISO's proposal would avoid substantial overlap and study delays.¹⁶⁹ We find that NYISO's proposal to provide preliminary initial notice of the next cluster study process start date shortly after the commencement of the Phase 2 study for the prior cluster study process, and then provide an updated start date 60 days prior to the scheduled date of NYISO's presentation of the cluster study report for the prior study to its Operating Committee, is just and reasonable and provides clarity and notice of when the next cluster study will start, thereby accomplishing the purposes of Order No. 2023 by providing interconnection customers with adequate notice as to when NYISO plans to begin a cluster study.

95. We find that NYISO's requested independent entity variation to specify that queue position will be set based on the date and time of its receipt of the interconnection customer's complete submission of an interconnection request is just and reasonable and accomplishes the purpose of Order Nos. 2023 and 2023-A by ensuring a transparent and efficient interconnection study process.¹⁷⁰

ii. Cluster Study Agreement

96. We accept NYISO's cluster study agreement proposal, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023

¹⁶⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 201.

¹⁶⁹ Filing, Transmittal Letter at 32.

¹⁷⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1.

and 2023-A: to tender to each interconnection customer that submitted a valid interconnection request a cluster study agreement.¹⁷¹

97. We grant NYISO's requested independent entity variation to tender an executable version of the cluster study agreement in the Application Window as soon as practicable after it validates the interconnection customer's interconnection request, as opposed to five business days after the close of the Application Window. As NYISO explains, it will begin performing study work, including developing study base cases, early in the new cluster study process as part of its reforms for expediting the overall study duration. Therefore, NYISO proposes to insert in the interconnection request a requirement that the interconnection customer acknowledge cost responsibility for incurred study costs including study costs incurred prior to the full execution of the cluster study agreement.¹⁷² We find that NYISO's requested independent entity variation is just and reasonable and consistent with the requirement that interconnection customers compensate the transmission provider for actual study costs.¹⁷³

iii. Customer Engagement Window

98. We accept NYISO's customer engagement window proposal, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A, i.e., to consider information collected during this period of engagement with the transmission provider and assess the continued viability of proposed generating facilities.¹⁷⁴

99. We grant NYISO's requested independent entity variation of a 70-calendar day (rather than a 60-calendar day) customer engagement window in order to perform additional analysis, including a physical infeasibility screening. We agree with NYISO that the screening will help identify early in the study process those projects that will not be able to interconnect due to physical infeasibility, so that such projects can withdraw without incurring significant costs, time, and resources.¹⁷⁵ We find that NYISO's requested independent entity variation is just and reasonable and accomplishes the

¹⁷¹ *Id.* P 317.

¹⁷² Filing, Transmittal Letter at 42.

¹⁷³ See Order No. 2023, 184 FERC ¶ 61,054 at P 317; see *pro forma* LGIP § 7.1.

¹⁷⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 233.

¹⁷⁵ Filing, Transmittal Letter at 49.

purposes of the customer engagement window reform: to assess the continued viability of proposed generating facilities.

100. We grant NYISO's requested independent entity variations from the posting requirements in Order No. 2023 to (1) add additional information to its posting requirements in the list of validated projects, (2) not anonymize the list, and (3) permit interconnection customers within five business days of the posting of the project list to modify their points of interconnection or withdraw their project without penalty because these revisions will assist interconnection customers in determining the potential impacts to their projects in the cluster and making business decisions accordingly. The revisions also accomplish the purpose of the customer engagement window reform, which is to consider information collected during this period of engagement and assess the continued viability of proposed generating facilities.

101. We grant NYISO's independent entity variation to add a process step in its customer engagement window for the connecting transmission owner and any identified affected transmission owners to review a project's proposed interconnection to assess whether its proposed point of interconnection is physically infeasible. We find this proposal to be just and reasonable because it will help identify infeasible projects early in the study process so that such projects can withdraw without incurring significant costs, time, and resources. We also find just and reasonable NYISO's proposal that all projects in the same cluster are considered equally queued with a limited exception if: (1) more than one project in a cluster proposes to interconnect at the same Point of Interconnection and (2) all of the projects proposing to interconnect at that location are not able in the aggregate to interconnect due to a physical infeasibility, then a project with a queue position with a higher designated priority in the same cluster shall have priority over one with a lower designated priority for purposes of physical infeasibility determinations. Given that designated priority resolves a physical infeasibility and is determined by when an interconnection request is submitted to NYISO, we find NYISO's approach to be just and reasonable and not unduly discriminatory or preferential. We agree that with the increasing number of projects seeking interconnection, there could be an increased potential for this scenario, which NYISO contends does not currently occur often in NYISO. In addition, the proposal accomplishes the purposes of the customer engagement window reform in Order No. 2023 by helping interconnection customers determine the viability of their proposed generating facilities, making it less likely that interconnection customers will withdraw later in the cluster study process, triggering delays.¹⁷⁶

102. We grant NYISO's requested independent entity variations to consult with transmission owners when setting the date for the scoping meeting and to require

¹⁷⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 230.

connecting transmission owners and identified affected transmission owners to participate in the scoping meeting because they have a substantial role in the interconnection study process. We find that this proposal is just and reasonable because it allows all affected parties to be involved in the engagement process. We also find that NYISO's requested independent entity variation to not examine alternative points of interconnection at the scoping meeting is just and reasonable because, as NYISO explains, interconnection customers will have the opportunity to explore different potential points of interconnection through the heatmap and pre-application process. Finally, we grant NYISO's independent entity variation to not require non-disclosure agreements and to not anonymize its posted cluster study project list. NYISO clarifies that, although non-disclosure agreement requirements for the scoping meeting provide for the confidentiality of identifying information, such information would be public in NYISO's proposed process and has been public historically, meaning that interconnection customers in NYISO do not have expectations of privacy that necessitate confidentiality.¹⁷⁷ Therefore, because the publication of this information, routine in NYISO, provides greater transparency into the makeup of the cluster, which in turn ensures that projects that remain in the cluster have increased viability, we find that NYISO's proposal accomplishes the purposes of Order No. 2023.

iv. Two-Phase Cluster Study

103. We find that NYISO's proposed revisions partially comply with the requirements of Order Nos. 2023 and 2023-A.

104. We grant NYISO's requested independent entity variation proposing that projects move directly to the cluster study without prerequisite studies.¹⁷⁸ We find that NYISO's proposal to remove the optional system impact study is justified in order to expedite the study process and avoid duplicative work because NYISO and its stakeholders identified it as a process step that was not providing sufficient benefits for the additional time, efforts, and costs required for such study. Next, we find that NYISO's proposed cluster study, which encompasses both the system impact and facilities study analyses and will evaluate the cumulative impact of a group of projects is just and reasonable and accomplishes the purpose of the cluster study reform to increase efficiency by allowing

¹⁷⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at P 167.

¹⁷⁸ We note that NYISO also proposes to remove the feasibility study from its tariff, which is consistent with the requirements of Order No. 2023. *See* Order No. 2023, 184 FERC ¶ 61,054 at P 316.

transmission providers to perform larger interconnection studies encompassing many proposed generating facilities, rather than separate studies.¹⁷⁹

105. We grant NYISO's requested independent entity variation to detail in its tariff the respective responsibilities of NYISO and transmission owners for the performance of the cluster study.¹⁸⁰ NYISO explains that currently it is primarily responsible for administering interconnection studies with the applicable transmission owner or a third-party contractor performing the study work for the Class Year Study as a consultant. For the cluster study process, NYISO and the transmission owners have agreed for the transmission owners to take on the responsibility of directly performing certain study work in the cluster study. We find that the independent entity variation is just and reasonable and accomplishes the purposes of Order No. 2023 by ensuring a transparent and efficient interconnection study process.¹⁸¹

106. In addition, we deny NYISO's requested independent entity variation not to adopt the *pro forma* LGIP provisions specifying that interconnection customers may require that NYISO use third-party consultants reasonably acceptable to the interconnection customer and NYISO to perform study work under the direction of NYISO. *Pro forma* LGIP section 13.4 states that the interconnection customer may require that the transmission provider use a third-party consultant reasonably acceptable to the interconnection customer and transmission provider to perform the interconnection study, and NYISO does not sufficiently justify its proposal to prohibit interconnection customers from making this request. While NYISO states that NYISO and the transmission provider have agreed that study elements need to be sequenced and managed in a particular order, NYISO does not explain why a third-party consultant could not perform its study within that timeframe. Further, NYISO states that the new cluster study process establishes detailed timeframes and handoffs for the performance of study responsibilities to meet tariff prescribed deadlines that are potentially subject to penalties and that any interconnection customer's consultants would not be bound by these requirements. However, because the consultant must be reasonably acceptable to the transmission provider, NYISO is able to ensure that any third-party consultant meets the deadlines required in NYISO's Tariff. Additionally, *pro forma* LGIP section 3.9(3) provides NYISO the right to appeal any penalty imposed for missing a study deadline. Therefore, we find that NYISO's proposal to not allow interconnection customers to compel it to use third-party consultants does not accomplish the purposes of the cluster study to increase efficiency and provide greater certainty to interconnection customers

¹⁷⁹ *Id.*

¹⁸⁰ Filing, Transmittal Letter at 53.

¹⁸¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1.

regarding the timing of studies.¹⁸² We direct NYISO to submit a further compliance filing within 60 days of the date of this order that adopts the provisions in *pro forma* LGIP section 13.4, which specify that interconnection customers may require that NYISO use third-party consultants reasonably acceptable to the interconnection customer and NYISO to perform study work under the direction of NYISO, or further justifies its proposal under the independent entity variation standard.

107. We grant NYISO's requested independent entity variation to retain its current clustered Class Year Study process, retitled the cluster study, and to include in its Standard Interconnection Procedures a single, two-phase cluster study, with a decision period to enter each study, in place of the cluster study, cluster restudy, and individual facilities study structure adopted in Order No. 2023.¹⁸³ NYISO already makes use of a "first-ready, first-served," clustered study process developed with stakeholders, taking into account the unique planning structure and circumstances in New York. NYISO proposes to explicitly divide the cluster study process into two distinct phases. The Phase 1 study process will assess the local impacts of proposed interconnections, while the Phase 2 study process will assess the broader systemwide impacts of the proposed interconnection. According to NYISO, its proposed cluster study mirrors its existing clustered two-part Class Year Study requirements previously accepted by the Commission. We find that NYISO's proposed independent entity variation is just and reasonable, and accomplishes the purpose of the cluster study reform, which is to make cluster studies the required interconnection study method.¹⁸⁴

108. NYISO requests an independent entity variation from the timeframes included in Order No. 2023 to align with its unique study structure and requirements. NYISO explains that its proposed cluster study process is approximately 596 days from its commencement of the Application Window to its presentation of the cluster study report at the conclusion of the cluster study for its operating committee approval, while the cluster study process established in Order No. 2023 could run between 495 to 585 days and could be further extended by restudies.¹⁸⁵ We find that the duration of the cluster study process broadly aligns with the overall interconnection process timeframe adopted by the Commission in Order No. 2023. NYISO's cluster study process has a unique study structure and requirements due to its proposed single, two-phase study process, which already incorporates re-studies and does not have a separate facilities study. Thus, the timeline of the proposed NYISO cluster study process is appropriately compared to

¹⁸² Order No. 2023, 184 FERC ¶ 61,054 at P 177.

¹⁸³ Filing, Transmittal Letter at 30, 52.

¹⁸⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 177.

¹⁸⁵ Filing, Transmittal Letter at 31.

the timeline of *pro forma* study process including the *pro forma* LGIP facilities study timing, contrary to the contentions of BlueWave and Clean Energy Associations.¹⁸⁶ As discussed above, NYISO's proposed cluster study process timeline is relatively similar to the *pro forma* cluster study process timeline, and we therefore find that NYISO's cluster study timeline is just and reasonable and accomplishes the purposes of Order No. 2023 by establishing a cluster study process that produces study results in a timeline similar to that envisioned by the *pro forma* LGIP to interconnection customers regarding the timing of studies.¹⁸⁷

109. We find that NYISO's requested independent entity variation to align its study metrics and informational reporting requirements to its proposed two-phase study process is just and reasonable because NYISO's cluster study process differs from the *pro forma* LGIP process.¹⁸⁸ NYISO proposes to replace the existing requirement to post metrics for interconnection feasibility study and system impact study processing time with the posting of metrics for cluster study processing time, but does not propose to post cluster restudy processing time, as NYISO does not have a separate restudy process. We find that NYISO's proposal to post such metrics following the completion of each Phase 1 study and Phase 2 study is just and reasonable and accomplishes the goal of the study metrics and informational reporting requirements: to ensure transparency into NYISO's study completion metrics while implementing the change to the cluster study process.¹⁸⁹

110. Although not required by Order No. 2023, we find that NYISO's requested independent entity variation to clarify in the Standard Interconnection Procedures certain alternative or more limited requirements applicable to projects that are only seeking CRIS, is just and reasonable. We find that the proposal adds clarity and transparency to NYISO's cluster study process for new and existing facilities that request to be studied solely to obtain or increase CRIS to participate in the NYISO-administered Installed Capacity markets.

111. We find that NYISO adopts the requirement to incorporate site control demonstration and also grant the independent entity variation that interconnection customers make the site control demonstration as a prerequisite for NYISO to tender the executed version of the interconnection agreement or to file such agreement unexecuted. As NYISO explains, this will ensure that the interconnection customer has satisfied this requirement before completion of the interconnection agreement and eliminates the need

¹⁸⁶ BlueWave Protest at 8; Clean Energy Associations Protest at 10.

¹⁸⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 177.

¹⁸⁸ Filing, Transmittal Letter at 115.

¹⁸⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 259.

to immediately terminate an agreement for an interconnection customer that cannot satisfy this requirement.¹⁹⁰

112. As required by Order Nos. 2023 and 2023-A, NYISO adopts the financial security mechanisms of cash, letters of credit, and surety bonds. Clean Energy Associations support the use of surety bonds but argue that NYISO's proposal of next-day delivery restricts their use to such a degree that it would be infeasible for interconnection customers to use them as financial security, and request the Commission to require NYISO to expand the delivery window for surety bonds to five days.¹⁹¹ We disagree. We find that, as evidenced by NYISO, the use of surety bonds is reasonable, workable, and consistent with NYISO's existing practices regularly used by its market participants.¹⁹² For example, NYISO explains that it currently holds numerous surety bonds that are subject to the terms of its standard form, including the single-day turn-around requirements.¹⁹³ Further, while Order No. 2023-A allowed interconnection customers to provide surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider,¹⁹⁴ the Commission did not prohibit transmission providers from proposing more specific requirements for surety bonds. For these reasons, we find that NYISO's proposed one-business day payment requirement for surety bonds is just and reasonable and not unduly discriminatory or preferential and accomplishes the purposes of Order Nos. 2023 and 2023-A because it provides equal treatment with interconnection customers that post cash or letters of credit for security, as cash is subject to be drawn on immediately and letters of credit include the same one-business day payment requirement. We therefore accept NYISO's proposal to maintain the immediate payment provisions in NYISO's tariffs.

¹⁹⁰ Filing, Transmittal Letter at 85.

¹⁹¹ Clean Energy Associations Protest at 15-16. *See also N.Y. Indep. Sys. Operator, Inc.*, 104 FERC ¶ 61,311 at P 58 (finding that the "pay now/fight later" provision "would seem to alleviate NYISO's concerns with surety bonds as an adequate form of security and, at the same time, not increase costs or create unnecessary barriers to entry for smaller market participants" and that "surety bonds with a 'pay now/fight later' provision is a sufficiently reliable form of security for small market participant.").

¹⁹² NYISO June 27, 2024 Answer at 19.

¹⁹³ NYISO June 27, 2024 Answer at 20. As of the date of its answer, NYISO states that it holds 71 surety bonds that cover 53 different market participants from 13 different surety companies totaling \$268M. *Id.*

¹⁹⁴ Order No. 2023-A, 186 FERC ¶ 61,100 at P 185.

v. Incorporation of Small Generating Facilities

113. We grant NYISO's proposed independent entity variation to incorporate small generating facilities into the new single, consolidated Standard Interconnection Procedures, including the new cluster study process. As noted above, prior to Order Nos. 2023 and 2023-A, the Commission approved, as a deviation from Order No. 2006, NYISO's inclusion of small generating facilities in its Class Year study with large generators.¹⁹⁵ Further, small generators in the Class Year Study are currently subject to heightened study deposits and financial security subject to forfeit, similar to the requirements adopted in Order Nos. 2023 and 2023-A. We agree with NYISO that its proposal builds on its existing mechanism and will prevent small generating facilities from being misaligned with NYISO's overall interconnection study process. Therefore, we find that NYISO's proposal is just and reasonable, and not unduly discriminatory or preferential. NYISO's proposal applies Order No. 2023's improvements to the interconnection process to small generators, as well as large generators, consistent with NYISO's existing alignment in the treatment of small and large generating facilities in NYISO's interconnection process, and accomplishes Order Nos. 2023 and 2023-A's purpose of ensuring a more reliable and efficient interconnection process in New York.¹⁹⁶ Consistent with this approval, we also approve the transition rules for interconnection customers in NYISO's queue that are currently participating in the existing SGIP.¹⁹⁷

4. Allocation of Cluster Study Costs

114. In Order No. 2023, the Commission revised section 13.3 (Obligation for Study Costs) of the *pro forma* LGIP to allow each transmission provider to propose its own ratio for allocating the shared costs of cluster studies, provided that between 10% and

¹⁹⁵ *N.Y. Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,209, at P 59 (2014) ("CRIS allows Small Generating Facilities to take advantage of the lower costs and efficiencies associated with an SGIP, while only being required to partake in part of the LFIP – the Class Year Interconnection Facilities Study.").

¹⁹⁶ *Id.*

¹⁹⁷ *Infra* P 222. NYISO petitions, under Rule 207(a)(5), that the Commission grant NYISO prospective temporary tariff waivers, to the extent the Commission determines necessary, of NYISO's existing SGIP if the Commission were to determine that the tariff revisions included in this filing that address small generating facilities are beyond the scope of an Order No. 2023 compliance proceeding. Filing, Transmittal Letter at 5. Because we accept NYISO's tariff revisions that address small generating facilities, we dismiss this waiver request as moot.

50% of study costs must be allocated on a per capita basis, with the remainder (between 50% and 90%) allocated pro rata by MW.¹⁹⁸

a. NYISO's Compliance Filing

115. NYISO proposes to revise section 40.24.3.2 of Attachment HH to the OATT to specify its study cost allocation for cluster studies as required by Order Nos. 2023 and 2023-A.¹⁹⁹ As directed in Order No. 2023, NYISO proposes to include a description of how the cost of any clustered interconnection study will be allocated.²⁰⁰

116. NYISO requests an independent entity variation to retain its existing study cost allocation approach in its cluster study, which was developed to address unique attributes of its Class Year Study.²⁰¹ NYISO states that the Phase 1 study assesses the local impacts of, in many cases, individual projects, while the Phase 2 study assesses the broader system impacts of the cluster of projects. In addition, NYISO states that the cluster study includes assessments that apply solely to those interconnection customers requesting CRIS. Pursuant to NYISO's requirements, each cluster study project is only responsible for the costs associated with the study of its particular project. Specifically, NYISO proposes that each cluster study project shall pay: (1) the actual cost of studying the Attachment Facilities and Distribution Upgrades for its own facility; (2) the actual cost of studying Local System Upgrade Facilities for its own facility; and (3) an equal share of all other systemwide cluster study costs (i.e., those not related to Attachment Facilities, Distribution Upgrades or Local System Upgrade Facilities).²⁰² NYISO states that, in the event that more than one project contributes to the need for particular Attachment Facilities, Distribution Upgrades, or Local System Upgrade Facilities, those study costs are shared equally among the projects. Further, NYISO states that an interconnection customer that is only evaluated for ERIS will not be responsible for the costs associated with the CRIS evaluation or studies required for System Deliverability Upgrades. NYISO asserts that this approach allocates study costs, in accordance with cost causation principles, to the particular interconnection customer or customers responsible for such costs in place of a more general allocation of costs. NYISO also contends that this approach accounts for the fact that study costs need not be correlated to project size because many factors can determine the extent and costs of required studies

¹⁹⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 416; *see pro forma* LGIP § 13.3.

¹⁹⁹ Proposed OATT, attach. HH, § 40.24 (Miscellaneous) (0.0.0), § 40.24.3.2.

²⁰⁰ Filing, Transmittal Letter at 69.

²⁰¹ *Id.*

²⁰² *Id.* at 70.

(e.g., where on the system a project is interconnecting, what interconnection service the project is requesting, etc.).

117. NYISO also requests an independent entity variation to detail in its tariff the method for allocating the costs of the studies other than the cluster study that are included in the Standard Interconnection Procedures.²⁰³ NYISO states that these include the Expedited Deliverability Study,²⁰⁴ affected system study, fast track process supplemental review, and facility modification request study. NYISO proposes to apply the same cost causation approach to allocate these study costs, with interconnection customers responsible for an equal share of the study or study elements applicable to them.

b. Commission Determination

118. We find that NYISO's proposed revisions partially comply with the cluster study cost allocation requirements of Order Nos. 2023 and 2023-A. First, we find that NYISO's proposed independent entity variation specifying that each cluster study project shall pay the actual cost of studying the facilities that may be necessary to address local system impacts (i.e., Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities for its own facility) and an equal share of broader systemwide cluster study costs is just and reasonable and not unduly discriminatory or preferential. NYISO's process aligns with the Commission's general per capita and pro rata study cost assignments adopted in the *pro forma* LGIP by assigning some study costs on a per capita basis and some on an actual study cost basis. In adopting the *pro forma* LGIP, the Commission did not require that costs be allocated based on individual calculations of the actual time and resources expended on a particular interconnection request because of concerns about the transmission provider's ability to accurately perform such calculations and administrative burden;²⁰⁵ however, NYISO's proposal will more accurately assign study costs to the interconnection customers that cause them and will accomplish the

²⁰³ *Id.*

²⁰⁴ Expedited Deliverability Study is defined in the Proposed OATT as "a study conducted by the ISO or a third-party consultant to determine the extent to which an existing or proposed facility satisfies the NYISO Deliverability Interconnection Standard at its requested CRIS level without the need for System Deliverability Upgrades. The schedule and scope of the study is defined in sections 40.19.1 and 40.13.1.2 of this Attachment HH." Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

²⁰⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 421.

purpose of the rule, which is to ensure that interconnection customers adequately contribute to incurred study costs.²⁰⁶

119. However, we find that NYISO's proposed independent entity variation to detail the method for allocating the costs of the Expedited Deliverability Study, fast track process supplemental review, and facility modification request study are outside the scope of this proceeding as Order Nos. 2023 and 2023-A did not require such revisions. Accordingly, we direct NYISO to submit a compliance filing within 60 days of the date that removes these proposed revisions. This determination is without prejudice to NYISO proposing this additional language in a future FPA section 205 filing. The method for allocating affected system study costs is discussed below.²⁰⁷

5. Allocation of Cluster Network Upgrade Costs

120. In Order No. 2023, the Commission required transmission providers to allocate system network upgrade²⁰⁸ costs based on a proportional impact method.²⁰⁹ Specifically, the Commission added *pro forma* LGIP section 4.2.1 (Cost Allocation for Interconnection Facilities and Network Upgrades) to require a transmission provider to: (1) allocate the costs of network upgrades located at substations equally among each generating facility interconnecting to the same substation (i.e., on a per capita basis); and (2) direct the transmission provider on compliance to provide tariff provisions that describe, for each type of system network upgrade that a transmission provider would identify in the cluster study process (e.g., voltage support network upgrades or short circuit network upgrades), how the costs of each system network upgrade type will be allocated among the interconnection customers within the cluster.²¹⁰ The Commission added to the *pro forma* LGIP and *pro forma* LGIA definitions for "proportional impact method," "substation network upgrades," and "system network upgrades" and modified

²⁰⁶ *Id.* P 418.

²⁰⁷ *See infra* P 278.

²⁰⁸ The *pro forma* LGIP defines system network upgrades as "Network Upgrades that are required beyond the substation located at the Point of Interconnection." *Pro forma* LGIP § 1.

²⁰⁹ The *pro forma* LGIP defines proportional impact method as "a technical analysis conducted by Transmission Provider to determine the degree to which each Generating Facility in the Cluster Study contributes to the need for a specific System Network Upgrade." *Id.*

²¹⁰ Order No. 2023, 184 FERC ¶ 61,054 at PP 453, 461; *see pro forma* LGIP § 4.2.1.

the existing definition of “stand alone network upgrades.”²¹¹ The Commission required the transmission provider’s revisions on compliance to provide that costs for a discrete network upgrade identified in the cluster study process are allocated to only the interconnection customers in the cluster that are shown through technical analyses to contribute to the need for that discrete network upgrade.²¹² The Commission also required transmission providers to allocate the costs of interconnection facilities (i.e., both the interconnection customer’s interconnection facilities and transmission provider’s interconnection facilities) on a per capita basis. The Commission further provided that interconnection customers may agree to share interconnection facilities, that the per capita cost allocation will apply only where interconnection customers agree to share interconnection facilities, and that interconnection customers may choose a different cost sharing arrangement upon mutual agreement.²¹³ Finally, the Commission revised Appendix A (Interconnection Facilities, Network Upgrades and Distribution Upgrades) of the *pro forma* LGIA to include substation network upgrades and system network upgrades.²¹⁴

121. In Order No. 2023-A, the Commission clarified that cost allocation for substation network upgrades is based on the number of interconnection facilities connecting to the substation at the point of interconnection. The transmission provider must first allocate the costs of substation network upgrades on a per capita basis for each interconnection facility connecting to the substation, and then allocate those costs on a per capita basis between each generating facility using the interconnection facility. In conjunction, the Commission revised *pro forma* LGIP section 4.2.1.1.a to clarify that substation network upgrade costs shall be allocated first to interconnection facilities interconnecting to the substation at the same voltage level, and then per capita to each generating facility sharing the interconnection facility.²¹⁵

a. NYISO’s Compliance Filing

122. NYISO requests an independent entity variation to retain its existing network upgrade and interconnection facility cost allocation requirements and terminology, which

²¹¹ Order No. 2023, 184 FERC ¶ 61,054 at PP 458, 460; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

²¹² Order No. 2023, 184 FERC ¶ 61,054 at P 461.

²¹³ *Id.* P 454.

²¹⁴ *Pro forma* LGIA, app. A.

²¹⁵ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *see pro forma* LGIP § 4.2.1.1.a.

it contends already address the Commission's directives.²¹⁶ NYISO points to sections 40.1 and 40.9.8 of Attachment HH to the OATT, which specify its cost allocation method for interconnection facilities and network upgrades as required by Order Nos. 2023 and 2023-A.²¹⁷ In addition, NYISO proposes revisions to section 40.12.2 of Attachment HH to the OATT to allocate the costs of upgrades to interconnection customers through a proportional impact method approach.²¹⁸

123. First, NYISO states that its process already distinguishes between Local System Upgrade Facilities (i.e., substation network upgrades) and non-Local System Upgrade Facilities (i.e., system network upgrades), and that its existing rules assign the Local System Upgrade Facility costs on a per capita basis if there is more than one impacted interconnection customer for that facility.²¹⁹ Second, NYISO states that its existing rules already establish that each interconnection customer is responsible for 100% of the cost of Attachment Facilities and Distribution Upgrades required for the reliable interconnection of its project. Third, NYISO states that its existing rules allocate the costs of non-Local System Upgrade Facilities to interconnection customers through a proportional impact method approach that bases such allocation on the trigger for the particular upgrade: (1) for thermal upgrades, MW impact; (2) for short circuit upgrades, ampere impact; (3) for stability upgrades, ampere impact; (4) for voltage upgrades, voltage deviation impact; and (5) for protection/communication upgrades, equally per project. NYISO adds that NYISO's tariff requirements also permit interconnection customers to enter into side agreements between themselves concerning their cost allocation.²²⁰

²¹⁶ Filing, Transmittal Letter at 69 (citing NYISO OATT, attach. S, § 25.5 (Class Year Study & Expedited Deliverability Study Processes) (18.0.0), §§ 25.5.1, 25.5.6, 25.5.7; *id.*, attach. S, § 25.6 (Class Year Study Cost Allocation Methodology for ERIS) (10.0.0), §§ 25.6.2.3.1-25.6.2.7.7).

²¹⁷ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.9 (Cluster Study Overview/ NYISO Minimum Interconnection Standard/NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (0.0.0), §§ 40.9.8.2, 40.9.8.3, 40.9.8.4.

²¹⁸ Proposed OATT, attach. HH, § 40.12 (Cluster Baseline Assessment & Cluster Project Assessment) (0.0.0), § 40.12.2.

²¹⁹ Filing, Transmittal Letter at 69.

²²⁰ *Id.* at 69 n.296.

b. Commission Determination

124. We find that NYISO's proposal partially complies with the allocation of network upgrade costs requirements of Order Nos. 2023 and 2023-A. Order No. 2023 established requirements for the allocation of network upgrade costs identified in cluster studies and it differentiated between substation network upgrades and system network upgrades. We find that NYISO's process already distinguishes between Local System Upgrade Facilities (i.e., substation network upgrades) and non-Local System Upgrade Facilities (i.e., system network upgrades). We find that NYISO's proportional impact method for system network upgrades (non-Local System Upgrade Facilities in NYISO) complies with the directive of Order Nos. 2023 and 2023-A to allocate network upgrade costs based on a proportional impact method.²²¹ We also find that NYISO's proposal complies with the directive to describe how the costs of each system network upgrade type will be allocated among the interconnection customers within the cluster.²²² NYISO's process provides allocation methods for the costs of thermal upgrades, short circuit upgrades, stability upgrades, voltage upgrades, and protection/communication upgrades in its sections 40.12.2.3-40.12.2.6.7 of Attachment HH to the OATT, providing that the costs for each discrete type of network upgrade identified in the cluster study process will be allocated among the interconnection customers within the cluster that are shown through technical analyses to contribute to the need for the discrete network upgrade.

125. However, with regard to substation network upgrades (Local System Upgrade Facilities in NYISO), Order No. 2023-A established that substation network upgrade costs shall be allocated first to interconnection facilities interconnecting to the substation at the same voltage level, and then per capita to each generating facility sharing the interconnection facility.²²³ We find that NYISO's filing does not address whether its existing process allocates substation network upgrade costs in a manner consistent with Order Nos. 2023 and 2023-A. NYISO states that it allocates network upgrade costs on a per capita basis if there is more than one impacted interconnection customer for a Local System Upgrade Facility (i.e., substation network upgrades),²²⁴ but it is not clear how NYISO factors in voltage or multiple interconnection customers sharing an interconnection facility to reach the NYISO substation.

²²¹ Order No. 2023, 184 FERC ¶ 61,054 at PP 453.

²²² *Id.*; *see pro forma* LGIP § 4.2.1.

²²³ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *see pro forma* LGIP § 4.2.1.1.a.

²²⁴ Filing, Transmittal Letter at 69 n.296.

126. Additionally, Order No. 2023 revised the *pro forma* LGIP to provide that interconnection customers may agree to share interconnection facilities and that the costs of such will be allocated on a per capita basis unless interconnection customers mutually agree to a different cost sharing arrangement.²²⁵ NYISO states that its existing rules establish that each interconnection customer is responsible for 100% of the cost of Attachment Facilities and Distribution Upgrades required for the reliable interconnection of its project, and that tariff requirements also permit interconnection customers to enter into side agreements between themselves concerning their cost allocation. We find that it is not clear under the existing language in NYISO's tariff that, where interconnection customers agree to share such facilities, the costs would be allocated on a per capita basis unless the parties agree to a different cost sharing arrangement as required by Order No. 2023.

127. Therefore, we direct NYISO to submit a compliance filing within 60 days of the date of this order that does one of the following regarding the allocation of substation network upgrades costs and the ability of interconnection customers to share interconnection facilities: (1) proposes tariff language to fully implement the cluster network upgrade cost allocation requirements of Order Nos. 2023 and 2023-A; (2) clarifies how its existing tariff language already meets these requirements; or (3) justifies its existing tariff language under the independent entity variation standard.

6. Study Deposits

128. In Order Nos. 2023 and 2023-A, the Commission adopted the following study deposit framework in section 3.1.1.1 (Study Deposit) of the *pro forma* LGIP:²²⁶

Size of Proposed Generating Facility Associated with Interconnection Request under the <i>pro forma</i> LGIP	Amount of Deposit
< 80 MW	\$35,000 + \$1,000/MW
≥ 80 MW < 200 MW	\$150,000
≥ 200 MW	\$250,000

²²⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 454; *see pro forma* LGIP § 4.2.1.2.

²²⁶ Order No. 2023, 184 FERC ¶ 61,054 at PP 502-503; Order No. 2023-A, 186 FERC ¶ 61,199 at P 188; *see pro forma* LGIP § 3.1.1.1.

129. The Commission required the interconnection customer to submit a non-refundable application fee of \$5,000 and a refundable study deposit upon the interconnection customer's entry into the cluster.²²⁷

130. In Order No. 2023, the Commission deleted section 8.1.1 of the *pro forma* LGIP to remove the requirement for the transmission provider to invoice interconnection customers on a monthly basis for the work conducted on the interconnection facilities study. Accordingly, the Commission also deleted from article 5.0 of Appendix 3 (Interconnection Facilities Study Agreement) to the *pro forma* LGIP language including the monthly invoicing requirement.²²⁸

131. In Order No. 2023-A, the Commission modified section 13.3 of the *pro forma* LGIP to remove language pertaining to using previous study deposits to offset the cost of a subsequent study because Order No. 2023 established only an initial study deposit at the beginning of the study process to be used for all studies under the cluster study process.²²⁹

a. NYISO's Compliance Filing

132. NYISO proposes revisions to section 40.5.5.1 of Attachment HH to the OATT to incorporate the study deposit framework adopted in Order Nos. 2023 and 2023-A with independent entity variations.²³⁰ First, NYISO proposes to modify the study deposit amount for the first tier (applicable to generating facilities smaller than 80 MW) to \$100,000, which is consistent with NYISO's current study deposits for facilities participating in the Class Year Study and consistent with the facilities study deposits for Small Generating Facilities.²³¹ Second, NYISO proposes a separate study deposit amount of \$50,000 for CRIS-Only projects. NYISO notes that it proposes a lower amount for these projects because they are not studied under a Phase 1 study and are only subject to the deliverability study component of the Phase 2 study. NYISO states that,

²²⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 505; Order No. 2023-A, 186 FERC ¶ 61,199 at P 189; *see pro forma* LGIP § 3.1.1.1.

²²⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 506; *see pro forma* LGIP, app. 3, art. 5.0.

²²⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 189; *see pro forma* LGIP § 13.3.

²³⁰ Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), § 40.5.5.1.

²³¹ Filing, Transmittal Letter at 37.

consistent with current practice, a CRIS-Only project must also provide documentation demonstrating that it is eligible for that study process.²³²

133. NYISO requests an independent entity variation to propose a non-refundable application fee of \$10,000 for an interconnection request and \$5,000 for a CRIS-Only Request.²³³ NYISO states that its current application fee for interconnection requests is \$10,000, which more closely aligns with NYISO's expenses in assessing applications. In addition, NYISO explains that part of the application fee is shared with the transmission owners for their expenses in connection with the application.

134. NYISO states that, although Order No. 2023 removed the requirement that the transmission provider invoice interconnection customers on a monthly basis for the work conducted on the facilities study, NYISO requests an independent entity variation to continue to invoice interconnection customers on a monthly basis for the actual costs of the study work incurred by NYISO and NYTOs for the cluster study process and to apply the same monthly invoicing approach for the other studies performed under the Standard Interconnection Procedures.²³⁴ NYISO contends that the proposed revisions are required to ensure a uniform invoicing process and requirements across the cluster study process and all interconnection-related studies. NYISO asserts that, based on its experience performing both monthly invoicing for the Class Year Study and end of study invoicing for certain other interconnection studies, NYISO has determined the latter approach to be administratively cumbersome, to expose NYISO to a higher risk of non-payment than monthly invoicing, and to lack transparency during the process for interconnection customers. NYISO contends that the monthly invoicing process provides both greater transparency to interconnection customers of their study costs throughout the study process and timely reimbursement of costs incurred by NYISO. NYISO adds that using the study deposit as the means to address ongoing payments creates a substantial additional administrative burden on NYISO and interconnection customers because the interconnection customer would have to continually replenish its required study deposit amount to protect NYISO from being exposed to financial loss due to inadequate remaining study deposit amounts to satisfy remaining study costs. Accordingly, NYISO proposes to retain its existing monthly invoicing mechanism with the study deposit

²³² *Id.* (citing Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), § 40.5.5.1.2).

²³³ *Id.* at 36.

²³⁴ *Id.* at 71.

serving as financial security to NYISO in the event an interconnection customer defaults on its invoice or fails to pay any assessed penalties.²³⁵

135. NYISO also proposes to remove the NYISO *pro forma* OATT language pertaining to using previous study deposits to offset the cost of a subsequent study, as required by Order No. 2023-A.²³⁶

b. Commission Determination

136. We accept NYISO's proposed study deposit framework and application fee, including the requested independent entity variations, because we find that NYISO's proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A to approximate study costs.²³⁷

137. We find that NYISO's proposed study deposits for the second and third tier adopt the *pro forma* LGIP requirements of Order Nos. 2023 and 2023-A.²³⁸ We find that NYISO's proposed independent entity variation to modify the study deposit amount in the first tier (applicable to generating facilities smaller than 80 MW) to \$100,000 is consistent with NYISO's current study deposits for facilities participating in the Class Year Study, and accomplishes the purpose of the study deposit reform to provide transmission providers with funds to cover the costs of studies performed.²³⁹ We also find that NYISO's proposal to include a separate study deposit amount and application fee for CRIS-Only projects is just and reasonable because CRIS-Only projects do not require the same level of study as other projects in the cluster study process. As NYISO explains, CRIS-Only projects are only subject to one component of NYISO's Phase 2 study. The lower study deposit, therefore, reflects lower overall study costs specific to NYISO's CRIS-Only projects. We therefore find that NYISO's proposed study deposit framework accomplishes the purposes of Order No. 2023 to: (1) establish one-time study deposits to be provided with the interconnection request based on the size of the proposed

²³⁵ *Id.* at 71-72.

²³⁶ Filing, attach. XII at 378-379. NYISO deletes the relevant language in its OATT Attachment X, section 30.13.3.1, which is now Attachment HH, section 40.24.3.2.1.4, in the Proposed OATT.

²³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 504.

²³⁸ See Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), § 40.5.5.1.4.

²³⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 505; *see also supra* P 9.

facility in order to account for the fact that larger proposed generating facilities within a cluster generally cost more to study than smaller proposed generating facilities within a cluster;²⁴⁰ and (2) provide transmission providers with funds to cover the costs of studies performed for interconnection customers.²⁴¹

138. NYISO proposes, as an independent entity variation, to retain its current application fee of \$10,000 for an interconnection request and \$5,000 for a CRIS-Only Request, which it contends aligns more closely with NYISO's and NYTOs' expenses in assessing applications. Although Order No. 2023 established a \$5,000 application fee, we find that NYISO's proposed \$10,000 application fee for an interconnection request and \$5,000 application fee for a CRIS-Only request is a just and reasonable independent entity variation because it aligns with the actual expenses for NYISO and the NYTOs to process the application.²⁴²

139. We find that NYISO's requested independent entity variation to continue to invoice interconnection customers on a monthly basis for the actual costs of the study work is just and reasonable. Order No. 2023 found that the monthly invoicing requirement is burdensome to the transmission provider and therefore did not require such invoicing,²⁴³ but NYISO contends that given its experience with invoicing and existing finance processes, end of study invoicing is more administratively burdensome, exposes NYISO to a higher risk of non-payment than monthly invoicing, and lacks transparency during the process for interconnection customers.²⁴⁴ Thus, we find that NYISO's proposal meets the purpose of Order No. 2023 by ensuring interconnection customers only pay the actual costs for their interconnection studies and does so in a timely manner by invoicing monthly.

140. We also find that NYISO's proposed removal of the OATT language pertaining to using previous study deposits to offset the cost of a subsequent study complies with the requirements of Order No. 2023-A because NYISO adopts the *pro forma* LGIP requirements to remove the language.

²⁴⁰ *Id.* P 503.

²⁴¹ *Id.* P 505.

²⁴² Filing, Transmittal Letter at 36.

²⁴³ Order No. 2023, 184 FERC ¶ 61,054 at P 506.

²⁴⁴ Filing, Transmittal Letter at 71-72.

7. Site Control

141. In Order No. 2023, the Commission revised the definition of “site control” in section 1 (Definitions) of the *pro forma* LGIP and article 1 (Definitions) of the *pro forma* LGIA.²⁴⁵ The definition, as modified, states that site control shall mean the exclusive land right to develop, construct, operate, and maintain the generating facility over the term of expected operation of the generating facility. Site control may be demonstrated by documentation establishing: (1) ownership of, a leasehold interest in, or a right to develop a site of sufficient size to construct and operate the generating facility; (2) an option to purchase or acquire a leasehold site of sufficient size to construct and operate the generating facility; or (3) any other documentation that clearly demonstrates the right of an interconnection customer to exclusively occupy a site of sufficient size to construct and operate the generating facility.

142. The Commission revised section 3.4.2 of the *pro forma* LGIP to require interconnection customers to demonstrate 90% site control at the time of submission of the interconnection request.²⁴⁶ The Commission further revised sections 8.1 and 11.3 of the *pro forma* LGIP to require interconnection customers to provide evidence of 100% site control for the generating facility at the time of execution of the facilities study agreement and when executing, or requesting the unexecuted filing of, the LGIA.²⁴⁷ The Commission also revised sections 3.4.2 and 11.3 of the *pro forma* LGIP to state that, if an interconnection customer cannot demonstrate the requisite level of site control at the relevant milestone of the interconnection process, its interconnection request will be deemed withdrawn and it could be subject to withdrawal penalties under certain circumstances.²⁴⁸

143. The Commission modified section 3.4.2 of the *pro forma* LGIP to provide that site control for a generating facility that is co-located with one or more generating facilities on the same site and behind the same point of interconnection must be demonstrated by a

²⁴⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 584; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

²⁴⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 594; *see pro forma* LGIP § 3.4.2.

²⁴⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 594; *see pro forma* LGIP §§ 8.1, 11.3.

²⁴⁸ *See infra* P 170.

contract or other agreement that allows for shared land use for all generating facilities that are co-located that meets the provisions of the site control definition.²⁴⁹

144. The Commission required a transmission provider to establish per-MW acreage requirements for each generating facility technology type and to publicly post these acreage requirements.²⁵⁰ The Commission modified the *pro forma* LGIP and *pro forma* LGIA definitions of “generating facility” and “generating facility capacity” to clarify that these definitions include hybrid generating facilities, and stated that a transmission provider’s per-MW acreage requirements for each generating facility technology-type must include specific requirements for hybrid generating facilities.²⁵¹ The Commission further clarified that generating facilities that are co-located on the same site and behind the same point of interconnection are subject to the technology-specific acreage requirements based on the generating facilities’ technology-type.

145. The Commission eliminated the interconnection customer’s options to: (1) provide a deposit in lieu of site control demonstration, except in limited circumstances where an interconnection customer demonstrates a regulatory limitation to obtaining site control; and (2) post \$250,000 of non-refundable security in lieu of site control at LGIA execution. The Commission revised section 3.4.2 of the *pro forma* LGIP to provide that interconnection customers with regulatory limitations may submit an initial deposit in lieu of site control of \$10,000 per MW, subject to a floor of \$500,000 and a ceiling of \$2 million, which shall be refundable but may not be applied toward interconnection studies or withdrawal penalties, if applicable. The Commission stated that, when an interconnection customer facing regulatory limitations provides a deposit in lieu of site control, the deposit will be accepted and held by the transmission provider until the interconnection customer can demonstrate 90% site control prior to execution of the facilities study agreement or 100% site control at execution of the facilities study agreement or thereafter. The Commission also modified Appendix B (Milestones) of the *pro forma* LGIA to clarify that an interconnection customer facing qualifying regulatory limitations must demonstrate 100% site control within 180 calendar days of the effective date of the LGIA; if it cannot, the LGIA may be terminated per article 17 (Default) of the

²⁴⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 586; *see pro forma* LGIP § 3.4.2.

²⁵⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 595; *see pro forma* LGIP §§ 3.4.2, 11.3.

²⁵¹ Order No. 2023, 184 FERC ¶ 61,054 at P 603; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

pro forma LGIA and the interconnection customer may be subject to withdrawal penalties.²⁵²

146. The Commission required each transmission provider to define regulatory limitations relevant to its service territory, to publicly post the definition, and to provide a narrative description of how it defines regulatory limitations as part of its compliance filing.²⁵³ The Commission did not require a uniform definition of regulatory limitations for all transmission providers, but clarified that a regulatory limitation is generally a federal, state, Tribal, or local law that makes it practically infeasible to obtain site control within the time frame detailed in the *pro forma* LGIP.

a. NYISO's Compliance Filing

147. NYISO proposes revisions to sections 40.1, 40.5.5, 40.21.3, and 40.25.15 of Attachment HH to the OATT to incorporate the site control reforms adopted in Order Nos. 2023 and 2023-A, with the exception of the following independent entity variations to address specific issues in New York.²⁵⁴

148. First, NYISO proposes some variations to the definition of site control, defining site control as the necessary land right sufficient to develop, construct, operate and maintain the facility over a term of at least 10 years from the date of the submission of the interconnection request.²⁵⁵ NYISO proposes to replace the term “exclusive land right” with “necessary land right” because the term “exclusive” may preclude the use of certain lands in New York: specifically land with legacy easements in transmission owners’ territories. For the same reasons, NYISO proposes to remove the reference to “exclusively” from prong three of the definition. NYISO proposes to add the word “sufficient” to clarify that the necessary land right be “sufficient” to develop, construct, operate, and maintain the facility.²⁵⁶ NYISO proposes to replace the requirement that site

²⁵² Order No. 2023, 184 FERC ¶ 61,054 at P 605; *see pro forma* LGIA, app. B.

²⁵³ Order No. 2023, 184 FERC ¶ 61,054 at P 607.

²⁵⁴ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), § 40.5.5; *id.*, attach. HH, § 40.21 (Standard Interconnection Agreement (IA)/Standard Upgrade Construction Agreement/Standard Multiparty Upgrade Construction Agreement) (0.0.0), § 40.21.3; *id.*, attach. HH, § 40.25.15 (Standard Interconnection Agreement).

²⁵⁵ Filing, Transmittal Letter at 37.

²⁵⁶ *Id.* at 38.

control be demonstrated for the term of the expected operation of the facility with a requirement that site control be demonstrated for a term of at least 10 years from the date the interconnection request is submitted. NYISO explains that it is not positioned to accurately determine or assess the term of the project during its limited validation period because, under its existing and proposed process, the interconnection customer is not required to specify the expected term of its generating facility as part of the interconnection process. NYISO argues that a 10-year period represents a reasonable proxy for the term of the facility as it is the standard term used in the interconnection agreement. NYISO proposes to insert in the definition of site control a sentence clarifying that “necessary land right” restricts the use of the site for mutually exclusive projects, but does not restrict multi-use application of the site in addition to the use of the generating facility, such as agriculture, ranching, etc. NYISO explains that this insertion is based on the clarification in Order No. 2023 that exclusive land right does not restrict multi-use applications of a particular site.²⁵⁷ Finally, because the site control provision will apply to both generating facilities and cluster study transmission projects, NYISO proposes to revise the definition to account for site control for a facility, which includes a transmission facility.

149. NYISO next proposes to adopt Order No. 2023’s requirements for the demonstration of site control, with modifications.²⁵⁸ First, NYISO proposes to require interconnection customers to make a reasonable demonstration of “full” site control, rather than 90% site control, when submitting an interconnection request. NYISO explains that this approach is consistent with its existing site control approach and eliminates the difficulties in determining fractions of acreage ownership. NYISO contends that, because its process moves immediately to its consolidated cluster study, there are no interim studies during which the interconnection customer can complete its site control consistent with the provision in Order No. 2023 requiring the transmission provider to confirm 100% site control at the time of execution of the facilities study agreement.²⁵⁹

150. Second, NYISO proposes to require that an interconnection customer submit with its site control materials an attestation from the officer of the company indicating the acreage covered by the submitted materials and that such acreage is consistent with the acreage requirements set forth in NYISO’s ISO Procedures for the facility’s technology type.²⁶⁰ NYISO asserts that this requirement is necessary to enable NYISO to review and

²⁵⁷ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 587).

²⁵⁸ *Id.*

²⁵⁹ *Id.* at 38 n.118.

²⁶⁰ *Id.* at 39.

validate the site control for a substantial number of interconnection requests in a short period of time. Third, NYISO states that, in response to feedback from interconnection customers, it proposes that interconnection customers have 15 business days (rather than the *pro forma*'s 10 business days) to cure any issues that arise regarding their site control before an interconnection request is deemed withdrawn. Finally, NYISO states that a number of interconnection customers raised concerns that the acreage requirements that will be included in NYISO's procedures may not capture in all instances new technology types or reasonable variances in what acreage is required for a certain project.²⁶¹ NYISO proposes to permit an interconnection customer to satisfy site control in such instance by providing an attestation from an officer of the company detailing the specific circumstances that permit a different acreage amount along with a licensed professional engineer signed and stamped site plan that depicts that the provided site control can support the proposed arrangement of the facility.

151. NYISO also proposes to adopt the Order No. 2023 requirements for the limited instances in which an interconnection customer can submit a deposit in lieu of site control due to a regulatory limitation and has adopted the *pro forma* deposit amounts.²⁶² However, to align with its different process structure, NYISO proposes that the interconnection customer must demonstrate to NYISO that it is taking identifiable steps to satisfy the necessary regulatory requirements prior to entering the Phase 2 study, rather than prior to execution of the cluster study agreement. To provide clarity to interconnection customers, NYISO proposes to define the term "Regulatory Limitation" in NYISO's tariff as a "federal, state, Tribal, or local law, other than permitting and siting requirements, that makes it infeasible to obtain Site Control prior to an Interconnection Customer's submission of its Interconnection Request as set forth in ISO Procedures."²⁶³ NYISO states that details of what constitutes a regulatory limitation will be publicly provided in ISO Procedures, as directed.

b. Commission Determination

152. We accept NYISO's proposed revisions regarding site control, including the requested independent entity variations, because we find that the proposal is just,

²⁶¹ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 602) (stating that the Commission required acreage requirements to be publicly maintained but not included in the tariff). NYISO states that it is working with its stakeholders to update its acreage requirements for use in the transition cluster study process.

²⁶² *Id.* (citing Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), §§ 40.5.5.1.5.1, 40.5.5.4).

²⁶³ *Id.* (citing Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0)).

reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A to add more stringency to the site control requirements and to help prevent speculative interconnection requests from entering the interconnection queue.²⁶⁴

153. We find that NYISO’s requested independent entity variation to define site control as a “necessary” land right, rather than an “exclusive” land right, is just and reasonable because it avoids precluding the use of certain lands in New York.²⁶⁵ Furthermore, we find that this definition accomplishes the purposes of Order Nos. 2023 and 2023-A by reducing speculative interconnection requests. We find that the purpose of the “exclusive land right” language as stated in Order No. 2023—to prevent multiple interconnection customers from leasing the same site in order to remain in the interconnection queue—has been accomplished by NYISO’s additional requirement that the necessary land right be “sufficient” to develop, construct, operate, and maintain the facility, combined with the additional sentence clarifying that a “necessary land right” restricts the use of the site for mutually exclusive projects. We also find that NYISO’s proposal to replace the requirement that site control be demonstrated for the term of the expected operation of the generating facility with a requirement that site control be demonstrated for at least 10 years to be just and reasonable because the interconnection customer is not required to specify the expected term of its generating facility as part of the interconnection process, and 10 years is the standard term used in the interconnection agreement. Given these circumstances, we find that demonstrating site control for a term of at least 10 years is just and reasonable because it is functionally equivalent to demonstrating site control over the term of the expected operation of the generating facility. Finally, we find that NYISO’s replacement of the term “generating facility” with “facility” is just and reasonable because the site control provision will apply to both generating facilities and cluster study transmission projects, and it accomplishes the purposes of Order No. 2023 because the revision still applies to generating facilities.

154. We accept NYISO’s proposed revisions concerning the demonstration of site control, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A by ensuring that commercially viable interconnection requests with demonstrated site control or with demonstrated regulatory limitations will be able to enter the interconnection queue, thereby reducing the negative impacts of speculative interconnection requests.²⁶⁶ We accept NYISO’s proposal to

²⁶⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 583.

²⁶⁵ See Filing, Transmittal Letter at 37.

²⁶⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 583.

require interconnection customers to make a reasonable demonstration of “full” site control, rather than 90% site control, when submitting an interconnection request, because NYISO’s process does not provide interim studies during which the interconnection customer can later demonstrate site control consistent with the provision in Order No. 2023. Consequently, there is no point in NYISO’s process at which interconnection customers can use study results to better understand the generating facility configuration or to increase site control to 100% before a facilities study is performed.

155. We accept NYISO’s proposal to require that an interconnection customer submit with its site control materials an attestation from the officer of the company indicating the acreage covered by the submitted materials and that such acreage is consistent with the acreage requirements set forth in NYISO’s procedures for the facility’s technology type because it will reduce the time required to review and validate site control for interconnection requests. We additionally accept NYISO’s proposal, in circumstances where the acreage requirements in NYISO’s procedures may not capture all instances of new technology types or reasonable variances in what acreage is required for a certain project, to permit an interconnection customer to submit an attestation from an officer of the company detailing the specific circumstances that permit a different acreage amount along with a licensed professional engineer signed and stamped site plan that depicts that the provided site control can support the proposed arrangement of the facility. We find that this provides flexibility for different generation types not addressed in Order No. 2023.

156. We accept NYISO’s proposal to extend the cure period to demonstrate the requisite level of site control to 15 business days because five additional days to cure does not add a substantial amount of time to the study process and it provides additional flexibility to address site control issues, as requested by interconnection customers in NYISO.

157. We accept NYISO’s proposed revisions concerning regulatory limitations. We accept NYISO’s proposal to require an interconnection customer that submits a deposit in lieu of site control due to regulatory limitations to demonstrate that it is taking identifiable steps to satisfy the necessary regulatory requirements prior to entering the Phase 2 study, rather than prior to the execution of the cluster study agreement, because this aligns with NYISO’s different process structure. We additionally accept NYISO’s proposed definition of “Regulatory Limitation,” which excludes laws pertaining to permitting and siting requirements, because it is consistent with the general guideline for the term articulated in Order No. 2023.

8. Commercial Readiness

158. In Order No. 2023, the Commission revised section 1 of the *pro forma* LGIP to define “commercial readiness deposit” and sections 3.4.2, 7.5, 8.1, and 11.3 of the *pro forma* LGIP to require interconnection customers to submit commercial readiness deposits to help reduce the submission of speculative, commercially non-viable interconnection requests into interconnection queues.²⁶⁷ For the initial commercial readiness deposit submitted with its interconnection request, the interconnection customer must pay a deposit of two times its study deposit to enter the cluster study.²⁶⁸ The commercial readiness deposit to enter the cluster restudy is the amount required to bring the total amount of the interconnection customer’s commercial readiness deposit to 5% of the interconnection customer’s network upgrade cost assignment identified in the cluster study,²⁶⁹ and the commercial readiness deposit to enter the facilities study is the amount required to bring the total amount of the interconnection customer’s commercial readiness deposit to 10% of the interconnection customer’s network upgrade cost assignment identified in the cluster study or restudy, as applicable.²⁷⁰

a. NYISO’s Compliance Filing

159. NYISO proposes revisions to sections 40.1, 40.7.5.3, 40.10.8.3, and 40.10.8.4 of Attachment HH to the OATT to adopt commercial readiness deposits, as required in Order Nos. 2023 and 2023-A, but proposes independent entity variations to adopt deposit requirements that align with its study structure and its existing network upgrade financial security rules.²⁷¹ Specifically, NYISO proposes to establish two commercial readiness deposits during the study process and to retain its current financial security rules at the conclusion of the cluster study.²⁷² NYISO contends that the proposed approach aligns with the goals of Order No. 2023 to establish more stringent deposit requirements to

²⁶⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 690; *see pro forma* LGIP §§ 1, 3.4.2, 7.5, 8.1, 11.3.

²⁶⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 692; *see pro forma* LGIP § 3.4.2.

²⁶⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 693; *see pro forma* LGIP § 7.5.

²⁷⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 693; *see pro forma* LGIP § 8.1.

²⁷¹ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.5.3; *id.*, attach. HH, § 40.10 (Phase 1 Study Process, Development of System Models, & Phase 2 Entry Decision Period) (0.0.0), §§ 40.10.8.3, 40.10.8.4.

²⁷² Filing, Transmittal Letter at 58.

minimize speculative projects, while maintaining the financial security framework that is an essential element of NYISO's interconnection process.

160. NYISO proposes that Readiness Deposit 1 be made by the interconnection customer during the Phase 1 entry decision period to enter the Phase 1 study.²⁷³ NYISO proposes to calculate Readiness Deposit 1 as \$4,000/MW, in place of the two times the study deposit amount in the *pro forma* LGIP. NYISO states that this approach is consistent with its current method for calculating deposits in lieu of regulatory milestones for entry into the Class Year Study, similar to the approach used in other RTO/ISO regions.²⁷⁴ NYISO asserts that this approach is consistent with the Order No. 2023 determination that the initial deposit be based on the size of the generating facility.²⁷⁵

161. NYISO proposes that Readiness Deposit 2 be made by the interconnection customer during the Phase 2 entry decision period to enter the Phase 2 study.²⁷⁶ NYISO proposes to calculate Readiness Deposit 2 for the cluster study project as the greater of (1) the Readiness Deposit 1 amount or (2) 20% of the cost estimate for a specific subset of upgrades determined in the Phase 1 study (i.e., Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities).²⁷⁷ NYISO notes that Readiness Deposit 2 is not additive to Readiness Deposit 1; rather, it replaces Readiness Deposit 1 such that the interconnection customer must provide any incremental amount required to satisfy the calculated amount. NYISO asserts that the 20% figure represents a reasonable threshold for proceeding in NYISO's interconnection process. NYISO states that the local upgrades and Attachment Facilities identified in the Phase 1 study will in most cases constitute the largest amount of each interconnection customer's interconnection facility costs, and willingness to provide a deposit of 20% of these costs provides some certainty as to the project's ability to move forward into Phase 2 and its ability at the end of Phase 2 to provide the full security required to proceed to an interconnection agreement. NYISO proposes that the two readiness deposits will not apply to a project that is solely seeking CRIS through the cluster study process, meaning that a CRIS-Only project would not need to submit a deposit. NYISO states such project will in most cases already be an existing facility or have obtained ERIS in a prior interconnection study.

²⁷³ *Id.*

²⁷⁴ *Id.* (citing SPP, OATT – Sixth Revised Vol. No. 1, attach. V, § 8 (Definitive Planning Phase) (14.1.0), § 8.2(f) (requiring an initial security deposit of \$4,000 per MW of requested interconnection service)).

²⁷⁵ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 692).

²⁷⁶ *Id.*

²⁷⁷ *Id.* at 58-59.

b. Commission Determination

162. We accept NYISO’s proposed revisions concerning commercial readiness, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. Specifically, we find that these provisions establish more stringent deposit requirements to minimize speculative, commercially non-viable projects while aligning the deposits to NYISO’s distinct study structure.²⁷⁸ We find that NYISO’s requested independent entity variation to establish two commercial readiness deposits during the study process aligns with the structure of its distinct two-phase cluster study process. In particular, Readiness Deposit 1, which is required to enter the Phase 1 study, is consistent with the Order No. 2023 determination that the initial deposit be based on the size of the generating facility.²⁷⁹ Readiness Deposit 2, which is required to enter the Phase 2 study, is based on the cost estimates for a specific subset of upgrades identified in the Phase 1 study. NYISO states that a willingness to provide a deposit of 20% of these costs identified in Phase 1 study provides some certainty as to the project’s ability to move forward into Phase 2 study. Therefore, we find that this provision is consistent with the Order No. 2023 determination that this subsequent deposit amount be based on estimated network upgrade costs and serve to minimize speculative, commercially non-viable projects.²⁸⁰

9. LGIA Deposit

163. In Order No. 2023, the Commission added the new term “LGIA deposit” to section 1 of the *pro forma* LGIP and article 1 of the *pro forma* LGIA and revised section 11.3 of the *pro forma* LGIP to require an interconnection customer to submit a deposit when executing the LGIA, or requesting the filing of an unexecuted LGIA, that will increase the total commercial readiness deposit paid to be equal to 20% of the estimated network upgrade costs identified in the LGIA (excluding the study deposit and site control deposit submitted when an interconnection customer faces a regulatory limitation).²⁸¹ Additionally, the Commission revised section 11.3 of the *pro forma* LGIP to require that an interconnection customer submit the LGIA deposit when returning the

²⁷⁸ See Order No. 2023, 184 FERC ¶ 61,054 at P 691 (finding that the commercial readiness deposit reforms will help “reduce the submission of speculative, commercially non-viable interconnection requests into interconnection queues”).

²⁷⁹ *Id.* P 692.

²⁸⁰ *Id.* P 693.

²⁸¹ Order No. 2023, 184 FERC ¶ 61,054 at P 714; *see pro forma* LGIP §§ 1, 11.3; *see also pro forma* LGIA art. 1.

executed LGIA to the transmission provider, or within 10 business days of the interconnection customer requesting that the LGIA be filed unexecuted at the Commission.

164. The Commission also revised the *pro forma* LGIP and *pro forma* LGIA to treat the LGIA deposit as part of the security the interconnection customer must provide for the construction of network upgrades and transmission provider's interconnection facilities.²⁸² Finally, the Commission revised article 11.5 (Provision of Security) of the *pro forma* LGIA to require the transmission provider to draft Appendix B of the interconnection customer's LGIA to clearly explain and estimate at which point of construction the interconnection customer's LGIA deposit will be depleted, and the interconnection customer must provide additional financial security.²⁸³

a. NYISO's Compliance Filing

165. NYISO requests an independent entity variation to not adopt the *pro forma* LGIA deposit because NYISO's process does not include this LGIA deposit.²⁸⁴ NYISO does, however, propose to retain in the cluster study process its existing requirement that, at the conclusion of the Phase 2 study, NYISO will retain its existing final decision period process by which each interconnection customer elects whether to accept its project cost allocation and post full security to the applicable transmission owner for its allocated costs to proceed.²⁸⁵ NYISO also proposes that, following the interconnection customer's satisfaction of the security requirement, NYISO will return or provide authorization to cancel the interconnection customer's Readiness Deposit 2.

166. NYISO states that its full security requirement is an integral component of NYISO's interconnection process because an interconnection customer's posting of this security establishes its project as a firm project to be included in the base case relied upon for subsequent interconnection studies.²⁸⁶ NYISO states that its security requirement is a unique element of NYISO's process that enables NYISO to avoid time- and resource-intensive restudies in the event that a project later withdraws. NYISO contends that, in the event the interconnection customer withdraws, the transmission owner whose system

²⁸² Order No. 2023, 184 FERC ¶ 61,054 at P 717; *see pro forma* LGIP § 11.3; *see also pro forma* LGIA art. 11.5.

²⁸³ Order No. 2023, 184 FERC ¶ 61,054 at P 693; *see pro forma* LGIA art. 11.5.

²⁸⁴ Filing, Transmittal Letter at 81.

²⁸⁵ *Id.* at 57,59.

²⁸⁶ *Id.*

is subject to the upgrade may make use of the forfeited security if the upgrade has to be constructed because other projects are relying on it.

b. Comments

167. NYTOs support NYISO's request for an independent entity variation to retain its existing security mechanism by which an interconnection customer must accept and post security for its full allocation of its required facilities to proceed at the conclusion of the cluster study process.²⁸⁷ NYTOs contend that, under the NYISO tariff, when a developer has defaulted on its obligations and is no longer a viable entity, a connecting transmission owner must construct the required System Upgrade Facilities that were assigned to that developer if NYISO determines that the System Upgrade Facilities are needed by a subsequent developer. NYTOs state that the purpose of the required security is to ensure that the connecting transmission owner will be able to secure sufficient funds to complete the construction of the System Upgrade Facilities in a timely fashion.

168. NYTOs argue that, without a requirement for developers to post full security, connecting transmission owners could be left facing an unjust and unreasonable financial risk that is not of their making.²⁸⁸ Further, NYTOs argue that projects dropping out of the interconnection queue and abandoning upgrades that were previously committed to could cause interruptions and delays to subsequent projects and future system development that are reliant on the upgrades. NYTOs explain that, following a developer's voluntary acceptance and posting of security for any upgrades, its project is considered firm and is included in the base case for future studies, and therefore allowing NYISO to require a full security deposit will prevent an unfair and involuntary reallocation of risk from developers to other stakeholders.

c. Commission Determination

169. We find that NYISO's proposal satisfies the independent entity variation standard because it is just and reasonable and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that it is just and reasonable because the security that interconnection customers must post is directly tied to the actual costs of interconnection. Moreover, the proposal will promote the efficient processing of the queue by discouraging late-stage withdrawals. We further find that NYISO's proposal accomplishes the purpose of the

²⁸⁷ NYTOs Comments at 12.

²⁸⁸ *Id.* at 13.

Order No. 2023 LGIA deposit by ensuring that network upgrades and interconnection facilities are paid for and constructed.²⁸⁹

10. Withdrawal Penalties

170. In Order No. 2023, the Commission added the term “withdrawal penalty” to section 1 of the *pro forma* LGIP and article 1 of the *pro forma* LGIA.²⁹⁰ The Commission revised section 3.7 (Withdrawal) of the *pro forma* LGIP and added sections 3.7.1 (Withdrawal Penalty), 3.7.1.1 (Calculation of the Withdrawal Penalty), and 3.7.1.2 (Distribution of the Withdrawal Penalty) related to withdrawal penalties to the *pro forma* LGIP.²⁹¹ The Commission required transmission providers to apply withdrawal penalties to an interconnection customer if: (1) the interconnection customer withdraws its interconnection request at any point in the interconnection process; (2) the interconnection customer’s interconnection request has been deemed withdrawn by the transmission provider at any point in the interconnection process; or (3) the interconnection customer’s generating facility does not reach commercial operation (such as when an interconnection customer’s LGIA is terminated prior to reaching commercial operation).²⁹²

171. However, a withdrawal penalty must only be assessed if the withdrawal has a material impact on the cost or timing of any interconnection request with an equal or lower queue position. The Commission stated that the interconnection customer will also be exempt from paying a withdrawal penalty if: (1) the interconnection customer withdraws its interconnection request after receiving the most recent cluster study report and the network upgrade costs assigned to the interconnection customer’s request have increased 25% compared to the previous cluster study report; or (2) the interconnection customer withdraws its interconnection request after receiving the individual facilities study report and the network upgrade costs assigned to the interconnection customer’s request have increased by more than 100% compared to costs identified in the cluster study report.²⁹³

²⁸⁹ See Order No. 2023, 184 FERC ¶ 61,054 at P 715.

²⁹⁰ *Id.* P 780; see *pro forma* LGIP § 1; see also *pro forma* LGIA art. 1.

²⁹¹ Order No. 2023, 184 FERC ¶ 61,054 at P 780; see *pro forma* LGIP §§ 3.7, 3.7.1, 3.7.1.1, 3.7.1.2.

²⁹² Order No. 2023, 184 FERC ¶ 61,054 at P 783.

²⁹³ *Id.* P 784.

172. The Commission added *pro forma* LGIP section 3.7.1.1 to require a transmission provider to assess a withdrawal penalty on an interconnection customer with a proposed generating facility that does not reach commercial operation based either on the actual study costs or on a percentage of the interconnection customer's assigned network upgrade costs, depending on in which phase the interconnection customer withdraws its interconnection request.²⁹⁴ Thus, the withdrawal penalty for an interconnection customer will be calculated as the greater of the study deposit or: (1) two times the study cost if the interconnection customer withdraws during the cluster study or after receipt of a cluster study report; (2) 5% of the interconnection customer's identified network upgrade costs if the interconnection customer withdraws during the cluster restudy or after receipt of any applicable restudy reports; (3) 10% of the interconnection customer's identified network upgrade costs if the interconnection customer withdraws during the facilities study, after receipt of the individual facilities study report, or after receipt of the draft LGIA; or (4) 20% of the interconnection customer's identified network upgrade costs if, after executing, or requesting to file unexecuted, the LGIA, the interconnection customer's LGIA is terminated before its generating facility achieves commercial operation.

173. The Commission also added *pro forma* LGIP section 3.7.1.2 to require a transmission provider to use the withdrawal penalty funds as follows: (1) to fund studies and restudies in the same cluster; (2) if withdrawal penalty funds remain, to offset net increases in costs borne by other remaining interconnection customers from the same cluster for network upgrades shared by both the withdrawing and non-withdrawing interconnection customers prior to the withdrawal; and (3) if any withdrawal penalty funds remain, they will be returned to the withdrawing interconnection customer.²⁹⁵

174. In Order No. 2023-A, the Commission modified *pro forma* LGIP section 3.7.1.2.1 (Initial Distribution of Withdrawal Penalties Prior to Assessment of Network Upgrade Costs Previously Shared with Withdrawn Interconnection Customers in the Same Cluster) to clarify that withdrawal penalties dispersed to remaining interconnection customers cannot exceed the total amount of withdrawal penalties collected from the cluster.²⁹⁶ The Commission also revised *pro forma* LGIP section 3.7.1 to state that there will be no withdrawal penalty assessed if the withdrawal does not have a material impact on any interconnection request in the same cluster, as well as to add clarifying edits to reference cluster restudies.²⁹⁷ The Commission modified *pro forma* LGIP section

²⁹⁴ *Id.* P 791; *see pro forma* LGIP § 3.7.1.

²⁹⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 798; *see pro forma* LGIP § 3.7.1.2.

²⁹⁶ Order No. 2023-A, 186 FERC ¶ 61,199 at P 231; *see pro forma* LGIP § 3.7.1.2.1.

3.7.1.2.1 to clarify that the interconnection studies referenced in that section include cluster restudies and interconnection facilities studies.²⁹⁸

175. Finally, the Commission defined “transitional withdrawal penalty” in *pro forma* LGIP section 1 and modified *pro forma* LGIP sections 5.1.1, 5.1.1.1, and 5.1.1.2 to reference the transitional withdrawal penalty.²⁹⁹

a. NYISO’s Compliance Filing

176. NYISO proposes revisions to sections 40.1, 40.6.5, 40.7.6, 40.10.9, 40.15.5, and 40.24.3.3 of Attachment HH to the OATT to incorporate the withdrawal penalties revisions adopted in Order Nos. 2023 and 2023-A with several proposed independent entity variations.³⁰⁰

177. As discussed above, NYISO requests an independent entity variation to retain its existing security mechanism at the conclusion of the cluster study process by which an interconnection customer must accept and post security for its full allocation of its required facilities to proceed.³⁰¹ NYISO explains that this security is subject to forfeiture if the interconnection customer withdraws, and other interconnection customers are relying on the attachment facilities and upgrades.

178. NYISO proposes to supplement its existing security forfeiture requirements by adopting withdrawal penalties for projects that withdraw or are deemed withdrawn during the cluster study process and prior to the posting of any required security at the

²⁹⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 233, 243; *see pro forma* LGIP §§ 3.7.1, 3.7.1.1(a).

²⁹⁸ Order No. 2023-A, 186 FERC ¶ 61,199 at P 237; *see pro forma* LGIP § 3.7.1.2.1.

²⁹⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 240; *see pro forma* LGIP §§ 1, 5.1.1, 5.1.1.1, 5.1.1.2.

³⁰⁰ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.6 (Queue Position/Modification/Withdrawal Penalties) (0.0.0), § 40.6.5; *id.*, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.6; *id.*, attach. HH, § 40.10 (Phase 1 Study Process, Development of System Models, & Phase 2 Entry Decision) (0.0.0), § 40.10.9; *id.*, attach. HH, § 40.15 (Final Decision Period/Additional SDU Study Decision Period) (0.0.0), § 40.15.5; *id.*, attach. HH, § 40.24 (Miscellaneous) (0.0.0), § 40.24.3.

³⁰¹ Filing, Transmittal Letter at 60.

conclusion of the process. NYISO states that such withdrawal penalties will assist in reducing speculative projects and the harms to the process that can arise when projects withdraw from the study at various phases.

179. NYISO proposes variations from the penalty structure identified in Order No. 2023 to align with NYISO's different process structure, which concludes with the final security payment. Consistent with the final rule's requirements, NYISO states that its proposed penalties "increase in amount as interconnection customers proceed through the interconnection process in order to ensure that interconnection customers continue to evaluate whether their proposed generating facilities are commercially viable, thereby reducing the number of late-stage withdrawals and accompanying restudies."³⁰² In particular, NYISO proposes to impose withdrawal penalties as follows:

Withdrawal Period	Withdrawal Penalty Amount
Project withdraws during Application Window or in Customer Engagement Window up to five business days after NYISO posts Cluster Study Project List	No penalty
Project subsequently withdraws in the Customer Engagement Window or at the Phase 1 Entry Decision Period	Withdrawal Penalty in an amount equal to twenty-five percent (25%) of its initial Study Deposit amount for the project
Project subsequently withdraws during the Phase 1 study or at the Phase 2 Entry Decision Period	Withdrawal Penalty in an amount equal to fifty percent (50%) of its initial Study Deposit and ten percent (10%) of its Readiness Deposit 1 for the project
Project subsequently withdraws during the Phase 2 study or decision process (<i>i.e.</i> , the Final Decision Period or the Additional SDU Study Decision Period if participating in an Additional SDU Study) or does not accept its cost allocation or post	Withdrawal Penalty equal to one hundred percent (100%) of the initial Study Deposit amount for the project and twenty percent (20%) of the Readiness Deposit 2 for the project

³⁰² *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 781).

Withdrawal Period	Withdrawal Penalty Amount
security in the applicable decision process	

180. NYISO states that, consistent with Order No. 2023, it proposes the following exceptions for the imposition of penalties based on the unique elements of its process: (1) projects solely requesting CRIS in the cluster study process do not provide readiness deposits, so they are only subject to the withdrawal penalty assessed on their study deposit amount; (2) NYISO will not assess a withdrawal penalty on a project that NYISO, in consultation with the applicable transmission owner, determines is physically infeasible, as an interconnection customer may not have the opportunity to identify such infeasibility on the transmission owner's system when submitting its interconnection request; (3) NYISO will not assess a withdrawal penalty on a Contingent Project that (i) is withdrawn because it has accepted its cost allocation in the prior study process and will not proceed in the current process or (ii) elects to withdraw prior to the Phase 1 study if it is converted into a CRIS-Only project due to its actions in the prior study process; and (4) NYISO will not assess a full withdrawal penalty if the total costs determined in the Phase 2 study for the Attachment Facilities and upgrades required for the project to obtain ERIS is greater than 50% higher than the amount determined for the Attachment Facilities and local upgrades determined in the Phase 1 study. NYISO states that in such case, the withdrawal penalty will be limited to 100% of the initial study deposit amount and not include a penalty based on the project's Readiness Deposit 2.³⁰³

181. NYISO proposes that the penalties described above be applied without it being required to conduct some form of materiality review or harms test.³⁰⁴ NYISO asserts that such a review would create significant inefficiencies and administrative burdens on NYISO, requiring it to redirect resources from meeting stringent study timeframes to instead assess each withdrawing project – which could potentially be dozens – at each study phase and to determine on a case-by-case basis what individual impact that project has on the cost and timing of other interconnection requests. NYISO states that a project's withdrawal during the study process will already necessitate additional study work for that process, making use of NYISO's and the transmission owners' limited time and resources to the detriment of other projects that are ready to proceed and the overall

³⁰³ *Id.* at 61-62.

³⁰⁴ *Id.* at 62.

time for completing the study phase. NYISO states that this harm occurs regardless of whether the actual study results indicate that the withdrawal of its project has a material impact on the cost or timing of other interconnection requests.

182. NYISO also proposes to clarify in its invoicing requirements how it will invoice for a withdrawal penalty and how it will use, or draw on as needed, the study and readiness deposits for purposes of recovering an unpaid withdrawal penalty, particularly in the case of deposits that are satisfied through letters of credit or surety bonds.³⁰⁵ In addition, NYISO clarifies that, consistent with Order No. 2023,³⁰⁶ interconnection customers are responsible for their actually incurred study costs, which are not supplanted by any withdrawal penalties.

183. NYISO requests an independent entity variation to adopt requirements for distributing collected withdrawal penalties that account for its different process structure and requirements.³⁰⁷ NYISO states that, as directed by Order No. 2023, it will post on OASIS or a publicly accessible portion of its website the balance of the withdrawal penalties that it has collected and holds but has not yet dispersed and will update this posting on a quarterly basis.

184. NYISO states that, consistent with Order No. 2023, it proposes as the first step to distribute any collected withdrawal penalties – the Withdrawal Penalty Funds – to offset remaining interconnection customers’ study costs incurred in that cluster study process. NYISO proposes to make such payments to “Payment Eligible Projects”³⁰⁸ that completed the cluster study process, which include: (1) interconnection customers that accepted their project cost allocation and posted security (if any required) for any Attachment Facilities and upgrades required for their requested ERIS; and (2) interconnection customers requesting only CRIS that (a) accepted their deliverable MW or accepted their project cost allocation and paid cash or posted security (if any required) for any required System Deliverability Upgrades or (b) participated in an additional System Deliverability Upgrade study that was not completed.³⁰⁹ NYISO proposes to

³⁰⁵ *Id.*

³⁰⁶ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 811).

³⁰⁷ *Id.* at 63.

³⁰⁸ Payment Eligible Project is defined in the Proposed OATT as “a Cluster Study Project eligible to recover certain study costs from the Withdrawal Penalty Funds collected by the ISO for that Cluster Study Process as defined in Section 40.6.5.2.2.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

³⁰⁹ Filing, Transmittal Letter at 63.

calculate the refund payment for each individual Payment Eligible Project by dividing the total Withdrawal Penalty Funds amount by the number of Payment Eligible Projects. NYISO proposes that an interconnection customer cannot receive a higher study refund payment for its Payment Eligible Project than the total payment it made to NYISO for the actual study costs for that project in the particular cluster study process.

185. NYISO proposes to apply these Withdrawal Penalty Funds within 150 days of the conclusion of the last decision period for a cluster study process in place of waiting until all remaining interconnection customers have entered into interconnection agreements or requested that they be filed unexecuted.³¹⁰ NYISO states that this will avoid potentially lengthy delays if one or more interconnection agreement negotiations requires more time than usual or an interconnection customer elects to wait to execute its interconnection agreement pending the results of an affected system study in a neighboring region.

186. As an alternative second step to the *pro forma* LGIP second step, NYISO proposes to distribute any remaining Withdrawal Penalty Funds following the study cost refund payments.³¹¹ NYISO explains that the Commission's *pro forma* second step would require NYISO and transmission owners to determine and calculate the financial impacts of each project's withdrawal on other projects throughout the study process and to use penalty funds to offset any cost increases. NYISO states that this would create a substantial administrative burden that is inconsistent with NYISO's process. In particular, NYISO explains that under its process, a project does not become responsible for the costs of any Attachment Facilities or upgrades identified for its project until such time as it accepts its cost allocation and posts security at the conclusion of the study. NYISO states that only at this point can other projects rely on those facilities, and, if such project subsequently withdraws, the project's security is subject to forfeiture to address the impacts of its withdrawal. NYISO states that it does not perform stand-alone re-studies to account for project withdrawals, but rather accounts for such withdrawals within its study and decision period processes. NYISO explains that each interconnection customer that remains in the final decision period makes its determination as to whether to proceed based on the specific cost allocation determined for its project without reference to other projects.

187. NYISO states that, for this reason, it proposes the alternative second step in which it would use any remaining penalty funds to calculate and pay a Commercial Operation Incentive Payment Amount³¹² as an incentive for those interconnection customers that

³¹⁰ *Id.* at 64.

³¹¹ *Id.*

³¹² Commercial Operation Incentive Payment Amount is defined in the Proposed OATT as "the amount a Payment Eligible Project is eligible to receive from the

have completed the study process to complete their project and enter commercial operation.³¹³ NYISO states that, for purposes of this second step, NYISO will first calculate the Commercial Operation Incentive Payment Amount by dividing the remaining Withdrawal Penalty Funds by the total number of Payment Eligible Projects. NYISO states that it will hold the remaining Withdrawal Penalty Funds for the cluster until the Commercial Operation Incentive Payment Amount has been applied for each Payment Eligible Project, as follows. NYISO states that, if a Payment Eligible Project enters commercial operation, it will pay the interconnection customer for that project the Commercial Operation Incentive Payment Amount. NYISO states that, if a Payment Eligible Project withdraws or is withdrawn prior to entering commercial operation, it shall forfeit at that time its opportunity for the incentive payment.³¹⁴ NYISO states that it will instead use any forfeited amounts to offset its administration costs. NYISO contends that this approach is consistent with other RTOs/ISOs' use of remaining penalty funds to offset administrative costs.³¹⁵ In addition, NYISO states that refunding any remaining penalty funds back to the projects that were subject to the penalties would ultimately limit the benefit of NYISO applying these penalties, namely disincentivizing speculative projects.

b. Comments/Protests

188. Clean Energy Associations ask that the Commission reject NYISO's proposal to distribute withdrawal penalty funds equally to all remaining interconnection customers because the proposal fails to direct withdrawal penalties to those projects most impacted by the withdrawal.³¹⁶ Clean Energy Associations state that NYISO's proposed penalty exemptions deviate substantially from the *pro forma* and that those deviations will have problematic consequences by likely over-penalizing projects that the Commission appropriately sought to exempt—namely, those whose withdrawal does not impact other projects in the same cluster, and those projects that face significant cost increases over

Withdrawal Penalty Fund collected for a particular Cluster Study Process if it enters Commercial Operation pursuant to Section 40.6.5.2.5.” Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0).

³¹³ Filing, Transmittal Letter at 64.

³¹⁴ *Id.* at 65.

³¹⁵ *Id.* (citing SPP, OATT – Sixth Revised Vol. No. 1, attach. V, § 13 (Miscellaneous) (6.0.0), § 13.3 (“Any remaining study deposit funds will be used to reduce fees associated with Transmission Provider’s Tariff Administration Services”)).

³¹⁶ Clean Energy Associations Protest at 18.

the course of the interconnection study process.³¹⁷ Clean Energy Associations state that NYISO’s reasoning for its proposed variation—that conducting a harms test would create a “substantial administrative burden” and is inconsistent with NYISO’s process—is an insufficient basis to justify the variation. They argue that NYISO has not detailed why the harms test would be so administratively burdensome as to justify a deviation from the *pro forma*, nor described any attempts to identify alternative approaches consistent with the intent of the *pro forma* that would be less burdensome and/or more aligned with NYISO’s process.

189. Shell and Clean Energy Associations assert that NYISO has not claimed or provided justification supporting an independent entity variation for its proposal to not distribute leftover withdrawal penalty funds to those interconnection customers remaining in the cluster study and to instead keep those funds to offset NYISO’s administration costs.³¹⁸ Shell asserts that the Commission should reject NYISO’s proposal to keep any leftover funds, and require NYISO to submit a further compliance filing consistent with the requirements of Order No. 2023.³¹⁹

190. Finally, Clean Energy Associations point out that NYISO proposes to set a higher 50% cost threshold for cost increases between cluster study phases, and does not include a cost threshold for withdrawals after receipt of the individual facilities study report.³²⁰

c. Answers

191. NYISO states that the second step of the *pro forma* distribution rules, which uses withdrawal penalty funds not applied to study costs to offset network upgrade costs, would not be consistent with NYISO’s process.³²¹ NYISO explains that under its process, a project does not become responsible for the costs of any Attachment Facilities or upgrades identified for its project until such time as it accepts its cost allocation and posts security at the conclusion of the study. NYISO contends that only at this point can other projects rely on those facilities, and, if such project subsequently withdraws, the project’s security is subject to forfeiture to address the impacts of its withdrawal. NYISO contends that its approach provides a benefit to those projects that proceed through the interconnection process and successfully achieve commercial operation, and is a

³¹⁷ *Id.* at 17.

³¹⁸ *Id.* at 18-19; Shell Protest at 16-17.

³¹⁹ Shell Protest at 17.

³²⁰ Clean Energy Associations Protest at 19.

³²¹ NYISO June 27, 2024 Answer at 25.

reasonable means of allocating penalty funds to projects that have suffered such harms but continued on to complete their projects.

192. NYISO contends that the Commission should accept NYISO's proposed third step of the distribution process to retain for its administrative costs any remaining withdrawal penalty funds.³²² NYISO contends that the purpose of the withdrawal penalties is to dissuade speculative projects and to reduce interconnection queue backlogs, and refunding the collected withdrawal penalty funds back to the withdrawing projects undercuts this purpose. NYISO asserts that refunding such funds could create a significant administrative burden for NYISO as many project companies created for the sole purpose of submitting project proposals may cease to exist following their withdrawal from the interconnection queue, creating uncertainty concerning whether NYISO could, at a later date, identify and refund to the appropriate entities any remaining funds.

193. NYISO disagrees with Clean Energy Associations' argument that NYISO has not sufficiently justified its requested variation not to apply a materiality or harms test for purposes of determining a material impact of a project's withdrawal.³²³ NYISO contends that a project's withdrawal creates broad-based harms to NYISO's interconnection process, including process delays and inefficiencies, that adversely impact the other projects participating in the cluster. NYISO asserts that requiring it to perform a materiality or harms test to quantify specific harms for a substantial number of projects would create further inefficiencies and delays in its process that would harm viable projects seeking to timely progress and would diminish the objective of the withdrawal penalties to disincentivize speculative projects from entering the queue and creating delays. For example, NYISO states that it must update system base cases to account for withdrawn projects, which can necessitate having to reperform study work within the cluster study process. NYISO states that this supplemental study work takes away resources that would otherwise be dedicated to the interconnection studies for advancing those projects that are still progressing in NYISO's interconnection process and thereby endangers the remaining project's ability to timely progress, creating delays and uncertainty. NYISO adds that the Commission has recently accepted in Midcontinent Independent System Operator, Inc.'s (MISO) interconnection procedures an automatic withdrawal penalty approach that did not require a materiality or harms determination, finding that the general harms resulting from withdrawing projects broadly impact the

³²² *Id.* at 27.

³²³ *Id.* at 21.

remaining projects, regardless of whether there is a quantifiable harm such as increases in upgrade costs.³²⁴

194. Finally, NYISO answers that Clean Energy Associations' argument that NYISO has proposed "to set a higher 50% cost threshold for cost increases between cluster study phases, and does not include a cost threshold for withdrawals after receipt of the individual facilities study report," reflects a misunderstanding of NYISO's cluster study process and how it differs from the Commission's *pro forma* process.³²⁵ NYISO argues that it proposed to establish as an independent entity variation an exemption to address substantial increases in upgrade costs that align with the decision periods for the NYISO's proposed cluster study. NYISO explains that its process does not include a cluster system impact study or restudy, or an individual facilities study, since they are incorporated into NYISO's single cluster study, which is divided into two phases. Accordingly, NYISO states that it could not apply the *pro forma* penalty exemptions concerning significant cost increases for upgrades as these exemptions are based on changes across studies not included in the NYISO's process. NYISO argues that, while there is not an exact comparison in the Commission's *pro forma* rules for addressing the costs increases that are identified in the NYISO's Phase 1 study versus its Phase 2 study, NYISO's proposed 50% threshold reasonably falls within the overall cost increase ranges in the Commission's *pro forma* exemption rules and is more generous to interconnection customers than the 100% threshold included in the Commission's *pro forma* for increased costs between the cluster study and facilities study phase.³²⁶

d. Commission Determination

195. We accept NYISO's proposed withdrawal penalty structure, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. Consistent with Order No. 2023, NYISO proposes withdrawal penalties that increase in amount as interconnection customers proceed through the interconnection process,³²⁷ but NYISO proposes an independent entity variation to account for NYISO's proposed unique two-phase cluster study structure that does not have a separate cluster restudy or facilities study and establishes two commercial readiness deposits during the study process, which differs from the *pro forma*

³²⁴ *Id.* at 22 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,054, at PP 70-72 (2024)).

³²⁵ *Id.* at 24.

³²⁶ *Id.* at 25.

³²⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 781.

LGIP cluster study structure. We find that the phases of withdrawal in *pro forma* LGIA section 3.7.1.1 align with the equivalent phases in NYISO's process. Therefore, we find that NYISO's proposal that applies withdrawal penalties after each of its two cluster study phases rather than the Commission's *pro forma* requirements accomplishes the purposes of the withdrawal penalties reforms, i.e., to assist in reducing speculative projects and the harms to the interconnection process and other interconnection customers that arise when projects withdraw at various stages of the study process while adapting the *pro forma* requirements to NYISO's two-phase interconnection study process.³²⁸

196. We also accept NYISO's proposed withdrawal penalty exemptions. In Order No. 2023, the Commission stated that the interconnection customer will be exempt from paying a withdrawal penalty if: (1) the interconnection customer withdraws its interconnection request after receiving the most recent cluster study report and the network upgrade costs assigned to the interconnection customer's request have increased 25% compared to the previous cluster study report; or (2) the interconnection customer withdraws its interconnection request after receiving the individual facilities study report and the network upgrade costs assigned to the interconnection customer's request have increased by more than 100% compared to costs identified in the cluster study report.³²⁹ Due to NYISO's unique two-phase cluster study process, which does not have a separate facilities study, we grant NYISO's requested independent entity variation to only assess a withdrawal penalty of 100% of the initial study deposit if the total costs determined in Phase 2 for the Attachment Facilities and upgrades required for the project to obtain ERIS are greater than 50% higher than the amount determined in Phase 1. In addition, NYISO's proposed 50% threshold reasonably falls within the overall cost increase ranges in the Commission's *pro forma* exemption rules and is more generous to interconnection customers than the 100% threshold included in the Commission's *pro forma* LGIP for increased costs between the cluster study and facilities study phase.³³⁰

197. Clean Energy Associations point out that NYISO proposes to set a higher 50% cost threshold for cost increases between cluster study phases, and does not include a cost threshold for withdrawals after receipt of the individual facilities study report.³³¹ NYISO contends in its answer that Clean Energy Associations' argument reflects a misunderstanding of NYISO's cluster study process and how it differs from the Commission's *pro forma* process.³³² We agree with NYISO that its process does not

³²⁸ *Id.*

³²⁹ *Id.* P 784.

³³⁰ NYISO June 27, 2024 Answer at 25.

³³¹ Clean Energy Associations Protest at 19.

include a cluster system impact study or restudy, or an individual facilities study, since they are incorporated into NYISO's single cluster study, which is divided into two phases; therefore, NYISO's proposal aligns cost increases with the decision periods in NYISO's cluster study.

198. We find that NYISO's requested independent entity variation to apply withdrawal penalties to those projects that withdraw before the conclusion of the cluster study process without NYISO conducting a materiality review or harms test to be just and reasonable. As noted above, the Commission required in Order Nos. 2023 and 2023-A that withdrawal penalties be assessed only when the withdrawing interconnection request has a material impact on other interconnection requests in the same cluster, and that transmission providers distribute withdrawal penalty funds to remaining interconnection customers facing net increases of costs for shared network upgrades.³³³ As NYISO explains, under its proposed cluster study process, NYISO does not evaluate systemwide impacts until Phase 2 of its study process and does not determine cost responsibility for any network upgrades identified until projects accept their cost allocation and post security during the "final decision period."³³⁴ NYISO explains that this mechanism is a unique element of its process that avoids costly and time-intensive restudies in the event a project later withdraws.³³⁵ We therefore agree with NYISO that attempts to quantify the impact of each project's withdrawal, before the "final decision period," on the cost or timing of other projects would require substantial additional study work and create significant inefficiencies and delays in the cluster study process.³³⁶ Accordingly, we disagree with Clean Energy Associations' argument that NYISO has not detailed why the harms test would be so administratively burdensome as to justify a deviation from the *pro forma* LGIP. Furthermore, we find that NYISO's proposal to retain its existing process by which interconnection customers must post security for their full allocation of network upgrade costs, subject to forfeiture, at the conclusion of the "final decision period" accomplishes the purpose of Order Nos. 2023 and 2023-A. By using security forfeited by interconnection customers that withdraw after the "final decision period," NYISO's process will avoid unfairly shifting upgrade costs to interconnection customers that do not withdraw and remain in the cluster. As NYISO explains, if an interconnection customer withdraws after the "final decision period" the transmission owner whose

³³² *Id.* at 24.

³³³ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 230, 233, 235, 243; *see pro forma* LGIP §§ 3.7.1, 3.7.1.1(a).

³³⁴ Transmittal at 22, 64.

³³⁵ *Id.* at 59.

³³⁶ NYISO June 27, 2024 Answer at 23.

system is subject to the interconnection customer's upgrades may make use of the forfeited security if the upgrades have to be constructed because other projects are relying on them.³³⁷

199. We find that NYISO's proposal to distribute withdrawal penalty funds is just and reasonable. We find that NYISO's first step, to distribute collected withdrawal penalty funds to offset remaining interconnection customers' study costs incurred in that cluster study process, adopts the first step in the *pro forma* LGIP requirements of Order Nos. 2023 and 2023-A to fund studies and restudies in the same cluster. We find that NYISO's second and third steps, to use any remaining penalty funds to calculate and pay a Commercial Operation Incentive Payment Amount to interconnection customers as an incentive to complete their project and enter commercial operation, and then use any remaining penalty funds to offset its administrative costs, is just and reasonable and accomplishes the purpose of Order No. 2023 because it aligns with NYISO's existing security process structure, acts as an incentive to interconnection customers to enter commercial operation, and would help disincentivize speculative projects.³³⁸

200. We are not persuaded by Clean Energy Associations' argument to reject NYISO's proposed Commercial Operation Incentive Payment approach because it fails to direct withdrawal penalties to those projects most impacted by the withdrawal. As discussed above, under NYISO's two-phase study process, NYISO does not evaluate systemwide impacts until Phase 2 of its study process, and a project does not become responsible for the costs of any network upgrades identified for its project until such time as it accepts its cost allocation and posts security at the conclusion of the final decision period, and only at that point can other projects rely on those facilities. Further, quantifying which interconnection customers are impacted by withdrawals prior to the final decision period in NYISO's cluster study process would require substantial additional study work and create delays in the study process. Given this unique aspect of NYISO's study process, we agree with NYISO that its Commercial Operation Incentive Payment approach is a reasonable means of allocating penalty funds to projects that suffer harms caused by withdrawals prior to the final decision period but continue on to complete their projects.³³⁹ Further, as discussed above, NYISO's proposed process ensures that security forfeited by projects that withdraw after the final decision period is used to offset specific harms to affected interconnection customers.

201. We are also not persuaded by Shell's argument that NYISO has not provided justification supporting its proposal to not distribute leftover withdrawal penalty funds to

³³⁷ Transmittal at 60; Nguyen at Aff. ¶ 22.

³³⁸ See *Sw. Power Pool, Inc.*, 178 FERC ¶ 61,015, at P 47 (2022).

³³⁹ NYISO June 27, 2024 Answer at 25.

those interconnection customers remaining in the cluster study and to instead keep those funds to offset NYISO's administration costs. As explained by NYISO, the purpose of the Commercial Operation Incentive Payment is to provide an incentive to interconnection customers to reach commercial operation. If a withdrawing project forfeits the Commercial Operation Incentive Payment by not reaching commercial operation, then refunding back the Commercial Operation Incentive Payment would eliminate the incentive the payment was created to encourage.

202. We also find reasonable NYISO's proposal to not include the term "transitional withdrawal penalty" because NYISO's proposed process does not include the *pro forma* LGIP transition process and uses the same penalty rules for transition and subsequent clusters.³⁴⁰

11. Transition Process

203. In Order No. 2023, the Commission established a transition process from a first-come, first-served serial study process to the first-ready, first-served cluster study process in *pro forma* LGIP section 5 (Procedures for Interconnection Requests Submitted Prior to Effective Date of the Cluster Study Revisions).³⁴¹ The Commission required transmission providers to offer existing interconnection customers up to three transition options, depending on which phase of the serial study process their interconnection requests are in: (1) a transitional serial study, (2) a transitional cluster study, and (3) withdrawal from the interconnection queue without penalty.³⁴² The Commission added several new terms related to the transition process to the *pro forma* LGIP, as well as a *pro forma* transitional cluster study agreement in new Appendix 7 (Transitional Cluster Study Agreement) of the *pro forma* LGIP and a *pro forma* Transitional Serial Interconnection Facilities Study Agreement in new Appendix 8 (Transitional Serial Interconnection Facilities Study Agreement) of the *pro forma* LGIP.³⁴³

204. The Commission required transmission providers to offer the transitional serial study option to interconnection customers that have been tendered a facilities study agreement, even if they have not yet executed the agreement, as of 30 calendar days after the filing date of the transmission provider's initial filing to comply with Order No. 2023.³⁴⁴ Similarly, the Commission required transmission providers to offer the

³⁴⁰ Filing, attach. II at 8.

³⁴¹ Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see pro forma* LGIP §§ 1, 5.

³⁴² Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see pro forma* LGIP § 5.1.1.

³⁴³ *See pro forma* LGIP § 1, apps. 7, 8.

³⁴⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see pro forma* LGIP §§ 5.1.1.1,

transitional cluster study option to interconnection customers with an assigned queue position as of 30 calendar days after the filing date of the transmission provider's initial filing to comply with Order No. 2023. The Commission required the transmission provider to include the filing date for its compliance in *pro forma* LGIP sections 5.1.1, 5.1.1.1, and 5.1.1.2.³⁴⁵

205. The Commission also required the transmission provider to tender the appropriate transitional study agreements to eligible interconnection customers no later than the Commission-approved effective date of the transmission provider's compliance filing with Order No. 2023.³⁴⁶ The Commission adopted a deadline—60 calendar days after the Commission-approved effective date—for an interconnection customer to either exit the queue without penalty or choose a transition option and meet the relevant site control and deposit requirements.³⁴⁷ Furthermore, the Commission clarified that transmission providers that have already adopted a cluster study process or are currently undergoing a transition to a cluster study process will not be required to implement a new transition process.³⁴⁸

206. The Commission also adopted transition process deposits, withdrawal penalties, and deadlines.³⁴⁹ The Commission required that: (1) interconnection customers electing the transitional serial study must provide a deposit equal to 100% of the interconnection facility and network upgrade costs allocated to the interconnection customer in the system impact study; and (2) interconnection customers electing the transitional cluster study must provide a deposit equal to \$5 million.³⁵⁰

207. In Order No. 2023-A, the Commission added definitions to the *pro forma* LGIP for the terms “transitional cluster study agreement” and “transitional serial interconnection facilities study agreement.”³⁵¹ The Commission clarified that

5.1.1.2.

³⁴⁵ See *pro forma* LGIP §§ 5.1.1, 5.1.1.1, 5.1.1.2.

³⁴⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 867.

³⁴⁷ *Id.* P 864; see *pro forma* LGIP §§ 5.1.1, 5.1.1.1, 5.1.1.2.

³⁴⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 861.

³⁴⁹ *Id.* P 855.

³⁵⁰ *Id.* P 859.

³⁵¹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 263; see *pro forma* LGIP § 1.

withdrawals occurring after the 60-day deadline will be subject to the new withdrawal penalties, with certain exceptions. To reflect these clarifications, the Commission also added new *pro forma* LGIP section 5.1.2 (Transmission Providers with Existing Cluster Study Processes or Currently in Transition) establishing that interconnection customers in the queue of a transmission provider not conducting a transition process under *pro forma* LGIP section 5.1.1 must comply with the new readiness requirements proposed by the transmission provider within 60 days of the Commission-approved effective date of the transmission provider's compliance filing.³⁵²

a. NYISO's Compliance Filing

208. NYISO proposes a transition cluster study process in sections 40.1, 40.3, 40.5, and 40.7.1.2 of Attachment HH to the OATT.³⁵³ NYISO states that Order No. 2023 recognized that some transmission providers have existing cluster studies in progress and stated that the Commission does not intend to interfere with these in-progress cluster studies.³⁵⁴ NYISO requests an independent entity variation to include transition rules that align with the transition from its existing cluster process structure to its new proposed cluster process. NYISO states that the Commission's proposed transition rules do not directly translate to NYISO's interconnection process because NYISO's existing and new interconnection studies are structured differently from the Commission's *pro forma* LGIP structure.³⁵⁵

209. NYISO proposes to conduct a transition cluster study process under the same requirements as its proposed cluster study process, including using its existing *pro forma* forms and agreements, with limited exceptions that NYISO states will help NYISO and interconnection customers adapt to the new rules.³⁵⁶ NYISO states that its transition rules

³⁵² Order No. 2023-A, 186 FERC ¶ 61,199 at P 75; *see pro forma* LGIP § 5.1.2.

³⁵³ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.3 (Transition Procedures) (0.0.0); *id.*, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0); *id.*, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.1.2.

³⁵⁴ Filing, Transmittal Letter at 104 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 861).

³⁵⁵ NYISO states that it is in the middle of performing its Class Year Study, which is the clustered facilities study for Class Year 2023. Also, NYISO proposes to remove a stand-alone system impact study from its cluster study process, so neither NYISO's existing nor new rules include a clustered system impact study. *Id.* at 104 n.525.

do not establish prerequisite studies for projects to proceed into the transition cluster. Thus, NYISO asserts that an interconnection customer that satisfies the interconnection request or CRIS-Only Request requirements in the Application Window may submit its project in the transition cluster study process and need not wait for currently queued projects to complete individual transition studies before participating in the new cluster study process. NYISO states that its urgency to move directly to a full transition study is consistent with the Commission's determinations in Order No. 2023 that transmission providers move quickly into their transition process and the Commission's concerns with delays in developing and implementing transition rules.³⁵⁷

210. Additionally, NYISO proposes to open the Application Window for its transition cluster study process on August 1, 2024 and to use a 75-day Application Window (in place of the normal 45-day duration).³⁵⁸ Further, NYISO plans to use a 90-day customer engagement window for the transition cluster study process (in place of the normal 70-day duration).³⁵⁹ NYISO explains that these extended windows for the transition period will provide it and interconnection customers the additional time necessary to address any issues with the implementation of substantial new process requirements.

211. NYISO proposes that, upon the effective date of the Standard Interconnection Procedures, it will withdraw from the queue all existing interconnection requests for large generating facilities, Class Year transmission projects, small generating facilities, or Class Year projects.³⁶⁰ NYISO also proposes to cease its evaluation of all existing CRIS-Only Requests for Class Year projects that were submitted before the effective date of the Standard Interconnection Procedures, under its existing LGIP and SGIP, with certain exceptions as detailed in proposed OATT, Attachment HH, section 40.3.1. NYISO explains that this rule is necessary to close out its old interconnection process to transition to the new cluster study process. In particular, NYISO asserts that, consistent with the requirements of Order No. 2023, it will remove from its interconnection queue those projects that have not sufficiently progressed to complete their final interconnection studies under the old process during the transition period. NYISO adds that interconnection customers of the withdrawn projects may resubmit their projects into the

³⁵⁶ *Id.* at 105.

³⁵⁷ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 862).

³⁵⁸ *Id.*

³⁵⁹ *Id.* (citing Proposed OATT, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.1.2).

³⁶⁰ *Id.* at 106.

Application Window for NYISO's transition cluster study process and are not subject to any prerequisite interconnection studies to enter this new process.

212. NYISO proposes to retain the queue position of a large or small generating facility that, as of the effective date of the Standard Interconnection Procedures, has completed its applicable final interconnection studies under NYISO's existing interconnection procedures, but that has not yet entered commercial operation.³⁶¹ NYISO also proposes to retain the queue position of a small generating facility to complete a facilities study if, prior to the effective date of the Standard Interconnection Procedures, either the facilities study has already commenced or the facilities study has not yet commenced, but the following requirements have been satisfied: (1) a system impact study for the small generating facility has been completed that did not identify any non-local system upgrade facilities; (2) the interconnection customer has executed a small generator facilities study agreement tendered by NYISO; (3) the connecting transmission owner has confirmed receipt of the complete data provided by the interconnection customer that is required for the performance of the applicable study; and (4) NYISO has provided to the connecting transmission owner the final short-circuit base case required for the facilities study.³⁶² Additionally, NYISO proposes to retain the queue position of a large or small generating facility participating in Class Year 2023 and to perform and complete the Class Year Study for Class Year 2023 in accordance with the existing rules in Attachments S and X of the NYISO OATT. NYISO explains that, if the Class Year project withdraws or does not accept its cost allocation or post security in Class Year 2023, it will be withdrawn from the queue.

213. NYISO asserts that, under its proposed rules, certain interconnection customers that are potentially close to completing their interconnection process for a small generating facility may need instead to enter the transition cluster study.³⁶³ NYISO argues that establishing a cutoff date is necessary to enable NYISO and transmission owners to timely move forward to perform their obligations in the transition cluster study to the benefit of the vast majority of projects in New York. NYISO asserts that transmission owners and NYISO must complete the ongoing facilities studies by the completion of the Application Window to redirect their resources to performing the transition cluster study, including developing the applicable base cases and performing the physical infeasibility screening during the customer engagement window.³⁶⁴

³⁶¹ *Id.*

³⁶² *Id.* at 107-108.

³⁶³ *Id.* at 108.

³⁶⁴ NYISO states that it must account for the results of these studies in establishing

214. NYISO states that interconnection customers do not require a completed feasibility or system impact study to enter the transition cluster study process.³⁶⁵ The interconnection customer must only satisfy the requirements for a valid interconnection request or CRIS-Only Request during the Application Window of the transition period. However, NYISO explains that, because certain interconnection customers have requested NYISO to perform or complete feasibility or system impact studies that have already commenced, NYISO proposes certain requirements for commencing or performing these studies which will be for informational purposes only and will continue to be performed through reasonable efforts.

215. NYISO proposes revisions to apply the new affected system study requirement for any study it agrees to perform following the effective date of the Standard Interconnection Procedures to assess affected system impacts in New York of projects connecting to the neighboring regions.³⁶⁶ NYISO states that its existing OATT, Attachment S, section 25.5.9.2.1 requires NYISO to commence an expedited deliverability study shortly before this compliance filing. However, NYISO states that, because certain small generating facilities that are currently permitted to enter the study will not be able to complete their interconnection studies to obtain the ERIS required to interconnect, these facilities cannot proceed to obtain CRIS rights through an expedited deliverability study at this time. Accordingly, NYISO proposes to withdraw any small generating facility that entered the expedited deliverability study unless it has a completed facilities study or has commenced or will commence a facilities study under the transition rules. Finally, NYISO states that upon withdrawal, it will terminate its expedited deliverability study agreement, if fully executed, and return the study deposit to the interconnection customer.

b. Comments

216. ACE-NY states that the Commission should accept NYISO's proposed transitional cluster study process in its entirety.³⁶⁷ ACE-NY asserts that NYISO demonstrates that its proposal to conduct the transitional cluster study and to permit Class Year 2023 members to have contingent status is efficient, will produce more timely results and will more effectively support new resource development. ACE-NY also asserts that the transitional cluster study, combined with the Class Year 2023 Contingent Project proposal, will allow

the base cases for the transition cluster study. *Id.* at 109.

³⁶⁵ *Id.*

³⁶⁶ *Id.* at 110.

³⁶⁷ ACE-NY Comments at 20.

most developers to define their interconnection obligations and costs in the least amount of time.³⁶⁸

217. NYTOs support NYISO's proposal to establish a cutoff date at the end of the transition cluster Application Window for any remaining: (1) small generating facility optional feasibility, system impact, and facilities studies; and (2) large facility optional feasibility, system reliability impact, or optional system reliability impact studies still in progress following the compliance filing date.³⁶⁹ NYTOs assert that this firm deadline is required to provide NYTOs and NYISO the information and time needed to complete the necessary preparatory tasks essential to the timely initiation of the transition cluster study in accordance with the definitive timeframes established. In addition, NYTOs contend that performing any studies after the close of the transition cluster Application Window would yield stale results since the transition cluster study will be using the most current base cases, which will be substantially different from the cases being used in the remaining studies.

218. NYTOs argue that there is no use in performing the optional feasibility and system impact studies beyond the transition cluster Application Window, as they are not a prerequisite for entering the transition cluster, and no information from these studies is required for the development of the transition cluster study base cases.³⁷⁰ NYTOs add that, for the small generating facility facilities studies, the cutoff date is also necessary because the results of the studies must be accounted for in the development of the base cases required for the transition cluster study, and development of the base cases must be completed during the Application Window.

c. Commission Determination

219. We accept NYISO's proposed transition process because we find that the proposal is just and reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. While NYISO's proposed transition process differs significantly from the *pro forma* LGIP process because NYISO's existing and new interconnection studies are structured differently than the Commission's *pro forma* LGIP structure, we find that NYISO's proposal: (1) gives existing interconnection customers time to adjust to the new processes and requirements; (2) creates an efficient way to prioritize and process interconnection requests, based on how far they have advanced through the interconnection process and their level of commercial readiness; and (3) appropriately balances the need to move expeditiously to the new cluster study

³⁶⁸ *Id.* at 21.

³⁶⁹ NYTOs Comments at 9.

³⁷⁰ *Id.*

process with the need to respect the investments and expectations of interconnection customers at an advanced stage in the existing interconnection process.³⁷¹

220. We accept NYISO's proposal to begin its transition process with a transition cluster study, rather than a transition serial study, because NYISO does not currently conduct serial interconnection studies and thus there is no need for this step. We find that NYISO's proposal to begin its proposed transition cluster study process with a 75-day Application Window, opening on August 1, 2024, followed by a 90-day customer engagement window, is just and reasonable because these provisions will provide NYISO and interconnection customers with the time necessary to address any issues with the implementation of substantial new process requirements.³⁷²

221. Further, we agree with NYISO that establishing a cutoff date for NYISO and transmission owners to complete ongoing facilities studies and any optional feasibility or system impact studies by the Application Window is necessary to redirect resources to the transition cluster study and to allow NYISO to timely initiate the transition cluster study in accordance with the established timeframes. Finally, NYTOs argue that the optional feasibility and system impact studies beyond the transition cluster Application Window are unnecessary. However, NYISO explains that interconnection customers have requested such studies, which have already commenced before the Standard Interconnection Procedures' effective date, and are for informational purposes only and will continue through reasonable efforts.³⁷³ We find that because interconnection customers requested such studies, and have expectations that those studies will provide them with information, requiring NYISO to terminate those studies would not meet the purpose of Order No. 2023 to improve interconnection customers' access to information necessary to ensure that only viable interconnection requests move forward in the interconnection process.

222. Finally, as noted above,³⁷⁴ NYISO's existing class year study aligns in the treatment of small and large generating facilities in NYISO's interconnection process.

³⁷¹ Order No. 2023, 184 FERC ¶ 61,054 at P 856.

³⁷² NYISO also provides 15 business days to identify deficiencies in the transition Application Window when validating interconnection requests and CRIS-Only Requests and for interconnection customers to cure such deficiencies. Filing, Transmittal Letter at 105 (citing Proposed OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/Application Window/Interconnection Requests/Interconnection Service Options) (0.0.0), §§ 40.5.7.1.1, 40.5.7.2.2).

³⁷³ See Transmittal at 109.

³⁷⁴ *Supra* P 114.

Consistent with this existing independent entity variation, we also approve the transition rules for interconnection customers in NYISO's queue that are currently participating in the existing SGIP.

12. Elimination of Reasonable Efforts

223. In Order No. 2023, the Commission revised sections 2.2 (Comparability), 3.5.4, 7.4, 8.3 (Interconnection Facilities Study Procedures), and Attachment A to Appendix 3 (formerly Appendix 4) of the *pro forma* LGIP to eliminate the reasonable efforts standard for conducting cluster studies, cluster restudies, facilities studies, and affected system studies by the tariff-specified deadlines.³⁷⁵ The Commission added new section 3.9 (Penalties for Failure to Meet Study Deadlines) to the *pro forma* LGIP to implement a structure of study delay penalties.³⁷⁶ Specifically, delays of cluster studies beyond the tariff-specified deadline will incur a penalty of \$1,000 per business day; delays of cluster restudies beyond the tariff-specified deadline will incur a penalty of \$2,000 per business day; delays of affected system studies beyond the tariff-specified deadline will incur a penalty of \$2,000 per business day; and delays of facilities studies beyond the tariff-specified deadline will incur a penalty of \$2,500 per business day. The Commission explained that, among other things, these penalty amounts are intended to incentivize transmission providers to meet study deadlines and that the structure of increasing penalties reflects the progressively greater harm caused by delayed studies at later interconnection stages.³⁷⁷

224. The Commission also specified that the study delay penalty regime contains the following safeguards for transmission providers: (1) no study delay penalties will be assessed until the third cluster study cycle (including any transitional cluster study cycle, but not transitional serial studies) after the Commission-approved effective date of the transmission provider's filing in compliance with Order No. 2023; (2) there will be a 10-business day grace period, such that no study delay penalties will be assessed for a study that is delayed by 10 business days or fewer; (3) deadlines may be extended for a particular study by 30 business days by mutual agreement of the transmission provider and all interconnection customers with interconnection requests in the relevant study; (4) study delay penalties will be capped at 100% of the initial study deposits received for all of the interconnection requests in the relevant study; and (5) transmission providers will have the ability to appeal any study delay penalties to the Commission, with the

³⁷⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 962; *see pro forma* LGIP §§ 2.2, 3.5.4, 7.4, 8.3; *see also pro forma* LGIP, app. 3, attach. A.

³⁷⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 962; *see pro forma* LGIP § 3.9.

³⁷⁷ Order No. 2023, 184 FERC ¶ 61,054 at PP 974-978.

Commission determining whether good cause exists to grant the relief requested on appeal.³⁷⁸

225. The Commission further provided the following features to the study delay penalty structure: (1) transmission providers must distribute study delay penalties to interconnection customers in the relevant study that did not withdraw, or were not deemed withdrawn, from the interconnection queue before the missed study deadline on a pro rata per interconnection request basis to offset their study costs; (2) non-RTO/ISO transmission providers and transmission-owning members of RTOs/ISOs may not recover study delay penalties through transmission rates; (3) RTOs/ISOs may submit an Federal Power Act (FPA) section 205 filing to propose a default structure for recovering study delay penalties and/or to recover the costs of any specific study delay penalties;³⁷⁹ and (4) transmission providers must post quarterly on their OASIS or other publicly accessible website (a) the total amount of study delay penalties from the previous reporting quarter and (b) the highest study delay penalty paid to a single interconnection customer in the previous reporting quarter.³⁸⁰ In Order No. 2023-A, the Commission clarified that study delay penalties would be allocated to interconnection customers on a pro rata basis proportionate to each interconnection customer's final study cost in the relevant study.³⁸¹

a. NYISO's Compliance Filing

226. NYISO proposes revisions to sections 40.2.5, 40.9.2.2 and 40.9.3 of Attachment HH to the OATT to address the removal of the reasonable efforts standard for the conduct of the cluster study process or affected system study, but requests several independent entity variations.³⁸² NYISO requests a limited independent entity variation to clarify in its tariff that if NYISO, a connecting transmission owner, or affected

³⁷⁸ *Id.* P 972.

³⁷⁹ The typical standard of review under FPA section 205 would apply to these filings, i.e., the filer must show that any proposal to recover study delay penalties is just, reasonable, and not unduly discriminatory or preferential. *See* 16 U.S.C. § 824d.

³⁸⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 963.

³⁸¹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 439.

³⁸² Proposed OATT, attach. HH, § 40.2 (Effective Date, Scope, & Application of Standard Interconnection Procedures) (0.0.0), § 40.2.5; *id.*, attach. HH, § 40.9 (Cluster Study Overview/NYISO Minimum Interconnection Standard/NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (0.0.0), §§ 40.9.2.2, 40.9.3.

transmission owner is unable to complete a component of the cluster study process in accordance with the tariff-prescribed timeframe, the responsible entity will complete that component as soon as practicable, and NYISO will notify interconnection customers of any anticipated resulting delay.³⁸³ NYISO contends that, in the absence of reasonable efforts language, this proposed tariff language is required to ensure that NYISO or the transmission owner can complete a delayed component of the cluster study process without such action constituting non-compliance with NYISO's tariff.

227. NYISO requests an independent entity variation to adopt the study delay penalty structure established in Order No. 2023 with certain adjustments NYISO deems necessary in light of the structure of its proposed interconnection study process.³⁸⁴ First, NYISO proposes to adapt the *pro forma* penalty framework deadlines to reflect the structure of its proposed single clustered study process that completes all required studies for a defined group of proposed projects, through two main phases, with a total study duration of 460 days. NYISO explains that the defined phases allow for the necessary sequencing of work, but some study work may be accelerated and bridge the two phases to allow efficient completion of the overall study objectives. NYISO proposes that penalties would apply if the cluster study is not completed in that 460-day timeframe, consistent with the *pro forma* penalty requirements that apply penalties on a single study basis, rather than a per project basis.³⁸⁵ NYISO adds that, while the intermediate deadlines in the tariff are meant to support the completion of all required study work in 460 days, missing one of these deadlines—for example, the timeframe for Phase 1—does not necessarily mean that the overall timeframe will exceed 460 days. For instance, under NYISO's approach, if any delays arise during the first phase of the cluster study, NYISO and/or transmission owners will have the opportunity to take appropriate action to expedite the remaining study work, eliminating any delay in the overall study process for a project, negating any potential harm to the interconnection customer and thus eliminating any grounds for a penalty by the end of cluster study. NYISO proposes to apply the same penalty requirements if an affected system study is not completed within the 300-day period.

228. Second, both NYISO and transmission owners will have responsibilities for conducting certain components of the cluster study and may be subject to penalties for delays in such process components.³⁸⁶ In the event that the completion of a cluster study

³⁸³ Filing, Transmittal Letter at 111.

³⁸⁴ *Id.* at 112.

³⁸⁵ *Id.* at 113.

³⁸⁶ *Id.*

is late, NYISO proposes to establish a process for addressing the allocation of penalties as between NYISO and transmission owners before the deadline for pursuing an appeal.

229. Third, NYISO proposes that the study delay penalty amount for the cluster study be \$2,000 per business day, which is consistent with the *pro forma* cluster study penalty amount, and \$2,000 per business day for the affected system study as required by Order No. 2023.

230. Fourth, NYISO proposes to clarify the category of interconnection customers eligible to receive penalty payments.³⁸⁷ NYISO explains that Order No. 2023 provides for payment to projects that did not withdraw or were not deemed withdrawn before the missed study deadline. NYISO proposes to clarify in the context of its study process that interconnection customers that have accepted their project cost allocation and posted the related security in the applicable study will be eligible to receive penalty payments.

231. Fifth, NYISO proposes to modify the mechanism by which interconnection customers can grant a 30-business day extension of the study timeframes.³⁸⁸ Specifically, NYISO proposes that interconnection customers can agree to such an extension so long as 10% or more of the projects do not vote against such an extension. NYISO contends that its proposed variation is reasonable given the number of projects that participate in NYISO's process and the ability of one project to reject an extension in spite of the position of the vast majority of projects. NYISO also proposes to clarify that interconnection customers can voluntarily agree to more than one extension under the previously described requirements.

232. Finally, NYISO proposes to include language that clarifies that the application of the penalty commences with the second cluster study process following the completion of the transition cluster study process, consistent with Order No. 2023.³⁸⁹

233. NYISO proposes to retain its requirements to file a report with the Commission if there are delays in its study process, as modified to align with the new process steps.³⁹⁰ In particular, NYISO proposes that if its combined Phase 1 study and Phase 2 study timeframes exceed 460 days, it will make a report with the Commission describing the reasons for the delay and the steps taken to remedy the specific issues and prevent their occurrence in the future. NYISO states that it will file the report within 65 business days,

³⁸⁷ *Id.* at 114.

³⁸⁸ *Id.*

³⁸⁹ *Id.* at 115.

³⁹⁰ *Id.* at 116.

which aligns with the period for appealing any penalty determination for that study process, and will also post the aggregate NYISO, transmission owner, and consultant hours expended for the cluster study within this time period.

b. Comments/Protests

234. NYTOs support NYISO's proposed independent entity variation to allow it to implement a study delay penalty mechanism tailored to the specific design of NYISO's cluster study process.³⁹¹ NYTOs state that, based on the differences between NYISO's cluster study process and the *pro forma* process, the penalty provisions contemplated by Order No. 2023 cannot be applied to the NYISO process without modification. NYTOs argue that NYISO's proposal, which applies penalties after the completion of both study phases, is an appropriate means of doing so.

235. NYTOs argue that, because the cluster study process comprises two phases, even if Phase 1 exceeds its allotted timeframe, as long as Phase 2 is completed within the tariff deadline, interconnection customers will not be prejudiced and will have benefited from the pre-application process, physical infeasibility screening, and the identification of local system upgrade facilities and transmission owner Attachment Facilities (CTOAF), all before the timely completion of the Phase 2 study to identify the non-local system upgrade facilities and system deliverability upgrades.³⁹² Moreover, NYTOs state that in contrast to the *pro forma* process, these NYISO study results will not be subject to restudies based on the actions of earlier cluster projects. NYTOs assert that, with the added complexity based on the NYISO-specific allocation of responsibilities, it is wasteful to undertake a penalty process if the overall process produces timely results. NYTOs state that disputes over who is responsible for a delay that ends up being immaterial, where interconnection customers derive benefits from process elements that deviate from the *pro forma* process long before the Phase 2 study is completed and where the Phase 2 study is timely, would be a wasteful and complex exercise that would divert resources from executing the interconnection process. NYTOs urge the Commission to accept NYISO's proposed penalty provisions because there are many benefits for

³⁹¹ NYTOs Comments at 15. NYTOs state that they, with the exception of NYPA, challenged the elimination of the reasonable efforts standard and the imposition of study delay penalties in their request for clarification and rehearing of Order No. 2023, and NYTOs have since appealed Order Nos. 2023 and 2023-A to the U.S. Court of Appeals for the District of Columbia Circuit. NYTOs state that they support NYISO's proposal as a reasonable framework for implementing penalties for missed study deadlines, should they be upheld on appeal; however, they have not changed their position articulated in their request for clarification and rehearing and reserve all rights on appeal.

³⁹² *Id.* at 16.

interconnection customers of the NYISO process, and on net no harm to the interconnection customer will result so long as the Phase 2 study is completed within the tariff deadline.³⁹³

236. Clean Energy Associations argue that NYISO's study penalty proposal defers accountability until the end of the interconnection process.³⁹⁴ Clean Energy Associations state that NYISO has failed to justify its deviation from Order No. 2023's progressive study penalties and urge the Commission to deny the proposal and direct NYISO to revise its tariff to include the progressive penalty structure required by Order No. 2023.³⁹⁵ Clean Energy Associations oppose NYISO's proposal to apply the penalties only at the end of the proposed 460-day cluster study period or the proposed 300-day affected system study, and argue that, while NYISO has proposed a phased cluster study process that it considers to be a single process, it has failed to show that this process is substantively different from the *pro forma* such that the penalties could not be imposed at each phase.³⁹⁶ Clean Energy Associations contend that allowing the transmission owners (not even the independent entity) the flexibility to make up for delays and avoid penalties exceeds the boundaries of independent entity deference.³⁹⁷

237. Clean Energy Associations contend that NYISO has neither adequately justified its need for such leeway nor shown that its proposal will adequately deter the compounding and cascading delays that stem from the kind of procedural maneuvering NYISO's approach would permit, and that NYISO's requested variation delays accountability and fails to provide certainty and transparency to interconnection customers as they move through the interconnection process.³⁹⁸ Clean Energy Associations state that interim accountability on both sides makes it more likely that the overall process will be completed within the ultimate timeframe. Clean Energy Associations state that projects that become unviable due to study delays will pay for delayed studies on top of withdrawal penalties, sunk costs, and lost revenues from cancelled projects and that Order No. 2023's progressive study penalties should reduce the potential for such outcomes. Clean Energy Associations express concern that delaying penalty assessment

³⁹³ *Id.* at 17.

³⁹⁴ Clean Energy Associations Protest at 24.

³⁹⁵ *Id.* at 27.

³⁹⁶ *Id.* at 25.

³⁹⁷ *Id.* at 25-26.

³⁹⁸ *Id.* at 26.

will not instill the appropriate urgency in NYISO or the transmission owners that would enable developers to progress toward their interim benchmarks.³⁹⁹

c. Answers

238. NYISO answers that the Commission should reject Clean Energy Associations' protests because they are without merit as a matter of fact and law.⁴⁰⁰ NYISO argues that Clean Energy Associations appear to misunderstand important components of its filing and have ignored that the NYISO cluster study is a single, consolidated interconnection study in place of the Commission's three, stand-alone *pro forma* studies that includes the consolidated system impact study, facilities study, and restudy analyses that are directed towards the identification of, and the determination of the cost estimate for, all of the required Attachment Facilities and upgrades needed for the interconnection of a project. NYISO asserts that the cluster study concludes at the end of the Phase 2 study with the identification of this total project cost allocation for each interconnection customer and the interconnection customer's determination whether to proceed with its project by accepting this cost allocation and posting the related security. NYISO states that its process is structured towards completing the cluster study within the overall 460-day timeframe and that the Phase 1 study and Phase 2 study are intertwined study components that feed into the cluster study results, with the Phase 1 study component primarily focused on required Attachment Facilities and local upgrades and the Phase 2 study component primarily focused on system-wide upgrades. However, NYISO contends, both elements are required for the completion of the study, and the study work is overlapping and ongoing throughout the entire cluster study.

239. NYISO argues that its penalty framework for study delays appropriately and reasonably reflects this cluster study structure.⁴⁰¹ NYISO adds that the cluster study results are not final and an interconnection customer cannot proceed with its project until the completion of the full cluster study. NYISO argues that requiring NYISO or NYTOs

³⁹⁹ *Id.* at 27.

⁴⁰⁰ NYISO June 27, 2024 Answer at 33. NYISO states that no other commenter has raised any issue regarding the timing of study deadline penalties and that this includes the New York State entities that are responsible for meeting the goals of New York's Climate Leadership and Climate Protection Act and all other New York market participants and New York stakeholder organizations. NYISO asserts that the absence of any concerns from New York entities with NYISO's proposal highlights the fact that Clean Energy Associations are seeking to enforce generic requirements that were not developed with NYISO's proposal in mind and without regard for the Commission's determination that NYISO may justify departing from them. *Id.* at 33 n.73.

⁴⁰¹ *Id.* at 33-35.

be subject to a penalty for a delay in an intermediate component of the cluster study would create a highly inefficient process that would interfere with NYISO's and transmission owners' ability to timely complete the entire cluster study. NYISO contends that it and transmission owners would have to reallocate limited resources mid-study to administer the penalty process in place of completing necessary study work. NYISO states that this contrasts with NYISO's proposed approach that benefits interconnection customers by providing NYISO and transmission owners with flexibility to make adjustments during the study to achieve the overall timeframe, notwithstanding any delays in intermediate process steps. NYISO asserts that the Clean Energy Associations' notion that NYISO should be subject to penalties before the completion of the cluster study would in fact be unjustifiably harsher than the *pro forma* rules, which do not subject transmission providers to penalties until studies are finished.

240. NYISO also states that Clean Energy Associations' argument that NYISO's proposed variation is unjustified because it does not strike a balance between transmission providers and interconnection customers is not a required demonstration of the independent entity variation.⁴⁰²

241. Finally, NYISO states that it is inaccurate for Clean Energy Associations to suggest that NYISO's proposed penalty structure will fail to result in the "accountability" that Order No. 2023 requires.⁴⁰³ NYISO argues that its proposal does not give NYISO leeway to evade accountability, and that Clean Energy Associations' suggestions that linking penalties to the end of NYISO's proposed cluster study will somehow cause delays are wholly speculative. NYISO states that the threat of potentially unrecoverable financial penalties has such severe consequences for not-for-profit entities like NYISO that the requirement to impose the penalties at the conclusion of the cluster study in no way diminishes their impact.

242. NYTOs contend that the most logical point at which to apply study delay penalties is after a study is complete and that Clean Energy Associations' argument that study delay penalties must be assessed after each of NYISO's proposed study phases is inconsistent and disregards the unique structure and composition of NYISO's cluster study process, to which the Clean Energy Associations do not object.⁴⁰⁴ NYTOs aver that the *pro forma* penalties cannot be applied off the shelf to the NYISO framework in the manner the Clean Energy Associations suggest because NYISO's cluster study process comprises two phases that are performed on a clustered basis, whereas the *pro forma* process comprises a cluster study followed by individualized facilities studies.

⁴⁰² *Id.* at 36.

⁴⁰³ *Id.*

⁴⁰⁴ NYTOs June 27, 2024 Answer at 7.

NYTOs contend that a midstream assessment to determine responsibility for delays would be counterproductive and divert limited resources from more important tasks related to the timely completion of the cluster study process, and no harm may ultimately come to any interconnection customer if Phase 2 is completed within the prescribed deadline. NYTOs state that the cluster study process contains numerous built-in touchpoints that provide a significant amount of information to interconnection customers at early stages in the process and otherwise protect the interests of interconnection customers. NYTOs state that the assessment of study delay penalties after Phase 2 is dictated by the design of the cluster study process, meaning that the timing of the penalties follows logically from the process which all parties accept.⁴⁰⁵

243. Clean Energy Associations assert that evaluating the study process along a single timeline is a stark deviation from the spirit of the protections that Order No. 2023 provided interconnection customers.⁴⁰⁶ Clean Energy Associations argue that, without interim timelines, interconnection customers in the NYISO footprint will be subject to the potential for unchecked delays in the study process for 460 days before study delay penalties can be assessed, as opposed to 150 days as required under *pro forma* rules. Clean Energy Associations argue that it seems logical to assess study delays between Phases 1 and 2 because interconnection customers face a decision point at this juncture and owe either an additional deposit or face a withdrawal penalty.⁴⁰⁷ Clean Energy Associations state NYISO is asking to have it both ways with respect to study timelines and penalty risk. Clean Energy Associations state that NYISO wishes for its cluster study to be understood as including the *pro forma* cluster study, restudy, and facility study, such that the justness and reasonableness of its extended process should not be measured against the *pro forma* by phases. But, with respect to deadlines, Clean Energy Associations contend that NYISO wishes for its cluster study to be treated as only a single study, such that interim penalties would be impossible or, at least, unduly burdensome. Clean Energy Associations argue that either (1) the NYISO study process is one process that eliminates interim milestones and accountability, which is inconsistent with Order No. 2023, or (2) it is sufficiently phased to include such benchmarks and decision points such that there is no reasonable justification for avoiding interim accountability.

244. NYISO answers that the Commission should reject Clean Energy Associations' erroneous argument that NYISO is taking two competing positions concerning whether its proposed cluster study is a single study or multiple studies for purposes of its study

⁴⁰⁵ *Id.* at 8.

⁴⁰⁶ Clean Energy Associations July 12, 2024 Answer at 6.

⁴⁰⁷ *Id.* at 7.

timeframe and the application of study delay penalties.⁴⁰⁸ NYISO contends that, as previously detailed, its proposed cluster study constitutes a single, consolidated interconnection study, that includes two components – a Phase 1 component that primarily focuses on the assessment of local impacts of the proposed interconnections and a Phase 2 component that primarily focuses on the systemwide impacts of the proposed interconnections. NYISO asserts that these components are integrated within the cluster study with NYISO and the transmission owner performing certain study work for each phase in parallel to timely complete the study. For example, NYISO and transmission owners may initiate certain work required for Phase 2 early in the cluster study process and during Phase 1 and will perform updates to the Phase 1 work during Phase 2 to account for withdrawn projects.⁴⁰⁹ However, NYISO contends that the full determination of the required Attachment Facilities and upgrades and the related cost estimates are not completed until the end of the Phase 2 component.

245. NYISO argues that Clean Energy Associations again appear to misunderstand the purpose of the Phase 1 and Phase 2 components, comparing these study elements to the Commission's *pro forma* cluster system impact study and its cluster restudy.⁴¹⁰ NYISO asserts that it would serve no valid purpose to penalize NYISO if it temporarily falls behind schedule on a cluster study but ultimately completes the study by the deadline, as the penalty structure holds NYISO and transmission owners accountable for timely performing their responsibilities.⁴¹¹ NYISO argues that it need only show that the proposed independent entity variation is just and reasonable given New York-specific circumstances, which its compliance filing did.

246. Clean Energy Associations argue that NYISO has provided no record evidence demonstrating that interconnection customers are not harmed by delays of intermediate milestones in the interconnection process.⁴¹² Clean Energy Associations state that, if there is enough study data at the end of Phase 1 so that interconnection customers can make a withdrawal decision, then that portion of the study is sufficiently complete to hold NYISO to account for its timely completion by assessing study delay penalties, consistent with Order No. 2023.

⁴⁰⁸ NYISO July 29, 2024 Answer at 3.

⁴⁰⁹ *Id.* at 4.

⁴¹⁰ *Id.*

⁴¹¹ *Id.* at 6.

⁴¹² Clean Energy Associations August 6, 2024 Answer at 4.

d. Commission Determination

247. We find that NYISO's proposed revisions related to eliminating the reasonable efforts standard and adopting a study delay penalty structure, including the requested independent entity variations, partially comply with the requirements of Order Nos. 2023 and 2023-A.

248. We deny NYISO's requested independent entity variation to adopt a study delay penalty structure that subjects NYISO and relevant transmission owners to penalties only at the end of its proposed 460-day, two-phase cluster study process but not at the end of Phase 1 of the process.⁴¹³ NYISO argues this penalty framework is necessary due to the structure of its proposed cluster study process. However, we note that, similar to the *pro forma* LGIP, NYISO's proposed cluster includes distinct study phases and deadlines under which each phase of study must be completed. Accordingly, we find that a 460-day cluster study process without interim study delay penalties is not consistent with Order No. 2023's requirements to impose study delay penalties at each distinct study phase.⁴¹⁴ We find that NYISO's proposal does not provide a sufficient incentive for NYISO and relevant transmission owners to complete Phase 1 studies in a timely manner, as related to Order No. 2023's requirements for study delay penalties, compared to the *pro forma* LGIP study delay penalty structure. Further, Order No. 2023 adopted progressively higher penalty amounts for delayed studies through the interconnection study process to reflect the progressively greater harm that delays cause to interconnection customers as they are subject to more stringent requirements and investments throughout the process, such as commercial readiness deposits and withdrawal penalties, and found it appropriate that transmission providers face study delay penalties structured in a similar manner.⁴¹⁵ As interconnection customers face commercial readiness deposits and increased withdrawal penalties at the end of the Phase 1 study, we find this to be an appropriate point for NYISO and relevant transmission owners to face potential study delay penalties.⁴¹⁶ Moreover, NYISO has not sufficiently justified how its proposed cluster study process is unique such that it is appropriate to require interconnection customers to pay commercial readiness deposits and be subject to withdrawal penalties between Phase 1 and Phase 2 but not to apply study delay penalties to NYISO and relevant transmission owners between those phases. We therefore direct NYISO to submit a further compliance filing within 60 days of the date of this order that

⁴¹³ Filing, Transmittal Letter, at 112-113.

⁴¹⁴ Order No. 2023, 184 FERC ¶ 61,054 at PP 966, 974-978.

⁴¹⁵ *Id.* PP 976-977.

⁴¹⁶ *Id.* PP 977.

applies study delay penalties to NYISO and the relevant transmission owners at each distinct study phase of its cluster study process.

249. We grant NYISO's proposed independent entity variation that gives interconnection customers the option to agree to a 30-business day extension of the study timeframes, provided that 10% or more of the projects do not vote against such an extension. NYISO justifies this variation due to the large number of projects that participate in NYISO's process; the variation prevents one project from rejecting an extension in spite of the position of the vast majority of projects.⁴¹⁷ We find that this variation accomplishes the purpose of Order No. 2023 by ensuring NYISO and the relevant transmission owners are incentivized to complete interconnection studies in a timely manner, but still allows flexibility if the majority of participants in the process agree that there is a need for flexibility.⁴¹⁸

250. NYISO also clarifies that interconnection customers eligible to receive penalty payments are those that have not withdrawn, consistent with Order No. 2023. NYISO proposes to clarify that, under its unique study process, projects that accept their project cost allocation and post the related security in the applicable study will be eligible to receive penalty payments.⁴¹⁹ We find that this is just and reasonable and consistent with Order No. 2023 because in NYISO's process these are the projects that will proceed and not be withdrawn. Also, as required by Order No. 2023-A, NYISO allocates study delay penalties to interconnection customers on a pro rata basis proportionate to each interconnection customer's final study cost in the relevant study.⁴²⁰

13. Affected System Study Process and Modeling Requirements

251. In Order No. 2023, the Commission adopted an affected system study process and added several related definitions to the *pro forma* LGIP.⁴²¹

⁴¹⁷ Filing, Transmittal Letter, at 115.

⁴¹⁸ Order No. 2023, 184 FERC ¶ 61,054 at PP 966.

⁴¹⁹ Filing, Transmittal Letter, at 114.

⁴²⁰ Proposed OATT, attach. HH, § 40.9 (Cluster Study Overview/NYISO Minimum Interconnection Standard/NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (0.0.0), § 40.9.3.2.4.

⁴²¹ Order No. 2023, 184 FERC ¶ 61,054 at PP 1110, 1112; *see pro forma* LGIP § 1.

252. The Commission revised section 3.6 (Coordination with Affected Systems) and adopted section 3.6.1 (Initial Notification) of the *pro forma* LGIP, which requires the transmission provider to notify the affected system operator within 10 business days of the first instance of an identified potential affected system impact, which may occur at the completion of either the cluster study or the cluster restudy.⁴²²

253. The Commission also adopted several requirements to establish an affected system process under *pro forma* LGIP section 9 (Affected System Study), which pursuant to *pro forma* LGIP section 9.1 (Applicability), applies to the transmission provider when it is acting as the affected system transmission provider (i.e., when the transmission provider is studying the impacts on its own transmission system of proposed interconnections to other transmission providers' transmission systems).⁴²³ First, the Commission adopted section 9.2 (Response to Initial Notification) of the *pro forma* LGIP, which requires the affected system transmission provider to respond to notification of a potential affected system impact in writing within 20 business days, indicating whether it intends to conduct an affected system study.⁴²⁴ Section 9.2 also requires that, within 15 business days of the affected system transmission provider's affirmative response of its intent to conduct an affected system study, the affected system transmission provider must share a non-binding good faith estimate of the cost and schedule to complete the affected system study.

254. The Commission next adopted section 9.3 (Affected System Queue Position) of the *pro forma* LGIP.⁴²⁵ Under section 9.3, the interconnection requests of affected system interconnection customers that have executed an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results. All affected system interconnection requests studied within the same affected system cluster will be equally queued.

255. The Commission next adopted section 9.4 (Affected System Study Agreement/Multiparty Affected System Study Agreement) of the *pro forma* LGIP to require that the transmission provider tender the affected system study agreement within 10 business days of sharing the schedule for the study with the affected system

⁴²² Order No. 2023, 184 FERC ¶ 61,054 at P 1119; *see pro forma* LGIP §§ 3.6, 3.6.1.

⁴²³ Order No. 2023, 184 FERC ¶ 61,054 at P 1113; *see pro forma* LGIP § 9.1.

⁴²⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 1120; *see pro forma* LGIP § 9.2.

⁴²⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 1138; *see pro forma* LGIP § 9.3.

interconnection customers.⁴²⁶ Section 9.4 also requires the affected system interconnection customer to compensate the affected system transmission provider for the actual costs of the affected system study, and the difference between the affected system study deposit and actual cost of the affected system study will be detailed in an invoice and paid by or refunded to the affected system interconnection customer within 30 calendar days of the receipt of such invoice.⁴²⁷ An affected system interconnection customer's failure to pay the difference between these amounts will result in loss of that affected system interconnection customer's affected system queue position. Section 9.4 also requires that the affected system transmission provider notify the host transmission provider of the affected system interconnection customer's breach of its obligations under this section, should such breach occur.⁴²⁸

256. The Commission next adopted section 9.5 (Execution of Affected System Study Agreement/Multiparty Affected System Study Agreement) of the *pro forma* LGIP, which provides the affected system interconnection customer with 10 business days from the date of receipt of the affected system study agreement to execute and deliver it to the affected system transmission provider.⁴²⁹ Section 9.5 also provides that, if the affected system interconnection customer does not provide all required technical data when it delivers the affected system study agreement, the affected system transmission provider shall notify the affected system interconnection customer of the deficiency within five business days of the receipt of the affected system study agreement, and the affected system interconnection customer has 10 business days to cure the deficiency after receipt of such notice (provided that the deficiency does not include failure to deliver the executed affected system study agreement or deposit).

257. The Commission next adopted section 9.6 (Scope of Affected System Study) of the *pro forma* LGIP, which requires the affected system study to consider the base case, as well as all higher-queued generating facilities on the affected system transmission provider's transmission system, and to consist of a power flow, stability, and short circuit analysis.⁴³⁰ Section 9.6 also requires the affected system study to provide a list of affected system network upgrades that are required because of the affected system interconnection customer's proposed interconnection, a non-binding good faith estimate of cost responsibility, and a non-binding good faith estimated time to construct. The

⁴²⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 1154; *see pro forma* LGIP § 9.4.

⁴²⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1157.

⁴²⁸ *Id.* P 1159.

⁴²⁹ *Id.* P 1158; *see pro forma* LGIP § 9.5.

⁴³⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1160; *see pro forma* LGIP § 9.6.

affected system study may consist of a system impact study, a facilities study, or some combination thereof.

258. The Commission next adopted section 9.7 (Affected System Study Procedures) of the *pro forma* LGIP, which requires clustering of affected system interconnection requests for study purposes where multiple interconnection requests that are part of a single cluster in the host system's cluster study process cause the need for an affected system study.⁴³¹ Section 9.7 also requires the affected system transmission provider to complete the affected system study and provide the affected system interconnection customer with affected system study results within 150 calendar days after receipt of the affected system study agreement. Section 9.7 also requires the affected system transmission provider to provide the affected system study report to the host transmission provider at the same time it provides the report to the affected system interconnection customer. The affected system transmission provider must notify the affected system interconnection customer that an affected system study will be late.⁴³² Lastly, *pro forma* LGIP section 9.7 requires affected system transmission providers to study all affected system interconnection requests using ERIIS modeling standards.⁴³³

259. The Commission added a new section 11.2.1 (Delay in LGIA Execution, or Filing Unexecuted, to Await Affected System Study Report) to the *pro forma* LGIP.⁴³⁴ Under this section, if the interconnection customer does not receive its affected system study results before the deadline in its host system for LGIA execution, or the deadline to request that the LGIA be filed unexecuted, the host transmission provider must, at the interconnection customer's request, delay the deadline for the interconnection customer to finalize its LGIA. The interconnection customer will have 30 calendar days after receipt of the affected system study report to execute the LGIA, or request that the LGIA be filed unexecuted. Additionally, if the interconnection customer prefers to proceed to the execution of its LGIA, or request that the LGIA be filed unexecuted, before it has received its affected system study results, it may notify the host transmission provider of its intent to proceed with the execution of the LGIA, or request that the LGIA be filed unexecuted.⁴³⁵ If the host transmission provider determines that further delay to the LGIA execution date would cause a material impact on the cost or timing of an equal- or lower-queued interconnection customer, the transmission provider must notify the

⁴³¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1133; *see pro forma* LGIP § 9.7.

⁴³² Order No. 2023, 184 FERC ¶ 61,054 at P 1135.

⁴³³ *Id.* P 1276.

⁴³⁴ *Id.* P 1123; *see pro forma* LGIP § 11.2.1.

⁴³⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 1124.

relevant interconnection customer of such impact and establish that the new deadline is 30 calendar days after such notice is provided.

260. The Commission adopted section 9.8 (Meeting with Transmission Provider) of the *pro forma* LGIP, which requires the affected system transmission provider and the affected system interconnection customer to meet within 10 business days of the affected system transmission provider tendering the affected system study report to the affected system interconnection customer.⁴³⁶

261. The Commission adopted section 9.9 (Affected System Cost Allocation) of the *pro forma* LGIP, which requires the allocation of affected system network upgrade costs using a proportional impact method in accordance with *pro forma* LGIP section 4.2.1(1)(b).⁴³⁷

262. The Commission adopted section 9.10 (Tender of Affected System Facilities Construction Agreement/Multiparty Affected System Facilities Construction Agreement) of the *pro forma* LGIP.⁴³⁸ Under section 9.10, an affected system transmission provider must tender an affected system facilities construction agreement to the affected system interconnection customer within 30 calendar days of providing the affected system study report. The affected system transmission provider must provide 10 business days after receipt of the affected system facilities construction agreement for the affected system interconnection customer to execute the agreement or have the affected system transmission provider file it unexecuted with the Commission.

263. The Commission adopted section 9.11 (Restudy) of the *pro forma* LGIP to include a maximum 60-calendar day restudy period for any affected system restudies.⁴³⁹ Section 9.11 also adopts a 30-calendar day notification requirement for the affected system transmission provider to notify the affected system interconnection customer of the need for affected system restudy upon discovery of such need.⁴⁴⁰

264. In Order No. 2023-A, the Commission clarified that an affected system transmission provider may pause an affected system study that is planned or in progress if the relevant host transmission provider decides to conduct a cluster restudy. The

⁴³⁶ *Id.* P 1169; *see pro forma* LGIP § 9.8.

⁴³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1149; *see pro forma* LGIP § 9.9.

⁴³⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 1165; *see pro forma* LGIP § 9.10.

⁴³⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1170; *see pro forma* LGIP § 9.11.

⁴⁴⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1171.

Commission added *pro forma* LGIP: (1) section 3.6.2 (Notification of Cluster Restudy) to require the host transmission provider to notify any relevant affected system operators of a cluster restudy at the same time it notifies the interconnection customers in the cluster restudy; and (2) section 3.6.3 (Notification of Cluster Restudy Completion) to require the host transmission provider to notify the affected system operator of the completion of the cluster restudy and of a potential affected system impact caused by an interconnection request within 10 business days of the completion of the cluster restudy.⁴⁴¹

265. The Commission also added *pro forma* LGIP section 9.2.2 (Response to Notification of Cluster Restudy) to allow the affected system transmission provider five business days from receiving notification of the cluster restudy to send a written notification to the relevant affected system interconnection customers and the host transmission provider if it intends to delay commencement or completion of a planned or in-progress affected system study until after the completion of the cluster restudy.⁴⁴² The Commission revised *pro forma* LGIP section 9.5 to remove the requirement for an affected system interconnection customer to execute and return its previously received affected system study agreement and submit its affected system study deposit if the affected system transmission provider decides to delay the affected system study, pursuant to *pro forma* LGIP section 9.2.2.⁴⁴³

a. NYISO's Compliance Filing

266. NYISO proposes revisions to sections 40.1, 40.8, 40.16.1, 40.16.3, and 40.24.3 of Attachment HH to the OATT that incorporate the *pro forma* revisions related to the affected system study process that the Commission adopted in Order Nos. 2023 and 2023-A.⁴⁴⁴

⁴⁴¹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 498, 500; *see pro forma* LGIP §§ 3.6.2, 3.6.3.

⁴⁴² Order No. 2023-A, 186 FERC ¶ 61,199 at P 498; *see pro forma* LGIP § 9.2.2.

⁴⁴³ Order No. 2023-A, 186 FERC ¶ 61,199 at P 499; *see pro forma* LGIP § 9.5.

⁴⁴⁴ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.8 (Affected Systems) (0.0.0), § 40.8.3; *id.*, attach. HH, § 40.16 (Forfeiture of Security/Future Cost Responsibility) (0.0.0), §§ 40.16.1, 40.16.3; *id.*, attach. HH, § 40.24 (Miscellaneous) (0.0.0), § 40.24.3.

267. NYISO requests an independent entity variation to distinguish the rules applicable to the different affected systems in NYISO's interconnection process.⁴⁴⁵ In particular, NYISO proposes to use the terms "Affected System," "Affected System Operator," and "Affected Transmission Owner" for electric systems within the New York Control Area, other than the transmission system owned, controlled, or operated by the connecting transmission owner, that may be affected by the proposed interconnection. NYISO proposes to use the new terms "External Affected System" and "External Affected System Operator" for electric systems outside of the New York Control Area that may be affected by the proposed interconnection.

268. NYISO contends that it currently accounts for the impacts of proposed interconnections on affected systems located within the New York Control Area through its standard interconnection studies, and that NYISO will identify any impacts and upgrades required to address impacts in the Class Year Study.⁴⁴⁶ NYISO asserts that it is required to enter into an engineering, procurement, and construction agreement with the interconnection customer and affected party for the construction of any required upgrades, and proposes to retain this approach in its new cluster study process.

269. NYISO proposes to notify external affected systems of potential impacts to their systems during NYISO's customer engagement window, once the cluster study projects have been confirmed, and as needed if additional impacts are later identified in the course of the cluster study.⁴⁴⁷ NYISO also proposes to specify that it will coordinate and cooperate with the neighboring region concerning the studies performed in the other region and proposes not to adopt the requirement established in Order No. 2023-A that it notify a neighboring region with affected system impacts of a restudy of the applicable cluster study because NYISO's process does not provide for a separate cluster restudy; rather, restudy work is incorporated into NYISO's single, two-phase cluster study process.

270. NYISO requests an independent entity variation from the requirement that an interconnection customer be permitted to delay posting security and funding for required upgrades under its LGIA until external affected systems study results are received after the deadline for execution of the interconnection agreement or the deadline to request that the interconnection agreement filed unexecuted.⁴⁴⁸ Under NYISO's cluster study process, NYISO contends that an interconnection customer must post security as part of

⁴⁴⁵ Filing, Transmittal Letter at 93.

⁴⁴⁶ *Id.*

⁴⁴⁷ *Id.* at 94.

⁴⁴⁸ *Id.* at 94-95.

the cluster study final decision period, not at the interconnection agreement stage, which NYISO states enables it to avoid costly, and time- and resource-intensive restudies in the event the project later withdraws.⁴⁴⁹

271. NYISO requests an independent entity variation to incorporate in its new affected system study rules its existing requirements for aligning affected system studies with an ongoing clustered Class Year Study.⁴⁵⁰ Specifically, during an affected system study, NYISO will be required to refine and update the description of any affected system network upgrades based on changes to the base case that occur during the study. NYISO proposes to perform a single affected system study that consolidates the system impact study and facilities study elements, consistent with Order No. 2023.⁴⁵¹ NYISO proposes to use the most recent Annual Transmission Reliability Assessment or Cluster Project Assessment as the base case for the study, and to coordinate with the applicable neighboring region to align to the extent possible the network system modeling between the regions for purposes of the study. NYISO proposes to allocate the affected system network upgrade costs among affected system interconnection customers using the same proportional impact method as for its cluster study process.⁴⁵² If multiple affected system interconnection customers' impacts are reported to NYISO, it proposes to perform the affected system study on a clustered basis for a given region (e.g., all impacts identified for interconnections in PJM Interconnection, LLC (PJM)).

272. NYISO proposes a 300-calendar day time period to perform the affected system study.⁴⁵³ NYISO states that the study will commence after NYISO has received the completed affected system study agreement without any deficiencies, the related study deposit, and the network system model required for the performance of the study. NYISO asserts that the 300-day time period is necessary because the study will include both system impact study and facilities study elements. NYISO contends that this time period is comparable to the amount of the time required within the cluster study to determine the need for upgrades, to identify any required upgrades, and to determine a cost estimate and preliminary schedule. NYISO also proposes that it may toll this period for up to 60 days if it is performing a cluster affected system study and one or more affected system interconnection customers withdraw from the study, so that NYISO has time to update its study work in light of the withdrawal.

⁴⁴⁹ *Id.* at 95.

⁴⁵⁰ *Id.*

⁴⁵¹ *Id.* at 96.

⁴⁵² *Id.* at 96-97.

⁴⁵³ *Id.* at 97.

273. NYISO proposes to require, at the conclusion of the affected system study, that each affected system interconnection customer elect through an iterative decision process whether to accept its cost allocation for any affected system network upgrades and post security in the estimated amount for such upgrades to the applicable transmission owner.⁴⁵⁴ NYISO proposes to apply a process consistent with its iterative decision processes at the conclusion of the cluster study and Additional SDU Study.⁴⁵⁵ Consistent with NYISO's other interconnection studies, once an affected system interconnection customer accepts its cost allocation and posts security, its cost responsibility for any costs greater than the estimated costs will be allocated pursuant to tariff-prescribed requirements and its security will be subject to the security forfeiture rules if its project does not proceed and other interconnection customers are relying on such upgrades.

274. NYISO also proposes to adopt Order No. 2023-A requirements for pausing an affected system study with limited modification to replace the reference to "Cluster Study" and "Cluster Restudy" with generic references to "restudy" or "applicable interconnection study" as NYISO's neighboring regions each use distinct processes and studies that differ from the Commission's *pro forma* procedures and terminology.⁴⁵⁶

275. NYISO states that Order No. 2023 does not establish a set dollar amount for the study deposit for the affected system study, and NYISO proposes to require a \$100,000 study deposit.⁴⁵⁷ NYISO states that this amount is reasonable given the scope of the affected system study, which is a consolidated system impact and facilities study. Finally, NYISO proposes to specify how it will allocate study costs in the event of a clustered affected system study. Specifically, each project will pay an equal share of the affected system study costs required for the identification of the need for any affected network upgrade facilities. NYISO contends that, if more than one project contributes to the need for a particular affected system network upgrade, those projects will share equally in the cost to study the affected system network upgrade, consistent with cost causation principles, as it allocates to the interconnection customer those study costs incurred on behalf of the interconnection customer.

b. Comments/Protests

276. Clean Energy Associations state that: (1) extending the length of the interconnection process will add uncertainty for interconnection customers, which can

⁴⁵⁴ *Id.* at 97-98.

⁴⁵⁵ *Id.* at 98.

⁴⁵⁶ *Id.*

⁴⁵⁷ *Id.* at 98-99.

lead to viable projects being removed from the queue, (2) NYISO has failed to justify its independent entity variation, and (3) the Commission should reject NYISO's proposal and direct it to conform its tariff to Order No. 2023's 150-day study timeframe for affected system studies.⁴⁵⁸ Clean Energy Associations state that NYISO's claim that 300 calendar days is necessary because the affected system studies will include system impact and facilities studies is not a reasonable justification because the Commission already balanced the feasibility of performing affected system studies with the risk to interconnection customers by extending the proposed rule's initial period of 90 days to 150 days. They assert that NYISO's comparison to the cluster study timeline, which significantly exceeds the timeline required by Order No. 2023, is similarly unavailing and cannot overcome the fact that an affected system study that is more than twice the length required by Order No. 2023 is incompatible with the goals of streamlining the affected system study process and reducing risk to interconnection customers from avoidable delays. Clean Energy Associations contend that NYISO has neither adequately justified its need for such leeway nor shown that its proposal will adequately deter the compounding and cascading delays that stem from the kind of procedural maneuvering NYISO's approach would permit.

277. Shell states that Order No. 2023-A and *pro forma* LGIP section 3.1.1 require network upgrade costs to be considered in penalty-free withdrawals, and this applies to all network upgrade costs, including the subset of affected system network upgrades.⁴⁵⁹ Shell asserts that NYISO fails to include consideration of affected system network upgrade costs in its penalty-free withdrawal provisions, and also fails to claim, or provide justification in support of, an independent entity variation for its proposed tariff provisions in this regard.⁴⁶⁰

c. Answers

278. NYISO answers that the Clean Energy Associations do not address the particular analysis that NYISO must perform for the affected system study and the resulting required timeframes, nor do they provide any explanation detailing how such studies can practicably be performed on a faster timeframe.⁴⁶¹ NYISO explains that the proposed 300-day time period is required to enable NYISO to perform the affected system study's

⁴⁵⁸ Clean Energy Associations Protest at 23-24.

⁴⁵⁹ *Id.* at 15 (citing Order No. 2023-A, *pro forma* LGIP, § 3.1.1). Although Shell cites *pro forma* LGIP section 3.1.1, we believe that the correct citation is to *pro forma* LGIP section 3.7.1. See Order No. 2023-A, 186 FERC ¶ 61,199 at P 484.

⁴⁶⁰ Shell Protest at 15.

⁴⁶¹ NYISO June 27, 2024 Answer at 29.

two components. First, NYISO contends that it must perform analysis in line with a system impact study to determine whether the project or projects interconnecting in a neighboring region will have an impact that necessitates upgrades, which it expects to require at least 120 days. Second, NYISO states that, if NYISO identifies an impact on the transmission system, NYISO must then perform analysis in line with a facilities study to identify the required upgrades to address the issue and to determine the cost estimate for these upgrades. NYISO expects the upgrade analysis to require at least 180 days. NYISO states that the analysis it must perform for the affected system study is consistent with the analysis that it or the NYTOs will perform in NYISO's cluster study and the related timeframes required for such study work, and that these timeframes were calculated based on its long-standing experience performing such study work as adjusted to account for the process improvements it has developed to eliminate unnecessary or duplicative analysis.

279. NYISO adds that it proposes a 60-day extension, in the event one or more projects participating in an affected system study withdraw during the study.⁴⁶² NYISO states that this period is necessary to account for the impacts of the withdrawing projects. NYISO contends that, if one or more projects withdraw, NYISO must perform substantial work updating models and re-running analysis. NYISO asserts that the proposed 60-day period is consistent with the *pro forma* 60-day restudy period for addressing the impacts of withdrawn projects.

280. NYISO answers that it assesses (as part of its cluster study) the impacts of projects proposing to interconnect on affected systems located within the New York Control Area, and that NYISO or the applicable affected transmission owner or affected system owner identifies any required System Upgrade Facilities on an affected system and a cost estimate of the upgrade.⁴⁶³ NYISO states that the costs of such System Upgrade Facilities are then included in the total cost allocation determined at the conclusion of the Phase 2 study for all of the Attachment Facilities and upgrades required for the project (the CTOAF and SUF Project Cost Allocation), and the interconnection customer must accept and post security for this total CTOAF and SUF Project Cost Allocation amount in the final decision period at the conclusion of the cluster study in order to proceed with its project. NYISO states that this total CTOAF and SUF Project Cost Allocation amount is the amount that NYISO uses for purposes of assessing the percentage change in Attachment Facilities and upgrade costs between the conclusion of the Phase 1 study and Phase 2 study for purposes of determining whether an interconnection customer is eligible to withdraw without being subject to a penalty on its readiness deposit. NYISO states that, accordingly, the affected system upgrade costs are factored into the

⁴⁶² *Id.* at 29.

⁴⁶³ *Id.* at 31.

determination as to whether a penalty will apply. NYISO answers that, if Shell is instead requesting that NYISO must include as part of the penalty determination the costs of any upgrades identified in an external affected system (e.g., a neighboring system such as PJM or ISO-New England, Inc.), then that is beyond the scope of Order No. 2023.⁴⁶⁴

281. NYISO answers that it would be unreasonable for it to have to account for these neighboring upgrade studies and costs in the decision period of its cluster study process, and that an interconnection customer must accept and post security for the CTOAF and SUF Cost Allocation amount identified in NYISO's cluster study during the decision process at the conclusion of this study.⁴⁶⁵ NYISO answers that, if it were required in its process to account for the costs for projects identified in neighboring systems, its cluster study process could be delayed for uncertain and substantial periods of time while awaiting the results of affected system studies in neighboring regions.

d. Commission Determination

282. We find that NYISO's proposed affected systems study process and modeling requirements proposal partially complies with the requirements of Order Nos. 2023 and 2023-A. First, we grant NYISO's proposed independent entity variation to distinguish rules applicable to the electric system within the New York Control Area and for external electric systems outside of the New York Control Area that may be affected by the proposed interconnection. NYISO currently accounts for the impacts of proposed interconnections on affected systems located within the New York Control Area through its existing interconnection studies and proposes to retain this approach. We accept NYISO's proposal to notify external affected systems of potential impacts to their systems during its customer engagement window once the studies have been confirmed, as it complies with the requirements of Order No. 2023 that the host transmission provider notify the neighboring region at the first instance of an identified potential affected system impact on the neighboring region.⁴⁶⁶ We grant NYISO's requested independent entity variation to not adopt the requirement established in Order No. 2023-A that it notify a neighboring region with affected system impacts of a cluster restudy of the applicable cluster study. NYISO asserts that its two-phase cluster study process does not provide for the types of separate cluster restudies contemplated in Order No. 2023,⁴⁶⁷ so this notification requirement is not necessary to accomplish the notification goals of the Final Rule.

⁴⁶⁴ *Id.* at 31-32.

⁴⁶⁵ *Id.* at 32.

⁴⁶⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 1119-1120.

⁴⁶⁷ Filing, Transmittal Letter at 94.

283. We grant NYISO's proposed independent entity variation from the requirement that an interconnection customer be permitted to delay posting security and funding for required upgrades under its LGIA until external affected systems study results are received after the deadline for execution of the interconnection agreement or the deadline to request that the interconnection agreement be filed unexecuted. Under NYISO's proposed cluster study process, an interconnection customer posts security as part of the cluster study final decision period, not at the interconnection agreement stage. NYISO explains that this full security requirement is a unique, existing element of its interconnection process that enables NYISO to avoid costly time and resource intensive restudies in the event a project withdraws, because a withdrawing project would forfeit its security and the transmission owner would make use of this forfeited security to construct upgrades on which other projects rely.⁴⁶⁸ NYISO explains in its answer that because its process requires all interconnection customers to post security before the cluster study process is finalized, delaying the posting of security until affected system studies in neighboring regions are completed would adversely impact the vast majority of projects that do not have affected system impacts, because it would prevent NYISO from finalizing cost allocation for all interconnection customers in the cluster.⁴⁶⁹ Furthermore, while NYISO proposes an independent entity variation with respect to the timing of posting security in light of its unique study process, under NYISO's proposal an interconnection customer that has not received its affected system study report may extend the deadline to execute its interconnection agreement until 30 calendar days after its receipt of the affected system study report, protecting interconnection customers' ability to recoup posted security based on affected system study results.⁴⁷⁰ Therefore, we find that the requested independent entity variations are just and reasonable and accomplish the purposes of the affected systems study process reforms in Order No. 2023 to adopt a detailed affected system study process that will improve certainty and transparency for affected system interconnection customers and avoid increasing delays in the interconnection process, which would lead to increased costs for both interconnection customers and consumers.

284. We deny NYISO's requested independent entity variation to omit the *pro forma* LGIP provision stating that an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those

⁴⁶⁸ Transmittal at 59; Nguyen Aff. ¶ 22.

⁴⁶⁹ See NYISO June 27, 2024 Answer at 32.

⁴⁷⁰ Proposed OATT, attach. HH, § 40.21 (Standard Interconnection Agreement (IA)/Standard Upgrade Constr. Agreement/Standard Multiparty Upgrade Constr. Agreement) (0.0.0), § 40.21.2.1.

interconnection customers that have already received their cluster study results; this proposal is not consistent with Order No. 2023 and has not been justified by NYISO.⁴⁷¹ NYISO requests an independent entity variation to “refine and update the description of any Affected System Network Upgrades based on changes in the base case that occur during the study.”⁴⁷² We understand this request to mean that NYISO proposes not to assign queue positions to affected systems interconnection customers and to instead update the affected system study base case and network upgrades any time a new base case becomes available. We find that this requested independent entity variation fails to provide affected system interconnection customers with certainty around study assumptions and cost allocation. We therefore direct NYISO to submit a further compliance filing within 60 days of the date of this order adopting the Order No. 2023 requirement that an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results, or justifying its proposal under the independent entity variation standard.

285. Consistent with the scope and timeline requirements in Order No. 2023, we accept NYISO’s proposal to perform a single affected system study going forward that consolidates the system impact study and facilities study elements NYISO uses in its existing process. We accept NYISO’s proposal to allocate the affected system network upgrade costs among affected system interconnection customers using the same proportional impact method as for its cluster study process, consistent with the Order No. 2023 requirement that the transmission provider must allocate affected system network upgrade costs using a proportional impact method. We deny NYISO’s proposed independent entity variation to adopt a 300-day affected system study timeline. While section 9.7 of the *pro forma* LGIP, which sets out the 150-calendar day timeline, does not address a division between system impact study and facilities study, section 9.6 specifically contemplates that an affected system study may consist of a system impact study, a facilities study, or some combination thereof. As such, NYISO’s concern that it needs greater than 150 days to include these components was already addressed by the Commission. A 300-day affected system study timeline may delay progress in neighboring regions that adhere more closely to the *pro forma* 150-day timeline, which is twice as fast. NYISO fails to explain its need for 180 days to conduct interconnection facilities studies for projects that do not interconnect with NYISO. We therefore find that NYISO’s proposal does not accomplish the purpose of the final rule to complete timely affected system studies.⁴⁷³ We direct NYISO to submit a further compliance filing within

⁴⁷¹ Filing, Transmittal Letter at 95.

⁴⁷² *Id.*

60 days of the day of this order adopting the Order No. 2023 requirement that an affected system study timeline not exceed 150 calendar days or further justify its proposed 300-calendar day timeline for such studies. Additionally, we find that NYISO's proposal to toll the affected system study period for up to 60 days to give NYISO time to update its study work if one or more affected systems customers withdraw from the study is just and reasonable and consistent with the affected system restudy period set forth in Order No. 2023.

286. We grant NYISO's proposed independent entity variation to hold an iterative decision process at the conclusion of its affected system study, at which point affected system interconnection customers can accept their cost allocations and post security. This process aligns with NYISO's cluster study iterative process and thus provides consistency for affected system interconnection customers while reducing the need for NYISO to conduct affected system restudies. We find that this independent entity variation is just and reasonable and accomplishes the purposes of the affected systems study process and modeling reforms by providing affected system interconnection customers with greater certainty regarding process and costs and reducing the impact of late-stage withdrawals and study delays.⁴⁷⁴

287. We accept NYISO's proposal to include only consideration of NYISO-internal affected system upgrade costs and not external affected system upgrade costs in its withdrawal penalty calculations. In response to Shell's assertion that NYISO fails to include consideration of affected system network upgrade costs in its penalty-free withdrawal provisions, in conflict with Order No. 2023-A's requirement,⁴⁷⁵ we find that NYISO has justified its proposal to not include external affected system upgrade costs in its proposed metric to determine if a withdrawing interconnection customer is eligible for a reduced withdrawal penalty. As NYISO explains in its answer, accounting for external affected system upgrade costs could delay its cluster study process for uncertain and substantial periods of time while awaiting the results of affected system studies in neighboring regions, because it would prevent NYISO from finalizing network upgrade cost allocation for any interconnection customers in the cluster.⁴⁷⁶ In light of NYISO's unique Cluster Study Process, in which all interconnection customers must accept their cost allocation and post security during the decision process at the conclusion of the study before any customer can proceed, we agree that requiring the inclusion of affected system costs in NYISO's withdrawal penalty provisions is unnecessary as interconnection

⁴⁷³ Order No. 2023, 184 FERC ¶ 61,054 at P 1134.

⁴⁷⁴ *Id.* P 1110.

⁴⁷⁵ Shell Protest at 15.

⁴⁷⁶ NYISO June 27 Answer at 32.

customers do not have settled expectations of network upgrade costs when they choose to proceed to the Phase 2 study. That is to say, interconnection customers have no network upgrade cost estimates to compare increases that result from affected system impacts against at that point in the study, as they only receive network upgrade cost estimates at the conclusion of NYISO's cluster study process. Accordingly, we find that NYISO's proposed independent entity variation is just and reasonable and accomplishes the goals of Order No. 2023 by improving the speed and efficiency of the interconnection process.

14. Affected System *Pro Forma* Agreements

288. In Order No. 2023, the Commission adopted several *pro forma* agreements to improve the efficiency and transparency of the interactions among the parties during the affected system study process. The Commission first adopted a *pro forma* affected system study agreement in new Appendix 9 (Two-Party Affected System Study Agreement) of the *pro forma* LGIP and a *pro forma* multiparty affected system study agreement in new Appendix 10 (Multiparty Affected System Study Agreement) of the *pro forma* LGIP.⁴⁷⁷ These *pro forma* affected system study agreements stipulate how to study the impact of interconnecting generating facilities on an affected system to identify network upgrades needed to accommodate the interconnection request. The Commission next adopted a *pro forma* affected system facilities construction agreement in new Appendix 11 (Two-Party Affected System Facilities Construction Agreement) of the *pro forma* LGIP and a *pro forma* multiparty affected system facilities construction agreement in new Appendix 12 (Multiparty Affected System Facilities Construction Agreement) of the *pro forma* LGIP.⁴⁷⁸ These *pro forma* affected system facilities construction agreements standardize the terms and conditions regarding construction of affected system network upgrades.

289. In Order No. 2023-A, the Commission removed articles 3.1.2.2 (Recommencing of Work) and 3.1.2.3 (Right to Suspend Due to Default) from the Two-Party and Multiparty Affected System Facilities Construction Agreement (*pro forma* LGIP appendices 11 and 12, respectively) to ensure consistency between the *pro forma* affected system facilities construction agreements and the *pro forma* LGIA.⁴⁷⁹

⁴⁷⁷ Order No. 2023, 184 FERC ¶ 61,054 at PP 1171, 1232; *see pro forma* LGIP, apps. 9, 10.

⁴⁷⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 1233; *see pro forma* LGIP, apps. 10, 11.

⁴⁷⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 533; *see pro forma* LGIP, apps. 10, 11.

a. NYISO's Compliance Filing

290. NYISO proposes to add section 40.25.6 Appendix 6, section 40.25.7 Appendix 7, section 40.25.16 Appendix 16, and section 40.25.17 Appendix 17 of Attachment HH to the OATT to incorporate the Two-Party Affected System Study Agreement, Multiparty Affected System Study Agreement, Standard Upgrade Construction Agreement, and Standard Multiparty Upgrade Construction Agreement, adopted in Order Nos. 2023 and 2023-A, with limited requests for independent entity variations.⁴⁸⁰

291. NYISO proposes to adopt the new Two-Party Affected System Study Agreement and Multiparty Affected System Study Agreements, as modified to align with the updated affected system tariff requirements proposed in this compliance filing, the scope of the NYISO's affected system study, and the standard terms used across NYISO's interconnection study agreements concerning the incorporation of the applicable tariff requirements, the study deposit and invoicing requirements, and the miscellaneous provisions.⁴⁸¹ NYISO also proposes to modify the time period for identifying deficiencies in the technical data provided with the study agreement from five to 10 business days to align with its review period in its cluster study process.

292. NYISO requests an independent entity variation from the *pro forma* construction agreements adopted by Order No. 2023.⁴⁸² NYISO proposes to use, as applicable, its Standard Upgrade Construction Agreement and Standard Multiparty Upgrade Construction Agreement for the construction of such upgrades.⁴⁸³ NYISO states that it supports the inclusion of uniform, *pro forma* construction agreements in its interconnection procedures and proposes to include in its procedures alternative single interconnection customer and multi interconnection customer *pro forma* agreements that align with its interconnection process and the applicable terms of its *pro forma* interconnection agreement.⁴⁸⁴ NYISO contends that its existing interconnection procedures require it to develop engineering, procurement, and construction agreements

⁴⁸⁰ Proposed OATT, attach. HH, § 40.25.6 (Two-Party Affected System Study Agreement) (0.0.0); *id.*, attach. HH, § 40.25.7 (Multiparty Affected System Study Agreement) (0.0.0); *id.*, attach. HH, § 40.25.16 (Standard Upgrade Constr. Agreement) (0.0.0); *id.*, attach. HH, § 40.25.17 (Standard Multiparty Upgrade Construction Agreement) (0.0.0).

⁴⁸¹ Filing, Transmittal Letter at 96.

⁴⁸² *Id.* at 85.

⁴⁸³ *Id.* at 98.

⁴⁸⁴ *Id.* at 85.

for the construction of System Upgrade Facilities or System Deliverability Upgrades on an affected system or, in the case of multiple interconnection customers, on either an affected system or a connecting transmission owner's system. Under its existing requirements, NYISO states that it is required to use its Standard LGIA as the template for these agreements, as modified to address only the engineering, procurement, and construction of the upgrade. NYISO asserts that the Commission's *pro forma* construction agreements adopted in Order No. 2023 are largely based on the agreements used in MISO. However, NYISO contends that its and MISO's interconnection procedures and agreements diverge in important ways based on the unique requirements in each region. For example, NYISO's procedures include different upgrade funding and security approaches.

293. NYISO proposes instead to include two new *pro forma* construction agreements that are based on the terms of NYISO's Standard Interconnection Agreement, as modified, consistent with the numerous prior construction agreements developed in New York.⁴⁸⁵ Specifically, NYISO proposes to insert a Standard Upgrade Construction Agreement and a Standard Multiparty Upgrade Construction Agreement. NYISO states that the agreements would apply in the following circumstances: (1) an interconnection customer or multiple interconnection customers interconnecting in New York that require the construction of System Upgrade Facilities or System Deliverability Upgrades on an affected system; (2) multiple interconnection customers interconnecting in New York that require the construction of System Upgrade Facilities or System Deliverability Upgrades on a connecting transmission owner's system; or (3) one or more affected system interconnection customers interconnecting in a neighboring region that require the construction of Affected System Network Upgrades on an affected system located in New York. NYISO states that, consistent with its current tariff requirements, the *pro forma* construction agreements mirror NYISO's Standard Interconnection Agreement, as modified to only address the engineering, procurement, and construction of the required upgrades.

b. Protest

294. Shell states that NYISO fails to propose tariff provisions to provide reimbursement to interconnection customers for affected system network upgrades.⁴⁸⁶ Shell states that Order No. 2023 requires transmission providers to repay an

⁴⁸⁵ *Id.* at 86-87.

⁴⁸⁶ Shell Protest at 7 (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 1200-1201, 1243, *pro forma* LGIP, app. 11 (Two-Party Affected System Facilities Construction Agreement), art. 3.2.2.1 (Repayment); *Pro forma* LGIP, app. 12 (Multiparty Affected System Facilities Construction Agreement) § 3.2.2.1 (Repayment)).

interconnection customer the costs of affected system network upgrades for which the interconnection customer has paid in advance. Shell states that NYISO requires the interconnection customer to pay for any affected system network upgrades needed to support its interconnection with no reimbursement or repayment. Shell asserts that the Commission should require NYISO to provide: (1) further explanation as to how its approach complies with Order No. 2023's reimbursement requirements for affected system network upgrades; or (2) additional support for a request for an independent entity variation for its failure to adopt Order No. 2023's *pro forma* Affected System Facilities Construction Agreement's provisions for repayment for affected system network upgrades costs.

c. Answer

295. NYISO answers that its interconnection procedures use the “but for” funding approach – the participant funding approach authorized by the Commission by which interconnection customers are responsible for the costs of the upgrades, including affected system network upgrades, that would not be required “but for” their projects.⁴⁸⁷ NYISO contends that its initial upgrade cost allocation rules adopted in 2001 used such a participant funding approach, and the Commission approved NYISO's continued use of participant funding for upgrades in response to Order No. 2003. NYISO states that it is not proposing any changes to its longstanding approach or rules for the use of participant funding for upgrades identified in its procedures. NYISO adds that the Commission rejected as beyond the scope of Order No. 2023 requests to revisit upgrade cost allocation policies, including changes to the participant funding regime to limit the use of such funding.⁴⁸⁸

d. Commission Determination

296. We find that NYISO's proposed revisions comply with the requirements of Order Nos. 2023 and 2023-A because they are just and reasonable, not unduly discriminatory or preferential, and accomplish the purpose of the *pro forma* agreement revisions in Order Nos. 2023 and 2023-A by providing transparent timelines and processes and eliminating the need to negotiate individual non-standard agreements.⁴⁸⁹

297. We find that Shell's protest of NYISO's affected system repayment policy is outside the scope of Order No. 2023. We note that Order No. 2023 did not revise or

⁴⁸⁷ *Id.* at 30 (citing *N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,159, at PP 57-59 (2004)).

⁴⁸⁸ *Id.* at 29 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 467).

⁴⁸⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1183.

address the merits of the Commission's affected system repayment policy. Rather, it simply memorialized the Commission's existing affected system repayment policy in the *pro forma* affected systems agreements.⁴⁹⁰ Because the Commission has previously accepted NYISO's independent entity variation to this policy, NYISO need not justify its continuing application of its affected system repayment policy to comply with Order No. 2023.

15. Co-Located Generating Facilities

298. In Order No. 2023, the Commission revised *pro forma* LGIP section 3.1.2 to require transmission providers to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and share a single interconnection request.⁴⁹¹ The Commission clarified that interconnection customers have the choice to structure their interconnection requests for co-located generating facilities according to their preference (i.e., as separate interconnection requests or as a shared interconnection request) and that Order No. 2023 does not require interconnection customers to share a single interconnection request for multiple generating facilities located on the same site.⁴⁹² The Commission also clarified that co-located generating facilities can be owned by a single interconnection customer with multiple generating facilities sharing a site, or by multiple interconnection customers that have a contract or other agreement that allows for shared land use.⁴⁹³

a. NYISO's Compliance Filing

299. NYISO requests an independent entity variation to retain its existing requirements regarding Co-Located Storage Resources (CSR).⁴⁹⁴ NYISO explains that it implemented

⁴⁹⁰ *Id.* 1244.

⁴⁹¹ *Id.* P 1346; *see pro forma* LGIP § 3.1.2.

⁴⁹² Order No. 2023, 184 FERC ¶ 61,054 at PP 1351-1352.

⁴⁹³ *Id.* P 1355.

⁴⁹⁴ Filing, Transmittal Letter at 116. CSRs are defined as “an Energy Storage Resource and one other type of Generator that is not a Withdrawal-Eligible Generator. The second participating Generator can be a wind, solar, or landfill gas fueled Intermittent Power Resource, a Limited Control Run-of-River Hydro Resource, or a Dispatchable Generator which may require commitment and time to start-up. The two Generators must: (a) both be located behind a single Point of Injection (as defined in Section 1.16 of the OATT); (b) participate in the ISO Administered Markets as two distinct Generators; and (c) share a set of CSR Scheduling Limits. Generators that may not participate in the ISO-Administered Markets as components of a CSR include: (a)

its CSR requirements in 2021, which allow for an energy storage resource and a wind or solar resource that share a common point of injection to participate as CSRs.⁴⁹⁵ NYISO further explains that the two resources participating in the CSR would have the option to submit a single interconnection request or consolidate two interconnection requests, and would ultimately share a single interconnection agreement. NYISO notes that ERIS and CRIS rights would be allocated to each of the generators in the CSR separately. Finally, NYISO explains that its tariff revisions implementing the CSR framework also allow generators in a CSR configuration to participate in its energy, capacity, and ancillary services markets.⁴⁹⁶

b. Commission Determination

300. We find that NYISO's proposal partially complies with the co-located generating facilities requirements of Order Nos. 2023 and 2023-A. We find NYISO's proposed independent entity variation to retain its existing CSR rules allowing an energy storage resource and a wind or solar resource that share a common point of injection to participate as CSRs to be just and reasonable, because it allows more than one generating facility to co-locate on a shared site behind a single point of interconnection. Furthermore, we find that NYISO's proposed revisions to retain its existing CSR framework, which allows for CSR generators to participate in its energy, capacity, and ancillary services markets, is just and reasonable, and not unduly discriminatory or preferential. We find that the proposed revisions accomplish the purposes of Order Nos. 2023 and 2023-A because they allow NYISO and interconnection customers to take advantage of efficiency improvements by sharing transmission provider's interconnection facilities and interconnection customers' interconnection facilities, thereby supporting overall interconnection queue efficiency.

301. However, we find that NYISO has not justified its proposed independent entity variation to require that co-located generating facilities participating as CSRs submit a

Limited Energy Storage Resources, (b) a Generator comprised of a group of generating units at a single location, which grouped generating units are separately committed and dispatched by the ISO, and for which Energy injections are measured at a single location, (c) Generators participating via a model that can accommodate several participants, including but not limited to Hybrid Storage Resources and Aggregations, and (d) Generators that serve a Host Load.” NYISO, NYISO Tariffs, § 1.3 (Definitions - C) (15.0.0).

⁴⁹⁵ Filing, Transmittal Letter at 116 (citing *N.Y. Indep. Sys. Operator, Inc.*, 174 FERC ¶ 61,242 (2021) (accepting tariff revisions to implement participation model for co-located storage resources)).

⁴⁹⁶ *Id.* at 116-17.

single or consolidated interconnection request. In Order No. 2023, the Commission declined to require multiple generating facilities located on the same site to share a single interconnection request and clarified that interconnection customers have the choice to structure their interconnection requests either as shared or separate interconnection requests according to their preference.⁴⁹⁷ NYISO provides no explanation for why it proposes to limit the choice provided in Order No. 2023. Additionally, NYISO's existing provisions for CSRs require that the generating facilities participate in the ISO Administered Markets as two distinct generators. Order No. 2023 did not limit the choice between submitting two separate or one combined interconnection request to only specific configurations of co-located generating facilities. Furthermore, NYISO did not provide explanation for limiting such provisions to only CSRs.

302. Therefore, we direct NYISO to submit a compliance filing within 60 days of the date of this order that proposes tariff revisions or provides further justification under the independent entity variation standard to clarify (1) whether if in addition to "single or consolidated interconnection request," CSRs also have the choice to submit separate interconnection requests, and (2) whether such choices to submit interconnection requests apply to co-located generating facility interconnection for other co-located generating facilities that are not participating as CSRs in NYISO.

16. Revisions to the Modification Process to Require Consideration of Generating Facility Additions

303. In Order No. 2023, the Commission revised section 4.4.3 of the *pro forma* LGIP to require transmission providers to evaluate the proposed addition of a generating facility at the same point of interconnection prior to deeming such an addition a material modification, if the addition does not change the originally requested interconnection service level.⁴⁹⁸ The Commission found that automatically deeming a request to add a generating facility to an existing interconnection request to be a material modification without such evaluation creates a significant barrier to access to the transmission system and renders existing interconnection processes unjust and unreasonable.⁴⁹⁹

304. The Commission clarified that interconnection customers may continue to request changes to proposed generating facilities at any time in the interconnection process; however, transmission providers are only required to evaluate whether a request to add a generating facility to an existing interconnection request is material if the request is submitted before the interconnection customer returns the executed facilities study

⁴⁹⁷ Order No. 2023, 184 FERC ¶ 61,054 at PP 1351-1352.

⁴⁹⁸ *Id.* P 1406; *see pro forma* LGIP § 4.4.3.

⁴⁹⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1407.

agreement to the transmission provider. Once the executed facilities study agreement is returned, the transmission provider may decide to automatically treat requests to add a generating facility to an existing interconnection request as material modifications without review.⁵⁰⁰ The Commission also created an exception from these requirements for transmission providers that employ fuel-based dispatch assumptions.⁵⁰¹

305. The Commission also revised section 4.4.5 of the *pro forma* LGIP to require that interconnection customers receive an extension of fewer than three cumulative years of the generating facility's commercial operation date without requiring them to request such an extension from the transmission provider.⁵⁰² The Commission clarified that the commercial operation date reflected in the initial interconnection request shall be used in calculating the permissible fewer than three-year extension until the interconnection customer executes, or requests the unexecuted filing of, an LGIA. Once the interconnection customer has done so, the commercial operation date established in the LGIA shall be the date from which the up-to-three years cumulative is calculated.

a. NYISO's Compliance Filing

306. NYISO proposes revisions to sections 40.6.3 and 40.7.2 of Attachment HH to the OATT to incorporate the Commission's revisions to the modifications process adopted in Order Nos. 2023 and 2023-A.⁵⁰³ NYISO states that its current interconnection procedures establish the modifications that an interconnection customer may request at different stages of the interconnection process, with the categories of permitted modifications narrowing as the interconnection customer progresses through the different interconnection studies.⁵⁰⁴ NYISO states that, once an interconnection customer reaches the Class Year Study process, NYISO does not permit modifications until the completion of the study, as even minor modifications would require updated facility models which may require updates to base cases and auxiliary study files and therefore would delay the performance of the study. NYISO contends that, once the study is completed, interconnection customers may again request NYISO's review of proposed modifications

⁵⁰⁰ *Id.* PP 1409-1410.

⁵⁰¹ *Id.* P 1411.

⁵⁰² *Id.* P 293; *see pro forma* LGIP § 4.4.5.

⁵⁰³ Proposed OATT, attach. HH, § 40.6 (Queue Position/Modification/Withdrawal/Withdrawal Penalties) (0.0.0), § 40.6.3; *id.*, attach. HH, § 40.7 (Customer Engagement Window/Phase 1 Entry Decision Period) (0.0.0), § 40.7.2.

⁵⁰⁴ Filing, Transmittal Letter at 74.

to determine whether they are permitted under NYISO's interconnection procedures and are not material.⁵⁰⁵

307. NYISO requests an independent entity variation to address the structural changes in its interconnection process.⁵⁰⁶ NYISO states that in the revised process, there will not be prerequisite interconnection studies prior to commencing the cluster study, and adds that it must begin developing the base cases for the study early on to meet the more stringent study timeframes. Accordingly, NYISO proposes to specify that, as with its existing Class Year Study rules, an interconnection customer may not request to modify the project information that it proposed in its interconnection request or CRIS-Only Request until the cluster study is complete. NYISO contends that permitting such modifications would require NYISO to update the modeling and base cases used for the performance of the study, creating delays and adversely impacting the other projects in the cluster. NYISO asserts that, as a result, such modifications necessarily have a material impact on the cost or timing of other interconnection requests in that cluster study and are therefore material modifications.

308. NYISO proposes to prohibit interconnection customers from requesting project modifications during its cluster study process, with the limited exception of five business days during the customer engagement window following the publication of the cluster study project list, in which interconnection customers can modify their points of interconnection.⁵⁰⁷ NYISO states that this will enable an interconnection customer to assess the other projects in the cluster and to determine if, based on those projects' location, they would like to use an alternative point of interconnection.

309. NYISO also proposes to make uniform the requirements for its assessment of modification requests to ensure an efficient and timely modification process. In particular, NYISO proposes to clarify that the interconnection customer must submit the modification form, any supporting information or documentation, and a study deposit in the amount of \$10,000 for modification requests that require study by NYISO.⁵⁰⁸ NYISO clarifies that it will commence any required study within 30 calendar days of receipt of the completed request form with limited exceptions for extending commercial operation dates and for permissible technological advances, which have separate, more detailed rules.

⁵⁰⁵ *Id.* at 74-75.

⁵⁰⁶ *Id.* at 75.

⁵⁰⁷ *Id.*

⁵⁰⁸ *Id.* at 75-76.

310. NYISO requests an independent entity variation for the commercial operation date extension requirements that builds on its existing variations previously accepted by the Commission.⁵⁰⁹ NYISO states that its existing rules permit interconnection customers to extend their commercial operation date as a matter of right up to four years after the completion of the final interconnection study for the project. NYISO asserts that, for an extension beyond this four-year period not to constitute a material modification, the interconnection customer must have an interconnection agreement and be able to demonstrate via an officer certification that it has made reasonable progress against milestones in the agreement, such as completion of engineering design, major equipment orders, and commencement and continuation of construction of the facility and associated upgrades. NYISO proposes not to adopt the changes included in Order No. 2023, which could expand the time period as a matter of right beyond NYISO's existing four-year period.

311. NYISO states that, based on extensive discussions with interconnection customers and stakeholders concerning these requirements, it has determined that additional flexibility in its existing extension rules is required to address the concerns raised in Order No. 2023 about interconnection customers having sufficient time to achieve their commercial operation dates, provided that this flexibility is bounded so as not to encourage projects that are speculative or less commercially ready to linger in the queue.⁵¹⁰ Accordingly, NYISO proposes certain modifications to its existing rules that provide additional flexibility for reasonable extensions within the overall framework of NYISO's process. First, NYISO proposes to remove the requirement that an interconnection customer have an interconnection agreement as a prerequisite for requesting an extension beyond the four-year period. NYISO contends that, under NYISO's existing tariff rules, the interconnection customer has been required to obtain a waiver from the Commission to obtain an extension in such cases. Second, NYISO proposes to establish a three-part process for an interconnection customer to obtain a commercial operation date extension beyond its permitted four-year period that does not constitute a material modification.⁵¹¹

312. NYISO proposes the following additional revisions to its modification requirements.⁵¹² First, NYISO proposes to adopt the Order No. 2023 revisions to the definition of material modification. Second, NYISO proposes to clarify the requirements for when an interconnection customer must inform NYISO of changes to its initial

⁵⁰⁹ *Id.* at 76.

⁵¹⁰ *Id.* at 77.

⁵¹¹ *Id.* at 78-79.

⁵¹² *Id.* at 80.

backfeed date, synchronization date, and commercial operation date as the existing tariff rules establish duplicative timeframes for such notice. Additionally, for modification requests for a technological change, such as permissible technological advancements, NYISO proposes to remove language specifying that a technological change can be requested following delivery of the initial draft of the system reliability impact study report and prior to the return of an executed facilities study agreement.⁵¹³ Finally, NYISO proposes to update its modification request form to align the descriptions of requested modifications with the updated tariff requirements and to update the terms and conditions for NYISO's performance of any required study so that they are uniform with the other study agreements in Attachment HH.

b. Comments/Protests

1. Comments in Support

313. ACE-NY asserts that the Commission should accept NYISO's modification to allow a developer to revise its designated point of interconnection based upon newly available information gained in the first stage of NYISO's Order No. 2023 process.⁵¹⁴ ACE-NY states that it is only once the customer list is published that a developer can begin to make determinations as to whether, and if so, the degree to which, its project will be adversely affected by all other projects participating in the transitional cluster study. ACE-NY states that allowing developers to revise points of interconnection at this point should allow the cluster studies, including the transitional cluster study, to proceed with better project-on-project alignment without unduly delaying study completion.

314. ACE-NY, Clean Energy Associations, and Shell support NYISO's request for a continued independent entity variation for its four-year commercial operation date extension rule for a project's commercial operation date up to May 2, 2028, and for all projects in completed Class Years.⁵¹⁵ Shell states that NYISO's proposal builds on the independent entity variation that the Commission previously approved and continues to address unique circumstances in New York arising from the scope and structure of its public policy solicitation processes.⁵¹⁶ Clean Energy Associations contend that NYISO's conditions appropriately balance the goal of eliminating speculative projects that will never reach commercial operation while avoiding disruption to projects that are

⁵¹³ Proposed OATT, attach. HH, § 40.6 (Queue Position/Modification/Withdrawal/Withdrawal Penalties) (0.0.0), § 40.6.3.7.

⁵¹⁴ ACE-NY Comments at 27.

⁵¹⁵ *Id.* at 23-26; Clean Energy Associations Protest at 7; Shell Protest at 5.

⁵¹⁶ Shell Protest at 5.

experiencing unavoidable delays but that will reach commercial operation if granted reasonable extensions.⁵¹⁷ ACE-NY and Clean Energy Associations state that a four-year extension period until May 2, 2028 for all projects in completed class years is needed to address the unique circumstances associated with the COVID pandemic and the related supply chain, inflation, and construction timeline impacts.⁵¹⁸ ACE-NY also points out that some renewables development may be delayed by supply-side constraints that delay transmission upgrade projects, as well as new forms of technology that require longer construction periods.⁵¹⁹

315. NYTOs also support NYISO's request for an independent entity variation from the provisions of Order No. 2023 related to calculating the extension of an interconnection customer's commercial operation date that is permitted as a matter of right.⁵²⁰ NYTOs state that the *pro forma* LGIP language would permit an extension beyond the existing authorized period of four years after the completion of an interconnection customer's final interconnection study, which risks having projects extend beyond NYISO's five-year study horizon and could otherwise undermine certainty within the interconnection process. NYTOs support NYISO's reasonable time limits and other proposed process changes, which are designed to prevent projects from lingering in the queue, while ensuring accurate studies and cost estimates.⁵²¹ NYTOs add that inflexible extension rules may cause a large number of existing projects to fall out of the current interconnection process and reenter NYISO's new process, resulting in the need to repeat a potentially substantial amount of already completed work, which will unnecessarily burden all parties.⁵²²

2. Protests

316. BlueWave and NY-BEST request that the Commission require NYISO to allow interconnection customers to request equipment modifications or substitutions during the cluster study process.⁵²³ BlueWave states that equipment modifications that do not

⁵¹⁷ Clean Energy Associations Protest at 6-7.

⁵¹⁸ *Id.* at 5; ACE-NY Comments at 25.

⁵¹⁹ ACE-NY Comments at 25.

⁵²⁰ NYTOs Comments at 13.

⁵²¹ *Id.* at 14.

⁵²² *Id.* at 14-15.

⁵²³ BlueWave Protest at 7; NY-BEST Protest at 8-9.

increase project size cannot reasonably be determined to have “a material impact on the cost or timing of any interconnection request with an equal or later queue position.”⁵²⁴ Additionally, BlueWave states that the Commission should require NYISO to make explicit in its tariff revisions that prospective interconnection customers may request approval for Permissible Technological Advancements via the Technological Change Procedure during the customer engagement window, the cluster study process, and the cluster study result review period. BlueWave, Shell, and NY-BEST also request that the Commission require NYISO to allow potential downsizing during the cluster study process.⁵²⁵ BlueWave contends that these flexibilities would allow interconnection customers to maintain project schedule certainty and viability, and obtain financing.⁵²⁶ NY-BEST requests that the Commission direct NYISO to develop an evaluation process for these types of modifications in parallel with the cluster study so that the cluster study is not impacted, and make these allowed changes explicit in the tariff to reduce project risk and associated costs.⁵²⁷

317. Clean Energy Associations contend that NYISO’s proposed restrictions to project modifications will not result in a more efficient interconnection process but instead result in unnecessary withdrawals by projects that could otherwise have remained in the cluster.⁵²⁸ Clean Energy Associations state that these restrictions may also cause projects that do move forward to do so in a way that does not maximize benefits and minimize costs ultimately borne by ratepayers, because the projects have not had the opportunity to adjust to new information that becomes available through the interconnection process or to take advantage of technological advancements that have occurred while the project has been in the queue. Clean Energy Associations state that flexibility to pursue modifications, and certainty with respect to what constitutes a material modification, will allow developers to design and pursue projects without the risk of losing their NYISO queue position.

c. Answers

318. NYISO and NYTOs answer that allowing for project modifications during the cluster study would lengthen the study process, counter to Order No. 2023’s aim of shortening study times.⁵²⁹ Specifically, NYISO states that modifications to a project

⁵²⁴ BlueWave Protest at 7 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 337).

⁵²⁵ *Id.* at 8; Shell Protest at 10-11; NY-BEST Protest at 8-9.

⁵²⁶ BlueWave Protest at 5-6.

⁵²⁷ NY-BEST Protest at 8-9.

⁵²⁸ Clean Energy Associations Protest at 21.

trigger the need to update the modified facility's models, which then trigger the need to: (1) rebuild the cluster project assessment short-circuit base case; (2) potentially redesign, re-engineer, and re-perform the cost estimation of the Attachment Facilities, Distribution Upgrades, and local upgrades identified using the prior cluster project assessment base case; and (3) re-calculate the allocation of those costs among the impacted interconnection customers.⁵³⁰ NYISO adds, however, that customers can continue to request modifications following the completion of the cluster study and asserts that NYISO will continue to assess such requested modifications to determine whether each requested change meets the tariff definition of a material modification—i.e., whether it has an impact on the cost or schedule of another cluster study project (in the current or a prior cluster study).⁵³¹ NYISO notes that its study structure differs from both the Commission's *pro forma* structure and NYISO's prior study structure, which previously included individual feasibility and system impact studies, and adds that the single study no longer includes time periods between individual studies that could enable developers to change their project before they participated in the final cluster study.⁵³² NYTOs state that, as proposed, NYISO's modification provisions encourage the submission of projects in more advanced stages of readiness, supporting the efficient and timely completion of interconnection studies.⁵³³

319. Clean Energy Associations respond that NYISO's overly inflexible approach to project modifications will have adverse impacts on project development.⁵³⁴ They assert that a total prohibition on modifications will force interconnection customers to commit to inverter models and other equipment at the start of a years-long development process that may be obsolete by the time the project enters construction, resulting in interconnection customers procuring equipment earlier in the construction process that may ultimately be less efficient in terms of function, cost, and timely development. Clean Energy Associations point out that Order No. 2023 recognized the disruptive effect of cascading restudies but nonetheless required transmission providers to permit specific, limited modifications during the study process. They argue that NYISO shows no effort to address the requirements of Order No. 2023 and NYISO's deviation from the *pro*

⁵²⁹ NYISO June 27, 2024 Answer at 11; NYTOs June 27, 2024 Answer at 5-6.

⁵³⁰ NYISO June 27, 2024 Answer at 11-12; NYISO July 29, 2024 Answer at 7-8.

⁵³¹ NYISO June 27, 2024 Answer at 12; NYISO July 29, 2024 Answer at 8-9.

⁵³² NYISO June 27, 2024 Answer at 12-13.

⁵³³ *Id.* at 6-7.

⁵³⁴ Clean Energy Associations July 12, 2024 Answer at 10-11.

forma LGIP does not strike an appropriate balance between study efficiency and the realities of project development, and is likely to exacerbate delays to the study process.

320. Clean Energy Associations answer that if the flexibility of project modification is forgone, interconnection customers will be forced to procure components as soon as their project passes the Phase 1 study (or earlier) to ensure that the “as built” plan for their project matches their original plan exactly.⁵³⁵ They state that interconnection customers will be forced to tie up capital in procurement earlier than they otherwise would have, which can lead to financial constraints that are unnecessary and out of step with other regions and will favor large developers over small developers, as the former are more likely to have more liquid capital to use on procurement. They assert that maintaining small measures of flexibility for project design and sizing as allowed under Order No. 2023 is an important interconnection customer protection that will not only benefit individual interconnection customers, but also reduce the potential for cascading disruptions as a result of project withdrawals.⁵³⁶

d. Commission Determination

321. We find that NYISO’s modifications process proposal partially complies with the requirements of Order Nos. 2023 and 2023-A. As noted above, prior to Order Nos. 2023 and 2023-A, NYISO did not allow interconnection customers to request modifications until after the class year study is completed. We find that NYISO’s proposal to maintain this existing independent entity variation while adopting Order Nos. 2023 and 2023-A’s requirement of allowing interconnection customer to propose the addition of a generating facility through the modification process is just and reasonable and accomplishes the purposes of Order Nos. 2023 and 2023-A. NYISO argues that permitting interconnection customers to make additional modifications during the cluster study process would result in substantial delays in the cluster study process due to the need to update facility models and base cases, creating significant uncertainty in the timeframe of the process to the detriment of all projects. We agree with NYISO’s argument and find that the proposed modification process accomplishes the purposes of Order Nos. 2023 and 2023-A to process modification requests with a uniform standard set of procedures.⁵³⁷

322. In response to protests from BlueWave, NY-BEST, Shell, and Clean Energy Associations stating that modification requests should be allowed during the cluster study process, we note NYISO’s unique cluster study structure which, unlike the *pro forma* cluster study process, does not include a separate system impact study, restudy, and

⁵³⁵ *Id.* at 11.

⁵³⁶ *Id.* at 12.

⁵³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1358.

facilities study. Therefore, allowing for project modifications during the 460-day cluster study would lengthen the study process, counter to Order No. 2023's aim of shortening study times. We also note NYISO's proposal is not a total prohibition of project modifications as modifications may be requested: (1) during the five-business day window in the customer engagement window, when interconnection customers can request a change to their point of interconnection; and (2) once the cluster study is complete, interconnection customers may again request NYISO's review of proposed modifications.

323. We grant NYISO's proposed independent entity variation regarding commercial operation date extension requirements because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that the NYISO's proposal to retain its existing rules, which permit interconnection customers an extension of up to four years after the completion of the interconnection study, ensures that interconnection customers' proposed generating facilities reach commercial operation. Moreover, we find that NYISO's removal of the requirement that an interconnection customer have an interconnection agreement to request an extension beyond the four year period and its proposed three-part process to obtain a commercial operation date extension beyond the permitted four year period encourages timely progress of projects, which aligns with the speed and efficiency purposes in Order Nos. 2023 and 2023-A.⁵³⁸

324. However, we reject NYISO's proposal in section 40.6.3.7 to remove language specifying that a technological change, such as permissible technological advancements, can be requested following delivery of the initial draft of the system reliability impact study report and prior to the return of an executed facilities study agreement and prior to the return of an executed facilities study agreement. We acknowledge that NYISO's revised interconnection study process removes the system reliability impact study report and facilities study agreement and therefore NYISO must revise its tariff to accommodate technological changes in its revised interconnection study procedures. For this reason, we will evaluate such changes, which are required to comply with Order No. 845, as part of NYISO's Order Nos. 2023 and 2023-A compliance filing. Order No. 845 required transmission providers to revise their LGIP to permit interconnection customers to submit requests to incorporate technological advancements prior to the execution of the interconnection facilities study agreement.⁵³⁹ In establishing this cut-off point, the Commission stated that:

⁵³⁸ *Id.* P 59.

⁵³⁹ Order No. 845, 163 FERC ¶ 61,043 at P 535.

[w]e believe that we are establishing a reasonable cut-off point for allowing technological advancements that will not be considered material modifications given that changes requested during the facilities study could delay the transmission provider's ability to tender an interconnection service agreement and, consequently, delay other projects.... However, to the extent that a transmission provider believes that it is appropriate to establish rules that permit technological advancements only at a single point in its interconnection process (prior to the execution of the interconnection facilities study agreement), we permit transmission providers to propose such a practice in their compliance filings.⁵⁴⁰

Accordingly, we direct NYISO to submit a compliance filing within 60 days of the date of this order that provides a cut-off point for interconnection customers to request a technological change that is consistent with Order No. 845 and otherwise clarifies when interconnection customers may request such a change under NYISO's revised interconnection process.

17. Availability of Surplus Interconnection Service

325. In Order No. 2023, the Commission revised section 3.3.1 (Surplus Interconnection Service Request) of the *pro forma* LGIP to require transmission providers to allow interconnection customers to access the surplus interconnection service process once the original interconnection customer has an executed LGIA or requests the filing of an unexecuted LGIA.⁵⁴¹ The Commission found that this reform will enable interconnection customers with unused interconnection service to let other generating facilities use that interconnection service earlier than is currently allowed and, therefore, increase overall efficiency of the interconnection queue and in turn ensure just and reasonable rates.⁵⁴² The Commission clarified that this reform does not modify how the surplus interconnection service process is conducted, but rather addresses when a request for surplus interconnection service may be submitted.⁵⁴³ The Commission further clarified that the original interconnection customer must have an LGIA in place, either executed or

⁵⁴⁰ *Id.* P 536.

⁵⁴¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1436; *see pro forma* LGIP § 3.3.1.

⁵⁴² *Id.* P 1437.

⁵⁴³ *Id.* P 1447.

requested to be filed unexecuted with the Commission, prior to the transmission provider tendering any LGIA for surplus interconnection service.⁵⁴⁴

a. NYISO's Compliance Filing

326. NYISO requests an independent entity variation to relieve it from the Commission's surplus interconnection service requirements and instead allow NYISO to continue using its existing interconnection process, which does not provide for the use of surplus interconnection service.⁵⁴⁵ NYISO states that, as explained in its filing to comply with Order No. 845, the Commission's surplus interconnection service requirement relies on the premise that a generating facility's interconnection service is based on an evaluation of the facility at full capacity, with reliability upgrades being required for any adverse reliability impacts of the facility's injection of its full capacity, with no re-dispatch or dispatching down of the facility to mitigate such adverse impacts.⁵⁴⁶ NYISO argues that this premise is not the case under NYISO's Minimum Interconnection Standard, pursuant to which a facility is never guaranteed that it can operate at its full capacity in normal operations due to various system conditions and subsequent new project entry. NYISO explains that the Commission accepted NYISO's requested independent entity variation to not offer surplus interconnection service and instead continue to use its existing interconnection process, including the NYISO Minimum Interconnection Standard.⁵⁴⁷ NYISO requests that the Commission uphold this independent entity variation and find that NYISO's existing approach is just and reasonable.⁵⁴⁸

b. Protest

327. Shell states that NYISO's compliance filing does not comply with Order No. 2023 because it fails to include tariff revisions to offer surplus interconnection service.⁵⁴⁹ Shell states that, beyond NYISO's basic statements that the Commission should uphold its previous grant of an independent entity variation under the requirements and purposes of

⁵⁴⁴ *Id.* P 1445.

⁵⁴⁵ Filing, Transmittal Letter at 118.

⁵⁴⁶ *Id.* (citing NYISO, Compliance Filing, Docket No. ER19-1949-000, at 23-24 (filed May 22, 2019)).

⁵⁴⁷ *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117, at P 98 (2020)).

⁵⁴⁸ *Id.* at 119.

⁵⁴⁹ Shell Protest at 11.

Order No. 845, NYISO does not explain how NYISO's proposal to continue not to offer surplus interconnection service meets the requirements of the independent entity variation standard under Order No. 2023.⁵⁵⁰ Shell disagrees with NYISO's argument that its Minimum Interconnection Standard allows for re-dispatch of a facility (i.e., both a project being studied for interconnection and existing generators in the study case) in interconnection studies to less than the facility's full capacity to mitigate reliability impacts at full capacity.⁵⁵¹ Shell states that, while NYISO's Minimum Interconnection Standard might allow an interconnection customer to achieve the equivalent of surplus interconnection service, to actually access surplus interconnection capacity, the interconnection customer is forced to go through NYISO's entire generator interconnection study process, which takes years.⁵⁵²

328. Shell explains that surplus interconnection service was created under Order No. 845 with the intent of developing an expedited interconnection study process outside the regular generator interconnection study process to allow interconnection customers to use surplus interconnection service to reach commercial operation more quickly than through the regular generator interconnection process.⁵⁵³ Shell states that, in Order No. 2023, the Commission clarified that requests for surplus interconnection service will continue to be processed outside of the Order No. 2023-required cluster study process.⁵⁵⁴ Shell states that surplus interconnection service allows fast-track interconnection determinations because there is no impact to the transmission system when a generator seeks to interconnect using surplus interconnection capacity created, but not used, by prior interconnection customers.⁵⁵⁵ Shell asserts that it is not just and reasonable for NYISO to implement a much slower Minimum Interconnection Standard practice than was intended under Order No. 845's surplus interconnection service, which was upheld in Order No. 2023. Shell notes that other RTOs offer surplus interconnection service and evaluate surplus interconnection service requests more quickly (i.e., in six months or less) than their regular generator interconnection processes. Shell argues that generator interconnection customers should have the right to determine whether or not their facility should be studied with re-dispatch, and the Commission should require NYISO to submit

⁵⁵⁰ *Id.* at 13.

⁵⁵¹ *Id.* at 12.

⁵⁵² *Id.* at 14.

⁵⁵³ *Id.* (citing Order No. 845, 163 FERC ¶ 61,043 at PP 453, 467; Order No. 2023, 184 FERC ¶ 61,054 at PP 1420, 1436-1437).

⁵⁵⁴ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 396).

⁵⁵⁵ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 1420, 1437).

a further compliance filing implementing the surplus interconnection service required in Order No. 2023 and the *pro forma* LGIP.⁵⁵⁶

c. NYISO's Answer

329. NYISO answers that Shell's protest is a collateral attack on the Commission's prior determination that surplus interconnection service does not apply in New York.⁵⁵⁷ NYISO argues that Order No. 2023 only required transmission providers to seek approval for previously approved variations where the provisions have been modified by Order No. 2023.⁵⁵⁸ NYISO contends that, on compliance with Order No. 845, the Commission accepted NYISO's independent entity variation that NYISO is not required to provide such service. NYISO asserts that Order No. 2023 did not change the core requirements concerning a transmission provider's provision of surplus interconnection service, but only revised certain rules regarding the application and timing of this service, if provided. NYISO argues that the Commission should also reject Shell's request that it provide interconnection customers with the option as to whether its project should be studied with re-dispatch, because requiring NYISO to create different forms of interconnection service to apply at the interconnection customer's option is outside the scope of Order No. 2023.⁵⁵⁹ NYISO adds that permitting developers to elect whether NYISO should re-dispatch individual projects in interconnection studies would create significant study complexities and could harm other developers. For example, NYISO asserts, a developer could be harmed if multiple projects trigger a reliability need that could be mitigated through re-dispatch, but only certain of the contributing projects elect to be studied with re-dispatch.

d. Commission Determination

330. We accept NYISO's requested independent entity variation to not offer surplus interconnection service and instead continue to use its existing interconnection process, including the NYISO Minimum Interconnection Standard, because we find that its requested variation is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. The Commission established the *pro forma* LGIP and *pro forma* LGIA surplus interconnection service requirements in Order No. 845, which stated that surplus interconnection service is "created because

⁵⁵⁶ *Id.* at 15.

⁵⁵⁷ NYISO June 27, 2024 Answer at 39 (citing *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117, at PP 98-101 (2020)).

⁵⁵⁸ *Id.* (citing Order No. 2023-A, 186 FERC ¶ 61,199 at P 77).

⁵⁵⁹ *Id.* at 40.

generating facilities may not operate at full capacity at all times,”⁵⁶⁰ and that, if an existing transmission provider or its affiliates does not use such service, the service may be made available to other potential interconnection customers. As NYISO argues, this requirement relies on the premise that a generating facility’s interconnection service is based on an evaluation of the facility at full capacity, with reliability upgrades being required for any adverse reliability impacts of the facility’s injection of its full capacity, with no re-dispatch or dispatching down of the facility to mitigate such adverse impacts.⁵⁶¹

331. We continue to find that the premise for surplus interconnection service is not applicable to NYISO’s interconnection process because, under the NYISO Minimum Interconnection Standard, there is no unused interconnection capacity when a generating facility injects less than its full output onto NYISO’s system, which means that there is no surplus interconnection service available on NYISO’s system.⁵⁶² We find that NYISO’s existing interconnection process, including the NYISO Minimum Interconnection Standard, accomplishes the purposes of Order No. 2023’s surplus interconnection service proposal by reducing costs for interconnection customers and improving wholesale market competition by increasing the use of existing interconnection facilities and network upgrades through re-dispatch of a facility in the interconnections studies at less than the facilities’ full capacity to mitigate reliability impacts or reliability upgrades, rather than requiring new ones, and therefore, increases the overall efficiency of the NYISO interconnection queue.⁵⁶³ Therefore, because we continue to find that surplus interconnection service is inapplicable in NYISO, we find that NYISO has justified not revising its tariff to include the Order No. 2023 and 2023-A surplus interconnection service requirements.

332. Although we agree with Shell about the value that surplus interconnection service can provide, we find that NYISO has adequately explained why an independent entity variation is justified here. Consistent with the Commission’s statements in Order No. 2023, RTO/ISO transmission providers may explain specific circumstances on compliance and justify why any deviations merit an independent entity variation.⁵⁶⁴ As NYISO explained, its existing interconnection process does not provide for the use of

⁵⁶⁰ Order No. 845, 163 FERC ¶ 61,043 at P 468.

⁵⁶¹ Filing, Transmittal Letter at 118 (citing NYISO, Compliance Filing, Docket No. ER19-1949-000, at 23-24 (filed May 22, 2019)).

⁵⁶² *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117 at P 98.

⁵⁶³ Order No. 2023, 184 FERC ¶ 61,054 at P 1437.

⁵⁶⁴ *Id.* P 164.

surplus interconnection service because, in performing interconnection studies, NYISO does not assume that a generating facility is operating at its full output under various system conditions and, instead, permits the re-dispatch of the facility or other facilities to the extent possible under normal operating procedures to mitigate adverse reliability impacts—i.e., establish a feasible base dispatch.⁵⁶⁵ Our finding here is consistent with the Commission’s finding that NYISO need not offer surplus interconnection service because NYISO’s provisions for permanent transfer of CRIS rights cannot be used to accommodate surplus interconnection rights and that “NYISO’s Minimum Interconnection Standard does not result in unused and available ERIS on the system.”⁵⁶⁶ We continue to find that NYISO’s interconnection process, including the NYISO Minimum Interconnection Standard, is just and reasonable, not unduly discriminatory, and accomplishes Order No. 2023’s purpose of efficient use of the transmission system.⁵⁶⁷

18. Operating Assumptions for Interconnection Studies

333. In Order No. 2023, the Commission revised sections 3.1.2, 3.2.1.2 (The Study), 3.2.2.2 (The Study), 3.3.1, 3.4.2, 4.4.3, 7.3, 8.2 (Scope of Interconnection Facilities Study), and Appendix 1 (Interconnection Request for a Large Generating Facility) of the *pro forma* LGIP and article 17.2 (Violation of Operating Assumptions for Generating Facilities) and Appendix H (Operating Assumptions for Generating Facility) of the *pro forma* LGIA to require transmission providers, at the request of the interconnection customer, to use operating assumptions in interconnection studies that reflect the proposed charging behavior of electric storage resources (whether standalone, co-located generating facilities, or part of a hybrid generating facility)—i.e., whether the interconnecting generating facility will or will not charge during peak load conditions—unless good utility practice, including applicable reliability standards, otherwise requires the use of different operating assumptions.⁵⁶⁸ The Commission required interconnection customers to provide the proposed operating assumptions in the initial interconnection request.⁵⁶⁹ The Commission also required that, if a transmission provider finds the interconnection customer’s proposed operating assumptions in conflict with good utility

⁵⁶⁵ See *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117 at P 84.

⁵⁶⁶ *Id.* P 101.

⁵⁶⁷ See *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117 at P 98.

⁵⁶⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 1509; see *pro forma* LGIP §§ 3.1.2, 3.2.1.2, 3.2.2.2, 3.3.1, 3.4.2, 4.4.3, 7.3, 8.2, app.1; see also *pro forma* LGIA art. 17.2, app. H.

⁵⁶⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1520; see *pro forma* LGIP § 3.4.2(v).

practice, the transmission provider must provide the interconnection customer with a written explanation of why the operating assumptions are insufficient or inappropriate no later than 30 calendar days before the end of the customer engagement window and allow the interconnection customer to resubmit the operating assumptions at least 10 calendar days before the end of the customer engagement window.⁵⁷⁰ Finally, the Commission added article 17.2 to the *pro forma* LGIA to describe a violation of operating assumptions and Appendix H to the *pro forma* LGIA as the location for the interconnection customer to memorialize its operating assumptions.⁵⁷¹

a. NYISO's Compliance Filing

334. NYISO proposes to not adopt the *pro forma* operating assumption rules for electric storage resources and requests an independent entity variation to propose alternative reforms that are tailored to NYISO's market and planning framework.⁵⁷² NYISO proposes to expand the application of its existing operating procedures to reduce the need for upgrades identified in NYISO's interconnection studies for electric storage resources, wind, and solar projects.

335. NYISO asserts that allowing each Energy Storage Resource (ESR) to elect whether or not to withdraw on-peak would add significant new complexity to NYISO's cluster study and increase the time required to complete such study. NYISO adds that, even if the elections submitted by each proposed ESR could be studied, the market software cannot enforce or effectuate these assumptions in actual operations. NYISO explains that the solution suggested by Order No. 2023-A — to install a control device to prevent the ESR from withdrawing energy during peak periods and be bound to such limitation in its interconnection agreement — would further reduce operating flexibility for ESRs because the limitation would likely apply to the peak period on all days (not just on peak days).

336. NYISO states that it understands interconnection customers' concerns that their interconnecting ESRs should not be studied in a manner that subjects them to upgrades if the need for such upgrades can be otherwise addressed.⁵⁷³ NYISO states that Order No. 2023's approach for addressing this issue would require limitations on the offering behavior and withdrawal schedules of ESRs that conflict with NYISO's market rules for ESRs, which allow ESRs to offer flexibly in all hours. NYISO asserts that it already has

⁵⁷⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1511.

⁵⁷¹ *Id.* P 1521; *see pro forma* LGIA art. 17.2, app. H.

⁵⁷² Filing, Transmittal Letter at 119.

⁵⁷³ *Id.*

operating procedures in place that will in many cases mitigate interconnection customers' concerns, and NYISO proposes to expand the application of these existing measures with supporting tariff language to reduce the need for upgrades on the New York State transmission system for ESRs, wind, and solar projects.

337. NYISO contends that NYISO's Minimum Interconnection Standard already achieves the objectives of the *pro forma* operating assumption rules because it minimizes the need for upgrades for proposed interconnections of all resource types, including ESRs, to much of the New York State transmission system.⁵⁷⁴ NYISO explains that, under this standard, it only requires upgrades if adverse reliability impacts cannot be mitigated through normal operating procedures, including the redispatch of resources to address identified reliability impacts. According to NYISO, this approach recognizes that, in actual operations, the NYISO market systems will dispatch generation in a manner that avoids thermal overloads on NYISO secured transmission facilities. NYISO states that it simulates in interconnection studies what will happen in operations through redispatch consistent with normal operating procedures. NYISO asserts that it performs this assessment for all interconnecting projects and does not require a specific request or designation by the interconnection customer. NYISO states that this permitted redispatch in studies under the NYISO Minimum Interconnection Standard applies to interconnections to transmission facilities that are secured in NYISO's market models – its Business Management System. NYISO argues that these existing requirements already achieve the Commission's objectives by reducing the need for upgrades for ESRs interconnecting in New York. NYISO states that, by applying the Minimum Interconnection Standard, NYISO avoids restricting ESR operating flexibility and avoids the need to prohibit most or all withdrawals by ESRs on-peak.

338. NYISO states that it proposed enhancements to the NYISO tariffs and procedures to address interconnection of intermittent resources to currently unsecured transmission facilities in New York operated at 100 kV or greater.⁵⁷⁵ NYISO states that its proposed approach would enable energy storage, solar, and wind facilities whose interconnection causes thermal overloads in NYISO's interconnection study on transmission facilities operated at 100 kV or greater that NYISO does not secure to move forward in the interconnection study without being subject to upgrades to correct such thermal overloads. NYISO contends that the proposed process changes and supporting tariff revisions will effectively extend the redispatch under the NYISO Minimum Interconnection Standard to the identified project types so long as they impact a 100 kV or greater facility and redispatch provides a viable solution.

⁵⁷⁴ *Id.* at 120.

⁵⁷⁵ *Id.* at 120-121.

339. Under the enhanced procedures, NYISO explains that prior to or during the interconnection study process, the connecting and affected NYTOs and NYISO must agree that the overloaded facilities can be evaluated to be secured by the NYISO Business Management System, consistent with the process outlined in the NYISO's Transmission and Dispatch Operations Manual.⁵⁷⁶ NYISO states that, when NYISO and transmission owner(s) agree, projects will be dispatched for purposes of the interconnection study at their full capability (including both injection and withdrawals for projects that are capable of withdrawing energy) to determine if overloads exist on non-ISO or non-New York transmission owner secured 100 kV or greater elements. NYISO states that, if a thermal overload is identified in an interconnection study, then the project(s) being studied will be backed down in that study (i.e., redispatched), as needed to clear the overload. NYISO explains that it will keep track of the non-ISO and non-New York transmission owner secured 100 kV and greater elements for which the project was redispatched to avoid an overload in the study.

340. NYISO states that, when the new resources approach their commercial operation date and are integrated in NYISO's market systems, NYISO will follow the process outlined in its Transmission and Dispatch Operations Manual to potentially secure additional transmission facilities in its market systems.⁵⁷⁷ NYISO states that, if it determines, and the connecting and affected New York transmission owner(s) confirm, that a facility that was subject to a thermal overload in an interconnection study can be secured in NYISO's market systems, the transmission facility or facilities will be added to the Business Management System and secured by NYISO going forward. In such case, NYISO explains, the procedures for addressing the impacts to secured facilities described above would apply.

341. NYISO states that, if it is unable to secure an overloaded element in the Business Management System because it does not meet the criteria outlined in the Transmission and Dispatch Operations Manual, and a limitation to the output or withdrawals of the resource is needed to secure a thermal overload that was identified in the interconnection study, then during real time operations NYISO will limit the output or withdrawal of the resource to resolve the overload.⁵⁷⁸ NYISO asserts that this will be managed via an Out-of-Merit redispatch for an ESR and/or the issuance of a Wind and Solar Output Limit to a wind or solar generator. NYISO states that, if necessary, it will reduce an ESR's injections and withdrawals in real-time operations via an Out-of-Merit redispatch instruction to prevent an overload on a non-ISO secured, 100 kV or greater transmission

⁵⁷⁶ *Id.* at 121.

⁵⁷⁷ *Id.*

⁵⁷⁸ *Id.* at 121-122.

facility. NYISO states that, if and to the extent an overload was observed in the interconnection study process but not addressed with an upgrade, NYISO will not reimburse the market participant for any required reductions in output (or withdrawals) of the ESR that are necessary to secure the thermal overload and the economic impact of the reduced injection or withdrawal will be the ESR's responsibility.

342. NYISO explains that, to produce appropriate settlements, it proposes to revise section 25 of NYISO's Services Tariff to establish that the ESR will not be eligible to receive a Day-Ahead Margin Assurance Payment when the ESR is "scheduled or dispatched Out-of-Merit by the ISO to inject or withdraw less Energy than its real-time Energy schedule ... in response to an ISO or Transmission Owner request to relieve a constraint on a Local Area Transmission System Facility that was identified as limiting in the Energy Storage Resource's interconnection study and not able to be set as secured in NYISO's market systems."⁵⁷⁹ According to NYISO, this is appropriate because NYISO's day-ahead commitment will not have the opportunity to secure the constraint that was identified in the interconnection study, so the ESR (or wind or solar project) may be overcommitted in the day-ahead market. NYISO states that, notwithstanding the NYISO Minimum Interconnection Standard and the revised normal operating procedures proposed in this filing, there may be instances in which using the coordinated redispatch approach described above does not resolve a reliability issue identified in an interconnection study. Under those circumstances, NYISO explains that upgrades will still be necessary and this process will maintain the existing coordination between NYISO and the transmission owners to identify the transmission facilities where upgrades must be required in the interconnection process.

343. NYISO states that its proposed alternative approach is required because the approach adopted in Order No. 2023, which permits each ESR to specify whether it will withdraw energy during on-peak periods, is not entirely consistent with the NYISO-administered energy and installed capacity market framework and would add substantial additional complexity to NYISO's study process.⁵⁸⁰ NYISO explains that the charging of ESRs is an important component of their participation in the NYISO markets and the ability of an ESR to charge when necessary provides flexibility and robustness to grid operations at all times of the day. NYISO states that the NYISO Minimum Interconnection Standard, supplemented by the enhancements to its normal operating procedures that NYISO proposes in this filing, will allow ESRs with interconnections

⁵⁷⁹ *Id.* at 122-123 (citing proposed NYISO, NYISO Tariffs, NYISO MST, § 25 (Attachment J) (22.0.0), § 25.2.2.7). NYISO states that wind and solar Generators are never eligible to receive DAMAP. *Id.* n.634 (citing current NYISO MST, § 25 (Attach. J) (21.0.0), § 25.2.2.1(iii)).

⁵⁸⁰ *Id.* at 123.

impacting transmission facilities at 100 kV or greater to charge on-peak when they are able (consistent with maintaining reliability) and economically scheduled to do so. NYISO states that its proposal will enable ESRs in New York to operate flexibly and avoid the need to broadly prohibit on-peak charging.

344. NYISO also explains that its market rules do not allow ESRs to dictate to NYISO at the interconnection stage the limited periods during the day that ESRs will seek to charge. NYISO states that, with the exception of ESRs with energy duration limitations, ESRs participating as installed capacity suppliers are required to bid, schedule, and/or declare to be unavailable their entire withdrawal operating range in the day-ahead market.⁵⁸¹ NYISO asserts that these rules first became effective in 2021 and were developed to optimize the usage of this important resource type. NYISO states that it does not prescribe the time periods when an ESR can or cannot charge, nor is it able to programmatically restrict an ESR from offering to withdraw energy in some (but not all) hours of the day-ahead or real-time market-day. NYISO explains that grid or market conditions may make it desirable for ESRs to charge during peak demand hours and/or during NYISO's peak load window. NYISO states, for example, that charging of ESRs during peak periods can allow capture of "excess" energy production during peak output of intermittent renewables, such as solar generating facilities.

345. NYISO states that installed capacity suppliers that do not comply with NYISO's day-ahead market bidding rules may be subject to financial penalties.⁵⁸² In addition, NYISO states that if in real-time operations, NYISO identifies a reliability need in an upcoming hour and asks an ESR to respond, the ESR may need to charge in an otherwise uneconomic and unanticipated hour in order to be ready to provide the requested assistance by the start of the identified reliability need.

346. NYISO states that the above ESR rules apply to all ESRs on a comparable basis.⁵⁸³ NYISO argues that the market software NYISO developed to accommodate ESR operation, in conjunction with the NYISO Minimum Interconnection Standard and the proposed enhancements to NYISO's normal operating procedures described in this filing, will provide greater opportunities and flexibility to ESRs and to the NYISO-administered markets than implementing the solutions described in Order No. 2023.

347. NYISO contends that existing and prospective interconnection customers and other stakeholders have been supportive of NYISO's proposed application of its existing approach to use its normal operating procedures, including redispatch, to minimize the

⁵⁸¹ *Id.* at 123-124.

⁵⁸² *Id.* at 124.

⁵⁸³ *Id.*

need for upgrades on the secured transmission system, and of its proposal for expanding this process as described above for many non-secured transmission facilities operated at 100 kV or greater.⁵⁸⁴

348. NYISO states that, while certain stakeholders have requested that NYISO expand this process to transmission facilities operated at less than 100 kV, NYISO is unable to do so. NYISO explains that, with limited exceptions, it does not secure or have visibility concerning the transmission facilities below the 100 kV level – typically the sub-transmission system.⁵⁸⁵ NYISO states that its operations systems are not designed to recognize facility rating limits or to allow analysis of contingencies and dispatch of resources in real-time for facilities below 100 kV. Accordingly, NYISO asserts that upgrades remain necessary to resolve overloads on such facilities. NYISO asserts that, to expand NYISO’s proposed redispatch approach below 100 kV, it would have to substantially redesign its operating systems hardware and software, staffing, and operating procedures to modify how facilities below 100 kV are managed in real time. NYISO argues that such a fundamental change to its operating system is not directed or required by Order No. 2023.

349. NYISO explains that, while NYISO and the transmission owners monitor real-time status, neither performs analysis of post-contingency flows in real-time for sub-transmission facilities.⁵⁸⁶ NYISO asserts that it remains necessary for interconnection studies to identify upgrades required to keep the facilities within required limits in real-time. NYISO states that the management of any resources connected on facilities below 100 kV require manual intervention by the transmission owner to maintain facilities within ratings, consistent with good utility practice and applicable reliability standards. NYISO states that actions to correct limit exceedances on these facilities are taken in response to real-time loading, which cannot be predicted in outage conditions.

b. Comments/Protests

350. NY-BEST, Shell, Clean Energy Associations, BlueWave, and NRDC protest that NYISO’s proposal did not address ESRs interconnecting below 100 kV.⁵⁸⁷ NRDC asserts that NYISO’s proposal leaves a significant portion of ESR projects, particularly those connecting at less than 100 kV, without adequate procedures to accommodate their

⁵⁸⁴ *Id.* at 124-125.

⁵⁸⁵ *Id.* at 125.

⁵⁸⁶ *Id.*

⁵⁸⁷ *Id.* at 4-5; NY-BEST Protest at 4-6; Shell Protest at 15-16; Clean Energy Associations Protest at 28-32; NRDC Protest at 9-12.

operating characteristics and technical capabilities, as required by Order No. 2023.⁵⁸⁸ Clean Energy Associations state that NYISO fails to justify its discriminatory treatment of ESRs connected below 100 kV and asserts that Order No. 2023 requires all transmission providers to evaluate energy storage resources based on customer-provided charging assumptions, regardless of voltage.⁵⁸⁹ Clean Energy Associations argue that NYISO should be required to demonstrate why it is not possible to accommodate facilities interconnecting below 100 kV, and, if it continues to assert that it is impossible to treat such facilities the same as those above 100 kV, NYISO should be required to offer alternative solutions to allow these facilities to interconnect. NY-BEST asserts that NYISO should convene a working group to develop a plan to address the gap in the instant filing with a goal to extend NYISO's approach, and where infeasible, to develop alternative solutions to properly account for operating characteristics of ESRs.⁵⁹⁰

351. NY-BEST, Shell, Clean Energy Associations, BlueWave, and NRDC protest that NYISO's proposal did not address ESRs interconnecting below 100 kV.⁵⁹¹ NRDC asserts that NYISO's proposal leaves a significant portion of ESR projects, particularly those connecting at less than 100 kV, without adequate procedures to accommodate their operating characteristics and technical capabilities, as required by Order No. 2023.⁵⁹² Clean Energy Associations state that NYISO fails to justify its discriminatory treatment of ESRs connected below 100 kV and asserts that Order No. 2023 requires all transmission providers to evaluate energy storage resources based on customer-provided charging assumptions, regardless of voltage.⁵⁹³ Clean Energy Associations argue that NYISO should be required to demonstrate why it is not possible to accommodate facilities interconnecting below 100 kV, and, if it continues to assert that it is impossible to treat such facilities the same as those above 100 kV, NYISO should be required to offer alternative solutions to allow these facilities to interconnect. NY-BEST asserts that NYISO should convene a working group to develop a plan to address the gap in the

⁵⁸⁸ NRDC Protest at 11.

⁵⁸⁹ Clean Energy Associations Protest at 29.

⁵⁹⁰ NY-BEST Protest at 7.

⁵⁹¹ *Id.* at 4-5; NY-BEST Protest at 4-6; Shell Protest at 15-16; Clean Energy Associations Protest at 28-32; NRDC Protest at 9-12.

⁵⁹² NRDC Protest at 11.

⁵⁹³ Clean Energy Associations Protest at 29.

instant filing with a goal to extend NYISO's approach, and where infeasible, to develop alternative solutions to properly account for operating characteristics of ESRs.⁵⁹⁴

c. Answers

352. NYISO answers that it should not be required to extend its proposal to transmission facilities below 100 kV because it has limited visibility into the sub-transmission portion of the power grid.⁵⁹⁵ NYISO also argues that transmission facilities below 100 kV include facilities that the Commission stated it does not expect RTOs/ISOs to secure.⁵⁹⁶

353. NYTOs answer that it would be legally problematic for NYISO to extend its proposal to sub-100 kV facilities, some of which are planned and constructed in the same manner as distribution systems.⁵⁹⁷ NYTOs state that ordering a blanket extension of this nature would overstep well-established boundaries by allowing the Commission to regulate state-jurisdictional distribution lines and non-FERC jurisdictional distribution interconnections. NYTOs argue that Federal Power Act Section 201(b)(1) declines to provide the Commission jurisdiction over "facilities used in local distribution" and instead reserves such powers to the states. NYTOs also contend that protesters' requests to extend NYISO's proposal to sub-100kV facilities is outside the scope of Order No. 2003, which confirms that the Commission's *pro forma* interconnection procedures apply only to: (1) interconnections to transmission lines; and (2) interconnections to distribution lines used for a wholesale purpose pursuant to a Commission-approved open access transmission tariff.⁵⁹⁸ NYTOs also point out that assertions that NYISO can simply secure more facilities if desired are misplaced because NYTOs and NYISO executed an agreement specifying the terms and conditions for transfer of operational control of specified transmission facilities owned by the NYTOs to NYISO, and

⁵⁹⁴ NY-BEST Protest at 7.

⁵⁹⁵ NYISO June 27, 2024 Answer at 7.

⁵⁹⁶ *Id.* (citing *Revisions to Elec. Reliability Org. Definition of Bulk Elec. Sys. & Rules of Proc.*, Order No. 773, 141 FERC ¶ 61,236 (2012) (modifying the definition of "bulk electric system" to establish a bright line threshold of all facilities operated at or above 100 kV with certain specified inclusions and exclusions)).

⁵⁹⁷ NYTOs June 27, 2024 Answer at 10.

⁵⁹⁸ *Id.* (citing 16 U.S.C. 824(b)(1); Order No. 2003, 104 FERC ¶ 61,103 at P 804).

expanding the list of facilities would require mutual written agreement between NYISO and the NYTO owning and controlling such facilities.⁵⁹⁹

354. Clean Energy Associations argue that NYISO has not justified non-compliance with Order No. 2023 requirements for evaluating storage charging for customers interconnecting below 100 kV.⁶⁰⁰ Clean Energy Associations acknowledge that there may be some hurdles to including sub-100 kV facilities in the Business Management System, but argue that such hurdles are, by NYISO's own admission, not insurmountable.

355. NYISO answers that, contrary to Clean Energy Associations' assertion, the fact that NYISO secures a small number of transmission facilities below 100kV under limited circumstances does not change: (1) its inability to adequately monitor most of the transmission facilities below 100 kV in New York; (2) the significant quantity of additional facilities it would need to monitor in order to secure them; or (3) the substantial difficulties and expense that would be required to adequately monitor and secure such facilities in its Business Management System.⁶⁰¹

d. Commission Determination

356. We accept NYISO's operating assumptions proposal, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that NYISO's proposal accomplishes the purpose of the operating assumptions reforms (i.e., avoiding excessive and unnecessary network upgrades and increased costs to interconnection customers) because, under NYISO's expanded operating procedures, upgrades are required only if adverse reliability impacts cannot be mitigated through normal operating procedures, including the redispatch of resources to address reliability impacts. NYISO's Minimum Interconnection Standard incorporates redispatch operations into the interconnection study process to minimize the need for upgrades for proposed interconnections of all resource types, including energy storage resources, on the secured transmission system and non-secured transmission facilities operated at 100 kV or greater.

357. We find that NYISO's approach during interconnection studies to simulate actual operations by adjusting the output of resources, including energy storage resources, to avoid thermal overloads on secured transmission facilities, reflects the real-time flexibility of the system, where resources are not assumed to operate at full capacity

⁵⁹⁹ *Id.* at 11-12.

⁶⁰⁰ Clean Energy Associations July 12, 2024 Answer at 12.

⁶⁰¹ NYISO July 29, 2024 Answer at 8-9.

simultaneously, thereby preventing the identification of unnecessary upgrades. Additionally, the proposed enhancements extend the dispatch approach for transmission facilities operated at 100 kV or greater, which NYISO does not currently secure. NYISO evaluates whether these facilities can be secured in its market models and applies dispatch in the interconnection studies to mitigate thermal overloads. NYISO's Minimum Interconnection Standard and NYISO's normal operating procedures together avoid the need for upgrades to accommodate charging on peak on NYISO secured elements of the transmission system.

358. We agree that NYISO's method ensures a realistic assessment of the impact of energy storage resources, reducing the likelihood of overestimating their impact and avoiding unnecessary costs for upgrades. We find that NYISO's proposal accomplishes the purposes of the final rule by ensuring that transmission providers study electric storage resources interconnecting at 100 kV and above using operating assumptions that reflect realistic charging behavior of energy storage resources in the interconnection process⁶⁰² and by ensuring that interconnection studies do not overestimate the impact of storage resources and avoid excessive and unnecessary network upgrades that may hinder the timely development of new generating facilities.⁶⁰³

359. We are not persuaded by the protests of NY-BEST, Shell, Clean Energy Associations, BlueWave, and NRDC, that NYISO's proposal did not address ESRs interconnecting below 100 kV.⁶⁰⁴ We find that it is just and reasonable for NYISO to exclude electric storage resources requesting interconnection to transmission facilities below 100 kV from its proposal because NYISO is technically incapable of modeling them in its operating procedures and securing the relevant sub-transmission system in real-time operations. We agree with NYISO that because it does not currently have the capability to monitor or perform contingency analysis on transmission facilities below 100 kV (with limited exceptions), it does not have the capability to apply its operating procedures, including redispatch, to generating facilities affecting such transmission facilities. This consequently restricts NYISO's ability to address through operating procedures the reliability concerns that could arise in real-time operations related to thermal overloads that could not be managed through NYISO's Business Management System. Unlike secured facilities, NYISO cannot redispatch facilities that NYISO is not able to secure, such as sub 100kV transmission facilities. Even if NYISO implemented the significant infrastructure buildouts and computational capability expansion and

⁶⁰² Order No. 2023, 184 FERC ¶ 61,054 at P 1509.

⁶⁰³ *Id.* P 1510.

⁶⁰⁴ Blue Wave Protest at 4-5; NY-BEST Protest at 4-6; Shell Protest at 15-16; Clean Energy Associations Protest at 28-32; NRDC Protest at 9-12.

obtained allocation of those improvement costs to NYISO ratepayers, the possible performance impacts of securing the sub 100 kV facilities and associated potential constraints might adversely affect NYISO's ability to timely post schedules and dispatch instructions.⁶⁰⁵ We therefore find that NYISO has met its burden to show that this proposal meets the independent entity variation standard by showing that its overall reform addressing the operating assumptions used for energy storage resources accomplishes the purpose of Order No. 2023 by ensuring that energy storage resources are studied in a manner similar to their proposed operation where technically feasible. Although NY-BEST argues that NYISO should convene a working group to develop a plan with a goal to extend NYISO's approach, and where infeasible, to develop alternative solutions to properly account for operating characteristics of ESRs,⁶⁰⁶ we find that NYISO's proposal to exclude electric storage resources requesting interconnection to transmission facilities below 100 kV meets the independent entity variation standard.

19. Incorporating the Enumerated Alternative Transmission Technologies

360. In Order No. 2023, the Commission revised section 7.3 of the *pro forma* LGIP, and sections 3.3.6 and 3.4.10 of the *pro forma* SGIP.⁶⁰⁷ The Commission required transmission providers to evaluate the following enumerated list of alternative transmission technologies: static synchronous compensators, static VAR compensators, advanced power flow control devices, transmission switching, synchronous condensers, voltage source converters, advanced conductors, and tower lifting.⁶⁰⁸ The Commission revised *pro forma* LGIP section 7.3 to require transmission providers to evaluate the list of alternative transmission technologies enumerated in Order No. 2023 during the cluster study, including any restudies, of the generator interconnection process in all instances (i.e., for all interconnection customers in a cluster), without the need for a request from an interconnection customer. The Commission required transmission providers to evaluate each alternative transmission technology listed in *pro forma* LGIP section 7.3 and to determine, in the transmission provider's sole discretion, whether it should be used, consistent with good utility practice, applicable reliability standards, and other applicable regulatory requirements. Finally, the Commission required transmission providers to include, in the *pro forma* LGIP cluster study report, an explanation of the

⁶⁰⁵ NYISO June 27, 2024 Answer at 6-8.

⁶⁰⁶ NY-BEST Protest at 7.

⁶⁰⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1578; *see pro forma* LGIP § 7.3; *see also pro forma* SGIP §§ 3.3.6, 3.4.10.

⁶⁰⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 1578.

results of the evaluation of the enumerated alternative transmission technologies for feasibility, cost, and time savings as an alternative to a traditional network upgrade.

361. The Commission revised sections 3.3.6 and 3.4.10 of the *pro forma* SGIP, consistent with the *pro forma* LGIP requirement, to require transmission providers to evaluate the enumerated alternative transmission technologies when performing interconnection studies for small generating facilities, without the need for a request from an interconnection customer.⁶⁰⁹ The Commission required such evaluations to occur during the *pro forma* SGIP feasibility study and system impact study of the generator interconnection process. The Commission found that it is appropriate for these evaluations to occur during the relevant *pro forma* SGIP studies where network upgrades are identified, consistent with the *pro forma* LGIP requirement. The Commission required transmission providers to evaluate each alternative transmission technology listed in *pro forma* SGIP sections 3.3.6 and 3.4.10 and determine, in the transmission provider's sole discretion, whether it should be used, consistent with good utility practice, applicable reliability standards, and other applicable regulatory requirements.

362. In Order No. 2023-A, the Commission added the definitions of “applicable reliability standards” and “applicable laws and regulations” to the *pro forma* SGIP, added the term “applicable reliability standards” to the performance standards in *pro forma* LGIP section 7.3 and *pro forma* SGIP sections 3.3.6 and 3.4.10, and replaced “other applicable regulatory requirements” with the term “applicable laws and regulations” in *pro forma* LGIP section 7.3 and *pro forma* SGIP sections 3.3.6 and 3.4.10.⁶¹⁰ Additionally, the Commission revised *pro forma* LGIP section 7.3 and *pro forma* SGIP sections 3.3.6 and 3.4.10 to clarify that good utility practice, applicable reliability standards, and applicable laws and regulations apply to both the transmission provider's evaluation of the enumerated alternative transmission technologies and the determination to use the technology.⁶¹¹

a. NYISO's Compliance Filing

363. NYISO proposes revisions to sections 40.11.5.1 and 40.11.5.2 of Attachment HH to its OATT to incorporate the framework for the enumerated alternative transmission technologies adopted in Order Nos. 2023 and 2023-A, with independent entity variations to align with its process.⁶¹² Specifically, section 40.11.5.1 of Attachment HH to the

⁶⁰⁹ *Id.* P 1580.

⁶¹⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 623-624; *see pro forma* LGIP § 7.3; *see also pro forma* SGIP §§ 3.3.6, 3.4.10, attach. 1.

⁶¹¹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 625-627; *see pro forma* LGIP § 7.3; *see also pro forma* SGIP §§ 3.3.6, 3.4.10.

OATT provides that, in the Phase 2 study, NYISO shall evaluate the use of static synchronous compensators, static VAR compensators, advanced power flow control devices, transmission switching, synchronous condensers, voltage source converters, advanced conductors, and tower lifting. The OATT also provides that, in the Phase 2 study, NYISO shall evaluate each identified alternative transmission technology and determine whether the technology should be used, consistent with good utility practice, applicable reliability requirements, and applicable laws and regulations.

364. NYISO also proposes to include its explanation of the results of its evaluation of these alternative transmission technologies in the cluster study report.⁶¹³ In addition, NYISO proposes to specify in the cluster study report the required facilities resulting from the interconnection and CRIS-only requests, i.e., non-local system upgrade facilities and system deliverability upgrades.⁶¹⁴

b. Comments/Protests

365. Clean Energy Associations state that, although NYISO is committed to explaining its alternative transmission technology evaluation in the cluster study report, NYISO's proposal does not clearly require NYISO to evaluate alternative transmission technologies in the critical steps of the study process that precede the cluster study report (i.e., the cluster baseline assessment or cluster project assessment).⁶¹⁵ Clean Energy Associations argue that NYISO has not explained how its evaluation of alternative transmission technologies can be meaningful if NYISO is not conducting that evaluation in the cluster baseline assessment and cluster project assessment. Clean Energy Associations state that such transparency during the evaluation process is helpful for interconnection customers to be able to hold NYISO accountable for its alternative transmission technology evaluations and is also required by Order No. 2023. Thus, Clean Energy Associations urge the Commission to require NYISO to expressly require alternative transmission technologies to be evaluated in these assessments and identify how NYISO will do so to ensure that the description of the alternative transmission technology evaluations that it ultimately provides in the cluster study report is the result of meaningful evaluation.

⁶¹² Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), §§ 40.11.5.1, 40.11.5.2; Filing, Transmittal Letter at 126.

⁶¹³ Filing, Transmittal Letter at 126.

⁶¹⁴ Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), § 40.11.5.2.

⁶¹⁵ Clean Energy Associations Protest at 30-31.

366. Additionally, Clean Energy Associations emphasize that Order No. 2023 does not preclude transmission providers from considering dynamic line ratings.⁶¹⁶ Clean Energy Associations suggest that NYISO may exercise its discretion to permit dynamic line ratings and that such requirement would not be overly burdensome because transmission planning and interconnection processes typically use similar or identical study processes (e.g., steady state, short circuit, and stability analysis) and share common models of the transmission system representing expected future system conditions such as summer peak or high wind low load. Clean Energy Associations assert that inclusion of dynamic line ratings in technologies in the interconnection process would also be consistent with other state efforts and other transmission and distribution projects.⁶¹⁷

c. Answers

367. NYISO argues that it has expressly incorporated into its tariff the requirement that it consider in its Phase 2 study the enumerated transmission technologies identified in Order No. 2023 and will detail in its cluster study report at the conclusion of the Phase 2 study an explanation of its evaluation of these technologies.⁶¹⁸ NYISO asserts that Clean Energy Associations appear to misunderstand the role of the cluster baseline assessment and cluster project assessment in the cluster study. NYISO explains that the cluster baseline assessment and cluster project assessment are not separate steps apart from the Phase 2 study; rather, they are an integral part of the Phase 2 study. NYISO contends that it uses the cluster baseline assessment cases to perform short-circuit, thermal, voltage and stability analyses to determine whether there are reliability issues in the pre-project base case, whereas it uses the cluster project assessment post-project cases to determine whether the cluster study projects have any incremental adverse reliability impacts.⁶¹⁹ NYISO contends that, as part of these analyses, if it identifies the need for an upgrade, it

⁶¹⁶ *Id.* at 31-32.

⁶¹⁷ *Id.* at 32.

⁶¹⁸ NYISO June 27, 2024 Answer at 37 (citing Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), § 40.11.5.1 (“The Phase 2 Study shall evaluate the use of static synchronous compensators, static VAR compensators, advanced power flow control devices, transmission switching, synchronous condensers, voltage source converters, advanced conductors, and tower lifting. The ISO shall evaluate each identified alternative transmission technology and determine whether the above technologies should be used, consistent with Good Utility Practice, Applicable Reliability Requirements, and Applicable Laws and Regulations. The ISO shall include an explanation of the results of the ISO’s evaluation for each technology in the Cluster Study Report.”)).

⁶¹⁹ *Id.* at 37-38.

will then evaluate and identify System Upgrade Facilities to address the need, including evaluating the enumerated alternative technologies as potential upgrades. Accordingly, NYISO disagrees that further tariff revisions are required to establish that NYISO will evaluate the enumerated transmission technologies in its cluster study.⁶²⁰

368. Clean Energy Associations assert that NYISO's consideration of alternative transmission technologies amounts to a *post hoc* rationale, which is contrary to Order No. 2023.⁶²¹ Clean Energy Associations state that Order No. 2023 requires transmission providers to evaluate alternative transmission technologies during the cluster study and any restudies, and that NYISO proposes to deviate from this mandate by only considering alternative transmission technologies during Phase 2 of its study process.⁶²² According to Clean Energy Associations, at a minimum, this means that NYISO is only considering alternative transmission technologies as applied to system-wide network upgrades and not substation network upgrades (Local System Upgrade Facilities). Clean Energy Associations state that, if an alternative transmission technology is going to seriously be considered as an alternative to a network upgrade, then the alternative transmission technology evaluation should be conducted while studying the need for the network upgrade, rather than after.⁶²³ Clean Energy Associations further argue that the flaw in NYISO's proposal runs deeper because the Phase 1 study results are incorporated into the Phase 2 study, which ensures that the cluster baseline assessment and cluster project assessment will not reflect the benefits of alternative transmission technologies at all.

369. In reply to Clean Energy Associations' assertion that NYISO's consideration of alternative transmission technologies amount to a *post hoc* rationale, NYISO answers that it will assess alternative transmission technologies enumerated in Order No. 2023 as potential solutions to address identified reliability issues arising from the interconnection of the proposed project.⁶²⁴ NYISO states that this will occur during the study process and, not as Clean Energy Associations assert, at the end of the Phase 2 study. NYISO reiterates that, following its study and determinations concerning alternative transmission

⁶²⁰ *Id.* at 38.

⁶²¹ Clean Energy Associations July 12, 2024 Answer at 13.

⁶²² *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 1578).

⁶²³ *Id.* at 14 (citing, Order No. 2023, 184 FERC ¶ 61,054 at P 1590).

⁶²⁴ NYISO July 29, 2024 Answer at 9-10 (citing Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), § 40.11.5.1).

technologies, it will then include an explanation of the results of its evaluation of these technologies in the cluster study report.⁶²⁵

d. Commission Determination

370. We find that NYISO's proposed revisions relating to the evaluation of alternative transmission technologies do not comply with the requirements of Order Nos. 2023 and 2023-A. Order Nos. 2023 and 2023-A require transmission providers to evaluate enumerated alternative transmission technologies during the cluster study process.⁶²⁶ Unlike the Commission's *pro forma* LGIP, NYISO proposes to separate its cluster study process into two phases.⁶²⁷ NYISO proposes to evaluate each alternative transmission technology listed in *pro forma* LGIP section 7.3 only during Phase 2 of its cluster study, and to provide an explanation of the results of the evaluation in the *pro forma* LGIP cluster study report.⁶²⁸ As explained in Order No. 2023, the Commission revised *pro forma* LGIP section 7.3 to require "transmission providers to evaluate the list of alternative transmission technologies enumerated in this final rule during the cluster study, including any restudies, of the generator interconnection process in all instances (i.e., for all interconnection customers in a cluster), without the need for a request from an interconnection customer."⁶²⁹ However, NYISO proposes to limit this evaluation solely to a list of non-Local System Upgrade Facilities and System Deliverability Upgrades in the Phase 2 study. NYISO's proposal excludes an evaluation of alternative transmission technologies associated with Local System Upgrade Facilities in the Phase 1 study. Therefore, we find that, by limiting evaluation of alternative transmission technologies to only Phase 2 of the cluster study, NYISO does not comply with Order No. 2023's requirement to evaluate alternative transmission technologies in the cluster study.

371. As Clean Energy Associations argue, NYISO's Phase 1 study identifies Local System Upgrade Facilities (i.e., substation network upgrades), and the non-Local System Upgrade Facilities (i.e., system network upgrades), are identified in NYISO's Phase 2

⁶²⁵ *Id.* at 10 (citing Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), § 40.11.5.1).

⁶²⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 1578.

⁶²⁷ As discussed above, in this order we accept NYISO's two-phase cluster study process.

⁶²⁸ Proposed OATT, attach. HH, § 40.11 (Phase 2 Study) (0.0.0), §§ 40.11.5.1, 40.11.5.2; Filing, Transmittal Letter at 126.

⁶²⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1578.

study. In adopting the *pro forma* LGIP, the Commission in Order Nos. 2023 and 2023-A did not limit the alternative transmission technology evaluation to only the replacement of system network upgrades. Given that Order Nos. 2023 and 2023-A did not limit the applicability of the alternative transmission technology evaluation to only certain facility types, we find that under the *pro forma* LGIP transmission providers are required to evaluate all types of network upgrades and must apply the alternative transmission technologies evaluation to determine whether any substation or system network upgrades would be a better alternative.

372. NYISO contends that its cluster baseline assessment and cluster project assessment are an integral part of the Phase 2 study and it is during this phase of the cluster study that NYISO identifies system upgrade facilities, including enumerated alternative transmission technologies as potential upgrades. However, we find that NYISO has not sufficiently justified why it could not also evaluate whether alternative transmission technologies would be sufficient alternatives to the Local System Upgrade Facilities identified in Phase 1 of the cluster study process. We also find that NYISO has not provided justification for accepting its proposal under the independent entity variation standard because NYISO has not shown that the proposed variation is just and reasonable and not unduly discriminatory or preferential, and that it accomplishes the purposes of Order Nos. 2023 and 2023-A. Accordingly, we direct NYISO to revise its tariff, within 60 days of the date of this order, to provide that NYISO will evaluate whether the enumerated alternative transmission technologies are sufficient alternatives to both non-Local System Upgrade Facilities *and* Local System Upgrade Facilities during its cluster study process, or justify its proposal under the independent entity variation standard.

20. Modeling and Ride-Through Requirements for Non-Synchronous Generating Facilities

373. In Order No. 2023, the Commission revised Attachment A (Large Generating Facility Data) to Appendix 1 of the *pro forma* LGIP and Attachment 2 (Small Generator Interconnection Request) of the *pro forma* SGIP to require each interconnection customer requesting to interconnect a non-synchronous generating facility to submit to the transmission provider: (1) a validated user-defined root mean square (RMS) positive sequence dynamic model; (2) an appropriately parameterized generic library RMS positive sequence dynamic model, including a model block diagram of the inverter control system and plant control system, that corresponds to a model listed in a new table of acceptable models or a model otherwise approved by the Western Electricity Coordinating Council (WECC); and (3) a validated electromagnetic transient (EMT)

model, if the transmission provider performs an EMT study as part of the interconnection study process.⁶³⁰

374. The Commission also: (1) defined a user-defined model as any set of programming code created by equipment manufacturers or developers that captures the latest features of controllers that are mainly software-based and represent the entities' control strategies but does not necessarily correspond to any particular generic library model, as contained in Attachment A to Appendix 1 of the *pro forma* LGIP and Attachment 2 of the *pro forma* SGIP; (2) revised Attachment A to Appendix 1 of the *pro forma* LGIP and Attachment 2 of the *pro forma* SGIP to add a table of acceptable generic library models, based on the current WECC list of approved dynamic models for renewable energy generating facilities; and (3) revised section 4.4.4 of the *pro forma* LGIP and section 1.4 (Modification of the Interconnection Request) of the *pro forma* SGIP to require that any proposed modification of the interconnection request be accompanied by updated models of the proposed generating facility.⁶³¹

375. The Commission revised article 9.7.3 (Ride Through Capability and Performance) of the *pro forma* LGIA and article 1.5.7 of the *pro forma* SGIA to require that, during abnormal frequency conditions and voltage conditions within the “no trip zone” defined by Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards, the non-synchronous generating facility must ensure that, within any physical limitations of the generating facility, its control and protection settings are configured or set to: (1) continue active power production during disturbance and post disturbance periods at pre-disturbance levels unless providing primary frequency response or fast frequency response; (2) minimize reductions in active power and remain within dynamic voltage and current limits, if reactive power priority mode is enabled, unless providing primary frequency response or fast frequency response; (3) not artificially limit dynamic reactive power capability during disturbances; and (4) return to pre-disturbance active power levels without artificial ramp rate limits if active power is reduced, unless providing primary frequency response or fast frequency response.⁶³²

376. The Commission further revised the *pro forma* LGIA to require that all newly interconnecting large generating facilities provide frequency and voltage ride through capability consistent with any standards and guidelines that are applied to other generating facilities in the balancing authority area on a comparable basis.⁶³³ The

⁶³⁰ *Id.* P 1659; *see pro forma* LGIP, app. 1, attach. A; *see also pro forma* SGIP, attach. 2.

⁶³¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1660; *see pro forma* LGIP § 4.4.4, app. 1, attach. A; *see also pro forma* SGIP § 1.4, attach. 2.

⁶³² Order No. 2023, 184 FERC ¶ 61,054 at P 1715.

Commission also replaced the term “applicable reliability council” with “electric reliability organization,” revised the definition of “applicable reliability standards,” replaced the term “control area” with “balancing authority area” throughout the *pro forma* LGIP, *pro forma* LGIA, and *pro forma* SGIA, and added the term “balancing authority.”⁶³⁴

377. In Order No. 2023-A, the Commission revised *pro forma* LGIA article 9.7.3 and *pro forma* SGIA article 1.5.7 to state that a non-synchronous generating facility must ensure that, within any physical limitations of the generating facility, its control and protection settings are configured or set to continue active power production during disturbance and post disturbance periods at pre-disturbance levels, unless reactive power priority mode is enabled or unless providing primary frequency response or fast frequency response.⁶³⁵

a. NYISO’s Compliance Filing

378. NYISO proposes revisions to its section 30.14 Appendix 4 of Attachment X to the OATT, sections 32.5 Appendix 7 of Attachment Z to the OATT, and sections 40.1, 40.25.1 Appendix 1, and 40.25.15 Appendix 15 of Attachment HH to the OATT, to incorporate, with limited independent entity variations, the modeling and ride-through requirements adopted in Order Nos. 2023 and 2023-A.⁶³⁶

379. NYISO states that Order No. 2023 required that each interconnection customer that seeks to interconnect a non-synchronous generating facility must submit to the applicable transmission provider certain specified modeling information.⁶³⁷ NYISO proposes to insert the Models for Non-Synchronous Generators attachment in the interconnection request form in Appendix 1 to Attachment HH.⁶³⁸ NYISO requests a

⁶³³ *Id.* P 1733; *see pro forma* LGIA art. 9.7.3.

⁶³⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 1735; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

⁶³⁵ Order No. 2023-A, 186 FERC ¶ 61,199 at P 661; *see pro forma* LGIA art. 9.7.3; *see also pro forma* SGIA art. 1.5.7.

⁶³⁶ Proposed OATT, attach. HH, § 40.1 (Definitions) (0.0.0); *id.*, attach. HH, § 40.25.1 (app. 1 to attach. HH, Interconnection Request) (0.0.0); *id.*, attach. HH, § 40.25.15 (app. 15 to attach. HH, Standard Interconnection Agreement) (0.0.0).

⁶³⁷ Filing, Transmittal Letter at 126 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 1659).

⁶³⁸ *Id.*; Proposed OATT, attach. HH, § 40.25.1 (app. 1 to attach. HH,

limited independent entity variation from including the associated table of Acceptable Generic Library RMS Positive Sequent Dynamics Models in its tariff, because the information in the table is regularly subject to change.⁶³⁹ NYISO proposes to indicate that this information is set forth in its procedures, where it can be more easily updated.

380. NYISO states that Order No. 2023 also established ride through requirements during abnormal frequency conditions and voltage conditions within the “no trip zone” defined by NERC Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards.⁶⁴⁰ NYISO states that it proposes to incorporate these revisions into its new Standard Interconnection Agreement with a limited independent entity variation. NYISO states that, because the Northeast Power Coordinating Council or New York State Reliability Council may develop more stringent definitions of “no trip zone,” NYISO proposes to revise these provisions to account for the possibility of the generating facility having to satisfy those more stringent rules. NYISO also proposes to include these revisions in its existing Standard Large Facility Interconnection Agreement and existing Small Generator Interconnection Agreement because these agreements will be still used for certain projects under the transition rules.⁶⁴¹

381. NYISO states that Order No. 2023 required all newly interconnecting large generating facilities to provide frequency and voltage ride through capability consistent with any standards and guidelines applied to other generating facilities in the corresponding balancing authority area on a comparable basis.⁶⁴² NYISO proposes to incorporate these requirements with a limited independent entity variation in its new Standard Interconnection Agreement and its existing Standard Large Facility Interconnection Agreement. Specifically, NYISO proposes to clarify that, if there are different requirements for the transmission owner’s transmission district in which the project will connect that apply on a comparable basis to all generating facilities in that district, those specifications would apply.

Interconnection Request) (0.0.0). NYISO notes that, because Generating Facilities 20 MW or smaller will be using the same interconnection request in the Standard Interconnection Procedures going forward, NYISO proposes not to revise the interconnection request in the Small Generator Interconnection Procedures in Attachment Z to the OATT, which will no longer be used. Filing, Transmittal Letter at 126 n.662.

⁶³⁹ *Id.* at 126.

⁶⁴⁰ *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 1711, 1715 (citation omitted); Order No. 2023-A, 186 FERC ¶ 61,199 at PP 660-661).

⁶⁴¹ *Id.* at 126-27.

⁶⁴² *Id.* at 127 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 1733).

b. Commission Determination

382. We accept NYISO's proposed revisions related to modeling and ride-through requirements, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A: to provide accurate and validated models to transmission providers to minimize study delays and to ensure that transmission providers conduct accurate interconnection studies and costs.⁶⁴³

383. We find that NYISO's proposed revisions, which insert the Models for Non-Synchronous Generators attachment in the interconnection request form in Appendix 1 to Attachment HH, are consistent with the modeling and ride-through requirements of Order Nos. 2023 and 2023-A. We also grant NYISO's requested independent entity variation to include the associated table of Acceptable Generic Library RMS Positive Sequent Dynamics Models in its procedures instead of its tariff. NYISO asserts that this information is regularly subject to change and can be more easily updated in its procedures. We find that this is just and reasonable and accomplishes the purposes of modeling requirements to ensure that interconnection customers provide accurate and validated models to transmission providers.⁶⁴⁴

384. NYISO also proposes tariff revisions to comply with Order No. 2023's ride-through requirements during abnormal frequency conditions and voltage conditions within the "no trip zone" as defined by NERC Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards, but proposed to revise these provisions to account for the possibility that the Northeast Power Coordinating Council or New York State Reliability Council may develop more stringent definitions of "no trip zone." We find that NYISO's proposed independent entity variation is just and reasonable because it requires the generator to comply with the requirements of the applicable reliability councils for the NYISO region. Therefore, we accept these proposed tariff revisions.

385. In addition, NYISO proposes, as required by Order No. 2023, to require all newly interconnecting large generating facilities to provide frequency and voltage ride through capability consistent with any standards and guidelines applied to other generating facilities in the corresponding balancing authority area on a comparable basis, and also requests an independent entity variation to clarify that if there are different requirements for the transmission owner's transmission district in which the project will connect that apply on a comparable basis to all generating facilities in that district, those specifications would apply. We find that NYISO's proposed independent entity variation is just and

⁶⁴³ Order No. 2023, 184 FERC ¶ 61,054 at PP 1662, 1713.

⁶⁴⁴ *Id.* P 1662.

reasonable because it requires the generator to comply with any different requirements for the transmission owner's transmission district in which the project will connect that apply on a comparable basis to all generating facilities in that district. Therefore, we accept these proposed tariff revisions.

21. Other Issues

a. Expedited Deliverability Study

i. NYISO's Compliance Filing

386. NYISO states that it performs a recurring Expedited Deliverability Study, which is a mechanism by which a facility can seek to obtain CRIS outside of the NYISO's Class Year Study if the expedited study determines that system deliverability upgrades are not required for the deliverability of its project.⁶⁴⁵ NYISO states that it requests limited independent entity variations for certain revisions to its existing Expedited Deliverability Study rules to align this study process with the new cluster study process requirements.

ii. Commission Determination

387. We find NYISO's proposed revisions to its existing Expedited Deliverability Study rules are outside the scope of this proceeding as Order Nos. 2023 and 2023-A did not require such revisions. Accordingly, we direct NYISO to submit a compliance filing within 60 days of the date that removes these proposed revisions. This determination is without prejudice to NYISO proposing this additional language in a future FPA section 205 filing.

b. Conforming and Ministerial Revisions

i. NYISO's Compliance Filing

388. NYISO states that its interconnection procedures and Class Year Study process are intertwined with the NYISO market and planning rules in its OATT and Services Tariff.⁶⁴⁶ NYISO asserts that the updated interconnection procedures require certain conforming changes to the OATT and Services Tariff requirements to update defined

⁶⁴⁵ Filing, Transmittal Letter at 92 (citing OATT, attach. S, § 25.5 (Class Year Study & Expedited Deliverability Study Processes) (18.0.0), § 25.5.9.2; *id.* attach. S, § 25.7 (Deliverability Studies & Cost Allocation Methodology for CRIS) (18.0.0); proposed OATT, attach. HH, § 40.19 (Expedited Deliverability Study Procedures) (0.0.0)).

⁶⁴⁶ Filing, Transmittal Letter at 127.

terms and cross references, to supplement existing defined terms and cross references with the related Attachment HH terms and references, and to align tariff requirements with the changes to the interconnection procedures.

389. NYISO also proposes to make additional ministerial clarifications and revisions to new OATT Attachment HH, including updating or supplementing the current defined terms and cross references in the tariff provisions with the analog terms and cross references used in the new process and making non-substantive corrections, such as correcting spacing and formatting.⁶⁴⁷

ii. Commission Determination

390. We accept NYISO's proposal to make additional conforming revisions, as well as ministerial clarifications and revisions, in its OATT and Services Tariff. We find that these revisions provide clarity and ensure consistency in NYISO's tariffs.

22. Effective Date and Tariff Waiver Requests

a. NYISO's Compliance Filing

391. NYISO requests that the tariff revisions in its compliance filing become effective on May 2, 2024.⁶⁴⁸ NYISO states that the requested effective date will enable NYISO to immediately transition to its new interconnection procedures in parallel with the completion of its final Class Year Study for Class Year 2023. Specifically, NYISO explains that it will begin its transition cluster study process during the summer of 2024, so that the study work for the transition cluster study is able to commence shortly after the conclusion of NYISO's ongoing Class Year Study for Class Year 2023. NYISO asserts that a later start date to the transition cluster study process would delay the progress of numerous projects that are prepared to proceed into the new study process.

392. NYISO intends to begin implementing the Standard Interconnection Procedures — in particular, its transition rules and the pre-application process — beginning on May 2, 2024, subject to any determination or modification by the Commission.⁶⁴⁹ NYISO then intends to open the Application Window for NYISO's transition cluster study process on August 1, 2024. NYISO states that the Application Window and customer

⁶⁴⁷ *Id.* at 130.

⁶⁴⁸ *Id.* at 4, 29.

⁶⁴⁹ NYISO contends that prospective interconnection customers have expressed considerable support for the pre-application process to assist them in preparing interconnection requests for the transition cluster study process. *Id.* at 29.

engagement window for the transition cluster study process will run in parallel with the completion of the Class Year Study for Class Year 2023.⁶⁵⁰

393. NYISO petitions, under Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,⁶⁵¹ that the Commission grant NYISO conditional prospective temporary waivers, to the extent the Commission determines necessary, of the following: (1) any of the existing requirements in NYISO's Standard LFIP, SGIP, and new Standard Interconnection Procedures that might otherwise prevent NYISO from performing and completing the transition cluster study process; and (2) NYISO's existing SGIP if the Commission were to determine that the revisions included in the instant filing that address small generating facilities are beyond the scope of an Order No. 2023 compliance proceeding.⁶⁵² NYISO explains that it requests the conditional waivers to address scenarios that might arise because NYISO is proposing to move quickly, in accordance with Order No. 2023, to implement its proposed interconnection reforms.⁶⁵³ NYISO states that the conditional waiver requests are prospective in nature because they would apply exclusively to procedures that will not commence until after the date that NYISO is requesting them and thus there is no question that the Commission has legal authority to grant them.

394. For the first conditional waiver request, NYISO explains that, assuming the Commission will issue an order on this compliance filing after the requested effective date of May 2, 2024, it requests any needed prospective waivers in the event that the Commission sets a later effective date or requires modification to elements of this filing that might invalidate actions taken by NYISO between May 2, 2024 and when NYISO is able to respond to a Commission order addressing this compliance filing.⁶⁵⁴ Specifically, NYISO requests waivers of any of the existing requirements in NYISO's Standard LFIP in Attachment S and X, the existing SGIP in Attachment Z to the OATT, and the new Standard Interconnection Procedures in Attachment HH that might otherwise limit NYISO's ability to perform and complete the transition cluster study process.

395. For the second conditional waiver request, NYISO requests that, if the Commission determines that the inclusion of Small Generating Facilities in the cluster study process is outside the scope of this compliance filing, the Commission then waive

⁶⁵⁰ *Id.*

⁶⁵¹ 18 C.F.R. § 385.207(a)(5) (2024).

⁶⁵² Filing, Transmittal Letter at 5, 130.

⁶⁵³ *Id.* at 130.

⁶⁵⁴ *Id.* at 131.

the SGIP requirements to the extent necessary to permit NYISO to temporarily incorporate small projects in the transition cluster study process.⁶⁵⁵ NYISO states that the purpose of the second waiver request would be to avoid disrupting and delaying the transition cluster study process that will include small generating facilities when it begins. NYISO contends that it is possible that months will pass between the start of the transition cluster study on August 1 and a potential Commission order finding that small generating facilities should be excluded from it, and granting the second waiver request would provide NYISO with time to seek stakeholder approval to make a separate FPA section 205 filing.

b. Comments

396. Clean Energy Associations state that NYISO's proposed May 2, 2024 effective date for the OATT revisions will help to maintain a rapid transition and advance projects to commercial operation sooner.⁶⁵⁶ NY-BEST supports beginning the transitional cluster study as rapidly as possible to avoid interconnection delays: specifically, NY-BEST states that the Commission should approve NYISO's plans for the transitional cluster study and cluster study process and direct NYISO to address further compliance in parallel with the transitional cluster study.⁶⁵⁷ Shell states that the Commission should accept the core components of NYISO's compliance filing effective May 2, 2024, reject the components of NYISO's compliance filing that are protested, and require that NYISO revise its compliance filing to be in compliance with Order No. 2023.⁶⁵⁸ Shell stresses the importance of continuing to implement and complete NYISO's new interconnection process as expeditiously as possible to facilitate New York's climate change public policy initiatives.⁶⁵⁹

c. Commission Determination

397. We accept NYISO's compliance filing in part, effective May 2, 2024, as requested, subject to a further compliance filing, as discussed herein. We agree that the requested effective date will enable NYISO to immediately implement its new Standard Interconnection Procedures in concert with the completion of its final Class Year Study for Class Year 2023. Commenters also agree that NYISO's proposed May 2, 2024,

⁶⁵⁵ *Id.* at 132.

⁶⁵⁶ Clean Energy Associations Protest at 5.

⁶⁵⁷ NY-BEST Protest at 9.

⁶⁵⁸ Shell Protest at 2.

⁶⁵⁹ *Id.* at 5.

effective date will help to maintain a rapid transition and advance projects to commercial operation sooner.

398. NYISO petitions that the Commission grant NYISO prospective temporary waivers of any of the existing requirements in NYISO's Standard LFIP in Attachment S and X, the existing SGIP in Attachment Z to the OATT, and the new Standard Interconnection Procedures in Attachment HH that might otherwise limit NYISO's ability to perform and complete the transition cluster study process. Because we accept NYISO's proposed effective date of May 2, 2024, we dismiss this waiver request as moot.

399. NYISO petitions that the Commission grant NYISO prospective temporary tariff waivers, to the extent the Commission determines necessary, of NYISO's existing SGIP if the Commission were to determine that the tariff revisions included in this filing that address small generating facilities are beyond the scope of an Order No. 2023 compliance proceeding. Because we accept NYISO's tariff revisions that address small generating facilities, we dismiss this waiver request as moot.

23. Other Compliance Directive

400. On August 20, 2024, the Commission issued an Errata Notice, which contained additional revisions to the Commission's *pro forma* LGIP, *pro forma* LGIA, and *pro forma* SGIA.⁶⁶⁰ We direct NYISO to incorporate the revisions made in the Errata Notice when it submits its further compliance filing within 60 days of the date of this order.

V. November 3, 2023 Partial Compliance Filing (Docket No. ER24-342-000)

A. Summary of Filing and Previous Commission Action

401. On November 3, 2023, in Docket No. ER24-342-000, NYISO submitted proposed OATT revisions to partially comply with Order No. 2023, or alternatively, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,⁶⁶¹ a request for waiver of the requirements in Articles 30.3, 30.6, 30.7, and 30.10 of the OATT that require the developer to elect within a prescribed period of time, and NYISO to perform, feasibility and system impact studies or to withdraw the developer's project from the interconnection queue.⁶⁶² On January 24, 2024, the Commission granted NYISO's

⁶⁶⁰ *Improvements to Generator Interconnection Procs. & Agreements*, errata notice, 188 FERC ¶ 61,134 (2024).

⁶⁶¹ 18 C.F.R. § 385.207(a)(5).

⁶⁶² *N.Y. Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,065, at P 1 (2024) (January Order).

waiver request for the period between November 30, 2023, and the date of a further Commission order on the partial Order No. 2023 compliance filing.⁶⁶³

402. NYISO states that the purpose of the partial Order No. 2023 compliance filing is to establish limited, interim rules to provide for the transition of certain interconnection studies to avoid imposing unnecessary costs on developers and to expedite the transition to new Order No. 2023-compliant procedures.⁶⁶⁴ In particular, NYISO states that its proposed interim transition mechanism will provide a developer with the opportunity to elect, based on its project's progress in the LFIP, to commence or complete an ongoing feasibility or system impact study for which it completed the tariff-prescribed scoping requirements prior to December 1, 2023, to opt for the performance of a limited feasibility study, to withdraw from an ongoing study without financial penalty, or not to commence a study.⁶⁶⁵ NYISO states that a developer that terminates or does not commence a study may elect either to remain in the NYISO interconnection queue pending the application of the new interconnection procedures or to withdraw its interconnection request. NYISO explains that this mechanism will enable NYISO to timely transition to the new interconnection process without harming developers. NYISO states that the developer of any existing or new project, regardless of whether it has completed a feasibility or system impact study under NYISO's current rules, will have the opportunity to satisfy the new process rules during the Application Window that NYISO intends to open in summer 2024 in order to enter into the clustered transition study that is intended to commence in late 2024. NYISO states that, until these transition rules are effective, the interim transition rules proposed in this filing will provide clarity and transparency to developers concerning the applicability of existing study tariff requirements. NYISO states that the proposed rules will also minimize the expense, time, and resources that NYISO, NYTOs, and developers must commit for study work that is not required for a project to advance under the new process and that could create delays in transitioning to the new process. NYISO requests that the Commission make the proposed tariff revisions effective on November 30, 2023.

B. Comments in Support

403. NYTOs state that the proposed OATT revisions set forth a process that will empower developers to determine how to proceed during the interim period with studies that should no longer be required under a post-Order No. 2023 reformed process.⁶⁶⁶

⁶⁶³ *Id.* P 11.

⁶⁶⁴ NYISO November 3, 2023 Filing at 1.

⁶⁶⁵ *Id.* at 2.

C. Discussion

404. We find that NYISO's partial compliance filing is just and reasonable, not unduly discriminatory or preferential, and helps to accomplish the purposes of Order Nos. 2023 and 2023-A by establishing an interim transition mechanism that sets the stage for the interconnection process under NYISO's Order No. 2023 compliance filing. Accordingly, we accept the proposed OATT revisions in NYISO's partial compliance filing effective November 30, 2023, as requested.⁶⁶⁷

The Commission orders:

(A) NYISO's compliance filing in Docket Nos. ER24-1915-000 and ER24-1915-001 is hereby accepted in part, effective May 2, 2024, as requested, subject to a further compliance filing, as discussed in the body of this order.

(B) NYISO is hereby directed to submit a compliance filing that addresses the directives in this order within 60 days of the date of this order, as discussed in the body of this order.

(C) NYISO's partial compliance filing in Docket No. ER24-342-000 is hereby accepted, effective November 30, 2023, as requested, as discussed in the body of this order.

(D) NYISO's waiver requests are hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,

⁶⁶⁶ NYTOs Comments at 2. In the January Order, the Commission accepted the motions to intervene of NYTOs, Calpine Corporation and Solar Energy Industries Association, respectively. January Order, 186 FERC ¶ 61,065 at PP 7, 10. Calpine Corporation and Solar Energy Industries Association did not file comments in this proceeding.

⁶⁶⁷ See *supra* note 4.

Secretary.