NEW YORK INDEPENDENT SYSTEM OPERATOR
10 Krey Boulevard ♦ Rensselaer, NY 12144

March 22, 2016

By Electronic Delivery

Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First St, NE
Washington, DC 20426

Re: *New York Independent System Operator, Inc.*, Compliance Filing, Docket Nos. ER13-102-007, ER13-102-00_

Dear Secretary Bose:

The New York Independent System Operator, Inc. ("NYISO")[1] hereby submits this compliance filing to fulfill the directives of the Federal Energy Regulatory Commission ("Commission") in its December 23, 2015, *Order Conditionally Accepting Tariff Revisions and Requiring Further Compliance* in the above-captioned proceeding ("December Order") and in accordance with the Commission's January 14, 2016 *Notice of Extension of Time* ("January Notice").[2] The NYISO submits the proposed revisions described in Parts IV through VII of this filing letter to the NYISO's Open Access Transmission Tariff ("OATT").[3]

The proposed tariff revisions comply with the Order No. 1000 regional transmission planning requirements[4] and the directives in the December Order.[5] The proposed tariff revisions

[1] Due to the nature of the matters addressed in this compliance filing that relate to the treatment of Developers of transmission and Transmission Owners that will apply to both the existing New York Transmission Owners and non-incumbent Developers, the NYISO submits this compliance filing on its own, with the understanding that the New York Transmission Owners and other interested parties may file separate comments.

[2] *New York Independent System Operator, Inc.*, Order Conditionally Accepting Tariff Revisions and Requiring Further Compliance, 153 FERC ¶ 61,341 (2015) ("December Order"); *New York Independent System Operator, Inc.*, Notice of Extension of Time, Docket No. ER13-102-007 (January 14, 2016).

[3] Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachment Y of the NYISO OATT, and if not defined therein, in the NYISO OATT and the NYISO Market Administration and Control Area Services Tariff.

[4] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) ("Order No. 1000"), *order on reh'g and*

included in this filing are expressly required by the directives in the December Order, are necessary to implement or clarify the existing tariff language to accommodate those directives, or are non-substantive organizational or clarifying adjustments. As these tariff revisions are necessary to make the NYISO's Order No. 1000-related tariff provisions clearer and more accurate, it is consistent with Commission precedent to include them in this compliance filing.[6]

As described in Part VIII below, the NYISO requests that the Commission accept the proposed tariff revisions with an effective date of April 1, 2016.

---

clarification, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) ("Order No. 1000-A"), *order on reh'g and clarification*, 141 FERC ¶ 61,044 (2012) ("Order No. 1000-B"). For convenience, unless otherwise specified, references in this filing to "Order No. 1000" should be understood to encompass Order Nos. 1000, 1000-A, and 1000-B.

[5] As described in Part VII.C below, the NYISO separately requested on March 17, 2016, that the Commission grant a partial extension of 180 days to address certain tariff implementation issues associated with the *pro forma* operating agreement proposed in this filing. *See New York Independent System Operator, Inc.*, Motion for Partial Extension of Time of the New York Independent System Operator, Inc., Docket No. ER13-102-007 (March 17, 2016). As described in the motion, the NYISO is already working diligently to identify and propose the necessary tariff revisions for review with all interested parties and stakeholders.

[6] The Commission has previously authorized the NYISO to include these kinds of limited, but necessary, clarifications in compliance filings and should follow that precedent here. *See New York Independent System Operator, Inc.*, 125 FERC ¶ 61,206 (2008), *reh'g*, 127 FERC ¶ 61,042 (2009) (accepting proposed additional tariff revisions that were necessary to implement the modifications directed by the Commission and to correct drafting errors or ambiguities in a compliance filing).

TABLE OF CONTENTS

I. COMMUNICATIONS

Communications and correspondence regarding this filing should be directed to:

Robert E. Fernandez, General Counsel
Raymond Stalter, Director of Regulatory Affairs
Karen G. Gach, Deputy General Counsel
*Carl F. Patka, Assistant General Counsel
Sara B. Keegan, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
rstalter@nyiso.com
kgach@nyiso.com
cpatka@nyiso.com
skeegan@nyiso.com

*Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Ave, NW
Washington, DC 20037
Tel: (202) 955-1500
Fax: (202) 778-2201
tmurphy@hunton.com

*Michael Messonnier[7]
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Tel: (804) 788-8712
Fax: (804) 343-4646
mmessonnier@hunton.com

*Persons designated to receive service

II. LIST OF DOCUMENT SUBMITTED

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the proposed revisions to the OATT (Attachment I);

2. A blacklined version of the proposed revisions to the OATT (Attachment II);

3. A clean version of the OATT incorporating pending tariff revisions effective May 19, 2016. (Attachment III);[8]

4. A blackline of the Transmission Interconnection Procedures in new OATT Attachment P set against the Standard Large Facility Interconnection Procedures in OATT Attachment X (Attachment IV);

[7] Waiver of the Commission's regulations (18 C.F.R. § 385.203(b)(3) (2014)) is requested to the extent necessary to permit service on counsel for the NYISO in Rensselaer, NY, Richmond, VA and Washington, DC.

[8] Attachment III incorporates revisions to Sections 25.1, 25.5, 25.8, 30.1, 30.3, 30.7, 30.14, and 32.5 of the OATT filed March 17, 2016, in Docket No. ER16-1213-000, with a proposed effective date that falls after the effective date requested for the tariff provisions proposed herein.

5. A blackline of the Public Policy Development Agreement set against the Reliability Development Agreement (Attachment V); and

6. A blackline of the new *pro forma* operating agreement set against the ISO/TO Agreement (Attachment VI).

III. BACKGROUND

In response to the Order No. 1000 regional transmission planning and cost allocation directives, the NYISO and the New York Transmission Owners have submitted compliance filings to revise the NYISO's tariff requirements for its Comprehensive System Planning Process ("CSPP"), which is composed of the NYISO's reliability, economic, and public policy transmission planning processes.[9] The Commission has largely accepted the NYISO's revised CSPP as compliant with the Order No. 1000 requirements.[10] In its May 18, 2015, compliance filing, the NYISO submitted minor tariff revisions and a *pro forma* development agreement for its reliability planning process in response to the Commission's directives in an April 16, 2015, order in this proceeding.[11]

The December Order determined that the NYISO had partially complied with the Commission's previous directives in this proceeding, and directed the NYISO to submit a further compliance filing.[12] Specifically, the December Order directed the NYISO to establish interconnection requirements that apply the same interconnection process to competitive transmission projects proposed in the NYISO's transmission planning process by incumbent Transmission Owners and non-incumbent Developers.[13] In addition, the December Order directed the NYISO to submit two new standard agreements – a *pro forma* development agreement for the NYISO's Public Policy Transmission Planning Process and an operating agreement for non-incumbent Developers that is comparable to the existing agreement executed

[9] *See New York Independent System Operator, Inc. and New York Transmission Owners,* Compliance Filing, Docket No. ER13-102-007 (May 18, 2015); *New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket No. ER13-102-006 (September 15, 2014); *New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket No. ER13-102-002 (October 15, 2013); *New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket No. ER13-102-000 (October 11, 2012).

[10] *See* December Order; *New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 151 FERC ¶ 61,040 (2015); *New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 148 FERC ¶ 61,044 (2014) ("July 2014 Order"); *New York Independent System Operator, Inc.*, Order on Compliance Filing, 143 FERC ¶ 61,059 (2013).

[11] *See New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 151 FERC ¶ 61,040 (2015).

[12] The December Order directed the NYISO to file its compliance filing within 30 days. December Order at P 8. The Commission subsequently granted an extension for the compliance filing until March 22, 2016. *New York Independent System Operator, Inc.*, Notice of Extension of Time, Docket No. ER13-102-007 (January 14, 2016).

[13] *See* December Order at PP 67-76.

by the incumbent New York Transmission Owners.[14] Finally, the December Order directed the NYISO to make certain revisions to its previously filed *pro forma* development agreement for the reliability planning process and the related tariff provisions in Attachment Y of the OATT.[15]

The NYISO discussed the proposed tariff revisions and standard agreements with its stakeholders and made additional revisions based on stakeholder input. The NYISO initially discussed the directives of the December Order with stakeholders at the January 21, 2016 Electric System Planning Working Group ("ESPWG") meeting. The NYISO then discussed specific proposals for the tariff revisions and new agreements at the February 5, February 10, February 25, and March 7 ESPWG meetings. Finally, the NYISO discussed its proposed revisions and new agreements at the stakeholder Operating Committee meeting on March 17, 2016.

The NYISO submits with this filing letter proposed revisions to the NYISO OATT as well as a *pro forma* development agreement for its Public Policy Transmission Planning Process and a *pro forma* operating agreement. The proposed tariff revisions and agreements are described in Parts IV through VII of this letter.

IV. TRANSMISSION INTERCONNECTION PROCEDURES

A. The NYISO's Existing Transmission Expansion and Interconnection Requirements for Transmission Facilities

The NYISO OATT currently contains two processes for the evaluation of proposed expansions or additions to the New York State Transmission System – (1) the transmission expansion process set forth in Sections 3.7 and 4.5 of the OATT, and (2) the interconnection process set forth in Attachments X and Z of the OATT.[16]

The NYISO's transmission expansion process is located in Sections 3.7 and 4.5 of the OATT. Section 3.7 relates to requests for Firm Point-To-Point Transmission Service, while Section 4.5 relates to requests for Network Integration Transmission Service. The latter has never been requested by a NYISO Market Participant, likely because the ability to obtain financial reservation-based transmission service in the NYISO market makes Network Integration Transmission Services unnecessary.[17] As a result, all requests that have been

[14] *See* December Order at PP 19-20, 79.

[15] *See* December Order at PP 48, 51-52, 57, 90-91, 94, 98, 100-101, 103-105, 117-120.

[16] Attachment X of the OATT contains the NYISO's Standard Large Facility Interconnection Procedures. Attachment Z of the OATT contains the NYISO's Small Generator Interconnection Procedures.

[17] Network Integration Transmission Service is a form of physical reservation-based transmission service in which a Transmission Customer reserves physical capacity by designating Network Resources to be used to serve designated Network Load. The principal advantage of such service is the opportunity for a Transmission Customer to schedule service from a single Generator to a variety of Loads, or from a variety of Generators to a single Load, without securing physical transmission reservations for each

evaluated under the NYISO's transmission expansion process have been evaluated pursuant to Section 3.7. Section 3.7 has been used for proposals by Eligible Customers, including the New York Transmission Owners, to expand or reinforce the New York State Transmission System. Among the projects evaluated under Section 3.7 have been proposed upgrades and expansions by New York Transmission Owners to existing transmission facilities, including projects in the Transmission Owners' Local Transmission Plans (or for the New York Power Authority ("NYPA") in the NYPA transmission plan). The Section 3.7 process provides for a System Impact Study coordinated by the NYISO, a Facilities Study coordinated by the Transmission Owner(s) whose facilities may be modified in performing the upgrade or addition (the "affected" Transmission Owners), and a construction contract among the Eligible Customer, the affected Transmission Owner(s) and, if other than the affected Transmission Owner(s), the entity(ies) constructing the facilities.

The NYISO's Standard Large Facility Interconnection Procedures are established in Attachment X of the OATT, with related cost allocation requirements for required upgrade facilities in Attachment S of the OATT. This process is used for the study and cost allocation of the interconnection of Large Generating Facilities and Merchant Transmission Facilities. Merchant Transmission Facilities currently include any transmission facility proposing to interconnect to the New York State Transmission System that is being developed by an entity other than a New York Transmission Owner, regardless of the Developer's intended cost recovery mechanism (*i.e.*, even a transmission project that is responding to a solicitation in the public policy or reliability planning process). The Attachment X and S interconnection process provides for three interconnection studies coordinated by the NYISO – (1) an Interconnection Feasibility Study; (2) an Interconnection System Reliability Impact Study; and (3) a Class Year Interconnection Facilities Study ("Class Year Study") – along with an Interconnection Agreement among the Developer, the Connecting Transmission Owner, and the NYISO.

B. The December Order

The interconnection provisions rejected by the December Order were existing processes under the NYISO's OATT that were cross-referenced in the May 18, 2015 compliance filing. The May 18, 2015 compliance filing proposed no modifications to the existing interconnection and transmission expansion processes. Nonetheless, in the December Order, the Commission determined that the NYISO's existing process for evaluating the interconnection of transmission projects proposed in the NYISO's CSPP was unjust and unreasonable.[18] Specifically, the Commission found it to be unjust and unreasonable that the NYISO would evaluate transmission projects proposed under the CSPP by incumbent Transmission Owners pursuant to the transmission expansion process in Sections 3.7 and 4.5 of the OATT, while the NYISO would

---

transaction. In the NYISO, however, a Transmission Customer can obtain the same result through the NYISO's bid-based financial rights version of Point-To-Point Transmission Service without having to proceed through the administrative complexity of Section 4.5 of the OATT.

[18] December Order at PP 67-68.

evaluate transmission projects proposed by non-incumbent Developers pursuant to the interconnection process in Attachments X and S of the OATT.[19]

The December Order directed the NYISO to revise its tariff to require "all Order No. 1000 projects to go through the same interconnection process."[20] While the December Order provided a specific suggestion that the NYISO evaluate all of these transmission projects under the interconnection process in Attachments X and S of the OATT,[21] it also provided the NYISO with the flexibility to propose an alternative process other than the interconnection process in Attachments X and S as long as such alternative approach is not unduly discriminatory or preferential.[22] The NYISO proposes such an alternative approach that is not unduly discriminatory or preferential and addresses the concerns the Commission raised regarding the evaluation of "Order 1000 transmission project proposals" under Attachments X and S along with other projects in the NYISO interconnection queue.[23]

C. Transmission Interconnection Procedures

In considering how best to address the Commission's concerns regarding the evaluation of transmission projects proposed by incumbent Transmission Owners and non-incumbent Transmission Developers, the NYISO carefully considered the following options: (i) evaluating all transmission projects under the NYISO's existing interconnection process in Attachments X and S of the OATT; (ii) evaluating all transmission projects under the existing transmission expansion process in Section 3.7 of the OATT; and (iii) developing a hybrid interconnection process for transmission evaluation incorporating aspects of existing interconnection and transmission expansion processes. Based on its review and stakeholder input, the NYISO determined that developing a new process with uniform procedures, specific to transmission, would be preferential to using the existing interconnection process in Attachments X and S or the existing transmission expansion process in OATT Section 3.7.

As the Commission recognized in the December Order, there are potential drawbacks of using the existing interconnection requirements for transmission facilities. Specifically, the Commission recognized in the December Order that placing "Order 1000 transmission project proposals" in Attachments X and S with other interconnection queue projects could pose the following concerns: "(1) the interconnection queue may become backlogged, delaying project

[19] December Order at PP 67-68.

[20] December Order at P 68.

[21] December Order at P 67.

[22] December Order at P 73. The NYISO has requested clarification, out of an abundance of caution, of the December Order's directives to confirm its understanding that it may propose that transmission projects proposed in its regional planning process can be evaluated using processes other than those established under Attachments X and S. *See New York Independent System Operator, Inc.*, Request for Rehearing and Clarification of New York Independent System Operator, Inc., Docket No. ER13-102-007 at pp 16-18 (January 27, 2016).

[23] *Id.*

development; and (2) NYISO may be unable to accurately study the impact of new proposed projects on the system if the interconnection queue includes multiple Order No. 1000 project proposals, only one of which will be selected and built." [24] The NYISO considered these concerns in developing its proposed approach to evaluating such projects, and developed procedures intended to address these issues, as discussed in detail in Part IV.F(3) below.

In light of these concerns and to best address the Commission's directives in the December Order, the NYISO proposes to establish new Transmission Interconnection Procedures to be located in Attachment P of the OATT. The new procedures are in many ways a hybrid of the existing interconnection and existing transmission expansion processes. The NYISO has structured the proposed Transmission Interconnection Procedures in Attachment P to be largely consistent with the existing Standard Large Facility Interconnection Procedures located in Attachment X of the OATT. With the exception of the NYISO's Class Year Study construct, the new procedures closely mirror the long-standing Standard Large Facility Interconnection Procedures that were derived from the Commission's *pro forma* Large Generator Interconnection Procedures. The primary differences between the Transmission Interconnection Procedures and the Standard Large Facility Interconnection Procedures reflect changes that were required to make the procedures specific to transmission facilities and to remove provisions that are not relevant to transmission, such as those provisions concerning the NYISO's provision of Energy Resource Interconnection Service and Capacity Resource Interconnection Service.

Parts IV.D through IV.H below describe the scope and the significant elements of these new Transmission Interconnection Procedures. For the Commission's reference, a blackline version detailing the differences between the Transmission Interconnection Procedures and the Standard Large Facility Interconnection Procedures is included as Attachment IV to this letter. Parts IV.I and IV.J then describe conforming revisions in the OATT – Sections 3, 4 and Attachments D, S, X and Z – to accommodate the new Transmission Interconnection Procedures. Finally, Part IV.K describes tariff revisions to Attachment Y of the OATT to align the new Transmission Interconnection Procedures with the NYISO's CSPP.

D. Applicability of the New Transmission Interconnection Procedures

1. Transmission Projects Subject to the New Transmission Interconnection Procedures

The new Transmission Interconnection Procedures will apply to all "Transmission Projects" as that term is defined in Attachment P of the OATT.[25] Transmission Projects include, with limited exceptions described below, "a Transmission Developer's proposed new transmission facility that will interconnect to the New York State Transmission System or a

[24] December Order at P 73.

[25] Proposed OATT Section 22.3.1.1.

Transmission Developer's proposed upgrade – an improvement to, addition to, or replacement of a part of an existing transmission facility – to the New York State Transmission System."[26]

In accordance with this definition of Transmission Project, the NYISO will apply the new Transmission Interconnection Procedures broadly to any entity – whether an incumbent Transmission Owner or a non-incumbent Developer – that is proposing a new transmission facility or upgrade to the New York State Transmission System with limited exceptions. These new procedures will apply to the interconnection of all transmission facilities with the two exceptions described below.

The first type of transmission facility not subject to the Transmission Interconnection Procedures is a new transmission facility or upgrade that is proposed by a Transmission Owner in its Local Transmission Owner Plan or NYPA transmission plan that is not subject to the NYISO's competitive selection process in its CSPP and for which the Transmission Owner is not seeking cost allocation under the OATT.[27] These projects will continue to be evaluated under the transmission expansion process in OATT Section 3.7. This is consistent with the December Order's express direction that while all projects seeking regional cost allocation must submit to the same interconnection process,

> this finding does not alter or otherwise affect Transmission Owners' ability to propose expansions and upgrades to their own system for transmission projects that are planned outside of NYISO's regional transmission planning process, and therefore would not be eligible for selection in the regional transmission plan for purposes of cost allocation, through the process in sections 3.7 and 4.5 of the NYISO OATT.[28]

In light of this clear directive, the NYISO proposes to allow transmission projects proposed as part of a Transmission Owner's Local Transmission Owner Plan or NYPA transmission plan to continue to be evaluated pursuant to Section 3.7 of the OATT.

The second type of transmission facility not subject to the Transmission Interconnection Procedures is a proposed controllable transmission line for which the proposing entity is seeking Capacity Resource Interconnection Service ("CRIS") to receive Unforced Capacity Deliverability Rights.[29] A proposing entity seeking CRIS rights – whether for a generation or transmission facility – must participate in the Class Year Interconnection Facilities Study process, including the deliverability analysis, set forth in Attachments X and S of the OATT.

---

[26] Proposed OATT Section 22.3.1.2. A "Transmission Developer" as defined in proposed OATT Section 22.1, is: "any entity, including the Connecting Transmission Owner or any of its Affiliates or subsidiaries, that proposes to interconnect its Transmission Project with the New York State Transmission System."

[27] Proposed OATT Section 22.3.1.3; *see also* proposed revisions to OATT Section 3.7.

[28] December Order at P 70.

[29] Proposed OATT Section 22.3.1.3; *see also* proposed revisions to Sections 30.1 and 30.3.1.

Controllable projects that are able to request CRIS and ultimately UDRs are more suitable for evaluation in the Standard Large Facility Interconnection Procedures. Because these lines are controllable, they can be dispatched up or down to address system conditions and are therefore more similar in that regard to generation than to uncontrollable AC transmission. As a result, the NYISO proposes that these types of transmission projects should continue to be evaluated alongside generation in the Standard Large Facility Interconnection Procedures, including the Class Year Study. In addition, controllable transmission seeking CRIS and UDRs should be evaluated in a Class Year Deliverability Study to provide comparable treatment between them and generators seeking CRIS with respect to: (i) access to any deliverability headroom there may be in the system; and (ii) cost allocation for any System Deliverability Upgrades that may be needed for all the Class Year CRIS requests to be deliverable. For these reasons, the NYISO proposes to leave these projects in the Standard Large Facility Interconnection Procedures, including the Class Year Study. This is reflected in the revisions to the definition of Merchant Transmission Facility described below in Part IV.J of this letter.

Whether a project seeks CRIS and ultimately UDRs is fundamental to that developer's business model and likely a facet of the project the developer would know up front. Nonetheless, it is theoretically possible that a developer may submit its project in the appropriate interconnection process and then later decide to seek CRIS and UDRs. The NYISO is therefore proposing a mechanism by which a controllable transmission project can transition from the Transmission Interconnection Procedures to a Class Year Study. If a controllable transmission project begins through the Transmission Interconnection Procedures, and later decides to seek CRIS and UDRs, it can transition to the Standard Large Facility Interconnection Procedures. It must submit an Interconnection Request[30] and may then proceed as follows: (1) if the project has completed a System Impact Study under the Transmission Interconnection Procedures, it can proceed to a Class Year Interconnection Facilities Study under Attachment S; (2) if a System Impact Study has not been completed under the Transmission Interconnection Procedures, the project must complete an Interconnection System Reliability Impact Study under Attachment X before entering a Class Year Interconnection Facilities Study under Attachment S.[31] A proposed controllable transmission project that completes the Transmission Interconnection Procedures and subsequently decides to request CRIS and UDRs may enter a Class Year Deliverability Study to request CRIS, subject to UDR eligibility requirements (including, for example, the requirement that the transmission be new).[32]

2. Transition Rule for Transmission Projects Already Under Evaluation

There are currently a number of projects in the NYISO's existing interconnection queue that will satisfy the definition of a Transmission Project and will be subject to the Transmission Interconnection Procedures upon the effective date of these procedures. The NYISO, therefore, proposes the following transition rules between the existing interconnection and transmission

[30] Proposed revisions to OATT Section 30.3.1.

[31] Proposed revisions to OATT Sections 25.6.2.3.1 and 30.7.1.

[32] OATT Section 25.5.9.

expansion requirements and the new Transmission Interconnection Procedures. These transition rules have been designed to provide for a smooth transition between the processes and to minimize the burden on the Transmission Developer resulting from the introduction of the new procedures. These proposed transition rules are also consistent with prior transition rules used for revisions to the NYISO's interconnection procedures. [33]

Pursuant to the proposed transition rules, a Transmission Developer will retain the existing Queue Position for its Transmission Project and may, as applicable, consolidate multiple Queue Positions that collectively address the Transmission Project into one Queue Position.[34] If a study agreement has been executed in the interconnection or transmission expansion process – for any study – the Transmission Developer that executed the agreement (as a Developer or an Eligible Customer, as applicable) may elect to either: (1) complete the study, or (2) execute the agreement for the comparable Transmission Interconnection Study and proceed under the Transmission Interconnection Procedures.[35] Any study for which an agreement has not been executed or any subsequent study will proceed under the Transmission Interconnection Procedures.[36]

For example, if a Transmission Developer has executed an Interconnection Feasibility Study Agreement under Attachment X of the OATT, it may complete that study and proceed next to the System Impact Study under the Transmission Interconnection Procedures or it may proceed directly to the System Impact Study under the Transmission Interconnection Procedures. If the Transmission Developer has executed a System Reliability Impact Study under Attachment X of the OATT, it may complete that study and proceed next to a Facilities Study under the Transmission Interconnection Procedures or it may halt its System Reliability Impact Study and proceed to a System Impact Study under the Transmission Interconnection Procedures. Similarly, a Transmission Owner that has executed a System Impact Study under Section 3.7 of the OATT may complete that study and proceed next to a Facilities Study under the Transmission Interconnection Procedures or it may proceed directly to a System Impact Study under the Transmission Interconnection Procedures.

E. Transmission Interconnection Application

A Transmission Developer will initiate the Transmission Interconnection Procedures by submitting to the NYISO a valid Transmission Interconnection Application and a $10,000 non-refundable application fee.[37] The Transmission Interconnection Application is a standard form included as Appendix 1 to Attachment P. The form requires that the Transmission Developer

---

[33] *See, e.g.*, OATT Section 32.1.7 (providing the transition rule for interconnection requests submitted prior to the effective date of the NYISO's Small Generator Interconnection Procedures).

[34] Proposed OATT Section 22.3.3.1.1.

[35] Proposed OATT Section 22.3.3.1.3.

[36] Proposed OATT Section 22.3.3.1.2, 22.3.3.1.3.

[37] Proposed OATT Section 22.4.

submit its contact information and basic project information (*e.g.*, proposed Point(s) of Interconnection, general description of equipment configuration and kV level, conceptual one-line diagram, In-Service Date). The process requirements for submitting and reviewing the Transmission Interconnection Application are consistent with the current requirements in Attachment X of the OATT concerning the submission and review of an Interconnection Request.[38]

A Transmission Project will be assigned a Queue Position based upon the date and time of receipt of a valid Transmission Interconnection Application.[39] The Transmission Project will be included in same interconnection queue as generation and other transmission facilities. In the December Order, the Commission indicated concern about possible delays resulting from competitive project proposals being included in a combined interconnection queue.[40] As recently described by the NYISO in a separate proceeding before the Commission, the NYISO's interconnection queue approach differs significantly from the "hard" interconnection queue approach used in other ISO/RTO regions.[41] Once a developer has submitted a valid Interconnection Request or Transmission Interconnection Application and the project has been included in the interconnection queue, the developer's advancement through the interconnection process, including the identification of required facilities and related costs to reliably interconnect its project, will be largely driven by its own project development and not the progress, or lack thereof, of other projects with higher Queue Positions. To the extent practicable, the NYISO evaluates Interconnection Requests and Transmission Interconnection Applications in parallel, not sequentially.

A Transmission Developer must submit to the NYISO in writing any modifications to the information in its Transmission Interconnection Application.[42] The Transmission Developer will be permitted to make any modifications until the parties' execution of a System Impact Study Agreement.[43] At that point, a Transmission Developer may not make any modifications, except for changes to the project's electrical characteristics that the NYISO determines do not constitute material modifications.[44] If the change is a material modification, a new System Impact Study must be performed for the modified Transmission Project.[45]

---

[38] Proposed OATT Section 22.4.1, 22.4.2.1, 22.4.2.2, 22.4.2.3.

[39] Proposed OATT Section 22.5.1.

[40] December Order at P 73.

[41] See *American Wind Energy Association*, Motion to Intervene and Comments of the New York Independent System Operator, Inc., Docket No. RM15-21-000 (September 8, 2015).

[42] Proposed OATT Section 22.5.4. Notwithstanding these requirements for the modification of information in a Transmission Interconnection Application, a Transmission Developer may not be permitted to modify its project proposal that has been submitted in competition with other projects in the NYISO's Comprehensive System Planning Process. Proposed OATT Section 22.5.4.5.

[43] Proposed OATT Section 22.5.4.1.

[44] Proposed OATT Section 22.5.4.2, 22.5.4.3.

[45] Proposed OATT Section 22.5.4.4.

F. Transmission Interconnection Studies

The NYISO will perform the following "Transmission Interconnection Studies" for Transmission Projects under the Transmission Interconnection Procedures: (i) an Optional Feasibility Study (at Transmission Developer's election), (2) a System Impact Study, and (3) a Facilities Study. The Transmission Developer's election to proceed with an Optional Feasibility Study or System Impact Study will be among the topics to be discussed in a Scoping Meeting among the parties.

1. Scoping Meeting

Following its receipt of a valid Transmission Interconnection Application, the NYISO will hold a Scoping Meeting with the Transmission Developer and Connecting Transmission Owner(s) to discuss the proposed interconnection for the Transmission Project.[46] As described below, the Transmission Developer may elect whether to pursue an Optional Feasibility Study for its Transmission Project or to proceed to the System Impact Study. As part of the Scoping Meeting, the NYISO, Transmission Developer, and Connecting Transmission Owner will discuss this matter, and the Transmission Developer will inform the NYISO within five Business Days of the meeting which study it will pursue.[47]

2. Optional Feasibility Study

A feasibility study assists the NYISO, Transmission Developer, and Connecting Transmission Owner in making a preliminary determination regarding whether a proposed interconnection design for a Transmission Project is feasible. The feasibility study typically involves: (i) the fundamental step of designing how the project will connect to the existing system; (ii) identification of "fatal flaws" with regard to preliminary engineering, mechanical and geographical feasibilities; and (iii) thermal, voltage and short circuit analyses that indicate potential adverse impacts that the project may cause. In the NYISO's current interconnection process in Attachment X, a proposed transmission facility is required to undergo an Interconnection Feasibility Study as the first study in that process, unless all parties – the Connecting Transmission Owner(s), the Developer and the NYISO – agree to forego such study. A Transmission Owner, however, is not required under the current transmission expansion process in OATT Sections 3.7 and 4.5 to perform a feasibility study, as it already performs such analysis of its own system before it elects to initiate the transmission expansion process for its proposed project.

The NYISO proposes to make the feasibility study optional at the Transmission Developer's election for purposes of the Transmission Interconnection Procedures. As a result,

---

[46] Proposed OATT Section 22.4.2.4. The term "Connecting Transmission Owner" includes all of the Transmission Owners with which the Transmission Project will interconnect. Proposed OATT Section 22.1.

[47] Proposed OATT Section 22.4.2.4.

the feasibility study is optional for both incumbent Transmission Owners and non-incumbent Developers under this process. The Transmission Developer may still choose to have an Optional Feasibility Study performed as it may benefit from the study results in designing its project and in identifying any fatal flaws before proceeding further through the study process. If, however, a Transmission Developer elects to skip the Optional Feasibility Study and proceed directly to the System Impact Study, the NYISO and Connecting Transmission Owner will evaluate the proposed interconnection design as an initial stage of the System Impact Study.[48] This will potentially accelerate the study process while ensuring that all essential evaluations are performed and may reduce unnecessary administrative steps.

To proceed with an Optional Feasibility Study, the Transmission Developer must enter into an Optional Feasibility Study Agreement with the NYISO and Connecting Transmission Owner and must provide a $60,000 deposit and the technical data as required by the study agreement.[49] If the Transmission Developer fails to cure deficiencies in the required technical data within ten business days, the Transmission Interconnection Application will be withdrawn.[50] The Transmission Developer will be responsible for the actual study costs incurred by the NYISO and Connecting Transmission Owner.[51]

The scope of the Optional Feasibility Study will be set forth in the study agreement and may consist of the following technical analysis, subject to the Developer's option: (i) development of a conceptual breaker-level one-line diagram depicting the proposed interconnection of the Transmission Project to the existing system where the project proposes to interconnect; (ii) review of feasibility/constructability of conceptual breaker-level one-line diagram of the proposed interconnection; (iii) preliminary review of local protection, communication, grounding issues associated with the proposed interconnection; (iv) power flow, short circuit and/or bus flow analyses; and/or (v) preliminary identification of Network Upgrade Facilities.[52] The NYISO will provide an initial draft of the study report to the Transmission Developer, the Connecting Transmission Owner and Affected Systems for review and comment, and will meet with the parties to discuss the study results.[53]

3. System Impact Study

As soon as practicable after a Transmission Developer elects to proceed with a System Impact Study or simultaneously with the delivery of the Optional Feasibility Study to the

[48] Proposed OATT Section 22.8.3.

[49] The NYISO does not propose as part of this filing a *pro forma* study agreement for the Optional Feasibility Study; however, the NYISO intends to use the *pro forma* study agreement for the Interconnection Feasibility Study appended to Attachment X as the basis for this study agreement.

[50] Proposed OATT Section 22.7.1.

[51] Proposed OATT Section 22.7.1.

[52] Proposed OATT Section 22.7.2.

[53] Proposed OATT Section 22.7.3.

Transmission Developer, the NYISO will tender an System Impact Study Agreement to the Transmission Developer and Connecting Transmission Owner.[54] The Transmission Developer must provide a $120,000 deposit and the technical data required by the agreement.[55] The Transmission Developer will be responsible for the actual study costs incurred by the NYISO and Connecting Transmission Owner.[56]

The System Impact Study scope must be approved by the NYISO's Operating Committee.[57] The study process includes an evaluation under the new NYISO Transmission Interconnection Standard (described in Part IV.G below) that involves a transmission security analysis using thermal, voltage, stability, and short circuit analyses, as well as a transfer limit analysis to ensure that a Transmission Project does not degrade interface transfer capability.[58] The Study Impact Study scope shall include technical analyses normally performed in a feasibility study to the extent that such analyses were not provided by the Transmission Developer or performed in an Optional Feasibility Study.

A Transmission Project will trigger the need for a Network Upgrade Facility if: (i) upgrades are necessary to mitigate adverse impacts of the project on existing equipment; or (ii) if it degrades the pre-project transfer limits (*i.e.*, has an adverse impact on the controlling of the thermal, voltage, or stability limit as well as any adverse impact on the thermal limit) of any NYISO transmission planning interface by more than 25 MW.[59] A Transmission Project that triggers an upgrade would have to fully restore the impacted transfer limits to the pre-project limits.[60] The System Impact Study will provide a list of the required Network Upgrade Facilities and a non-binding good faith estimate of cost responsibility and estimated time to construct.[61]

---

[54] Proposed OATT Section 22.8.1.

[55] Proposed OATT Section 22.8.1. If the Transmission Developer is hiring a third-party consultant to perform the analytical part of the study, the deposit amount is $40,000. *Id.* If the Transmission Developer fails to cure deficiencies in the required technical data within ten business days, the Transmission Interconnection Application will be withdrawn. Proposed OATT Section 22.8.2.

[56] Proposed OATT Section 22.8.1.

[57] Proposed OATT Section 22.8.3. The NYISO may, at its option, cluster Transmission Interconnection Applications for purposes of the System Impact Study or Facilities Study. Proposed OATT 22.5.2.

[58] Proposed OATT Section 22.8.3.

[59] Proposed OATT Section 22.8.3. Network Upgrade Facilities are "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 the New York State Transmission System that are required for the proposed Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard." Proposed OATT Section 22.1.

[60] Proposed OATT Section 22.8.3.

[61] Proposed OATT Section 22.8.4.

Competing Transmission Projects that are proposed alternatives will be evaluated individually without reference to competing projects (*i.e.*, without including competing projects in their interconnection base case). There is a possibility, however, that two or more Transmission Projects that are not competing with each other may impact the manner in which the others interconnect and the impact they have on the New York State Transmission System. In light of this possibility, the proposed Transmission Interconnection Procedures allow the NYISO to evaluate Transmission Projects moving forward in the same time frame – that are not alternatives to each other (*e.g.*, competing projects in the same Attachment Y process) – that both contribute to Network Upgrade Facilities to determine their *pro rata* cost responsibility for the facilities.[62] This provides a mechanism outside of the Attachment S Class Year process by which the NYISO can allocate costs for Network Upgrade Facilities shared by more than one project. Addressing cost responsibility for shared upgrades in this manner avoids the need to study competing alternative projects together, as would be required under the Class Year construct. This addresses a concern the Commission recognized in its December Order.[63] The Transmission Interconnection Procedures thereby eliminate the difficulties that would arise in trying to study multiple, alternative iterations of a project in one study, when in reality, only one such project will likely be selected and built.

The proposed process for evaluating shared Network Upgrade Facilities also addresses the Commission's concerns regarding potential delays and backlogs.[64] Delays are minimized by allowing transmission projects to proceed in parallel, not sequentially or serially, and by not requiring the project to satisfy state regulatory milestones or await the commencement of the next Class Year before proceeding to its Facilities Study. These concerns are further minimized by the following language proposed in the new Transmission Interconnection Procedures allowing a project being evaluated under the Transmission Interconnection Procedures to go In-Service prior to all studies being completed under that process:

> If a Transmission Developer requests to enter into service prior to the completion of all Transmission Interconnection Studies and the completion of any required Network Upgrade Facilities, the Connecting Transmission Owner and the ISO will permit the Transmission Project's early entry into service if: (i) there is a Transmission Project Interconnection Agreement for the Transmission Project, and (ii) the ISO and Connecting Transmission Owner(s) have determined that the Transmission Project can enter into service without violating Applicable Laws

[62] Proposed OATT Section 22.8.4.

[63] December Order at P 73 (recognizing that by placing "Order 1000 transmission project proposals" in Attachments X and S with other interconnection queue projects, "NYISO may be unable to accurately study the impact of new proposed projects on the system if the interconnection queue includes multiple Order No. 1000 project proposals, only one of which will be selected and built.").

[64] *Id.* (expressing concern that by placing "Order 1000 transmission project proposals" in Attachments X and S with other interconnection queue projects, that "the interconnection queue may become backlogged, delaying project development.")

and Regulations, Applicable Reliability Standards, Good Utility Practice, and the Transmission Project Interconnection Agreement.[65]

The NYISO will provide an initial draft of the System Impact Study report to the Transmission Developer, the Connecting Transmission Owner, and Affected Systems for review and comment, and will meet with the parties to discuss the study results.[66] The NYISO's Operating Committee must approve the final System Impact Study.[67]

4. Facilities Study

A Transmission Developer may request that the NYISO tender a Facilities Study Agreement for its Transmission Project at any time following the approval of the System Impact Study by the NYISO's Operating Committee.[68] As soon as practicable after the request, the NYISO will tender a Facilities Study Agreement to the Transmission Developer and Connecting Transmission Owner.[69] The Transmission Developer must provide a $100,000 deposit and the technical data required by the agreement.[70] The Transmission Developer is responsible for actual study costs incurred by the NYISO and Connecting Transmission Owner.[71]

The Facilities Study will update and refine the description of Network Upgrade Facilities identified in the System Impact Study, including the equipment, work and related cost and time estimates necessary to construct the required Network Upgrade Facilities.[72] The NYISO will provide an initial draft of the study report to the Transmission Developer, the Connecting Transmission Owner, and Affected Systems for review and comment, and will meet with the parties to discuss the study results.[73]

---

[65] Proposed OATT Section 22.3.2.

[66] Proposed OATT Section 22.8.5.

[67] Proposed OATT Section 22.8.5.

[68] Proposed OATT Section 22.9.1.

[69] Proposed OATT Section 22.9.1.

[70] Proposed OATT Sections 22.9.1 and 22.9.2. If the Transmission Developer fails to cure deficiencies in the required technical data within ten business days, the Transmission Interconnection Application will be withdrawn. Proposed OATT Section 22.9.2.

[71] Proposed OATT Section 22.9.1.

[72] Proposed OATT Section 22.9.3. This update and refinement may include additional analyses that may be required due to the specific nature of the project (*e.g.*, sub-synchronous resonance analysis for a Transmission Project that involves series compensation). The Facilities Study will also contain a non-binding estimate as to the feasible TCCs resulting from the construction of the new facilities, as applicable. *Id.*

[73] Proposed OATT Section 22.9.5.

G. Base Case and NYISO Transmission Interconnection Standard

1. Base Case

The Base Cases for the Transmission Interconnection Studies will be developed using the same inclusion rules that the NYISO currently uses to create the Annual Transmission Baseline Assessment for the Class Year Interconnection Facilities Study in accordance with Attachment S of the OATT, which data will be based on either the NYISO's fifth year or tenth year case included in the most recent FERC Form No. 715.[74] If the proposed Transmission Project is related to or in response to a system condition not reflected in the above requirements, the NYISO may, as appropriate, amend the Base Cases to take that system condition into account in evaluating the proposed Transmission Project.[75] For example, if a Reliability Need were to arise based on the deactivation of a Generator, the NYISO may modify the Base Case to reflect the Generator not being in service for purposes of evaluating Transmission Projects proposed to address the Reliability Need resulting from the Generator's absence. This approach allows the NYISO to evaluate Transmission Projects under the conditions that the project is intended to address.

2. NYISO Transmission Interconnection Standard

A Transmission Project must interconnect in compliance with the NYISO Transmission Interconnection Standard.[76] The NYISO Transmission Interconnection Standard is designed to ensure that a proposed Transmission Project, as it proposes to interconnect to the New York State Transmission System, is consistent with Applicable Reliability Standards and will not degrade interface transfer capability by more than 25 MW.[77] This is consistent with the Minimum Interconnection Standard under which the NYISO determines whether transfer capability degradation has an adverse reliability impact; however, unlike the Minimum Interconnection Standard, the NYISO Transmission Interconnection Standard provides a precise MW value for the maximum permissible degradation. This ensures a consistent and transparent approach in determining when a Network Upgrade Facility will be triggered, in cases where such upgrades are required to mitigate impacts the Transmission Project has on transfer capability. The Transmission Interconnection Studies will evaluate Transmission Projects in line with the NYISO Transmission Interconnection Standard and will identify the Network Upgrade Facilities required for the reliable interconnection of Transmission Projects to the New York State Transmission System in compliance with this standard.[78]

---

[74] Proposed OATT Section 22.6.1. This provision incorporates the requirements from Section 25.5.5.1 of Attachment S of the OATT used by the NYISO in creating the base case for its Class Year study.

[75] Proposed OATT Section 22.6.1.

[76] Proposed OATT Section 22.6.3.

[77] Proposed OATT Section 22.6.4.

[78] Proposed OATT Section 22.6.3.

H. Transmission Project Interconnection Agreement

The NYISO will enter into a Transmission Project Interconnection Agreement with the Transmission Developer and Connecting Transmission Owners.[79] If, however, a Transmission Developer's proposed project is only interconnecting to its own, existing facilities, a Transmission Project Interconnection Agreement is not required.[80] The NYISO intends for the Transmission Project Interconnection Agreement to be consistent with the Standard Large Generator Interconnection Agreement set forth in Appendix 6 to Attachment X of the OATT, as modified by the parties to address the Transmission Project.[81] The NYISO will tender a draft of the agreement after completion of the Facilities Study; however a Transmission Developer may request that the NYISO tender the agreement after execution of the Facilities Study Agreement.[82]

The Transmission Project Interconnection Agreement will provide the mechanism through which a Transmission Developer shall provide Security for the required Network Upgrade Facilities identified in the Facilities Studies.[83] A Transmission Developer will be required to provide Security with the applicable Connecting Transmission Owner for Network Upgrade Facilities identified in the Facilities Study.[84] If, however, the Transmission Developer and Connecting Transmission Owner are the same entity, the Transmission Developer will not be required to provide Security for the Network Upgrade Facilities required on its own facilities.[85]

I. Conforming Revisions to the Transmission Expansion Process in OATT Sections 3 and 4.5 and OATT Attachment D

In order to accommodate the new Transmission Interconnection Procedures into the existing transmission and interconnection evaluation procedures, the NYISO has proposed revisions to Section 3 and 4.5 and Attachment D of the OATT, as well as to the interconnection provisions in Attachments S, X and Z of the OATT.

The NYISO's proposed revisions to Section 3 and 4.5 of the OATT primarily clarify what projects would remain subject to the transmission expansion procedures. The NYISO proposes revisions to Section 3.7 to clarify that its study procedures apply only to transmission projects that are (1) part of a Transmission Owner's Local Transmission Owner Plan or a NYPA transmission plan; or (2) Eligible Customer requests to conceptually evaluate a transmission

[79] Proposed OATT Section 22.11.1.

[80] Proposed OATT Section 22.11.1.

[81] Proposed OATT Section 22.11.1.

[82] Proposed OATT Section 22.11.1.

[83] Proposed OATT Sections 22.9.3, 22.11.1.

[84] Proposed OATT Section 22.11.1.

[85] Proposed OATT Section 22.11.1.

project.[86] The latter category of projects differs from the first in that they are not concrete transmission projects proposed by a Transmission Owner to address local needs on its transmission system. Rather, they are requests from Eligible Customers for the NYISO to identify potential projects that could meet a stated objective (*e.g.*, a request to study how to relieve the constraints currently curtailing a generator or a request to study how to create incremental transfer capability resulting in incremental Transmission Congestion Contracts ("TCCs")).

The proposed revisions further clarify that an Eligible Customer that wants to pursue the development and construction of a transmission project conceptually identified through a System Impact Study under Section 3.7 must proceed through the Transmission Interconnection Procedures. This is necessary because the proposed Transmission Interconnection Procedures can only function as intended if they are the sole mechanism through which AC transmission is evaluated, with the only exception being projects that are part of a Local Transmission Owner Plan or a NYPA transmission plan – projects that the Commission specifically required the NYISO to leave in Section 3.7 of the OATT.[87]

There are only three significant substantive changes to the existing language in Section 3.7 of the OATT.

First is the addition of language that makes clear that this study process is only available for transmission projects that are part of a Local Transmission Owner Plan or NYPA transmission plan that are not proceeding through a competitive selection process in the CSPP. A Transmission Owner must submit a Transmission Interconnection Application and proceed under the procedures set forth in Attachment P of the OATT if it is proposing a new transmission facility or upgrade: (i) as part of any of the NYISO's competitive selection processes in the CSPP in Attachment Y of the OATT, and (ii) for which the Transmission Owner seeks cost allocation under the NYISO OATT.[88] This means that even if a Transmission Owner proceeds through the Section 3.7 process for a transmission project, if the Transmission Owner later decides to submit that transmission project as part of a competitive selection process under Attachment Y of the OATT, that project must proceed through the full Transmission Interconnection Procedures, just as any other proposed transmission solution would be required to do. In other words, this language precludes a Transmission Owner from evading the requirements of the Transmission Interconnection Procedures merely by including a project in its Local Transmission Owner Plan or NYPA transmission plan.

The second significant change to Section 3.7 of the OATT is a set of revisions incorporating existing ISO procedures into the tariff. Currently, the guidelines to determine when a transmission project is subject to the transmission expansion process are described in the NYISO's Transmission Expansion and Interconnection Manual. The NYISO proposes to

[86] Proposed revisions to OATT Section 3.7.

[87] December Order at P 70.

[88] Proposed revisions to OATT Section 3.7.

memorialize in Section 3.7.1 the *de minimis* threshold it has historically applied to transmission expansion projects, requiring them to proceed under Section 3.7 of the OATT only if the proposed transmission project involves upgrades or expansions that "(i) reduce the transfer capability of a NYISO interface by greater than 10 MW or increase the transfer capability of a NYISO interface by greater than 25 MW; or (ii) change the classification of affected facilities to NPCC BPS facilities." [89]

The third major change to Section 3.7 of the OATT is a set of revisions limiting the scope of the studies performed for Eligible Customers under this section of the OATT. These revisions clarify that this section of the OATT only applies to Eligible Customers' conceptual requests for the NYISO to identify potential projects that could meet a stated objective (*i.e.*, request to identify possible transmission options).[90] These revisions also distinguish these particular requests from the "System Impact Studies" performed in relation to Transmission Owner Local Transmission Owner Plan projects and NYPA transmission plan projects, referring to these Eligible Customer requests as requests for "Transmission Service Studies." The revisions limiting the scope of Section 3.7 also specifically require that Eligible Customer requests to proceed with development and construction of an option identified in a Transmission Service Study must proceed through the Transmission Interconnection Procedures.[91]

Additional edits to Section 3 of the OATT are described below:

- Revisions in the preamble to Section 3.7 explaining which provisions of Section 3 of the OATT apply to Eligible Customer's request for a Transmission Service Study and which apply to a Transmission Owner proposing a transmission project as part of a Local Transmission Owner Plan or NYPA transmission plan;[92]

- Clarifying revisions to change "System Impact Study" to "Transmission Service Study" when referring to the study requested by an Eligible Customer not proposing a transmission project as part of a Local Transmission Owner Plan or NYPA transmission plan. This will distinguish between the two types of studies requested and performed under Section 3.7 – transmission projects proposed by a Transmission Owner ("System Impact Studies") and conceptual transmission project evaluations requested by Eligible Customers ("Transmission Service Studies");[93]

[89] Proposed revisions to OATT Section 3.7.1.

[90] Proposed revisions to OATT Section 3.7.1. An example of such a conceptual transmission project evaluation might be a request by an Eligible Customer for the NYISO to identify transmission upgrades that could increase transfer capability by a specified amount.

[91] Proposed revisions to OATT Sections 3.7.3.2.2 and 3.7.4.

[92] Proposed revisions to OATT Section 3.7.

[93] Proposed revisions to OATT Sections 3.5 and 3.7.

- Revisions to clarify that the referenced Study Requests are those requested or submitted "pursuant to Section 3.7.1";[94]

- Clarifying revisions to refer to the study agreement and study procedures as simply the "Study agreement" and "Study procedures" without the qualifier that it is the "System Impact Study" agreement or procedures since under the NYISO's proposed revisions, Section 3.7 applies to two types of studies – Transmission Service Studies and System Impact Studies;[95]

- Revisions to clarify the study request and agreement referenced are those for either a Transmission Service Study or System Impact Study performed under Section 3.7;[96]

- Revisions to clarify that an Eligible Customer that proceeds from Section 3.7 of the OATT to the Transmission Interconnection Procedures will ultimately be tendered a Transmission Interconnection Agreement rather than a Service Agreement pursuant to Section 3.1.4 of the OATT;[97]

- Revision to clarify that the modifications are changes from what was studied in the Facilities Study performed pursuant to Section 3.7.4;[98]

- Revisions to clarify that the prioritization rules set forth in Section 3.10 apply to all the projects listed in the existing Section 3.10 as well as the transmission proposals submitted pursuant to Attachment P;[99]

- Revisions to clarify that Section 3.9 of the OATT applies to new "Load and Large Facility" interconnections (in order to prevent confusion regarding the application of this section to transmission projects);[100] and

- Ministerial edits to (1) correct stray underlining;[101] (2) add "of the ISO OATT" to references to OATT attachments;[102] (3) revise "Tariff" to "this ISO OATT;"[103] and

---

[94] Proposed revisions to OATT Sections 3.7.1 and 3.7.2.

[95] Proposed revisions to OATT Section 3.7 (throughout Section 3.7 and its subsections).

[96] *Id.*

[97] Proposed revisions to OATT Section 3.5.6.

[98] Proposed revisions to OATT Section 3.7.5.

[99] Proposed revisions to OATT Section 3.10.

[100] Proposed revisions to OATT Sections 3.7 and 3.9.

[101] Proposed revisions to OATT Sections 3.7.3.2.2 and 3.7.10.

[102] Proposed revisions to OATT Section 3.7.1.

[103] Proposed revisions to OATT Section 3.10.

(4) replace outdated cross-references to other OATT Sections with the correct section references.[104]

With the revisions to Section 3.7 of the OATT discussed above, all Transmission Owner projects that qualify for review under the transmission expansion process – those included in a Local Transmission Owner Plan or NYPA transmission plan – will proceed through Section 3.7 of the OATT. Thus the only transmission expansion projects left to proceed under Section 4.5 of the OATT are Eligible Customer requests for Network Integration Transmission Service. As a result, the NYISO proposes revisions to Section 4.5 and its subsections to clarify that it only applies to Network Integration Transmission Service requests by Eligible Customers.

As with Section 3.7, the NYISO proposes to revise Section 4.5 of the OATT to limit the scope of the studies performed for Eligible Customers under this section of the OATT to conceptual requests (*i.e.,* request to identify possible transmission options), and requiring requests that proceed with development and construction of an identified transmission option to proceed through the Transmission Interconnection Procedures.[105]

Additional edits to Section 4.5 of the OATT are described below:

- Clarifying revisions to the cross-reference to the studies performed under Section 3 of the OATT to comport with the revisions proposed to Section 3.7 of the OATT that distinguish between the two types of studies requested and performed under Section 3.7 – System Impact Studies and Transmission Service Studies[106] – collectively referenced in Section 4.5 as "Firm Transmission Service Studies;"[107]

- Clarifying revisions to indicate that the same clustering procedures set forth in Section 3.7.10 apply to Network Integration Transmission Service studies under Section 4.5;[108]

- Revisions to clarify that Section 4.5.8 of the OATT applies to new "Load and Large Facility" interconnections (in order to prevent confusion regarding the application of this section to transmission projects);[109]

- Ministerial edits throughout Section 4.5 of the OATT to revise "Part" to "Section" in references to other sections of the OATT.[110]

---

[104] Proposed revisions to OATT Sections 3.5.5, 3.7, 3.7.4.2.2, and 3.7.5.

[105] Proposed revisions to OATT Sections 4.5.4 and 4.5.7.3.

[106] Proposed revisions to OATT Sections 3.5 and 3.7.

[107] Proposed revisions to OATT Section 4.5.5.

[108] Proposed revisions to OATT Section 4.5.6.

[109] Proposed revisions to OATT Sections 4.5.8.

In light of the revisions described above to Sections 3.7 and 4.5 of the OATT, the NYISO has proposed corresponding edits to Attachment D of the OATT, which contains the methodology for completing the studies referenced in Section 3.7 and 4.5. The only edits the NYISO proposes to Attachment D are to add references to the Transmission Service Study and Network Integration Transmission Service Study – the new study names introduced into Sections 3.7 and 4.5, respectively, in this filing.

J. Conforming Revisions to Interconnection Provisions in OATT Attachments S, X, and Z

The NYISO proposes revisions to the interconnection provisions in OATT Attachments S, X and Z to provide a mechanism through which it can distinguish transmission projects evaluated in the new Transmission Interconnection Procedures ("Transmission Projects") from Merchant Transmission Facilities and through which it can recognize Transmission Projects in base cases used for interconnection studies under Attachments S, X and Z. The NYISO also proposes to revise the definition of Merchant Transmission Facility, consistent with the Commission's directive in the December Order, and proposes a few minor clarifying and ministerial edits to these provisions.

Specifically, the NYISO proposes the following revisions:

- Revisions to the definition of Merchant Transmission Facility as follows to: (1) reflect that only controllable transmission seeking CRIS and UDRs is subject to the Standard Large Facility Interconnection Procedures; and (2) comport with the Commission's directive in the December Order to revise this definition to be consistent with the definition in Order No. 1000:[111]

> **Merchant Transmission Facility** shall mean Developer's device for the transmission of electricity identified in the Interconnection Request, proposing to interconnect to the New York State Transmission System, <u>for which the Developer is eligible to request and does request Capacity Resource Interconnection Service, subject to the eligibility requirements for Unforced Capacity Deliverability Rights set forth in the ISO Procedures. Merchant Transmission Facilities</u> ~~but~~ shall not include Attachment Facilities, Network Upgrade Facilities, System Upgrade Facilities or System Deliverability Upgrades. ~~Merchant Transmission Facilities shall not be those transmission facilities developed by an entity that is not a Transmission Owner signatory to the ISO-Related Agreements. Merchant Transmission Facilities shall not include upgrades~~

[110] Proposed revisions to OATT Sections 4.5.4.2.2 and 4.5.5.

[111] December Order at P 76. This change is necessary and complements the NYISO's determination that the best way to address the Commission's concern regarding the interconnection rules as applied to incumbent Transmission Owners versus non-incumbent Transmission Developers is through creation of the new Transmission Interconnection Procedures. *See supra* at Part IV(C).

~~or additions to the New York State Transmission System made by a Transmission Owner signatory to the ISO Related Agreements~~.[112]

- Revisions to require an Interconnection Request for a Merchant Transmission Facility initially evaluated pursuant to Attachment P that elects to transition to the Standard Large Facility Interconnection Procedures in order to request CRIS and UDRs, but eliminating the requirement to submit a $10,000 application fee where such project has already submitted a Transmission Interconnection Application and $10,000 application fee pursuant to Attachment P;[113]

- Revisions to require that a controllable transmission project evaluated in the new Transmission Interconnection Procedures that wishes to enter a Class Year Study to request CRIS and UDRs must have an Operating Committee-approved System Impact Study (performed under Attachment P of the OATT) or an Interconnection System Reliability Impact Study (performed under Attachment X of the OATT) and must also have satisfied one of the regulatory milestones described in Sections 25.6.2.3.1.1 through 25.6.2.3.1.3 of Attachment S;[114]

- Revision to the base case inclusion rules set forth in Attachment S to: (1) clarify that the applicable Load and Capacity Data Report is the most recent report; and (2) add the criteria by which to determine if a transmission project evaluated under OATT 3.7 or OATT Attachment P should be included in the existing system representation for the Class Year Study base case;[115]

- Revision to the Security provisions of Attachment S to address the potential scenario that a Transmission Project or its required Network Upgrade Facilities increase the actual cost of a Class Year Developer's share of System Upgrade Facilities or System Deliverability Upgrades to an amount greater than the agreed-to and secured amount;[116]

- Revision to the definition of Affected Transmission Owner to recognize entities that own, lease or otherwise possess and interest in a portion of the New York State Transmission System where Network Upgrade Facilities are installed pursuant to Attachment P;[117]

---

[112] Proposed revisions to OATT Section 30.1.

[113] Proposed revisions to OATT Section 30.3.1.

[114] Proposed revisions to OATT Section 25.5.5.1.

[115] *Id.*

[116] Proposed revisions to OATT Section 25.8.6.3 (applying the same rule that applies to that scenario if triggered by other interconnection projects having expanded, accelerated or otherwise modified or terminated).

[117] Proposed revisions to OATT Sections 25.1, 30.1, 30.14 – Appx. 6, and 32.5 – Appx. 1.

- Clarifying revision to the definition of Queue Position to include not only Interconnection Requests, but also Study Requests and Transmission Interconnection Applications;[118]

- Clarifying revisions to replace references to the "ATRA" to the Class Year Study;[119]

- Clarifying revision regarding the timing when the ISO provides to a Developer a non-binding good faith estimate of the study cost and schedule (clarifying that it is upon tendering the Interconnection System Reliability Impact Study Agreement);[120]

- Ministerial edit to: (1) delete the extra period at the end of a sentence;[121] (2) delete stray underlining;[122] (3) add "or 'OATT'" to the following parenthetical ("NYISO OATT" or "OATT");[123] and (4) add an omitted word from the following clause in the definition of Connecting Transmission Owner: "…and (iii) is a Party to the Standard Large Generator Interconnection Agreement" to address the directive in paragraph 52 of the December Order.[124]

K. Alignment of Interconnection and Planning Requirements

The NYISO proposes to make revisions to Attachment Y of the OATT to align the new Transmission Interconnection Procedures with the separate but related planning requirements. These revisions provide the means by which a proposed transmission project will progress through and timely satisfy its interconnection requirements in parallel with its progress through the NYISO's transmission planning processes. The proposed revisions also enable the NYISO to take into account in its selection process the detailed project information that is developed in the interconnection process. The proposed requirements further provide for the scenario in which a developer performs certain studies under the existing interconnection or transmission expansion requirements in the manner described in Part IV.D(2) above as part of the transition rules to the new Transmission Interconnection Procedures.

Specifically, the NYISO proposes the following revisions in Attachment Y to align the interconnection and transmission planning processes:

- A Developer proposing a transmission solution to a Reliability Need or a Public Policy Transmission Need in response to a NYISO solicitation for solutions will need to demonstrate simultaneous with the submission of its project information that it has

[118] Proposed revisions to OATT Sections 30.1, 30.14 – Appx. 6, and 32.5 – Appx. 1.

[119] Proposed revisions to OATT Section 25.6.2.3.1.

[120] Proposed revisions to OATT Section 30.7.1.

[121] Proposed revisions to OATT Section 30.3.2.4.

[122] Proposed revisions to OATT Sections 30.7.1 and 30.7.3.

[123] Proposed revisions to OATT Section 30.1.

[124] Proposed revisions to OATT Sections 25.1, 30.1, and 30.14 – Appx. 6.

submitted a valid Transmission Interconnection Application or Interconnection Request, as applicable.[125] This requirement does not apply to any transmission solutions proposed in response to the needs identified in the 2014-2015 planning cycle for which the NYISO has already solicited solutions, including the Western New York Public Policy Transmission Need and the AC Transmission Public Policy Transmission Need.[126]

- A Developer proposing a project in the NYISO's reliability, economic, or public policy planning processes must notify the NYISO upon the completion of any interconnection or transmission expansion study and, at the NYISO's request, submit to the NYISO any study reports and related materials prepared in connection with the study.[127]

- In the Public Policy Transmission Planning Process, the NYPSC will review viable and sufficient solutions to a Public Policy Transmission Need to identify whether the NYISO should proceed to select a transmission solution to the need.[128] The Developer must elect for its project to proceed to be evaluated for purposes of selection.[129] The NYISO proposes to revise this requirement to require the Developer to demonstrate with its election to proceed that it has an executed System Impact Study Agreement or System Reliability Impact Study, as applicable, for its project.[130] The NYISO also proposes to revise the timing for the Developer to make its election to proceed, so that the Developer need not make its election until 15 calendar days after the NYPSC issues an order directing the NYISO to proceed to evaluate transmission solutions for purposes of selection.[131] This timing change will provide Developers with additional time to enter into a System Impact Study Agreement or System Reliability Impact Study, as applicable.

---

[125] Proposed revisions to OATT Sections 31.2.5.1, 31.4.4.31.

[126] The NYISO is currently administering its Public Policy Transmission Planning Process in connection with two separate Public Policy Transmission Needs identified by the New York State Public Service Commission. *See* NYPSC Case 12-T-0502, *et al.*, Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, *et al.*, Order Finding Transmission Needs Driven by Public Policy Requirements (December 17, 2015) (adopting the need for new 345 kV transmission facilities to provide additional transmission capacity to move power from upstate to downstate New York as a Public Policy Transmission Need); *see also* NYPSC Case No. 14-E-0454, In the Matter of New York Independent System Operator, Inc.'s Proposed Public Policy Transmission Needs for Consideration, *Order Addressing Public Policy Requirements for Transmission Planning Process* (July 20, 2015) (adopting the relief of transmission congestion in Western New York as a Public Policy Transmission Need).

[127] Proposed revisions to OATT Sections 31.2.4.4.2, 31.2.4.6, 31.2.4.8.2, 31.3.2.4.2, 31.4.5.1.5, 31.4.5.2.5. The NYISO also put in lowercase the term "interconnection agreement" in the project information requirements as it is not a defined term.

[128] OATT Section 31.4.6.7.

[129] OATT Section 31.4.6.6.

[130] Proposed revisions to OATT Section 31.4.6.6.

[131] Proposed revisions to OATT Section 31.4.6.6.

- In the reliability planning process, the NYISO solicits more detailed project information for those projects it has determined are viable and sufficient to address the Reliability Need. The NYISO proposes to require the Developer to demonstrate when it submits this additional project information that it has an executed System Impact Study Agreement or System Reliability Impact Study, as applicable, for its project.[132]

- In addition, as part of the NYISO's evaluation for purposes of selection of proposed transmission solutions to a Reliability Need, the NYISO performs an evaluation of the system impacts of the proposed solution. This analysis may overlap with analysis in the project's System Impact Study (or a System Reliability Impact Study, as applicable). For this reason, the NYISO proposes to revise this requirement to indicate that as part of this evaluation, it "shall give due consideration to the results of any completed System Impact Study" or System Reliability Impact Study, as applicable.[133]

- In the economic planning process ("CARIS"), Load Serving Entities that would benefit from a transmission project must vote whether to implement the project. In order to assist the Load Serving Entities in their decision, the NYISO proposes to require that a Developer complete a System Impact Study or a System Reliability Impact Study, as applicable, prior to this vote.[134] This will provide project beneficiaries more specific information on project costs to be incurred in the interconnection process – information that may not otherwise be publicly available to project beneficiaries. Such costs can be considered by project beneficiaries in determining the cost effectiveness of proposed projects.

- The NYISO also proposes to revise the selection requirements in its public policy and reliability processes to clarify that it will give due consideration to the status and results of any completed interconnection or transmission expansion studies in evaluating the proposed project for purposes of selection.[135]

- The NYISO also inserted the term "Network Upgrade Facilities" as defined in Attachment P in the description of facilities that must be accounted for in Developer's worksheets as part of the capital cost estimate selection metric.[136]

- The NYISO clarified that it may publicly disclose information regarding proposed transmission projects in its competitive planning processes that it is required to disclose under its interconnection or transmission expansion processes.[137]

---

[132] Proposed revisions to OATT Section 31.2.6.1.

[133] Proposed revisions to OATT Section 31.2.6.3.

[134] Proposed revisions to OATT Section 31.5.4.6.1.

[135] Proposed revisions to OATT Sections 31.2.6.5, 31.4.8.

[136] Proposed revisions to OATT Sections 31.2.6.5.1.1, 31.4.8.1.1.

[137] Proposed revisions to OATT Sections 31.2.12.1, 31.4.15.1.

- Finally, the NYISO made conforming revisions in Attachment Y to cross-references to the interconnection procedures.[138]

V. RELIABILITY DEVELOPMENT AGREEMENT

The NYISO submitted in its May 2015 Filing a *pro forma* Development Agreement for its reliability planning process located in Appendix C of Section 31.7 of Attachment Y of the OATT ("Reliability Development Agreement"), along with related tariff revisions in Section 31.2 of Attachment Y of the OATT. The purpose of the agreement is to provide the NYISO with a mechanism for ensuring that a transmission project selected in the NYISO's reliability planning process to address a Reliability Need will be constructed and in-service in time to satisfy the need.

The December Order largely accepted the Reliability Development Agreement and related tariff revisions, but directed the NYISO to make certain revisions.[139] The NYISO submits with this filing a revised Reliability Development Agreement, along with revisions to the related tariff requirements, to address the Commission's directives in the manner described below.[140]

A. Party Responsible for Executing a Development Agreement

The NYISO's reliability planning process identifies solutions to timely address Reliability Needs. It is intended to yield market-based solutions to Reliability Needs, with regulated solutions serving as a backup to maintain system reliability. In the absence of sufficient market-based solutions, the NYISO will turn to a regulated solution if necessary. The Responsible Transmission Owner identified by the NYISO is required to propose a regulated backstop solution to provide a means of addressing the Reliability Need.[141] Other Developers, including other Transmission Owners, may also propose their own alternative regulated solutions.[142]

The NYISO will evaluate all of the proposed transmission solutions that is has determined are viable and sufficient to address the Reliability Need for purposes of selecting the more efficient or cost-effective transmission project that is eligible for cost allocation under its tariffs.[143] The NYISO may trigger a regulated solution to proceed if necessary to timely satisfy a Reliability Need, which may be the regulated backstop solution or an alternative regulated solution. If the selected project is an alternative regulated transmission solution, the NYISO may

[138] Proposed revisions to OATT Sections 31.3.1.2.3, 31.5.1.3.

[139] December Order at PP 45-48, 51-52, 57, 67-76, 79, 90-91, 94, 98, 103-105, 111, 116-120.

[140] As the NYISO uses the term "Development Agreement" as a capitalized term in Attachment Y, it proposes to define that term in the definitions provision of Section 31.1.1 or Attachment Y.

[141] OATT Attachment Y Section 31.2.4.3.

[142] OATT Attachment Y Section 31.2.4.7.

[143] OATT Attachment Y Section 31.2.6.5.

also elect to trigger the Responsible Transmission Owner's regulated backstop solution as a backup solution to proceed in parallel as a means for maintaining system reliability in case the selected alternative transmission solution cannot or does not proceed to completion.[144] In that case, the NYISO will continue to expect that the selected alternative transmission project will proceed to be developed and completed in time to address the Reliability Need and will halt the triggered regulated backstop solution if it determines the backstop is no longer required.[145]

Section 31.2.8.1.6 of Attachment Y currently provides that the Developer of a selected alternative regulated transmission solution must execute a Reliability Development Agreement to proceed with its project. The December Order directed the NYISO to require that the Responsible Transmission Owner also execute the Reliability Development Agreement when its regulated backstop transmission solution is selected as the more efficient or cost-effective transmission solution to a Reliability Need or is triggered to proceed in parallel with a selected alternative regulated transmission solution.[146] The NYISO has requested rehearing on the directive that a Responsible Transmission Owner be required to execute a Reliability Development Agreement in instances in which the transmission project was not selected, but is simply proceeding in parallel as a backup.[147] Until such time as the Commission acts on the NYISO's request for rehearing, the NYISO is proposing revisions to the Reliability Development Agreement and Section 31.2 of Attachment Y that are consistent with the directives of the December Order.

The NYISO, therefore, proposes to revise Section 31.2.8.1.6 of Attachment Y to require that any Developer – whether the Responsible Transmission Owner, Other Developer, or Transmission Owner – execute a Reliability Development Agreement under the following circumstances: (i) the NYISO has selected its project as the more efficient or cost-effective transmission solution to a Reliability Need, (ii) the NYISO has triggered its regulated backstop transmission solution to proceed, or (iii) the Responsible Transmission Owner agrees to step-in to complete a selected alternative transmission project. The NYISO proposes related revisions to the Recitals of the Reliability Development Agreement that capture in placeholders these three scenarios for entering into agreement. The NYISO will apply the appropriate placeholder based on the circumstances in which the NYISO and Developer enter into the agreement.

---

[144] OATT Attachment Y Sections 31.2.8.1.3, 31.2.8.1.4; *see also* Agreement Between the New York Independent System Operator, Inc., and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs, available at: <http://www.nyiso.com/public/webdocs/markets_operations/documents/Legal_and_Regulatory/Agreements/NYISO/Comprehensive_Planning_Process_for_Reliability_Needs_Agreement.pdf.>

[145] OATT Attachment Y Section 31.2.8.2.1.

[146] December Order at PP 45-48.

[147] *New York Independent System Operator, Inc.*, Request for Rehearing and Clarification of New York Independent System Operator, Inc., Docket No. ER13-102-007 (January 27, 2016) at pp 12-16. As indicated in its rehearing request, requiring the Responsible Transmission Owner to execute the Reliability Development Agreement under these circumstances is unnecessary, inconsistent with the requirements of other ISO/RTOs, and will create undue administrative burdens on the NYISO.

The NYISO also proposes to revise Section 31.2.8.1.6 to clarify the timing for tendering a draft Reliability Development Agreement to a Developer based on the three different circumstances for entering into the agreement. Specifically, the NYISO proposes to tender the draft Reliability Development Agreement to the Developer as soon as practicable considering the project's Trigger Date following, as applicable, the NYISO's selection of the project, the NYISO's triggering of the regulated backstop transmission solution, or the Responsible Transmission Owner's agreement to step-in to complete a project. The NYISO also proposes to clarify in Section 31.2.8.1.6 that, if negotiations over the Development Agreement are at an impasse, the NYISO may also initiate on its own behalf the filing of an unexecuted Reliability Development Agreement at the Commission.

Finally, certain provisions in the Reliability Development Agreement reference the NYISO's selection of the transmission project as the more efficient or cost-effective transmission solution to the Reliability Need. The NYISO proposes to revise these provisions to accommodate the scenarios in which a project that has not been selected by the NYISO is subject to the agreement.[148] Specifically, the NYISO proposes to modify the definitions of the terms "Project Description," "Significant Modification," and "Transmission Project," and the requirements in Articles 3.4 and 3.8 of the Agreement, so that these provisions are applicable in instances in which the transmission project at issue was not selected by the NYISO.

B. Addressing a Developer's Inability to Timely Complete Regulated Project

The NYISO initially drafted the Reliability Development Agreement and related tariff revisions with the understanding that they would apply only to the Developer of a selected alternative regulated transmission solution. In such case, the NYISO would have the option of turning to the Responsible Transmission Owner to satisfy the Reliability Need if the Developer of the selected alternative solution did not or could not timely complete its project. For this reason, the Reliability Development Agreement and Section 31.2.10 of Attachment Y permitted the NYISO, following termination of the agreement, to: (i) direct the Responsible Transmission Owner to proceed with its regulated backstop solution, (ii) request the Responsible Transmission Owner to step-in to complete the failing project, or (iii) commence a Gap Solution process.

In the event the Responsible Transmission Owner cannot timely complete its project, there is no additional backup project to addressing reliability. For this reason, the NYISO proposes to revise Article 8.1 of the Reliability Development Agreement and Sections 31.2.10.1 and 31.2.10.1.3 of Attachment Y to provide the NYISO with additional options and flexibility for maintaining system reliability when a Developer – whether an incumbent Transmission Owner or a non-incumbent Developer – does not or cannot timely complete its project.[149] As set

[148] For example, one scenario would be a regulated backstop transmission solution that is not selected by the NYISO, but is triggered to proceed in parallel with a selected project.

[149] The NYISO previously addressed in Section 31.2.10.2 the action it could take if a Responsible Transmission Owner's regulated backstop solution is not timely progressing. As the Responsible Transmission Owner of a regulated backstop transmission solution will now execute a Reliability Development Agreement, Section 31.2.10.1 now addresses how the NYISO will address any project under a Reliability Development Agreement that does not or cannot be timely completed. Section

forth in Section 31.2.10.1.3, the NYISO can take one or more of the following actions to address the Reliability Need in such cases: (i) address the Reliability Need in the following biennial reliability planning process, (ii) direct the Developer to proceed to complete its project beyond the Required Project In-Service Date, (iii) direct the Responsible Transmission Owner to proceed with its regulated backstop solution, (iv) request the Responsible Transmission Owner to step-in to complete the selected project,[150] (v) commence the Gap Solution process, (vi) adopted new NYISO or Transmission Owner operating procedures, and/or (vii) take any other action the NYISO reasonably considers appropriate to address the Reliability Need.

The revised language enables the NYISO to take action prior to terminating the Reliability Development Agreement, so that it is not automatically required to terminate an agreement when doing so may be more costly or harmful to system reliability in New York.[151] For example, if a project is near completion but will not meet the Required Project In-Service Date, the NYISO could determine that the project should proceed to be completed beyond that date if any short-term reliability concerns caused by the delay can be addressed through a Gap Solution or changes to operating procedures. These proposed revisions provide the NYISO and Developer with additional options to address project delays, but do not prevent the NYISO from terminating the Reliability Development Agreement if there are grounds for doing so, and the NYISO concludes that termination is the best option.

Pursuant to its tariff, the NYISO may enter into a Reliability Development Agreement with a Developer after the NYISO selects a project as more efficient or cost effective, but prior to its determination in Section 31.2.8.1.1 of Attachment Y that the project should be triggered because there are not sufficient market-based solutions to address a Reliability Need. The NYISO proposes to clarify in the first paragraph of Article 8.1 of the agreement that it may terminate the agreement if it determines there are sufficient market-based solutions and the project should not be triggered. In addition, the NYISO proposes to revise the cross-references in the first paragraph of Article 8.1 describing the halting provisions to also reference the provisions applicable to the halting of a Responsible Transmission Owner's regulated backstop solution.

Finally, the NYISO proposes to make revisions to the requirements in Article 8.1 of the Reliability Development Agreement and Section 31.2.10.1.2 of Attachment Y concerning cost recovery in the event the Reliability Development Agreement is terminated. As directed in

---

31.2.10.2 continues to apply to non-transmission or partial transmission regulated backstop solutions that are not subject to a Reliability Development Agreement.

[150] The NYISO clarifies in Article 8.3 of the Reliability Development Agreement that the project transfer provisions only apply when the Transmission Project under the agreement is a selected alternative regulated transmission project. If the Responsible Transmission Owner's regulated backstop solution is the project subject to the agreement, there is no further Responsible Transmission Owner that can step-in to complete the project.

[151] The NYISO also proposes to indicate in Article 8.1 of the Reliability Development Agreement that it may disclose information regarding the transmission project as required to implement the action it may take under Section 31.2.10.1.3.

Paragraph 119 of the December Order, the NYISO proposes to revise Section 31.2.10.1.2 to indicate that the NYISO may revoke its selection of a project and the eligibility of the Developer to recover its costs "pursuant to the ISO's regional cost allocation mechanism." Further, as directed in Paragraph 94 of the December Order, the NYISO proposes to replace the language in Article 8.1 stating "the Developer must seek any cost recovery from FERC" with language stating "cost recovery may be permitted as determined by FERC."

Given that the Responsible Transmission Owner will now execute the Reliability Development Agreement, the NYISO also proposes to include in Section 31.2.10.1.2 references to the tariff provisions pursuant to which a Responsible Transmission Owner may recover costs if its project is not triggered or is halted. Moreover, the Responsible Transmission Owner's obligation to submit a regulated backstop solution is subject to its ability to recover its project proposal, development, construction, operation and maintenance costs under the NYISO/TO Reliability Agreement.[152] The Commission upheld this cost recovery eligibility in its April 18, 2013 and July 17, 2014, orders in this proceeding.[153] The NYISO, therefore, proposes to expressly provide in Section 31.2.10.1.2 and Article 8.1 that the Responsible Transmission Owner may recover costs to the extent permitted under the ISO/TO Reliability Agreement.[154] The NYISO also proposes to include a new Article 15.3 in the Reliability Development Agreement that makes clear that the Developer: "may recover the costs of the Transmission Project in accordance with the cost recovery requirements in the ISO Tariffs and, if the Developer is the Responsible Transmission Owner, the ISO Tariffs and the NYISO/TO Reliability Agreement."

C. Force Majeure Requirements

The Reliability Development Agreement provides that the NYISO has the option to terminate the agreement if the Transmission Project cannot be completed by the Required Project In-Service Date for any reason. The NYISO requires this authority to ensure that it can timely act to address a Reliability Need if the Developer of a project selected to maintain system reliability is not timely progressing, or cannot progress, to complete its project. In the May 2015 Filing, the NYISO indicated that the occurrence of a Force Majeure event would not excuse the performance of any obligations under the agreement. The December Order directed the NYISO to take Force Majeure into account in a manner similar to PJM's Designated Entity Agreement, which excuses non-performance due to a Force Majeure event, but ultimately permits PJM to

---

[152] *See* Agreement Between the New York Independent System Operator, Inc., and the New York Transmission Owners on the Comprehensive Planning Process for Reliability Needs, available at: http://www.nyiso.com/public/webdocs/markets_operations/documents/Legal_and_Regulatory/Agreements/NYISO/Comprehensive_Planning_Process_for_Reliability_Needs_Agreement.pdf.

[153] *See New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 148 FERC ¶ 61,044 at P 282 (2014); *New York Independent System Operator, Inc.*, Order on Compliance Filing, 143 FERC ¶ 61,059 at P 326 (2013).

[154] The NYISO proposes to insert "ISO/TO Reliability Agreement" as a new defined term in the Reliability Agreement and in the definition provisions in Section 31.1.1 of Attachment Y.

terminate any agreement if the project cannot be timely completed.[155] The NYISO proposes to revise Articles 7.1, 8.1, and 15.5 of the Reliability Development Agreement to provide that a party shall not be responsible for non-performance or be considered in Breach or Default under the agreement if the party's failure to perform is due to the occurrence of Force Majeure and the Force Majeure will not delay the Developer's ability to complete the transmission project by the Required Project In-Service Date.

A party that is unable to carry out its obligations as a result of a Force Majeure event must notify the other party of the Force Majeure event and indicate whether it will result in a delay in meeting one or more Critical Path Milestones or to completing the project by the Required Project In-Service Date. If the Force Majeure event will impact the Developer's ability to meet Critical Path Milestone(s), the Developer must request with its notice a change to the impacted milestones in accordance with the requirements in Article 3.3.4 and must satisfy those requirements for modifying the milestones. As described in Article 3.3.4, the NYISO will not unreasonably withhold, condition, or delay its consent to change a Critical Path Milestone if the change will not delay the project's in-service date beyond the Required Project In-Service Date. The party will be excused from whatever performance is affected only for the duration of the Force Majeure event and while the party exercises reasonable efforts to address the situation. As with PJM, the NYISO retains the option to terminate the agreement if the Developer will not be able to complete the project by the Required Project In-Service Date.

The December Order also directed the NYISO to revise the definition of Force Majeure in the Reliability Development Agreement to more closely match the definition of Force Majeure in the NYISO's Standard Large Generator Interconnection Agreement ("LGIA").[156] The NYISO, therefore, proposes to replace the current definition of Force Majeure in the Reliability Development Agreement with the definition from the LGIA.

D. Impact of Delays by Transmission Owners

The December Order directed the NYISO to revise the Breach and Termination provisions of the Reliability Development Agreement "to excuse non-performance due to delays of a Connecting Transmission Owner, or of an operator or owner of an Affected System."[157] The NYISO, therefore, proposes to revise Article 7.1 to provide that a Breach shall not occur as a result of a delay caused by a Connecting Transmission Owner or an Affected System Operator. The NYISO also proposes to revise the requirement in Article 8.1 that permits the NYISO to terminate a project that cannot be completed by the Required Project In-Service Date "for any reason" to exclude delays caused by a Connecting Transmission Owner or an Affected System Operator.

---

[155] December Order at P 90; *see also* PJM Interconnection, L.L.C., Open Access Transmission Tariff, Attachment KK (Form of Designated Entity Agreement), Articles 8.0 and 10.

[156] December Order at P 51.

[157] December Order at P 91.

E. Liability and Indemnity

As directed by the December Order,[158] the NYISO proposes to revise the liability provisions in Article 9.1 of the Reliability Development Agreement to make them reciprocal. The NYISO also replaces the language "in any way associated with this Agreement" with "under this Agreement" as directed by the Commission.[159] Finally, the NYISO makes a conforming revision to the Remedies provision in Article 7.3, replacing the reference to the limitation of the "NYISO's liability" under Article 9.1 with the "defaulting Party's liability."

The NYISO also proposes to revise the indemnity provision in Article 9.2 as directed by the Commission.[160] The NYISO proposes to make the provision reciprocal and to remove the language "or associated with." In addition, the NYISO's proposed tariff revisions replace "gross negligence" with "negligence," exempting NYISO acts of ordinary negligence from indemnification by the Developer. The NYISO has requested rehearing on the Commission's directive that it should not be indemnified under the Reliability Development Agreement for its acts of ordinary negligence.[161] As indicated in its rehearing request, this directive is inconsistent with Commission precedent and other NYISO tariff requirements. Nevertheless, until such time as the Commission acts on the NYISO's request for rehearing, the NYISO is proposing revisions to the Reliability Development Agreement that are consistent with the directive of the December Order.[162]

F. Interconnection Requirements

As described in Part IV above, the NYISO is proposing new Transmission Interconnection Procedures that will apply to all projects that have been proposed in the NYISO's CSPP, including the reliability planning process. The NYISO proposes the following revisions to the Reliability Development Agreement to align the agreement with the new interconnection requirements:

- Revise Article 4.1 to establish that the Developer must satisfy the interconnection requirements in Attachment P of the OATT. As a Developer may have already proposed its project under the current interconnection or transmission expansion process, Article 4.1 also references the Transmission Interconnection Procedure transition rules located in Section 22.3.3 of Attachment P.

---

[158] December Order at PP 100-101.

[159] December Order at PP 100-101.

[160] December Order at PP 103-105.

[161] *New York Independent System Operator, Inc.*, Request for Rehearing and Clarification of New York Independent System Operator, Inc., Docket No. ER13-102-007 (January 27, 2016) at pp 5-12.

[162] If rehearing is granted, the NYISO will file appropriate conforming tariff language in a further compliance filing.

- Revise Article 4.1 further to establish that if another developer seeks to interconnect its Transmission Project (as defined in Attachment P) to the Developer's Transmission Project (as defined in the Reliability Development Agreement), the Developer will participate in the new Attachment P process as an Affected System Operator for purposes of evaluating the impact of the proposed interconnection.

- Revise Articles 4.2 and 5 to modify references to apply to the new interconnection requirements in Attachment P of the OATT and revised Appendix C to use new defined terms for interconnection studies from Attachment P.

- Revise Article 3.4 to align with terminology on material modification in Attachment P of the OATT.

- Insert two new defined terms "Connecting Transmission Owner" and "Affected System Operator" to define for purposes of the agreement the Connecting Transmission Owner(s) and Affected System Operator(s) that have been identified in accordance with new Attachment P of the OATT as being impacted by the proposed transmission project.[163] The NYISO also proposes conforming changes to the definitions of "Applicable Reliability Requirements," "Governmental Authority," and "Transmission Owner Technical Standards."

- Remove references to the Distribution System in the agreement, consistent with the application of the new Transmission Interconnection Procedures to only the New York State Transmission System.

- Revise the definition of In-Service Date to be consistent with the definition of that term in the Transmission Interconnection Procedures in Attachment P of the OATT.

G. Additional FERC Directives/Miscellaneous

The NYISO proposes the following additional revisions to the Reliability Development Agreement and Attachment Y of the OATT to address and implement the directives of the December Order:

- Paragraph 117 of the December Order required the NYISO to inform a Developer of the Required Project In-Service Date earlier in the reliability planning process than the tendering of the Reliability Development Agreement. The NYISO proposes to revise Sections 31.2.7, 31.2.7.3, and 31.2.8.1.6 of Attachment Y and Article 3.3.1 of the Reliability Development Agreement to provide that the NYISO will specify the Required Project In-Service Date in the Comprehensive Reliability Plan report or the updated Comprehensive Reliability Plan report, as applicable. The report is the means by which the NYISO publishes the results of its evaluation of proposed solutions and specifies the project selected as the more efficient or cost-effective solution to the Reliability Need.

[163] The NYISO made a similar conforming revision in OATT Section 31.2.8.1.7.

- As directed in Paragraph 74 of the December Order, the NYISO proposes to revise Section 31.2.8.1.6 and Article 3.3.1 of the Reliability Development Agreement to provide that any milestones that require action by a Connecting Transmission Owner or Affected System Operator to complete will be included as Advisory Milestones.

- As directed in Paragraph 57 of the December Order, the NYISO proposes to revise Article 3.3.3 of the Reliability Development Agreement to replace the requirement that the Developer notify the NYISO thirty days prior to a Critical Path Milestone "whether it will meet" the milestone, with "whether, to the best of its knowledge, it expects to meet the milestone."

- As directed in Paragraph 98 of the December Order, the NYISO proposes to revise Article 7.2 of the Reliability Development Agreement to provide that the NYISO will not unreasonably withhold, condition, or delay its agreement to extend the cure period for a Breach if it determines that a longer cure period will not threaten the Developer's ability to complete its project by the Required Project In-Service Date.

- As directed in Paragraph 120, the NYISO proposes to clarify the language in Section 31.2.10.1.4(ii) that describe certain limitations on the transfer of a project due to restrictions on a Developer's ability to transfer its rights-of-way to another party. As revised, Section 31.2.10.1.4(ii) provides that the transfer is subject to "(ii) any requirements or restrictions on the transfer of Developer's rights-of-way under federal or state law, regulation~~conveyance~~, or contract (including mortgage trust indentures or debt instruments) . . . ." The revised language describes legal limitations on the transfer of property rights that are contained in federal or state law and debt instruments affecting legal title of the transferor.

- The NYISO revised Article 8.3 of the Reliability Development Agreement to insert the appropriate cross-reference to the related tariff requirements in Attachment Y.

- The NYISO revised Section 31.2.10.1.1 to clarify the timing pursuant to which it will terminate the agreement and file a notice of termination with the Commission.

- The NYISO revised Article 5 of the Reliability Development Agreement to clarify that the Developer may not have to certify to NERC as the "Transmission Operator" under all circumstances.

- Finally, in Paragraph 47 of the December Order, the Commission read the NYISO's monitoring requirements for regulated solutions in Section 31.2.13.2 to be limited to monitoring projects before their Trigger Date. The first sentence of this section does not contain such a limitation. However, to avoid confusion regarding the meaning of this provision, the NYISO proposes to revise Section 31.2.13.2 to make explicit that the NYISO will monitor such regulated solutions until they have been completed and are in-service or have been halted.

VI. PUBLIC POLICY DEVELOPMENT AGREEMENT

The NYISO previously informed the Commission that it was in the process of developing a *pro forma* development agreement between the NYISO and the Developer of a transmission project selected by the NYISO in the Public Policy Process ("Public Policy Development Agreement").[164] The NYISO subsequently filed proposed revisions to Sections 31.4 and 31.7 of the OATT that included a placeholder for a Public Policy Development Agreement as Appendix D in Section 31.7 of Attachment Y of the OATT.[165] The proposed revisions also established in Section 31.4.12.2 of Attachment Y the process by which the NYISO would tender and the NYISO and the Developer will negotiate and enter into the agreement.[166] Finally, the NYISO proposed to establish in a new Section 31.4.12.3 the consequences of the Developer of a selected project not timely executing the Public Policy Development Agreement or the agreement being terminated. The Commission's order on these tariff changes remains pending in a separate proceeding.

The December Order directed the NYISO to file a *pro forma* development agreement for its Public Policy Transmission Planning Process ("Public Policy Process").[167] Accordingly, the NYISO submits a proposed Public Policy Development Agreement to replace the placeholder in Appendix D of Section 31.7 of Attachment Y of the OATT, along with a few proposed revisions to the requirements in Section 31.4 of Attachment Y for entering into the agreement and the consequences of terminating the agreement that are generally consistent with modifications to the related provisions in the reliability planning process.

The proposed Public Policy Development Agreement is substantially similar to the Reliability Development Agreement, as that agreement has been modified in this filing consistent with the directives of the December Order. The differences between the *pro forma* agreements reflect the different purposes and procedures of the reliability planning process and the Public Policy Process. These differences are illustrated in a blackline version of the two agreements included in Attachment V to this letter and include the following:

---

[164] *See New York Independent System Operator, Inc.*, Proposed Tariff Revisions Regarding Public Policy Transmission Planning Process, Docket No. ER15-2059-000 at p 5 (June 29, 2015).

[165] The NYISO's proposed revisions to its Public Policy Process are built upon the tariff revisions that the NYISO filed on February 18, 2016 to clarify and enhance the Public Policy Process. *See New York Independent System Operator, Inc.*, Proposed Tariff Revisions Regarding Public Policy Transmission Planning Process, Docket No. ER16-966-000 (February 18, 2016) ("February 2016 Filing").

[166] This process is consistent with the requirements for negotiating and entering into a Reliability Development Agreement in Section 31.2.8.1.6 of Attachment Y and a Large Generator Interconnection Agreement in Section 30.11 of Attachment X of the OATT.

[167] December Order at P 19.

A. Public Policy Process Scope and Terminology

The Public Policy Development Agreement will apply to the Developer of a Public Policy Transmission Project that is selected by the NYISO as the more efficient or cost-effective transmission solution to a Public Policy Transmission Need. Unlike in the reliability planning process, there are no backstop solutions or other projects that the NYISO could trigger in parallel with a selected Public Policy Transmission Project. The Public Policy Development Agreement replaces the reliability planning process related terminology with the terminology set forth in Sections 31.1 and 31.4 of Attachment Y that is specific to the Public Policy Process, such as Public Policy Transmission Planning Process, Public Policy Transmission Planning Process Manual, Public Policy Transmission Need, and Public Policy Transmission Project.

B. Required Project In-Service Date Requirements

The NYISO proposes to revise Section 31.4.11 of Attachment Y, consistent with the revisions to the reliability planning process directed by the December Order, to provide that the NYISO will provide the Required Project In-Service Date for the selected Public Policy Transmission Project in the Public Policy Transmission Planning Report. Unlike with a Reliability Need, there may not be a specific date by which a project is required to satisfy a Public Policy Transmission Need. When it identifies a Public Policy Transmission Need, the NYPSC may, but need not, identify a date by which the need must be satisfied.[168] For this reason, the NYISO proposes to define the Required Project In-Service Date for the Public Policy Process in Section 31.4.11 of Attachment Y and in the Public Policy Development Agreement as: (i) the date by which the Public Policy Transmission Need must be satisfied as prescribed by the NYPSC in its order identifying the need or in a subsequent order, or (ii) if the NYPSC has not prescribed a date, the date proposed by the Developer and reviewed and accepted by the NYISO. This date may be either the In-Service Date specified by the Developer in the project information it submitted under Attachment Y of the OATT for use by the NYISO in its selection of the Transmission Project, or such other date accepted by the NYISO as reasonable in light of the Public Policy Transmission Need.

Given that a Public Policy Transmission Need may not raise the same reliability concerns as a Reliability Need identified in the reliability planning process, the NYISO proposes to provide additional flexibility in the Public Policy Development Agreement that will enable the parties to amend the Required Project In-Service Date under certain circumstances as set forth in an Article 3.4 of the agreement that is not provided for in the Reliability Development Agreement.

Pursuant to Article 3.4, the NYISO must consent to any change to the Required Project In-Service Date. To request a change, the Developer must inform the NYISO of its proposed

[168] *See* OATT Section 31.4.2.1, as further clarified in the February 2016 Filing ("The NYPSC's statement may also provide: (i) additional criteria for the evaluation of transmission solutions and non-transmission projects, (ii) the required timeframe, if any, for completion of the proposed solution, and (iii) the type of analyses that it will request from the ISO.").

change and the reasons for the change, must submit a revised Development Schedule that provides for the project to be in-service by the modified Required Project In-Service Date, and demonstrate that the Developer has made reasonable progress against its project milestones and is capable of completing the project in accordance with the modified schedule. The agreement states that the NYISO will not unreasonably withhold, condition, or delay its consent to change the date if the Developer demonstrates to the NYISO's satisfaction that the modified date is reasonable in light of the Public Policy Transmission Need, the Developer has made reasonable progress against its project milestones, and the modified date will not result in a significant adverse impact to the reliability of the New York State Transmission System. If the Required Project In-Service Date is the date prescribed by the NYPSC in its order identifying the Public Policy Transmission Need or in a subsequent order, the Developer must also demonstrate that the NYPSC has issued an order modifying its prescribed date.

C. Other Differences in the Public Policy Development Agreement

The NYISO has included in Article 3.5 of the Public Policy Development Agreement that the NYISO will, before consenting to a modification to a Transmission Project, review whether the modification will result in a significant adverse impact to the reliability of the New York State Transmission System.[169] This could occur, for example, when the proposed solution to a Public Policy Transmission Need has impacts on system reliability, or where the NYISO has included the project in the base case illustrating a reliable system pursuant to which it makes future planning determinations.

In addition, the NYISO has not included in the Public Policy Development Agreement references to the ISO/TO Reliability Agreement as that agreement concerns projects that must be proposed to address a Reliability Need and is not applicable to the Public Policy Process.

Finally, the NYISO has not included in the Public Policy Development Agreement references to the NYISO's ability to terminate an agreement based on the triggering and halting provisions that are specific to the reliability planning process.

D. Addressing Developer's Inability to Complete Project

The NYISO proposes to revise Section 31.4.12.3 of Attachment Y, along with Articles 8.1 and 8.3 of the Public Policy Development Agreement, to be generally consistent with the related requirements in the reliability planning process in Section 31.2.10 to address the actions the NYISO can take when a Developer does not or cannot timely complete a Transmission Project.[170] As revised, the NYISO can take one or more of the following actions when a

[169] In the Reliability Development Agreement, the NYISO evaluates the impact of a proposed project modification on reliability when it determines that the modification "does not impair the Transmission Project's ability to satisfy the identified Reliability Need." *See* Reliability Development Agreement Article 3.4.

[170] The NYISO revised Section 31.2.10.1.1 to clarify the timing pursuant to which it will terminate the agreement and file a notice of termination with the Commission.

Developer does not enter into a Public Policy Development Agreement or the NYISO determines that the agreement may be terminated or terminates the agreement: (i) address the need in a subsequent planning cycle; (ii) direct the Developer to continue development of project beyond the Required Project In-Service Date; (iii) solicit bids from qualified Developers to complete selected project; (iv) submit a report to the NYPSC and/or Commission for determination of whether action is appropriate under state or federal law; or (v) take such other action as the NYISO reasonably considers is appropriate to address the Public Policy Transmission Need.[171]

The NYISO proposes a competitive bidding process from qualified Developers to step-in to complete a selected Public Policy Transmission Project. The NYISO's proposal reflects feedback in its stakeholder process that if the NYISO requests that another party step-in to complete a selected Public Policy Transmission Project, the NYISO should not simply default to an existing Transmission Owner if there are other qualified Developers available to complete the project. Given that the project is already underway, there is no need to start a new project solicitation process, but instead only a process to select a qualified Developer to complete that project. Thus, the NYISO proposes to use a modified version of its Public Policy Process selection process as described in new Section 31.4.12.3.1.4 of Attachment Y.[172]

Specifically, the NYISO will solicit bids from all Developers that are qualified at the time of the NYISO's solicitation. The solicitation will indicate which components of the existing project information requirements must be submitted with the Developer's submission and which subset of the existing selection metrics will be used by the NYISO to make its selection. The specific project information and selection metrics drawn from the existing tariff requirements will depend on the particular circumstances of the project and what work is required at that stage to complete the project on time.[173] The NYISO will make its selection using the existing processes described in Sections 31.4.8 and 31.4.11 of the OATT, including issuing an updated Public Policy Transmission Planning Report.

Developers will be responsible for the NYISO's actual costs in conducting its evaluation in the same manner as in the normal Public Policy Process. The newly selected Developer will be required to enter into a Public Policy Development Agreement. The newly selected Developer and the initial Developer are required to work cooperatively to implement the

[171] Proposed OATT Sections 31.4.12.3.1.1, 31.4.12.3.1.3.

[172] In its reliability planning process, the NYISO can request that the Responsible Transmission Owner step-in to complete a selected project. For the Public Policy Process, there is no Responsible Transmission Owner, and the NYISO is proposing a process that allows all qualified Developers to propose bids to complete a selected project. The Commission has accepted this type of distinction between addressing failing reliability and public projects for the California Independent System Operator ("CAISO"). *See* CAISO Tariff at Section 24.6.4.

[173] If the NYISO elects to request bids from qualified Developers, the NYISO will not be requesting that Developers propose new projects and will not be reevaluating its previous selection of the Public Policy Transmission Project in this process. Rather, the NYISO will only request that interested Developers submit the project information required by the NYISO to select a Developer to complete the previously selected project.

transition, including negotiating in good faith with each other to transfer the project. The project transfer requirements and limitations are consistent with the related requirements in Section 31.2.10.1.4 of Attachment Y for the transfer of transmission projects in the reliability planning process.

E. Other Revisions to Section 31.4 of Attachment Y

The NYISO also proposes the following revisions to Section 31.4 of the OATT to conform the tariff requirements for the Public Policy Development Agreement with the related requirements for the Reliability Development Agreement, as those requirements have been further modified to address the directives of the December Order:

- Revised 31.4.12.2 of Attachment Y to establish that the NYISO and the Developer of the selected Public Policy Transmission Project will develop the milestones necessary to construct the project by the required in-service date. Any milestones that require action by a Connecting Transmission Owner or Affected System Operator will be included as Advisory Milestones.

- Revised Section 31.4.12.2 to provide that either the NYISO or the Developer may provide for the Public Policy Development Agreement to be filed unexecuted with the Commission.

- Revised Section 31.4.12.2 to set forth that the Connecting Transmission Owner(s) and Affected System Operator(s) associated with selected Public Policy Transmission Project will act in good faith in timely performing their obligations that are required for the Developer to satisfy its obligations under the Public Policy Development Agreement. This is consistent with the similar requirement in the reliability planning process in OATT Section 31.2.8.1.7.

- Revised Section 31.4.12.3.1.1 to clarify the timing pursuant to which the NYISO will terminate the agreement and file a notice of termination with the Commission.

VII. OPERATING AGREEMENT

A. Background

The NYISO and the incumbent New York Transmission Owners executed the *Agreement Between New York Independent System Operator and Transmission Owners* ("ISO/TO Agreement") in 1999.[174] The ISO/TO Agreement was developed as part of the creation of a new independent system operator for New York and the terms of the agreement were negotiated in the context of those particular circumstances. The ISO/TO Agreement serves several functions, which include accommodating the transfer of responsibilities of the predecessor New York Power Pool to the NYISO as the independent system operator for the New York Control Area, establishing the terms by which the NYISO operates and receives notifications regarding certain

[174] *See Cent. Hudson Gas & Elec. Corp., et al.*, 88 FERC ¶ 61,138 at p 5 (1999).

transmission facilities owned by the New York Transmission Owners, and providing for the New York Transmission Owners to recover the costs of their transmission facilities.

Order No. 1000-A required the transmission providers in each transmission planning region to have a clear enrollment process that defines how new transmission-owning entities become part of the transmission planning region.[175] In response to this directive, the NYISO included the following enrollment requirements in Section 31.1.7 of Attachment Y of the OATT:

> An owner of transmission in New York State may become a Transmission Owner by: (i) satisfying the definition of a Transmission Owner in Article 1 of the ISO Agreement and (ii) executing the ISO/TO Agreement *or an agreement with the ISO under terms comparable to the ISO/TO Agreement* and turning over operational control of its transmission facilities to the ISO.[176]

The NYISO provided for the use of a comparable operating agreement for new entrants because the terms of the ISO/TO Agreement address issues beyond terms relevant to an operating agreement. Specifically, the ISO/TO Agreement contains provisions that were relevant at NYISO start-up and address issues unique to the incumbent Transmission Owners that are not applicable to the operation of new transmission facilities.

In its May 2015 compliance filing in this proceeding, the NYISO informed the Commission that it planned to work with its stakeholders to develop a comparable operating agreement.[177] In the December Order, the Commission directed the NYISO to submit the comparable operating agreement with its further compliance filing.[178] The Commission required the NYISO to demonstrate that the agreement is not unduly discriminatory or preferential and that it is comparable to the ISO/TO Agreement.[179] The NYISO, therefore, submits for the Commission's acceptance a comparable *pro forma* operating agreement ("Operating Agreement") as described below.

B. Scope of the *Pro Forma* Operating Agreement

The Operating Agreement is largely consistent with the existing ISO/TO Agreement. There would have been some advantages to starting completely anew in drafting an operating agreement tailored to the present circumstances, rather than starting with the ISO/TO Agreement executed in 1999. However, the NYISO has retained in the Operating Agreement the basic

---

[175] *See* Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

[176] Emphasis added. The Commission accepted the enrollment requirement in its July 2014 order in the NYISO's Order No. 1000 regional proceeding. *See New York Independent System Operator, Inc.*, 148 FERC ¶ 61,044 at P 38 (2014).

[177] *See New York Independent System Operator, Inc. and New York Transmission Owners*, Compliance Filing, Docket Nos. ER13-102-007 at pp 11-12 (May 18, 2015).

[178] December Order at P 20.

[179] December Order at P 20.

structure and much of the current language of the ISO/TO Agreement to ensure that the agreements are comparable.

The NYISO did not carry over all of the terms of the ISO/TO Agreement in creating the Operating Agreement. There are reasonable, not unduly discriminatory or preferential grounds for certain differences between the Operating Agreement and the ISO/TO Agreement. These differences include: (i) removal of requirements concerning the transition from the New York Power Pool to the NYISO that are no longer relevant or are relevant only to then-existing Transmission Owners, (ii) exclusion or revision of provisions pertaining to the status of a newly formed independent system operator, (iii) revisions to accommodate transmission owners that may not have the same operational capabilities or local service provider responsibilities as the existing New York Transmission Owners, and (iv) revisions to make the agreement a two-party, rather than multi-party agreement. The specific differences between the agreements are described below. A blackline version showing the differences between the ISO/TO Agreement and the Operating Agreement is included as Attachment VI to this letter.

C. Non-Incumbent Transmission Owners

In the Operating Agreement, the new transmission owner that will execute the agreement is referred to as a "non-incumbent transmission owner" or "NTO." As described in Article 1.01, capitalized terms used in the Operating Agreement that are not otherwise defined in the agreement are used as defined in the Independent System Operator Agreement ("ISO Agreement").[180] Rather than incorporating the definition of "Transmission Owner" from the ISO Agreement,[181] the NYISO has revised Article 1.01 of the Operating Agreement to clarify that the NTO will be able to fully participate as a Transmission Owner for purposes of the NYISO's Tariffs and the Operating Agreement on a comparable basis with the existing Transmission Owners. Similarly, the NYISO has modified the enrollment requirements in Section 31.1.7.2 pursuant to which an owner of transmission may become a Transmission Owner in the New York Control Area. As revised, an owner of transmission in New York State used to provide Transmission Service under the NYISO's tariffs must execute the ISO/TO Agreement or an Operating Agreement to become a Transmission Owner for purposes of the NYISO Tariffs. The NYISO has removed the requirement that the new entity must satisfy the definition of Transmission Owner in the ISO Agreement, so that non-incumbent Developers are not restricted from becoming Transmission Owners for purposes of the Operating Agreement and the NYISO Tariffs. The NYISO has also removed the requirement that the new owner of transmission must have turned over operational control of its transmission facilities to the NYISO to become a Transmission Owner. The reason for that deletion is that the NYISO requires notification from owners of A-2 list transmission facilities, and that certain transmission owners may be required to enter into an Operating Agreement for the NYISO's performance of certain coordination and

[180] The ISO Agreement is *available at*: http://www.nyiso.com/public/webdocs/markets_operations/documents/Legal_and_Regulatory/Agreements/NYISO/iso_agreement.pdf.

[181] The definition of "Transmission Owner" in the ISO Agreement states that the entity "must own, individually or jointly, at least 100 circuit miles of 115 kV or above in New York State and has become a signatory to the ISO/TO Agreement."

control area responsibilities with respect to Local Area Transmission Facilities even though the transmission owner will retain operational control of those facilities.[182] The process by which the NYISO will enter into an Operating Agreement with a new transmission owner is described in Part VII.I below.

In the course of developing the Operating Agreement and reviewing it with stakeholders, the NYISO has determined that it must perform a further, detailed review of its tariffs to determine how best to address differences between the attributes of the existing Transmission Owners that operate distribution networks and serve end-use customers as Load Serving Entities and those of new Transmission Owners that may not perform these functions. New Transmission Owners will have fundamentally the same rights and responsibilities as existing Transmission Owners concerning the provision of transmission service. However, the NYISO tariffs also include provisions applicable to "Transmission Owners" that are inapplicable to new Transmission Owners to the extent that they do not perform all of the functions performed by existing Transmission Owners, such as, for example, serving end-use customers within a franchise service territory. The NYISO has separately filed a motion requesting a partial extension of 180 days to conduct a careful and systematic review of the use of the term "Transmission Owners" in its tariffs, to allow for meaningful review with stakeholders, and to prepare a further compliance filing to address this matter.[183]

D. NTO Responsibilities

Article 2.0 of the Operating Agreement establishes the NTO's responsibilities under the agreement. The requirements are substantially similar to the requirements in the ISO/TO Agreement with the following differences.

First, unlike the original Transmission Owners that executed the ISO/TO Agreement, it is uncertain whether future Transmission Owners will perform certain operational functions described in Article 2.0, including maintaining and operating a control center. Consequently, the NYISO has also included a new Section 2.12 that specifically provides that the NTO may arrange for a third party to perform its responsibilities, but remains ultimately responsible for satisfying the requirements of the agreement. This third party could be the Transmission Owner with which the NTO's facility will interconnect (the "Interconnecting Transmission Owner" or "ITO") or another entity capable of performing the same operational functions for the NTO's facilities in coordination with the NYISO. Similarly, Section 2.10 of the Operating Agreement requires the NTO to determine, or arrange for its ITO to determine, the level of resources to be applied to restore facilities to service following a forced outage.

---

[182] The NYISO has certain responsibilities concerning transmission facilities for which it does not have operational control, including "NTO Transmission Facilities Requiring ISO Notification" that will be listed in Appendix A-2 of the Operating Agreement, along with "Local Area Transmission System Facilities" that will be listed in Appendix A-3 of the Operating Agreement.

[183] *See New York Independent System Operator, Inc.*, Motion for Partial Extension of Time of the New York Independent System Operator, Inc., Docket No. ER13-102-007 (March 17, 2016).

Second, the ISO/TO Agreement was developed prior to the advent of mandatory reliability requirements pursuant to Section 215 of the Federal Power Act.[184] The NYISO has indicated throughout Article 2.0 that the NTO must perform its operational requirements in accordance with all applicable reliability requirements. In addition, the NYISO has included a new Section 2.09 that requires the NTO to register or enter into agreement with a NERC registered entity for all required NERC functions applicable to the NTO. These functions may include, but are not limited to, "Transmission Owner," "Transmission Planner," and "Transmission Operator" as those terms are defined by NERC. The NYISO has specified that it will register as the NERC Transmission Operator for all facilities under its Operational Control, referenced as the "A-1" list facilities in Operating Agreement.

Third, the existing Transmission Owners that executed the ISO/TO Agreement have Transmission Districts – *i.e.*, geographic areas in which they serve end-use customers. The Operating Agreement reflects the fact that the NTOs may not be responsible for a Transmission District or have obligations to maintain local reliability. The NYISO, for example, did not include the language from Section 2.05 of the ISO/TO Agreement that concerns the role of the existing Transmission Owners to operate as a backup control center for the NYISO and to maintain the continued economic operation of the system, as an NTO without a Transmission District is unlikely to play this role. Similarly, the NYISO revised the requirements in Section 2.06 to make clear that the NTO will need to coordinate with the Interconnection Transmission Owner regarding the commitment of additional resources required to ensure local reliability through the NYISO's Supplemental Resource Evaluation process.

Additional differences proposed for Article 2.0 include:

- The facilities for which the NYISO will have operational control will be known as "NTO Transmission Facilities Under ISO Operational Control" and included in Appendix 1 of the agreement. The facilities for which the NTO must provide notifications to the NYISO will be known as "NTO Transmission Facilities Requiring ISO Notification" and included in Appendix 2 to the agreement. The NYISO will consolidate these lists of facilities with the related facilities listed under the ISO/TO Agreement, which are maintained and regularly updated in the NYISO's Operations Manual.

- The NYISO did not include the language from Section 2.02 of the ISO/TO Agreement regarding development by the NYISO Operating Committee of certain emergency operating requirements. These operating procedures have now been developed and are contained in the NYISO's tariffs and manuals. Therefore, the resulting requirements are covered by the use of the term "ISO Procedures."

- To the extent an NTO may have Local Area Transmission System Facilities, the NYISO clarifies in Section 2.03 that it shall comply with requests to take action from the Interconnecting Transmission Owners with which it is interconnected. Although it does not operate Local Area Transmission Facilities, the NYISO will maintain a list of these

[184] *See* 16 U.S.C. § 824o.

facilities as they relate to other NYISO functions, such as system planning and interconnection. That list will be located in Appendix A-3 of the Operating Agreement.

E. NYISO Responsibilities

Article 3.0 of the Operating Agreement establishes the NYISO's responsibilities under the agreement. The requirements are substantially similar to the requirements in the ISO/TO Agreement with the following differences.

First, the NYISO has inserted a new Section 3.07 to describe the NYISO's NERC responsibilities for the same reasons described above in connection with the NTO's obligations. Section 3.07 provides that the NYISO will register for certain NERC functions applicable to the NTO's facilities if the facilities are NERC jurisdictional. The functions may include, but are not limited to, "Reliability Coordinator," "Balancing Authority," and "Planning Coordinator" as defined by NERC. Following discussions with stakeholders, the NYISO has agreed that it will register as the NERC Transmission Operator for all facilities under its Operational Control, known as "A-1" list facilities.

Second, Section 3.07 of the ISO/TO Agreement establishes generic rules for the NYISO's evaluation of the impact of any proposed material modification to the NYS Power System. Since its formation, the NYISO has established requirements in its tariffs and procedures to evaluate proposed modifications to the NYS Power System. The NYISO has amended the equivalent provision in Section 3.05 of the Operating Agreement to reflect the existence of these tariff requirements and procedures.[185]

Third, the NYISO clarified in Sections 3.03(b) of the Operating Agreement the NTO's ability to recover eligible costs under the NYISO Tariffs and rate schedules. Similarly, the NYISO clarified in Section 3.08(a) of the Operating Agreement the NTO's right to make a filing with the Commission pursuant to Section 205 of the Federal Power Act to recover all of its reasonably incurred costs, plus a reasonable return on investment, for the development, construction, operation, and maintenance of its transmission facilities under the NYISO Tariffs and rate schedules.

Fourth, the NYISO has not included in the Operating Agreement the following requirements from the ISO/TO Agreement that are either no longer applicable or are specific to one of the incumbent Transmission Owners:

- Section 3.03 of the ISO/TO Agreement describes the requirements for amending the ISO Agreement and the ISO Tariffs. This provision is not required in the Operating Agreement as it does not impact the NTO's or NYISO's rights under the agreement or provide the parties any additional rights to amend the ISO Agreement and ISO Tariffs. Rather, the provision simply duplicates the requirements in Article 19 of the ISO

[185] In addition, the NYISO will use the dispute resolution provisions in Article 11 of the Market Administration and Control Area Services Tariff to address any disputes concerning the impacts of proposed modifications.

Agreement applicable to all Market Participants pursuant to which the ISO Agreement and ISO Tariffs may be amended.

- Section 3.04 of the ISO/TO Agreement indicates that each Transmission Owner grants the NYISO the responsibilities in Article 3 on condition that the NYISO meets certain conditions. The NYISO has not adopted the following conditions from the ISO/TO Agreement into the Operating Agreement because they have no application in a bilateral agreement with a new Transmission Owner: (i) the cost recovery requirements in Section 304(b) that are specific to the New York Transmission Owners; (ii) the reference to Existing Transmission Agreements in place at the commencement of NYISO operations in Section 3.04(c); (iii) the protection against jeopardizing the status of the tax-exempt bonds of Consolidated Edison, the Long Island Power Authority, and the New York Power Authority in Section 3.04(d); and (iv) the restriction on wheeling to end users in Section 3.04(h).

- Section 3.06 of the ISO/TO Agreement describes NYPA's participation in the agreement as being premised on the recovery of its transmission revenue requirement under the NTAC mechanism and is not applicable to an NTO.

- Section 3.09 of the ISO/TO Agreement establishes the requirement for the NYISO's reimbursement to the Transmission Owners of the costs of the start-up of the NYISO, and the NYISO's assumption of responsibilities from the New York Power Pool. These actions have already been completed and are not applicable to an NTO.

- Section 3.12 of the ISO/TO Agreement establishes scheduling requirements specific to the Long Island Power Authority.

F. Limitations of Liability and Indemnification Requirements

The NYISO proposes that the limitation of liability and indemnification provisions in Article 5 of the Operating Agreement be reciprocal between the NYISO and the NTO. Specifically, Section 5.01 of the Operating Agreement provides that neither Party will liable to the other Party or any other party, except to the extent a Party is found liable for gross negligence or intentional misconduct and is then liable only for direct damages. In addition, Section 5.02 of the Operating Agreement provides additional limitations of liability to both Parties. Finally, Section 5.03 of the Operating Agreement provides that each Party will at all times indemnify, save harmless, and defend the other Party with the following exceptions: (i) the NTO will not have indemnification obligation with respect to a loss that results from the NYISO's gross negligence or intentional misconduct, and (ii) the NYISO will only have an indemnification obligation if the NTO's loss results from the NYISO's gross negligence or intentional misconduct.

These proposed provisions represent a reasonable allocation of risk between the NYISO and the NTO. Further, the reciprocal nature of these provisions is consistent with the December Order. As described in Part V.E above, the NYISO is revising the Reliability Development Agreement as directed in the December Order to make the limitation of liability and

indemnification provisions reciprocal. Similarly, as described in Part IV.H, the Transmission Project Interconnection Agreement that the NYISO proposed to enter into with a transmission developer is based on the Large Generator Interconnection Agreement in Attachment X of the ISO OATT, which includes reciprocal indemnity requirements.[186]

G. Term and Termination Requirements

The NYISO proposes in Section 6.01 of the Operating Agreement that the term of the agreement will commence upon the execution of the agreement and the later of: (i) the date on which the Commission, the NYPSC, and any other regulatory agency with jurisdiction accepts the Operating Agreement without condition or material modification, and grants approvals needed to place the NTO's facilities in service, or (ii) such later date specified by the Commission.

The NYISO proposes several modifications to the termination provisions in Article 6 of the Operating Agreement. As the agreement is only a two-party agreement, a party may terminate, rather than withdraw from, the agreement. The NTO's ability to terminate the agreement is subject to its obtaining all regulatory approvals for such termination and having on file with the Commission its own open access transmission tariff.[187] The NYISO further specifies in Section 6.03(c) that if an NTO terminates the agreement and withdraws from the NYISO's tariffs and agreements, the NTO shall remain responsible for the operation, maintenance, and modification of its transmission facilities in accordance with its own open access transmission tariff, all reliability rules, and all other requirements applicable to transmission facilities in the New York Control Area. These requirements are important to ensure that the withdrawal of an entity's facilities from the NYISO's operational control will not endanger system reliability in New York. Finally, the NYISO did not adopt the provision in Section 6.01 of the ISO/TO Agreement that permitted the Transmission Owners to unanimously agree to terminate the NYISO and file a proposed alternative plan with the Commission and NYPSC. That provision has no application in the present context. If an NTO were to terminate its Operating Agreement and withdraw its facilities from NYISO operational control, the NYISO would continue operations with respect to other Transmission Owners.

H. Other Differences Between ISO/TO Agreement and Operating Agreement

The NYISO also proposes the following requirements in the Operating Agreement that are different from the terms of the ISO/TO Agreement:

- Section 4.01 of the Operating Agreement has been made reciprocal to provide that either the NYISO or the NTO may assign the agreement to another entity that agrees to be bound by the terms of this agreement.

[186] *See* NYISO Standard Large Generator Interconnection Agreement, Section 18.1.

[187] Operating Agreement Sections 6.01 and 6.02.

- Section 5.05 of the Operating Agreement provides, consistent with Section 5.05 of the ISO/TO Agreement, that each Party must have insurance coverage "as is reasonably necessary to meet its obligations under this Agreement." The NYISO has not included further language from Section 5.05 of the ISO/TO Agreement because it is duplicative of the clear requirement that each party have sufficient insurance to meet its obligations under the agreement.

- Section 6.05 of the Operating Agreement was expanded to more clearly describe the treatment of confidential information and the parties' obligations regarding the disclosure of such information in the event of judicial or regulatory proceedings.

- Section 6.09 of the Operating Agreement, concerning contract supremacy, provides that in the event of a conflict between the agreement and the Independent System Operator Agreement ("ISO Agreement"), the Operating Agreement terms will prevail. The ISO/TO Agreement separately provides that its terms are also superior to the NYISO Tariffs and the *Agreement Between the New York Independent System Operator and the New York State Reliability Council*. It was necessary at the time of the NYISO's formation that the terms of the ISO/TO Agreement be superior to the other NYISO Tariffs and agreements because, aside from its operations function, the agreement was the key agreement for the transition from the New York Power Pool to the NYISO. The Operating Agreement does not serve this function. The NYISO, however, has retained the supremacy clause in relation to the ISO Agreement to resolve potential conflicting terms between the Operating Agreement and the ISO Agreement.

- Section 6.10 has been revised to make the additional remedies provisions reciprocal between the NYISO and the NTO.

- The NYISO did not adopt Section 6.15 of the ISO/TO Agreement into the Operating Agreement as that provision concerns cost shifting resulting from an early NYISO-related proceeding at the Commission that is not applicable to an NTO.

I. Requirements for Entering Into an Operating Agreement

The NYISO proposes to insert in new Section 31.1.7.3 of Attachment Y of the OATT process requirements for entering into an Operating Agreement.[188] Pursuant to these requirements, a transmission owner that is not a party to the ISO/TO Agreement or an Operating Agreement and will own transmission facilities in the New York Control Area over which Transmission Service will be provided under the ISO tariffs will be required to enter into an Operating Agreement prior to energizing its transmission facilities. If the transmission facilities were selected in the NYISO's regional planning process, the NYISO will tender the draft Operating Agreement as soon as practicable following its selection of facilities. If the transmission facilities were not selected in the NYISO's regional planning process, the transmission owner will request that the NYISO tender the draft Operating Agreement as soon as

[188] The NYISO has made conforming changes to OATT Section 31.4.12.4.

practicable after receiving its Article VII certification or other applicable siting permits or authorizations under New York State law.

The process described in Section 31.1.7.3 by which the NYISO and the transmission owner will negotiate and file the agreement, including the filing requirements for non-conforming or unexecuted agreements, are consistent with the requirements by which the NYISO and a developer enters into the Reliability Development Agreement, Public Policy Development Agreement, and Standard Large Generator Interconnection Agreement.[189]

VIII. EFFECTIVE DATE

The NYISO respectfully requests that the Commission accept the tariff revisions and standard agreements proposed in this compliance filing with an April 1, 2016 effective date. The NYISO is in the middle of administering its initial Public Policy Process for the 2014-15 planning cycle to evaluate solutions for two separate Public Policy Transmission Needs identified by the NYPSC.[190] In addition, the NYISO is in the first stage of its reliability planning process for the 2016-17 planning cycle evaluating whether there are any Reliability Needs that must be addressed in this cycle. The Commission's acceptance of an April 1, 2016 effective date will provide Market Participants and other interested entities with clarity regarding which requirements are applicable and will be implemented by the NYISO in these ongoing planning processes.

This clarity is particularly important with regards to which interconnection requirements will be applicable to Developers that have submitted or are submitting solutions in response to the Public Policy Transmission Needs identified in the Public Policy Process or in response to any Reliability Need that may be determined in the reliability planning process later this year. The NYISO intends to apply the new Transmission Interconnection Procedures, including the related transition rules from the existing transmission expansion and interconnection requirements, beginning on April 1, 2016. Market Participants and interested parties will not be prejudiced by the April 1, 2016 effective date, but could be harmed if the NYISO continues to apply requirements that the Commission has determined are unjust and unreasonable to certain competitive transmission Developers.

IX. SERVICE

The NYISO will send an electronic copy of this filing to the official representative of each party to this proceeding, to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission and the New Jersey Board of Public Utilities. In addition, the complete public version of this filing will be posted on the NYISO's website at www.nyiso.com.

---

[189] *See* OATT Sections 30.11, 31.2.8.1.6, 31.2.8.1.7, 31.4.12.2.

[190] *See* Footnote No. 126.

X. CONCLUSION

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this compliance filing without requiring any modifications and determine that the NYISO has complied with the regional planning requirements of Order No. 1000.

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
By: */s/ Carl F. Patka*

Robert E. Fernandez, General Counsel
Ray Stalter, Director of Regulatory Affairs
Karen G. Gach, Deputy General Counsel
Carl F. Patka, Assistant General Counsel
Sara B. Keegan, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Email: rfernandez@nyiso.com
Email: rstalter@nyiso.com
Email: kgach@nyiso.com
Email: cpatka@nyiso.com
Email: skeegan@nyiso.com

Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Ave, NW
Washington, DC 20037
Email: tmurphy@hunton.com

Michael J. Messonnier Jr.
Hunton & Williams LLP
951 East Byrd Street
Richmond, VA 23219
Email: mmessonnier@hunton.com

cc: Michael Bardee
Anna Cochrane
Kurt Longo
Max Minzner
Daniel Nowak
Larry Parkinson
J. Arnold Quinn
Douglas Roe
Kathleen Schnorf
Jamie Simler
Gary Will