

Attachment III

Public Policy Process, including upgrades that are part of another Developer's project. I oversaw the development of the NYISO's tariff revisions to its Public Policy Process and fully support the contents of the NYISO's filing of these tariff revisions.

7. I have reviewed the NYISO's filing letter concerning the tariff revisions to the Public Policy Transmission Planning Process, and I confirm that the statements therein are true and correct to the best of my knowledge, information, and belief. I provide the additional information herein in support of the proposed tariff revisions.
8. The NYISO's Public Policy Process employs a sponsorship model pursuant to which interested Developers have significant flexibility to develop and propose transmission solutions, including new transmission facilities and upgrades to existing transmission facilities, to address an identified transmission need. The NYISO will evaluate and select the more efficient or cost-effective transmission solution based on these proposals. This approach enables Developers to submit innovative, comprehensive solutions to identified transmission needs by combining both new facilities and upgrades to existing facilities.
9. In light of the Commissions' confirmation of the NYTOs' ROFR rights, the absence of rules in the OATT for their implementation in the Public Policy Process may harm the competitiveness and efficient administration of the process. This uncertainty concerning the outcome of the Public Policy Process will result in disputes without clear rules as to the rights over a selected project, which will end up before the Commission or a court. Such uncertainty could diminish Developers' interest in participating in the process and, thereby, reduce the pool of potentially more efficient or cost-effective transmission solutions to identified transmission needs.
10. The NYISO's proposed tariff revisions establish clear and transparent rules to effectuate NYTOs' ROFR rights in place of the current uncertain status of such rights. When proposing solutions, Developers will now be aware at the start of the Public Policy Process of the scope and timing requirements of the NYTOs' ROFR rights. This will allow Developers to make informed decisions concerning the development of their projects, including whether to propose upgrades as part of their project proposal. The proposed tariff revisions also provide that the NYISO will identify the Public Policy Transmission Upgrades that may be subject to a ROFR early in the process, allowing Developers to consider whether or not they want to proceed with a project that includes upgrades prior to incurring study costs for the NYISO's evaluation of the project.
11. Importantly, the proposed revisions retain the benefits of the NYISO's sponsorship model by continuing to afford Developers—both incumbent and non-incumbent—flexibility to propose both new transmission facilities and upgrades to NYTOs' existing transmission facilities to address an identified Public Policy Transmission Need. While an upgrade may ultimately be designated to an NYTO, a Developer may still benefit from proposing it. From an engineering and evaluation standpoint, the addition of an upgrade to an existing transmission facility may increase the performance of a non-incumbent transmission developer's proposed project in one or more of the criteria used by the NYISO in selecting the more efficient or cost-effective solution. For example, a Developer may want to propose an entirely new transmission circuit with a cost of \$100

million. However, the Developer may determine that if it also includes an upgrade to an existing facility that will increase the project's overall performance in the selection metrics for a cost of \$20 million, there is a benefit to the proposing Developer to include the upgrade. This may be true even though the incumbent NYTO that owns the facility may ultimately be the entity to build, own, and recover the costs of it. Moreover, there is no assurance that an NYTO will exercise its ROFR. For instance, the NYTO may conclude that it does not want to take on the work or cannot complete the upgrade by the required in-service date.

12. This concludes my affidavit.

ATTESTATION

I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.

/s/ Zachary G. Smith
Zachary G. Smith¹

Dated: October 8, 2021

¹ Mr. Smith's affidavit has not been notarized as is permitted under the Commission's July 26, 2021 order extending the previous emergency waiver of the notarization rules. *See Temporary Action to Facilitate Social Distancing*, 176 FERC ¶ 61,044 (2021).