

November 3, 2023

By Electronic Delivery

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

Re: New York Independent System Operator, Inc.'s Order No. 2023 Compliance Filing to Establish Interim Transition Procedures; Request for Conditional Prospective Waiver; Docket Nos. RM22-14-000, ER24- ____-000

Dear Ms. Bose:

In compliance with the Commission's Order No. 2023,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits through this compliance filing revisions to its Large Facility Interconnection Procedures ("LFIP") set forth in Attachment X of its Open Access Transmission Tariff ("OATT"). The purpose of this filing is to establish limited, interim rules to provide for the transition of certain Interconnection Studies to avoid imposing unnecessary costs on Developers and to expedite the transition to new Order No. 2023-compliant procedures. The NYISO requests that the Commission act expeditiously and issue an order accepting this filing no later than November 30, 2023, and requests that the proposed tariff revisions have an effective date of November 30, 2023.²

Order No. 2023 adopts uniform, nationwide revisions to the Commission's *pro forma* interconnection agreements and procedures to address the unprecedented wave of newly interconnecting generation. The goal of the revisions are to ensure that developers "are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner," preventing undue discrimination, reducing interconnection queue backlogs, and providing greater certainty during the interconnection process.³ As part of these revisions, the Commission eliminated the feasibility study and converted the system impact study from an individual to a cluster study.

The NYISO strongly supports and shares Order No. 2023's goals. The NYISO is currently developing with its stakeholders' input substantial revisions to its interconnection procedures to address the changes to the *pro forma* requirements adopted in Order No. 2023

¹ *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,054 (2023) ("Order No. 2023").

² Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in Attachment X of the NYISO OATT, and if not defined therein, in Attachment S of the NYISO OATT and Section 1 of the NYISO OATT.

³ Order No. 2023 at PP 1, 48.

within the NYISO's unique market and planning framework and in light of other New York-specific considerations. The NYISO will submit additional compliance tariff revisions in response to Order No. 2023 through a future comprehensive compliance filing in this proceeding. As part of that future filing, the NYISO will include tariff revisions that eliminate stand-alone feasibility and system impact studies in New York and provide detailed rules for transitioning Developers in its interconnection queue upon the effectiveness of the new rules.

In the meantime, however, Developers of certain existing and new projects continue under the NYISO's current tariff rules to enter into and to complete, at their expense, feasibility and system impact studies for their projects that will not be required to advance in the new process or their projects are subject to withdrawal from the NYISO's interconnection queue. In this compliance filing, the NYISO proposes to establish as an independent entity variation limited, interim rules to address this issue and to expedite the efficient transition to the new study process.

As detailed below, the NYISO's proposed interim transition mechanism will provide a Developer with the opportunity to elect, based on its project's progress in the LFIP, to commence or complete an ongoing feasibility or system impact study for which it completed the tariff-prescribed scoping requirements prior to December 1, 2023, to opt for the performance of a limited feasibility study, to withdraw from an ongoing study without financial penalty, or not to commence a study. A Developer that terminates or does not commence a study may elect either to remain in the NYISO's interconnection queue pending the application of the new interconnection procedures or to withdraw its Interconnection Request.

This mechanism will enable the NYISO to timely transition to the new interconnection process without harming Developers. The Developer of any existing or new project, regardless of whether it has completed a feasibility or system impact study under the NYISO's current rules, will have the opportunity to satisfy the new process rules during the application window that the NYISO intends to open in summer 2024 in order to enter into the clustered, transition study that is intended to commence in late 2024. Until these transition rules are effective, the interim transition rules proposed in this filing will provide clarity and transparency to Developers concerning the applicability of existing study tariff requirements. The proposed rules will also minimize the expense, time, and resources that the NYISO, New York Transmission Owners, and Developers must commit for study work that is not required for a project to advance under the new process and that could create delays in transitioning to the new process.

The NYISO intends to commence implementing these interim transition rules beginning on November 30, 2023, subject to any determination or modification by the Commission. The NYISO must implement the transition rules expeditiously to enable it, the New York Transmission Owners, and Developers to transition to the new interconnection process to commence in early to mid-2024. This urgency is consistent with the Commission's determinations in Order No. 2023 for Transmission Providers to move quickly into their

transition processes.⁴ If the Commission is unable to act prior to November 30, 2023, the NYISO respectfully petitions, in accordance with Commission Rule 207(a)(5),⁵ on a prospective basis that the Commission grant the NYISO a limited waiver for the period prior to its issuance of its order – to the extent the Commission determines it is necessary – of the existing requirements in the LFIP that a Developer must elect within prescribed periods, and the NYISO must perform, feasibility and system impact studies.

The NYISO has provided Developers with notice concerning the proposed transition rules and deadlines. The NYISO presented the proposed rules to stakeholders at its October 2, October 20, and November 2, 2023, Interconnection Issues Task Force meetings⁶ and has separately sent a notice to all projects currently in its interconnection queue to ensure they are aware of the transition requirements. Developers will have over 30 calendar days following this filing to make their determination for how they would like their projects to proceed under these transition rules. This timeframe is consistent with the transition requirements adopted in Order No. 2023, which establish transition options based on a project's status in the queue 30 calendar days after a Transmission Provider's compliance filing.⁷

I. Background

A. Order No. 2023 Requirements

In its Order No. 2003, the Commission established *pro forma* Large Generator Interconnection Procedures (“FERC Pro Forma LGIP”) and a *pro forma* Large Generator Interconnection Agreement that establish uniform terms and conditions under which public utilities must provide interconnection services to Large Generating Facilities greater than 20 MW

⁴ See, e.g., Order No. 2023 at P 862 (expressing concerns with transmission providers proposing their own transition rules due to the potential delay in developing and implementing such rules); 866 (“We find that an earlier eligibility cut-off for the transitional studies will allow the transitional studies to begin sooner, which in turn, will allow transmission providers and interconnection customers to benefit from the Commission’s new cluster study process sooner.”)

⁵ 18 C.F.R. §385.207(a)(5).

⁶ See *Interconnection Order No. 2023 Proposed Compliance Approach* Presentation, NYISO Interconnection Issues Task Force (Nov. 2, 2023); available at: https://www.nyiso.com/documents/20142/40995296/Order%20No.%202023%20Compliance%20Plan_IITF_20231102_final%20version.pdf/8f96f9cb-e89b-73b5-121e-ce42bd11fa6a; *Interconnection Order No. 2023 Proposed Compliance Approach* Presentation, NYISO Interconnection Issues Task Force (Oct. 20, 2023); available at: https://www.nyiso.com/documents/20142/40717275/02a_Order%20No.%202023%20Compliance%20Plan_Final%20for%20IITF%2020231020.pdf/1dbde586-46c6-e2cf-17a7-53fcd7aa947e; *Interconnection Order No. 2023 Proposed Compliance Approach* Presentation, NYISO Interconnection Issues Task Force (Oct. 2, 2023); available at: https://www.nyiso.com/documents/20142/40324837/Order%20No.%202023%20Compliance%20Proposal_IITF_20231002.pdf/571630de-6288-7239-7bc3-b63e13ee5b59.

⁷ See Order No. 2023 at P 865.

to existing transmission systems.⁸ These *pro forma* interconnection requirements have since been revised by the Commission in various proceedings.⁹

On July 28, 2023, the Commission issued Order No. 2023 to amend further its *pro forma* interconnection procedures and agreements to address interconnection queue backlogs, improve certainty, and prevent undue discrimination for new technologies. Among its reforms, the Commission modified the requirement in the FERC Pro Forma LGIP that a Transmission Provider perform three successive, individual feasibility, system impact, and facilities studies for each proposed project. In its place, the Commission required that a Transmission Provider perform in succession a clustered Cluster Study, a clustered Cluster Re-Study, and an individual facilities study for proposed projects.

The Commission also adopted transition rules based on the changes from a serial to a cluster study process structure. Per these requirements, a developer has three options based on the progress of its Interconnection Request.¹⁰ Developers that have been tendered facilities study agreements by the Transmission Provider as of 30 calendar days after the Transmission Provider's compliance filing may opt to proceed to a Transitional Serial Interconnection Facilities Study. Developers with an assigned queue position as of 30 calendar days after the Transmission Provider's compliance filing may opt to proceed to the Transitional Cluster Study. All other developers will be withdrawn from the interconnection queue without penalty.

The Commission, however, recognized that some Transmission Providers have existing cluster studies in progress and that the order is not intended to interfere with these in-progress cluster studies.¹¹ In addition, the Commission stated that it would continue to use the "independent entity variation" standard when considering proposals by independent system operators ("ISOs") and regional transmission organizations ("RTOs") to deviate from the requirements in Order No. 2023.¹²

⁸ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. 31,146 (2003) ("Order No. 2003"), order on reh'g, Order No. 2003-A, FERC Stats. & Regs. 31,160 (2004), order on reh'g, Order No. 2003-B, FERC Stats. & Regs. 31,171 (2004), order on reh'g, Order No. 2003-C, FERC Stats. & Regs. 31,190 (2005), aff'd sub nom. Nat'l Ass'n of Regulatory Util. Com'rs v. FERC, 475 F.3d 1277 (D.C. Cir. 2007).

⁹ See, e.g., *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 83 Fed. Reg. 21342 (May 9, 2018), 163 FERC ¶ 61,043 (2018) ("Order No. 845"), order on clarification and reh'g, Order No. 845-A, 166 FERC ¶ 61,137 (2019) ("Order No. 845-A"); *Reactive Power Requirements for Non-Synchronous Generation*, Order No. 827, FERC Stats. & Regs. ¶ 31,385, 155 FERC ¶ 61,277 (2016); *Essential Reliability Services and the Evolving Bulk-Power System Primary Frequency Response*, Order No. 842, 83 Fed. Reg. 9,636 (Mar. 6, 2018), 162 FERC ¶ 61,128, order on clarification and reh'g, 164 FERC ¶ 61,135 (2018).

¹⁰ Order No. 2023 at PP 855, 865; FERC Pro Forma LGIP Section 5.1.

¹¹ Order No. 2023 at P 861.

¹² Order No. 2023 at P 1764. The independent entity variation provides ISO/RTOs with greater flexibility than other Transmission Providers' "consistent with or superior standard" for ISO/RTOs to customize its interconnection procedures and agreements to fit regional needs as they have different operating characteristics depending on their size and location and are less likely to act in an unduly discriminatory manner than a Transmission Provider that is a market participant. Order No. 2003 at P 827.

B. NYISO LFIP Requirements

In compliance with Order No. 2003 and the Commission's subsequent orders, the NYISO has incorporated the Commission's *pro forma* interconnection requirements into its OATT, with certain variations that the Commission previously accepted under the "independent entity variation" standard.¹³ Over time, the NYISO has proposed, and the Commission has accepted, significant variations from the Commission's *pro forma* requirements resulting in carefully tailored interconnection procedures to fit the NYISO's unique market and planning framework and the circumstances in New York.

The NYISO's current LFIP establishes the requirements by which the NYISO, in coordination with the relevant Connecting Transmission Owner,¹⁴ administers the proposed interconnection of a Large Facility¹⁵ greater than 20 MW to the New York State Transmission System or Distribution System. The LFIP establishes three successive Interconnection Studies that analyze proposed projects at varying levels of detail.

The first study is an Optional Interconnection Feasibility Study. This is an optional, single-project, high-level evaluation of a project's configuration and local system impacts. If a Developer proceeds with this study, it may elect for it to be performed at a limited or detailed level. The limited study provides for the development of a conceptual, breaker-level one-line diagram of the existing New York State Transmission System or Distribution System where the Large Facility proposes to interconnect¹⁶ and/or a review of the feasibility and constructability of

¹³ See, e.g., *New York Indep. Sys. Operator, Inc.*, Order on Compliance, 170 FERC ¶ 61,117 (2020) (accepting compliance filing in response to Order No. 845 and directing certain changes); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER19-1949-001 (June 4, 2020); *New York Indep. Sys. Operator, Inc.*, Letter Order on Order No. 842 Compliance Filing, Docket No. ER18-1620-000 (2018); *New York Indep. Sys. Operator, Inc.*, Letter Order on Compliance Filing Under Order Nos. 827 and 828, Docket Nos. ER17-61-000, -001 (2017); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, Order on Compliance Filing, 149 FERC ¶ 61,209, (2014); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, Letter Order, Docket No. ER04-449-004 (2005); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, Order Conditionally Accepting Large Generator Interconnection Procedures and Large Generator Interconnection Agreement, 108 FERC ¶ 61,159 (2004) (accepting compliance filings and directing certain changes).

¹⁴ The term "Transmission Provider" as defined in the pro forma LGIP encompasses both the NYISO and the New York Transmission Owners. The NYISO's LFIP, with its Commission-approved variations from the pro forma LGIP, assigns the responsibilities of "Transmission Providers" to the NYISO, as the system operator, and the New York Transmission Owners, as the owners of the impacted transmission and distribution facilities in New York.

¹⁵ The term "Large Facility" as defined in Attachment X to the NYISO OATT concerns a Large Generating Facility or a Class Year Transmission Project. With the exception of controllable transmission facilities that seek Capacity Resource Interconnection Service and transmission facilities proposed by a Transmission Owner as part of its local plan, the interconnection of transmission facilities are addressed through the NYISO's separate Transmission Interconnection Procedures located in Attachment P to the NYISO OATT.

¹⁶ NYISO OATT Attach. X Section 30.6.2. This assessment concerns how to integrate the Large Facility into the existing system.

a conceptual, breaker-level one-line diagram of the proposed interconnection.¹⁷ A detailed study provides additionally for a preliminary review of local protection, communication, and grounding issues associated with the proposed interconnection; power flow, short circuit, and/or bus flow analyses; and/or the identification of Connecting Transmission Owner's Attachment Facilities and Local System Upgrade Facilities with a non-binding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct.¹⁸

The second study is an Interconnection System Reliability Impact Study ("SRIS"). This is a detailed single-project study that evaluates the project's impact on transfer capability and system reliability. The study will identify facilities, including System Upgrade Facilities, required for the reliable interconnection of the project with a non-binding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct. A Developer that proceeds to an SRIS may also request, upon the initiation of an SRIS, that the NYISO concurrently perform a reasonable number of Optional Interconnection System Reliability Studies ("Optional SRIS") that assess the impacts of its project under different assumptions.

The final study is the clustered Class Year Interconnection Facilities Study ("Class Year Study"), which is a construct unique to the NYISO. The NYISO's existing interconnection procedures, including the Optional Interconnection Feasibility Study and the SRIS, are designed to channel those projects that are sufficiently ready to move forward into this Class Year Study.

The Class Year Study evaluates the cumulative impact of a group of projects that have completed their SRIS and met other entry requirements – a "Class Year" of projects. In the Class Year Study, the NYISO and Connecting Transmission Owners then assess the projects in the Class Year and identify the attachment facilities and upgrades required to reliably interconnect the cluster of projects through more extensive analysis using the up-to-date system representation. Developers that would like to proceed with their projects must accept at the conclusion of the study their Project Cost Allocation for their share of the System Upgrade Facilities identified in the Class Year Study and provide Security in this amount.

The NYISO is in the middle of performing its Class Year Study for Class Year 2023, which cluster study includes 84 projects. The NYISO anticipates that this Class Year Study will be finalized in the 3rd Quarter of 2024, which will trigger iterative decision round(s) that typically take at least 2 months.

¹⁷ NYISO OATT Attach. X Section 30.6.2. For example, this assessment may include whether there is space for an additional breaker bay in existing substation or the identification of cable routing concerns inside existing substation.

¹⁸ NYISO OATT Attach. X Section 30.6.2.

II. Proposed Interim Transition Compliance Revisions

A. Need for Interim Transition Procedures

The NYISO is currently developing with its stakeholders' input substantial revisions to its interconnection procedures to establish a new cluster study process based on both the Commission's directives in Order No. 2023 and certain variations that will be required to address the particular circumstances in New York.¹⁹ The NYISO intends for its revised interconnection procedures to commence in early to mid-2024, so that the NYISO can transition to and implement the first new cluster study shortly after the completion of the Class Year Study for Class Year 2023.

Consistent with Order No. 2023, this revised process will not retain a stand-alone individual Optional Interconnection Feasibility Study or SRIS. Instead, the proposal establishes a consolidated cluster study that incorporates feasibility, system impact, and facilities study elements. The NYISO will submit these revised interconnection procedures, including justifications for any independent entity variations, for the Commission's acceptance through a future comprehensive Order No. 2023 compliance filing in this proceeding.²⁰ As part of this comprehensive filing, the NYISO will include detailed rules for transitioning Developers in its interconnection queue upon the effectiveness of the new process.

The NYISO proposes interim transition procedures in this compliance filing that are required to expedite the effective transition to a new study process.²¹ Without the immediate changes to the NYISO's existing tariff rules, the tariff will require the Developers of existing or new projects to move forward with costly and time consuming Optional Interconnection

¹⁹ See footnote 6 above.

²⁰ The NYISO is not requesting that the Commission weigh in at this time on the compliance concepts under development in New York, which will be filed in the comprehensive compliance filing for Commission acceptance.

²¹ The NYISO's interim transition mechanism proposed in this compliance filing is not dependent on the Commission's acceptance of any particular component of the NYISO's subsequent comprehensive compliance filing. Rather, the proposed revisions will enable the NYISO to timely transition to any new interconnection process. If, for example, the NYISO were to use the new interconnection procedures adopted in Order No. 2023 in their entirety without any regional variations, the transition rules proposed in this compliance filing would still be necessary to address the transition from individual, stand-alone feasibility and system impacts studies that do not exist in the new procedures adopted by Order No. 2023 and are not prerequisites for moving forward in the new Order No. 2023 process. In particular, Order No. 2023 provides that any developer that has been tendered a facilities study agreement after the filing may opt to proceed to a serial facilities study. Order No. 2023 at P 865. However, under the NYISO's existing tariff rules, the NYISO has not yet tendered a Class Year Study Agreement to any developer not already participating in Class Year 2023, so this transition rule is not applicable to any Developer in the NYISO's interconnection queue. Order No. 2023 also provides that any developer with an assigned queue position may opt to proceed to a transitional cluster study. Order No. 2023 at P 865. This transition rule would also require addressing the ongoing stand-alone, individual feasibility and system impact studies that are being performed at Developer's expense, but are not required under Order No. 2023 to transition these projects to a transitional cluster study.

Feasibility Studies, SRISs, and/or Optional SRISs that are not required to advance their projects or be subject to withdrawal from the NYISO's interconnection queue.²²

In particular, a Developer with a validated Interconnection Request is required by the NYISO OATT to indicate to the NYISO within five (5) Business Days after its Scoping Meeting that it intends to proceed with either an Optional Interconnection Feasibility Study or an SRIS.²³ If the Developer has completed an Optional Interconnection Feasibility Study, the Developer must then within five (5) Business Days after the delivery of the final report for that study indicate to the NYISO that it intends to proceed to an SRIS.²⁴ If a Developer does not timely satisfy the requirements established in the LFIP for the commencement or the performance of an Optional Interconnection Feasibility Study or SRIS, its project is subject to being withdrawn from the NYISO's interconnection queue.²⁵

Developers, therefore, would be required to proceed with, and the NYISO and New York Transmission Owners would be required to perform, Interconnection Studies that will not fold into a new Class Year Study under the NYISO's existing rules and will not be a component of, or required for, the new cluster study process under development.

As of October 23, 2023, there are 42 projects that are currently undertaking an Optional Interconnection Feasibility Study and approximately 31 additional projects that could potentially satisfy the existing tariff requirements to commence this study within the next 3 months absent the transition rules. The actual costs and timeframe for performing an Optional Interconnection Feasibility Study varies based on the specific circumstances of each project, but the average study costs are \$53,000 and the average timeframe is 5 months (with detailed studies averaging 8 months and limited studies 2 months).

In addition, there are 169 projects that are currently undertaking an SRIS or Optional SRIS and approximately 129 additional projects that could potentially satisfy the existing tariff requirements to commence an SRIS within the next 3 months absent the transition rules. The actual costs and timeframe for performing an SRIS varies based on the specific circumstances of each project, but the average study costs are \$106,000 and the average timeframe is 10 months.

²² While certain of these Interconnection Studies are optional studies, a Developer that elected to proceed with an optional study under the NYISO's existing interconnection procedures may determine that it no longer wants to proceed at its expense to complete the study given the anticipated changes to the NYISO's interconnection procedures. For example, a Developer that has already received a completed study scope or commenced an Optional Interconnection Feasibility Study may determine for its own business or information purposes that it is better to wait to use the NYISO's pre-application process currently under development or to perform its own analysis closer in time to the starting date for the new process rather than completing at its expense an unnecessary feasibility study.

²³ NYISO OATT Attach. X Sections 30.3.3.4, 30.6.1, and 30.7.1.

²⁴ NYISO OATT Attach. X Section 30.7.1.

²⁵ NYISO OATT Section 30.3.6.

B. Proposed Interim Transition Tariff Revisions

The NYISO proposes to establish a new Section 30.5.3 of Attachment X for interim transition procedures for the Optional Interconnection Feasibility Study, SRIS, and Optional SRIS. These transition rules will apply until the NYISO's revised interconnection procedures in compliance with Order No. 2023 are in effect.²⁶ The transition rules will apply as follows.

First, for those projects that prior to December 1, 2023, have satisfied the scoping requirements to enter an Optional Interconnection Feasibility Study at a detailed or limited analysis level, an SRIS, or an Optional SRIS or have already commenced such study,²⁷ the Developer will have the option of electing for the NYISO to commence or complete the study.²⁸ This will enable Developers that have already commenced such studies or are in position to finalize the study scope in the near term to continue with the study if they determine that there is value in completing the study, at their expense, for their own informational or business purposes.

Second, for those projects that do not satisfy the scoping requirements for these studies prior to December 1, 2023, including new projects that enter the NYISO's interconnection queue at any time until the new interconnection procedures are in effect, the Developer has the option to elect for the NYISO to perform an Optional Interconnection Feasibility Study at the limited analysis level.²⁹ This limited study option will provide Developers with an opportunity to obtain, at their expense, information concerning their proposed interconnections, while minimizing the time and resources that must be committed to performing Interconnection Studies during the transition.³⁰ As described above, limited studies takes on average approximately 2 months to perform.³¹

Third, Developers of existing or new projects will also have the option of electing to terminate or not to commence an Optional Interconnection Feasibility Study, SRIS, or Optional SRIS for which they are eligible.³² A Developer that has commenced a study will not be subject to any financial penalty for terminating the study early, but will remain responsible for the actual

²⁶ The NYISO is also proposing conforming revisions in OATT Sections 30.3, 30.6, 30.7, and 30.10 to establish that these transition rules supersede the existing study procedures and timeframes.

²⁷ Per Section 30.6.2, an Optional Interconnection Feasibility Study may commence after the NYISO has provided Developer and Connecting Transmission Owner with the final scope of a detailed or limited study and the Connecting Transmission Owner has indicated its agreement with scope by signing and returning it to the NYISO, which agreement may not be unreasonably withheld. Per Section 30.7.1, an SRIS and Optional SRIS require ISO Operating Committee approval of the study scope.

²⁸ Proposed NYISO OATT Sections 30.5.3.1.1, 30.5.3.2.1.

²⁹ Proposed NYISO OATT Sections 30.5.3.3.1, 30.5.3.4.1.

³⁰ The NYISO is also developing a pre-application process as part of its new interconnection procedures that will provide Developers with an additional opportunity to obtain information concerning their proposed interconnection prior to applying for the new cluster study process. Developers may determine to bypass a limited Optional Interconnection Feasibility Study and to instead make use of this pre-application process. *See* footnote 6 above.

³¹ In comparison, as described above, detailed Optional Interconnection Feasibility Study takes on average 8 months.

³² Proposed NYISO OATT Sections 30.5.3.1.1, 30.5.3.2.1, 30.5.3.3.1, 30.5.3.4.1.

costs incurred for the study prior to the termination of the study. The NYISO will draw on the Developer's study deposit for the applicable study for these costs, will invoice the Developer for any excess amount not covered by the study deposit, and will refund to the Developer any portion of the study deposit (and any interest actually earned on the deposit) or any study payments that exceed the costs the NYISO incurred in performing the study work.³³

Finally, if the Developer elects to terminate or not to commence a study, it has the option of either electing for its project to remain in the NYISO's interconnection queue pending the adoption of the revised interconnection procedures or withdrawing its Interconnection Request.³⁴ Regardless of whether the Developer elects to remain in the interconnection queue or withdraws prior to the effective date of the new process, the Developer will have the opportunity to submit an application in mid-2024 under the new process for its project to satisfy the new process rules and enter into the first clustered study currently anticipated for late 2024. These requirements, including additional transition rules, will be set forth in the NYISO's future, comprehensive compliance filing.

Developers will be required to inform the NYISO of their elections described above by December 8, 2023, with the following exception.³⁵ Developers of new projects or projects that have not completed their study election period under the current tariff rules will instead have 5 Business Days after the completion of the Scoping Meeting or the completion of an Optional Interconnection Feasibility Study, as applicable, to make their elections.³⁶ This timeframe aligns with the current tariff timeframe for making an election to move to a study. If a Developer fails to make an election within the prescribed timeframes, the default election will be the termination of any study and the retention of the project in the NYISO's interconnection queue pending the adoption of the new rules.³⁷ This ensures that projects will not be inadvertently withdrawn from the NYISO's queue under the interim rules.

The proposed transition mechanism also makes clear that, notwithstanding a Developer's election under this interim mechanism, its Large Facility that remains in the queue will be subject to the new requirements of the revised interconnection procedures, including any transition rules included with those procedures, that are accepted by the Commission in compliance with Order No. 2023. The Developer will have to satisfy such new requirements if it wants its project to proceed under the new procedures.³⁸

³³ Proposed NYISO OATT Section 30.5.3.5.1.

³⁴ Proposed NYISO OATT Sections 30.5.3.1.1, 30.5.3.2.1, 30.5.3.3.1, 30.5.3.4.1.

³⁵ Proposed NYISO OATT Sections 30.5.3.1.2, 30.5.3.2.2, 30.5.3.3.2.

³⁶ Proposed NYISO OATT Section 30.5.3.4.1.

³⁷ Proposed NYISO OATT Sections 30.5.3.1.2, 30.5.3.2.2, 30.5.3.3.2, 30.5.3.4.1. Developers always have the option to withdraw their projects from the NYISO's interconnection queue at any time.

³⁸ Proposed NYISO OATT Section 30.5.3.6.

C. Adoption of Interim Transition Requirements as an Independent Entity Variation

The NYISO requests that the Commission adopt these interim transition rules as an independent entity variation from Order No. 2023's requirements to address the transition of the particular study requirements in New York, which differ from the Commission's *pro forma* study requirements. These proposed interim rules are necessary to expedite the efficient transition to the new study process by timely addressing existing Interconnection Studies and study work that will not be relevant in the new cluster study process that will be proposed in the NYISO's future comprehensive compliance filing.

The interim rules will not harm existing or new Developers. Under the NYISO's existing interconnection procedures, the earliest that projects that are not currently participating in Class Year 2023 could proceed to a final Class Year Study is in late 2024 following the completion of Class Year 2023. Under the NYISO's new procedures, the Developer of any existing or new project will have the opportunity, regardless of whether they have completed an Optional Interconnection Feasibility Study or SRIS under current rules, to satisfy the new cluster study entry requirements and enter into the study. The NYISO intends to open an application window for its new process in mid-2024 for purposes of completing the application window and customer engagement window requirements in time to commence the new transition cluster study shortly after the completion of Class Year 2023 in late 2024.

These interim rules establish the first step in the necessary transition to the new process. The rules will then be superseded by the transition requirements that will be included in the comprehensive compliance filing concerning the treatment of Developers in the NYISO's interconnection queue when the new interconnection procedures come into effect. Until the detailed transition rules are in place, the interim requirements will provide needed clarity and transparency to Developers concerning the applicability of existing study tariff requirements during the transition to a new process. Without such requirements, Developers will be required to perform, at their expense, Optional Interconnection Feasibility Studies and/or SRIS, which studies will no longer be on the path towards advancing in the interconnection process, or be subject to withdrawal. Moreover, as described above, these studies can be lengthy, expensive, and resource intensive. Commencing unnecessary, detailed Optional Interconnection Feasibility Studies or SRISs would not be a reasonable use of limited resources. Further, if such studies continue to be commenced in significant numbers, they may not be completed prior to the implementation of the new study process. This will create uncertainty for Developers seeking to transition to the new process.

Accordingly, establishing an end date for such studies will minimize the expense, time, and resources that the NYISO, New York Transmission Owners, and Developers must commit for study work that is not required under the new process and enable these entities to concentrate their limited resources instead on the development of, transition to, and implementation of the new interconnection process. The NYISO's Order No. 2023-compliant interconnection process will represent the most substantial redesign of its interconnection procedures in twenty years. To effectuate the transition to this new process that is intended to commence in early to mid-2024,

the NYISO will need to take extensive steps to finalize and implement the procedures for a substantially new process, including managing the transition of a substantial number of projects in its current queue into the new process. The NYISO must perform this work concurrent with finalizing the ongoing Class Year 2023 with its 84 projects. Class Year 2023 must be completed prior to the NYISO's commencement of the new transition cluster study, as its results will form the baseline for the subsequent transition cluster study.

III. Requested Effective Date

The NYISO respectfully requests that the Commission issue an order accepting this filing no later than November 30, 2023, and accept this partial compliance filing with an effective date of November 30, 2023. This effective date is required to provide certainty to the NYISO, Developers, and New York Transmission Owners concerning the tariff requirements applicable to existing Interconnection Studies during the transition to a new interconnection process. This timeframe will minimize the need in the upcoming months for the performance of Interconnection Studies that will no longer be required under the NYISO's future Order No. 2023-compliant process. As indicated above, the NYISO has provided stakeholders and Developers with notice concerning these requirements and deadlines, so that they are aware of these requirements and are prepared to make determinations concerning their project by the tariff-prescribed deadlines.

IV. Conditional Prospective Waiver Request

As described above, the NYISO intends to begin implementing the interim transition mechanism on November 30, 2023, subject to any determination or modification by the Commission, to enable the NYISO to quickly transition to new interconnection procedures commencing in early to mid-2024. If the Commission is unable to act prior to November 30, 2023, the NYISO respectfully requests that the Commission grant the NYISO on a prospective basis a limited waiver for the period prior to the issuance of its order – to the extent the Commission determines it is necessary – of the requirements in the LFIP concerning the performance of feasibility and system impact studies. In particular, the NYISO requests a waiver of the requirements in Articles 30.3, 30.6, 30.7, and 30.10 of the NYISO OATT that require the Developer to elect within a prescribed period of time, and the NYISO to perform, feasibility and system impact studies or to withdraw the Developer's project.

The requested waiver is consistent with Commission precedent, which traditionally requires a demonstration that: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.³⁹ The NYISO respectfully submits that the circumstances here are fully consistent with these criteria.

³⁹ See, e.g., *Citizens Sycamore-Pensquitos Transmission LLC*, 169 FERC ¶ 61,263 at P 14 (2019).

The NYISO is acting in good faith to commence the transition to new interconnection procedures that are compliant with Order No. 2023 as soon as reasonably possible to address the influx of substantial generation projects in its interconnection queue. The requested waiver is of limited scope as it solely concerns the application of interim transition period until the NYISO has filed for the Commission's acceptance more detailed transition rules with the new interconnection procedures. The waiver addresses a concrete problem of the NYISO having to take action on an expeditious timeframe to avoid imposing unnecessary costs on Developers and to expedite the transition to new Order No. 2023-compliant procedures. Finally, the waiver will not have undesirable consequences, such as harming third parties. As described above, the NYISO has addressed these transition reforms with stakeholders and Developers, so they are on notice concerning the new requirements and deadlines. In addition, Developers will have over 30 calendar days following this filing to make their determination for how they would like their projects to proceed under these transition rules. As described above, this timeframe is consistent with the transition requirements adopted in Order No. 2023, which establish transition options based on a project's status in the queue 30 calendar days after a Transmission Provider's compliance filings.⁴⁰ Finally, the transition rules ensure that Developers are not required to incur unneeded costs or perform studies that they may determine do not provide them with value during the conversion to the new interconnection process.

V. Communications and Correspondence

All communications and service in this proceeding should be directed to:

For the NYISO⁴¹

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⁴⁰ See Order No. 2023 at P 865.

⁴¹ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2022) to permit service on counsel in both Washington, D.C. and Richmond, VA.

*Designated to receive service.

VI. Documents Submitted

The NYISO submits the following documents with this filing letter:

1. A clean version of the proposed revisions to the OATT (“Attachment I”); and
2. A blacklined version of the proposed revisions to the OATT (“Attachment II”).

VII. Service

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

VIII. Conclusion

Wherefore, the New York Independent System Operator, Inc., respectfully requests that the Commission issue an order accepting this compliance filing no later than November 30, 2023 with an effective date of November 30, 2023.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan
Angela J. Sicker

*Counsel for New York Independent System
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/s/ Michael J. Messonnier, Jr.

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cc:	Janel Burdick	Jignasa Gadani	Kurt Longo
	Emily Chen	Jette Gebhart	David Morenoff
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