New York ISO
Independent System Operator

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May 1, 2024

By Electronic Delivery

Honorable Debbie-Anne A. Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: New York Independent System Operator, Inc.'s Compliance Filing for Order No. 2023 and Order No. 2023-A; Conditional Request for Prospective Waivers; Docket No. ER24-___-000

Dear Ms. Reese:

The New York Independent System Operator, Inc. ("NYISO") respectfully submits this filing in compliance with the Federal Energy Regulatory Commission's ("Commission") Order No. 2023, *Final Rule on Improvements to Generator Interconnection Procedures and Agreements* issued on July 28, 2023,[1] its *Order on Motions and Addressing Limited Arguments Raised on Rehearing and Setting Aside Prior Order, in Part* issued on October 25, 2023,[2] and its Order No. 2023-A, *Order on Rehearing and Clarification* issued on March 21, 2024 (collectively, "Order No. 2023").[3] The NYISO strongly supports the goals set forth in Order No. 2023 to ensure that Interconnection Customers "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.[4] The NYISO's proposed interconnection reforms detailed in this compliance filing are directed at facilitating the achievement of these goals while also addressing New York-specific system conditions and circumstances.

In Order No. 2023, the Commission adopted revisions to its *pro forma* interconnection procedures and agreements to address its determination that its existing rules were insufficient to address the unprecedented wave of new interconnecting generation that is expected to continue for the foreseeable future. While the NYISO's procedures and agreements have substantially evolved from the Commission's *pro forma* interconnection requirements over the past two decades, the NYISO agrees that certain reforms to its interconnection process are required to achieve the NYISO's and Commission's shared goals.

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

[2] *Improvements to Generator Interconnection Procedures and Agreements*, Order on Motions and Addressing Limited Arguments Raised on Rehearing and Setting Aside Prior Order, in Part, 185 FERC ¶ 61,063 (2023) ("Extension Order").

[3] *Improvements to Generator Interconnection Procedures and Agreements, Order on Rehearing and Clarification*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024) ("Order No. 2023-A").

[4] *See* Order No. 2023 at PP 1, 48; Order No. 2023-A at P 10.

The NYISO has continuously sought to improve its interconnection process, implementing numerous reforms that have led to increased efficiency. Most recently, the NYISO commenced a comprehensive interconnection queue reform initiative in January 2023 to address the impacts of the substantial increase in generation seeking to interconnect in New York.[5] The NYISO was already developing extensive improvements with its stakeholders when the Commission issued Order No. 2023.[6] The NYISO, working with the New York Transmission Owners,[7] existing and prospective Interconnection Customers, and other stakeholders, refocused the proposed reforms to address the Order No. 2023 directives within the NYISO's existing interconnection framework that was designed to account for New York-specific needs. The resulting reforms submitted in this filing – the NYISO's new "Standard Interconnection Procedures" – represent the most substantial enhancements to the NYISO's interconnection process in two decades.

The NYISO proposes in this compliance filing revisions to its Open Access Transmission Tariff ("OATT") and Market Administration and Control Area Services Tariff ("Services Tariff") to implement the new Standard Interconnection Procedures. The proposed tariff revisions adopt key elements of Order No. 2023, while employing independent entity variations to maximize the benefits of the reforms within the NYISO's unique "first ready, first served" clustered interconnection study process. These independent entity variations enable the NYISO to retain well-functioning elements of its existing study process that were previously accepted by the Commission and to adopt or otherwise address the Order No. 2023 directives in light of the NYISO's distinct interconnection procedures, market structure and planning framework, and other New York-specific considerations. The NYISO believes that adopting the proposed Standard Interconnection Procedures will result in a more timely interconnection process and provide Interconnection Customers with more information to make informed decisions, than simply applying the latest *pro forma* interconnection rules to New York.

Among other key reforms, the NYISO proposes herein to revise its existing process to:

- shorten the timeframe for the NYISO's interconnection process in line with the timeframe established in Order No. 2023 by establishing a two-phase Cluster Study Process that incorporates the NYISO's longstanding "first-ready, first-served" clustered

[5] *See 2023 Interconnection Queue Reform* Presentation, NYISO Transmission Planning Advisory Subcommittee (Jan. 19, 2023), https://www.nyiso.com/documents/20142/35685644/08_Queue%20Reform%20TPAS%20Slides_FINAL_.pdf/5359d2e0-6d0d-5447-5d44-3b198ddef519.

[6] *See 2023 Interconnection Queue Reform* Presentation, NYISO Transmission Planning Advisory Subcommittee (June 29, 2023), https://www.nyiso.com/documents/20142/38501805/Queue%20Reform_Slides_20230626%20_FINAL.pdf/59f2d970-f5ae-ddaf-ae48-a38fc4ed02cd.

[7] The New York Transmission Owners include: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, the Power Authority of the State of New York, and Long Island Lighting Company d/b/a Long Island Power Authority.

Class Year Interconnection Facilities Study ("Class Year Study") into the Commission's new framework and eliminates the stand-alone feasibility and system impact studies;[8]

- establish a pre-application process and a heatmap to provide Interconnection Customers with the opportunity to obtain additional information prior to the submission of their Interconnection Requests;
- provide physical infeasibility screening early in the Cluster Study Process to identify physically infeasible interconnections and permit penalty free withdrawals due to physical infeasibility;
- establish enhanced submission requirements, including more stringent study deposit, technical data and site control requirements, and strict deadlines to cure deficiencies;
- establish several decision periods within the Cluster Study Process with commercial readiness deposits and withdrawal penalties, along with a mechanism for distributing any collected withdrawal penalty funds;
- establish rules to limit project modifications during the Cluster Study Process and to provide additional mechanisms for requesting extensions to a project's commercial operation date;
- establish a penalty framework for missed deadlines in the performance of the Cluster Study or an Affected System Study;
- retain or otherwise incorporate into the Cluster Study Process technological advancement requirements identified in Order No. 2023 related to co-located resources, generator additions, alternative transmission technologies, and modeling and ride-through requirements for non-synchronous generating resources;
- revise the scope of operating procedures used to mitigate reliability impacts under the NYISO Minimum Interconnection Standard so that upgrades are less likely to be required for resources such as energy storage resources;
- address requirements for affected systems located in the New York Control Area and neighboring systems;
- align the treatment of generating facilities 20 MW or smaller with the Cluster Study Process, incorporating all generation facilities into a single, standardized process;
- establish a Transition Cluster Study Process available to all Interconnection Customers that satisfy the process entry requirements to enable Interconnection Customers to immediately make use of the new study process without prerequisite studies;[9]

[8] Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in Section 40.1 of the proposed Attachment HH to the NYISO OATT and, if not defined therein, in the NYISO OATT and NYISO Services Tariff.

[9] On November 3, the NYISO submitted a limited compliance filing and requested prospective waivers to institute interim transition procedures for certain ongoing and pending interconnection studies that are not a component of the proposed revised interconnection procedures. On January 25, 2024, the Commission issued an

- provide for additional *pro forma* forms and agreements to expedite the interconnection process, the negotiation of required agreements, and the construction of required upgrades; and
- consolidate the interconnection procedures and agreements currently spread across multiple tariff attachments into a single new OATT Attachment HH.

These compliance reforms will collectively drive substantial efficiencies and improvements in the NYISO's interconnection process and are directly targeted at enabling the increasing number of projects seeking to interconnect in New York to do so in a reliable, efficient, transparent, and timely manner. In addition to complying with the Commission's directives, the NYISO's proposed reforms will assist New York State in satisfying its ambitious climate goals.[10]

In Part III of this letter, the NYISO provides a high-level overview of its proposed Cluster Study Process. In Parts VII through XIII, the NYISO then describes in greater detail its proposed tariff modifications and their compliance with Order No. 2023, including describing the justifications for the NYISO's requested independent entity variations. In addition, Attachment I includes a matrix detailing the incorporation of the NYISO's existing interconnection procedures into the consolidated Attachment HH of its OATT. Attachment II includes a separate matrix detailing the NYISO's proposed variations from the Commission's revisions in Order No. 2023 to its *pro forma* interconnection procedures and agreements.

All of the proposed tariff revisions included in this compliance filing are either expressly required under Order No. 2023, are necessary to implement or clarify the NYISO's existing tariff language to accommodate the Commission's directives,[11] or are non-substantive organizational or clarifying adjustments of the kind that the Commission has previously permitted in compliance filings. The proposed revisions build upon the NYISO's interconnection procedures, with significant independent entity variations previously accepted by the Commission. They are carefully designed to be compatible with the NYISO's existing planning and market rules and processes. The NYISO respectfully submits that its proposed tariff revisions either directly comply with the directives of Order No. 2023 or are justified independent entity variations. The revisions are fully supported, are just and reasonable, are not unduly discriminatory, and should be accepted without modification or condition.

The NYISO requests that the tariff revisions in this compliance filing become effective on May 2, 2024. As detailed in Part VI below, the requested effective date will enable the NYISO to immediately transition to its new interconnection procedures in parallel with the completion of its final Class Year Study for Class Year 2023. The NYISO intends to commence

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order granting the requesting waiver, while making no fundings on the merits of the partial compliance filing. *New York Independent System Operator, Inc.*, 186 FERC ¶ 61,065 (2024).

[10] New York's Climate Leadership and Community Protection Act, signed into law on July 18, 2019, is among the most stringent climate laws in the nation, requiring New York to reduce economy-wide greenhouse gas emissions 40 percent by 2030 and no less than 85 percent by 2050 from 1990 levels. 2019 N.Y. Laws, ch. 106.

[11] *See, e.g.*, *N.Y. Indep. Sys. Operator, Inc.*, 125 FERC ¶ 61,206, at P 41 (2008) (accepting revisions in a compliance filing that were not expressly directed by the Commission but that were necessary to the implementation of required tariff revisions).

implementing the Standard Interconnection Procedures beginning on May 2, 2024, subject to any determination or modification by the Commission. The NYISO must implement the new interconnection procedures expeditiously to enable it, the New York Transmission Owners, and Interconnection Customers to transition to and commence pre-application work beginning on May 2, 2024, and to open the Application Window for the NYISO's Transition Cluster Study Process on August 1, 2024.

This urgency is consistent with the Commission's determinations in Order No. 2023 that transmission providers should move quickly into their transition processes.[12] The NYISO has provided stakeholders with substantial notice concerning the transition to and the requirements of the new Standard Interconnection Procedures. Prospective Interconnection Customers have expressed considerable support for the pre-application process, which the NYISO intends to make available immediately upon the effective date to assist them in preparing Interconnection Requests for the Transition Cluster Study Process.

Finally, as described in Part XV, the NYISO respectfully petitions, in accordance with Commission Rule 207(a)(5),[13] that the Commission grant the NYISO prospective temporary waivers – to the extent the Commission determines necessary – of: (i) any of the existing requirements in the NYISO's Standard Large Facility Interconnection Procedures, Small Generator Interconnection Procedures, and new Standard Interconnection Procedures that might otherwise prevent the NYISO from performing and completing the Transition Cluster Study Process; and (ii) the NYISO's existing Small Generator Interconnection Procedures if the Commission were to determine that the revisions included in this filing that address Small Generating Facilities are beyond the scope of an Order No. 2023 compliance proceeding.

[12] *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); *id.* P 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.")

[13] 18 C.F.R. § 385.207(a)(5).

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I. Documents Submitted

The NYISO submits the following documents with this filing letter:

1. Table of Tariff Revisions for NYISO OATT Attachment HH (Attachment I);

2. Table of NYISO Proposed Variations from Order No. 2023 Revisions to Commission's Pro Forma Interconnection Procedures and Agreements (Attachment II);

3. An Affidavit of Thinh Nguyen (Attachment III);

4. An Affidavit of Cheryl L. Hussey (Attachment IV);

5. An Affidavit of Jon Sawyer (Attachment V);

6. A blacklined version of new NYISO OATT Attachment HH containing the proposed compliance modifications (Attachment VI);

7. A clean version of new NYISO OATT Attachment HH containing the proposed compliance modifications (Attachment VII);

8. A blacklined version of the remainder of the NYISO OATT sections containing the proposed compliance modifications (Attachment VIII);

9. A clean version of the remainder of the NYISO OATT sections containing the proposed compliance modifications (Attachment IX);

10. A blacklined version of the NYISO Services Tariff sections containing the proposed compliance modifications (Attachment X);

11. A clean version of the NYISO Services Tariff sections containing the proposed compliance modifications (Attachment XI); and

12. An informational version of NYISO OATT Attachment HH illustrating the modifications from the relocated provisions from Attachments S, X, and Z of the NYISO OATT (Attachment XII).

II. Background

A. NYISO's Current Interconnection Procedures

The NYISO's interconnection procedures establish the requirements for the Interconnection Customer[14] of a generating facility or certain transmission facilities to: (i)

[14] For purposes of this filing letter, the NYISO uses the term "Interconnection Customer" even when referring to the current interconnection procedures in Attachments X and S that refer to "Developer."

interconnect a new generating or transmission facility to the New York State Transmission System or Commission-jurisdictional Distribution System, (ii) materially increase the capacity of, or make a material modification to the operating characteristics of, an existing generating or transmission facility, or (iii) solely obtain Capacity Resource Interconnection Service, or an increase of this service, required for an existing generating or transmission facility to participate in the NYISO's Installed Capacity market.

Interconnection Customers' requests for interconnections or modifications are currently administered in accordance with the requirements set forth in: (i) the *Standard Large Facility Interconnection Procedures* ("LFIP") in Attachment X to the NYISO OATT, which establish the requirements for the interconnection or modification of Large Facilities greater than 20 MW,[15] (ii) the *Standard Small Generator Interconnection Procedures* ("SGIP") in Attachment Z to the NYISO OATT, which establish the related requirements for Small Generating Facilities 20 MW or smaller, and (iii) the *Rules to Allocate Responsibility for the Cost of New Interconnection Facilities* in Attachment S to the NYISO OATT, which establish the Class Year Study cost allocation rules applicable to Large Facilities and certain Small Generating Facilities.

i. Development of NYISO's Existing Interconnection Procedures

The NYISO first filed interconnection rules for its OATT in August 2001.[16] In compliance with the Commission's orders concerning NYISO start-up, the NYISO submitted a new Attachment S to the NYISO OATT to establish the rules to allocate the responsibility for the costs of the facilities required for generation projects and merchant transmission projects to interconnect reliably to the New York State Transmission System.[17] These requirements, as subsequently modified and enhanced, established the core of the NYISO's Class Year Study process, which is the cornerstone of the NYISO's interconnection framework.[18]

The NYISO's interconnection procedures were further developed with extensive stakeholder involvement in response to the Commission's Order Nos. 2003 and 2006. In Order No. 2003, the Commission acknowledged the differing characteristics of each region and provided independent system operators ("ISOs") and regional transmission organizations ("RTOs") with the flexibility to seek independent entity variations from the final rule "to customize its interconnection procedures and agreements to fit regional needs."[19] Accordingly, the NYISO's interconnection procedures include numerous and substantial independent entity variations accepted by the Commission that are specifically tailored to the distinct circumstances

[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 is addressed through the NYISO's separate Transmission Interconnection Procedures located in Attachment P to the NYISO OATT.

[16] *See N.Y. Indep. Sys. Operator, Inc.*, Filing of New Attachment S to Open Access Transmission Tariff to Implement Rules to Allocate Responsibility for the Cost of New Interconnection Facilities, and Request for Expedited Action, Docket No. ER01-2967-000 (Aug. 29, 2001).

[17] *See id.*

[18] *See, e.g.*, *N.Y. Indep. Sys. Operator, Inc.*, 97 FERC ¶ 61,118 (2001), *order on reh'g & clarification*, 100 FERC ¶ 61,103 (2002); *N.Y. Indep. Sys. Operator, Inc.*, 98 FERC ¶ 61,201 (2002).

[19] *See* Order No. 2003 at P 827.

in New York and the NYISO's wholesale market rules and planning processes. Most importantly, these variations include the NYISO's unique Class Year Process and the related requirements for identifying and allocating the costs of the interconnection facilities and upgrades required for the reliable interconnection of generation and transmission facilities in New York.

Since Order Nos. 2003 and 2006, the NYISO, with input from the New York Transmission Owners, existing and prospective Interconnection Customers, and other stakeholders, has continued to develop and implement significant revisions to its interconnection process to enhance the New York-specific interconnection requirements[20] and to address subsequent Commission updates to its *pro forma* interconnection procedures and agreements.[21]

ii. The NYISO's Current Interconnection Procedures

An Interconnection Customer that seeks to interconnect its Large Facility or Small Generating Facility to the New York State Transmission System or Distribution System must obtain Energy Resource Interconnection Service ("ERIS"). The interconnection studies in the LFIP and SGIP identify and allocate the costs of any Attachment Facilities, Distribution Upgrades, and System Upgrade Facilities required to reliably interconnect the Interconnection Customer's proposed project in accordance with the NYISO Minimum Interconnection Standard.

If an Interconnection Customer wants its facility to qualify as an Installed Capacity Supplier and to participate in the NYISO-administered Installed Capacity market, the Interconnection Customer must also obtain Capacity Resource Interconnection Service ("CRIS"). With limited exceptions, to obtain CRIS for a facility larger than 2 MW, the facility must be evaluated in a deliverability study – either a Class Year Deliverability Study in the Class Year Study or an Expedited Deliverability Study – to determine whether the project satisfies the NYISO Deliverability Interconnection Standard for its requested CRIS amount or requires a System Deliverability Upgrade.[22] The NYISO separately performs recurring Expedited

[20] *See, e.g.*, *N.Y. Indep. Sys. Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER20-638-000 (Jan. 31, 2020) (corrected via errata issued on Feb. 4, 2020); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER18-80-000 (Dec. 7, 2017); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER14-627-000 (Jan. 23, 2014); *N.Y. Indep. Sys. Operator, Inc.*, 135 FERC ¶ 51,014 (2011); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER11-2842-001 (July 6, 2011); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER10-290-000 (Jan. 6, 2010).

[21] *See, e.g.*, *New York Indep. Sys. Operator, Inc.*, 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, *et al.* (2017); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, 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*, 108 FERC ¶ 61,159 (2004) (accepting compliance filings and directing certain changes).

[22] Under three scenarios, an Interconnection Customer may obtain CRIS without being evaluated for deliverability under the NYISO Deliverability Interconnection Standard: (1) an Interconnection Customer of a generating facility 2 MW or less may request up to 2 MW of CRIS; (2) an existing facility interconnected with CRIS

Deliverability Studies outside of the Class Year Study process through which a facility can obtain CRIS if the study determines the facility is deliverable without requiring a System Deliverability Upgrade.[23]

There is no application window in the NYISO's existing LFIP and SGIP within which an Interconnection Customer must submit an Interconnection Request. An Interconnection Customer may submit such a request and the related application fee and materials at any time. Following the NYISO's validation of the Interconnection Request, the NYISO holds a scoping meeting with the Interconnection Customer and Connecting Transmission Owner.[24] The LFIP and SGIP then establish three successive interconnection studies[25] by which the NYISO, in coordination with the applicable Connecting Transmission Owner and any Affected Transmission Owner or Affected System Operators,[26] analyze the proposed interconnection at increasing levels of detail. The Interconnection Customer must provide a study deposit for each of the studies.

The first study is, as applicable, the Optional Interconnection Feasibility Study or optional feasibility study, which is a high-level evaluation of the project's configuration and local system impacts.[27] The second study is, as applicable, the Interconnection System Reliability Impact Study ("SRIS") or system impact study, which is a detailed single-project study that evaluates the project's impact on transfer capability and system reliability.[28]

The final study for a Large Facility in the LFIP is the Class Year Study, which is further described below. A Small Generating Facility may be subject to either a facilities study under the SGIP requirements or a Class Year Study.[29] The Small Generating Facility will be subject to a SGIP facilities study to determine the cost estimate and allocate the costs of Local System Upgrade Facilities.[30] If a Small Generating Facility requires non-Local System Upgrade

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may, over the life of the facility, increase its CRIS by a total of 2 MW above its originally established CRIS value; and (3) an Interconnection Customer may request a CRIS transfer at the same electrical location. *See* OATT Attach. S §§ 25.3.1, 25.9.4 and OATT Attach. Z §§ 32.1.1.7 and 32.1.4.2.1.

[23] *See* NYISO OATT Attach. S §§ 25.5.9.2, 25.7.

[24] *See generally* OATT Attach. X § 30.3.4; OATT Attach. Z § 32.3.2.

[25] The SGIP also includes a Fast Track Process and a process for assessing 10kV inverter generating facilities, which are applicable to those projects that satisfy the applicable screens. *See generally* OATT Attach. Z at 32.2.

[26] 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.

[27] *See generally* OATT Attach. X § 30.6; OATT Attach. Z § 32.3.3.

[28] *See generally* OATT Attach. X § 30.7; OATT Attach. Z § 32.3.4.

[29] *See generally* OATT Attach. Z § 32.2.5.

[30] Local System Upgrade Facilities are defined in the NYISO OATT as "the System Upgrade Facilities necessary to physically interconnect a proposed Project to the Connecting Transmission Owner's transmission system, consistent with applicable interconnection and system protection design standards." NYISO OATT §§ 25.1.1, 30.1, 32.5. Local System Upgrade Facilities include any electrical facilities required to make the physical connection (*e.g.*, a new ring bus for a line connection or facilities required to create a new bay for a substation

Facilities or requests to be evaluated in a Class Year Study for CRIS, such project instead proceeds to a Class Year Study in place of the facilities study.

iii. The NYISO's "First Ready, First Served" Process

The NYISO's interconnection queue approach differs significantly from the "hard" or "serial" interconnection queue approach used in many other regions. The NYISO's process operates on a "first ready, first served" basis. Once an Interconnection Customer has submitted a valid Interconnection Request for its project that is included in the interconnection queue, the Interconnection Customer's advancement through the NYISO's interconnection process, including the identification of required facilities and related costs to reliably interconnect its project, is driven largely by its own project development and not the progress, or lack thereof, of other projects with higher Queue Positions (*i.e.*, Interconnection Requests that preceded the project).[31]

The NYISO does not include proposed projects in the base case of its interconnection studies simply because the project has a higher Queue Position than the studied project. Rather, a project is only included in the base case when it has satisfied certain requirements, including its Interconnection Customer's acceptance of the cost of, and provision of security for, any upgrades identified in the Class Year Study or SGIP facilities study to interconnect its project.[32] For this reason, when studying an Interconnection Customer's proposed project, the NYISO does not model in its base case other projects that are not progressing in their development simply because they have a higher Queue Position. Therefore, unlike other regions, the NYISO does not require a process to continuously re-study the facilities, and related costs, required to interconnect a project if other projects with higher Queue Positions withdraw or fail to progress.

iv. The NYISO's Unique Class Year Study Process

The NYISO's Class Year Study process evaluates the cumulative impact of a group of projects – a "Class Year" of projects – and includes both system impact and facility study analyses. The Class Year includes all Large Facilities and those Small Generating Facilities with Non-Local System Upgrade Facilities or requesting CRIS. The Class Year Study procedures are primarily contained in Attachment S to the NYISO OATT.[33]

A Class Year is composed of projects that have met specified Class Year Study eligibility requirements by the time the study begins. Among these requirements, to enter a Class Year, a project must satisfy a regulatory milestone, which reflects siting requirements in New York for

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connection) and can also include any system protection or communication facilities that may be required for protection of the Connecting Transmission Owner's transmission facility (line or substation) involved in the interconnection.

[31] *See generally* NYISO OATT §§ 30.3-30.8, 32.1-32.4. While the NYISO takes Queue Position into account in determining the order of performing interconnection studies, it is only one of the factors that impact the manner in which the NYISO performs its interconnection studies. To the extent practicable, the NYISO evaluates Interconnection Requests in parallel, not sequentially.

[32] *See* NYISO OATT §§ 22.6.1, 25.5.5.1, 30.2.3, 32.3.5.7.

[33] Additional procedures for the Class Year Study are set forth in Section 30.8 of Attachment X to the NYISO OATT.

different types of generation and transmission projects.[34] Alternatively, an Interconnection Customer may submit a qualifying contract or post a two-part deposit in lieu of the regulatory milestone to enter the Class Year Study.[35] In the latter case, the Interconnection Customer is still required to satisfy the regulatory milestone within six months of the NYISO tendering the draft interconnection agreement for the project.[36] If the Interconnection Customer does not satisfy the regulatory milestone, its project will be withdrawn from the queue.[37]

The Class Year Study is divided into two components – the Part 1 and Part 2 studies. The Part 1 study evaluates the local impacts of the proposed interconnection of an individual Class Year Project and identifies and determines the cost estimates for any Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities required to reliably interconnect the facility. The Part 2 study assesses the systemwide impacts of the Class Year Projects and allocates the costs among such projects of the System Upgrade Facilities required to reliably interconnect the projects. The Part 2 study also identifies and allocates the cost of any System Deliverability Upgrades required for projects requesting CRIS.

For purposes of identifying and allocating the costs of required interconnection facilities and upgrades, the NYISO first creates an Existing System Representation, which establishes the baseline for the Class Year Study incorporating existing generation and transmission facilities and those pending projects determined to be firm in accordance with tariff-prescribed inclusion rules.[38] To be in the baseline, pending generation and transmission projects evaluated in the LFIP and SGIP must have accepted the allocated costs for their required upgrades and have posted security for such upgrades to the applicable Transmission Owner.[39]

Using this baseline, the NYISO performs two assessments – an Annual Transmission Baseline Assessment ("ATBA") and an Annual Transmission Reliability Assessment ("ATRA"). The ATBA first assesses the updated transmission system prior to the inclusion of the Class Year Projects to identify and cost allocate any upgrades required to reliably meet projected load growth and system changes.[40] The ATRA then assesses the system with the Class Year Projects included to identify any upgrades that are required due to the Class Year Projects and to allocate the costs among the projects.[41] The cost of any identified upgrades are allocated using a proportional impact method set forth in the OATT.[42]

The Class Year Study also includes a Class Year Deliverability Study, which is a deliverability evaluation for Class Year Projects that request CRIS that identifies and allocates

[34] *See* NYISO OATT Attach. S § 25.6.2.3.1.1.
[35] *See id.* § 25.5.9.1.
[36] *See id.* § 25.6.2.3.2.
[37] *See id.* § 25.6.2.3.3.
[38] *See id.* § 25.5.
[39] See *id.* § 25.5.5.1.
[40] *See id.* § 25.6.1.
[41] *See id.* § 25.6.2.
[42] *See id.*

the costs of any System Deliverability Upgrades required to make these projects deliverable.[43] This study uses the same proportional impact methodology for allocating the costs of any identified upgrades. If a new System Deliverability Upgrade is identified that was not previously studied by the NYISO and therefore requires more extensive evaluation, the NYISO commences in parallel with its Class Year Study an Additional SDU Study to evaluate and cost estimate the new upgrade.[44]

Interconnection Customers proceed to an iterative decision and settlement process at the completion of the Class Year Study during which they can accept or reject the cost allocations for System Upgrade Facilities and/or System Deliverability Upgrades.[45] If, during a decision round, one or more Interconnection Customers decline to accept the costs for any System Upgrade Facilities associated with their projects, the NYISO will, within tight, tariff-prescribed timeframes, remove their projects and update the upgrades and cost information for the remaining Interconnection Customers.[46] This iterative process is the NYISO's variation of re-studies. When all remaining Interconnection Customers accept their costs and provide the required security to the applicable Transmission Owners, the Class Year Study is final and not subject to re-studies.[47] The Interconnection Customer is only responsible for upgrade costs in excess of its secured amount under prescribed circumstances set forth in Attachment S of the OATT, but will have to forfeit its security if it withdraws its project and other Interconnection Customers are relying on the upgrades that it accepted.[48]

The NYISO also uses a "headroom" process as part of its Class Year Study that allocates shared network upgrade costs among Interconnection Customers in different Class Years. Under the NYISO's headroom requirements, if an Interconnection Customer pays for upgrades that create capacity on the electric system in excess of that needed for the Interconnection Customer's project, then the Interconnection Customer may be reimbursed by a subsequent Interconnection Customer for its use of the excess capacity of the upgrades.[49]

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[43] *See id.* § 25.7.

[44] *See id.* § 25.5.10.

[45] *See id.* § 25.8.2. An Additional SDU Study has its own iterative decision and settlement process that uses the same process steps. *Id.*

[46] *See id.* § 25.8.2.1. Interconnection Customers must obtain ERIS. However, they can elect not to accept their cost allocation for any System Deliverability Upgrades and proceed with their projects without CRIS. In such case, they can seek to obtain CRIS in a subsequent Class Year Study or Expedited Deliverability Study.

[47] The NYISO administers the same decision process for any Additional SDU Studies.

[48] *See id.* §§ 25.8.5, 25.8.6, 25.9.2.

[49] Such headroom can be created by an Interconnection Customer that elects to construct System Upgrade Facilities that are larger or more extensive than the minimum facilities required to reliably interconnect its proposed project ("Elective System Upgrade Facilities"). *See* NYISO OATT Attach. S §§ 25.6.1.4.1 & 25.7.12.7 (establishing similar headroom requirements for System Deliverability Upgrades). Headroom can also result simply from the fact that commercially available facilities may be somewhat larger than what is required for a particular project. If an Interconnection Customer of a later project uses the headroom created and paid for by the earlier Interconnection Customer, the later Interconnection Customer must pay the original Interconnection Customer for this headroom in accordance with specific headroom reimbursement rules. *See* NYISO OATT Attach. S §§ 25.8.7 & 25.7.12.6 (establishing similar Headroom requirements for System Deliverability Upgrades).

Following the completion of the Class Year Study or a SGIP facilities study, the NYISO will tender, as applicable, a draft Large Generator Interconnection Agreement or Small Generator Interconnection Agreement to the Interconnection Customer and Connecting Transmission Owner, which commences a six-month negotiation period.[50] In the event any upgrades are identified on Affected Systems with the New York Control Area, the NYISO will also tender a draft Engineering, Procurement, and Construction Agreement to the Interconnection Customer and the applicable Affected Transmission Owner or Affected System Operator, which agreement is developed using the NYISO's Large Generator Interconnection Agreement, as modified to address only the engineering, procurement, and construction elements.[51]

B. NYISO's Queue Reform Process and Order No. 2023

In January 2023, the NYISO commenced a comprehensive interconnection queue reform effort to revisit and substantially revise its interconnection procedures to address the unprecedented increase in the number of projects seeking to interconnect to the New York State Transmission System.[52] The reform effort sought improvements to the overall process, including decreasing study time, removing uncertainty, enhancing transparency, and improving communication with Interconnection Customers.[53] The NYISO and its stakeholders developed substantial changes to its existing interconnection procedures, which were reviewed at numerous stakeholder meetings throughout the spring and summer of 2023.[54] The NYISO proceeded to implement those improvements that did not require tariff revisions (*e.g.*, automating interconnection process steps through a customer interconnection portal, educating existing and prospective Interconnection Customers through customer focus groups, limiting the scope of evaluations performed in System Reliability Impact Studies).

On July 28, 2023, the Commission issued Order No. 2023 to amend its *pro forma* interconnection procedures and agreements to address interconnection queue backlogs, improve certainty, and prevent undue discrimination for new technologies. The Commission's goals set forth in Order No. 2023 aligned with the goals of the NYISO's interconnection queue reform effort. After the Commission's issuance of Order No. 2023, the NYISO returned to stakeholders with an updated reform proposal, revised to address the Commission's directives and goals set forth in Order No. 2023. Following the Commission subsequent issuance of Order No. 2023-A, the NYISO returned to stakeholders with further updates to its proposed tariff revisions to address the Commission's clarifications in its rehearing order.

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[50] *See generally* OATT Attach. X § 30.11; OATT Attach. Z § 32.4.8.

[51] *See, e.g.*, OATT Attach. S § 30.7.12.13; OATT Attach. X §§ 30.3.5, 30.12.1.

[52] *See, e.g.*, 2023 Interconnection Queue Reform Presentation, NYISO Transmission Planning Advisory Subcommittee (Jan. 19, 2023), https://www.nyiso.com/documents/20142/35685644/08_Queue%20Reform%20TPAS%20Slides_FINAL_.pdf/5359d2e0-6d0d-5447-5d44-3b198ddef519.

[53] *See id.*

[54] The NYISO subsequently presented on its queue reform initiative and posted and reviewed stakeholder comments at the February 14, March 2, April 3, April 19, May 5, June 5, and June 29, 2023 Transmission Planning Advisory Subcommittee meetings.

The NYISO held more than a dozen stakeholder meetings concerning its proposed reforms following the issuance of Order No. 2023.[55] The NYISO shared details of its compliance proposal and draft tariff revisions for stakeholder review and comment. The NYISO requested, received, and considered comments from all interested parties throughout the process. The NYISO made numerous changes to its proposed reforms in response to these comments. The open and transparent stakeholder process helped develop consensus on many issues and narrowed differences on others.[56] While the NYISO and interested parties in its stakeholder process have not reached full consensus on all aspects of the NYISO's proposed compliance approach and certain proposals have been challenged in the NYISO's stakeholder process, most of the NYISO's proposed process reforms are largely supported by the majority of stakeholders.

C. Compliance Filing of Interim Transition Procedures

On November 3, 2023, the NYISO filed a limited compliance filing to expedite the transition to its revised interconnection procedures by establishing interim procedures for certain ongoing or pending Optional Interconnection Feasibility Studies and Interconnection System Reliability Impact Studies under the NYISO's LFIP.[57] These interconnection studies will not be a component of the NYISO's new Standard Interconnection Procedures. The NYISO requested Commission action by November 30, 2023, and alternatively requested a prospective waiver to the applicable LFIP procedures. The NYISO also indicated its intent to begin implementing the transition rules on November 30, 2023, to assist in timely transiting to the new interconnection procedures. On January 25, 2024, the Commission issued an order granting the requested waiver.[58]

These interim transition procedures were implemented in concert with the development of the overall compliance plan and have resulted in significant efficiencies in the transition of existing interconnection studies. This has enabled the NYISO to minimize the expense, time, and resources that the NYISO, New York Transmission Owners, and Interconnection Customers 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.

III. Summary of New Standard Interconnection Procedures

The NYISO proposes to establish new Standard Interconnection Procedures that will apply to all "Facilities" – *i.e.,* all generating facilities and all transmission facilities seeking to

[55] The NYISO discussed the updated reforms with stakeholders at the August 1 and September 6, 2023 Transmission Planning Advisory Subcommittee meetings, the December 14, 2023 Operating Committee meeting, and the October 2, October 10, November 11, November 14, and December 1, 2023 and the January 11, February 6, February 16, March 1, March 15, and April 19, 2024, Interconnection Issues Task Force meetings.

[56] The primary areas of discussion concerned rules governing extensions of Commercial Operation Date, operating characteristic assumptions in evaluation of energy storage resources, and transition rules.

[57] *See N.Y. Indep. Sys. Operator, Inc.*, 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, ER24-342-000 (Nov. 3, 2023).

[58] *See N.Y. Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,065 (2024). The Commission indicated in its order that it was making no findings as to the merits of NYISO's partial compliance filing at that time. *Id.* P 11 & n.17.

obtain CRIS – for which an Interconnection Customer[59] seeks to: (i) interconnect a new generating or transmission facility to the New York State Transmission System or Commission-jurisdictional Distribution System, (ii) materially increase the capacity or, or make a material modification to the operating characteristics of, a facility, or (iii) solely obtain CRIS or an increase in CRIS for an existing facility.[60] The proposed procedures maintain the well-functioning elements of the NYISO's existing interconnection process previously accepted by the Commission, as modified or supplemented to address Order No. 2023's directives and goals. As described in Part V, the procedures will be located in a new Attachment HH, which consolidates the NYISO's existing interconnection procedures currently spread across its Attachments S, X, and Z of the OATT into a single location, as such procedures have been amended to comply with Order No. 2023.

The NYISO's proposed revised procedures will include the following key components.

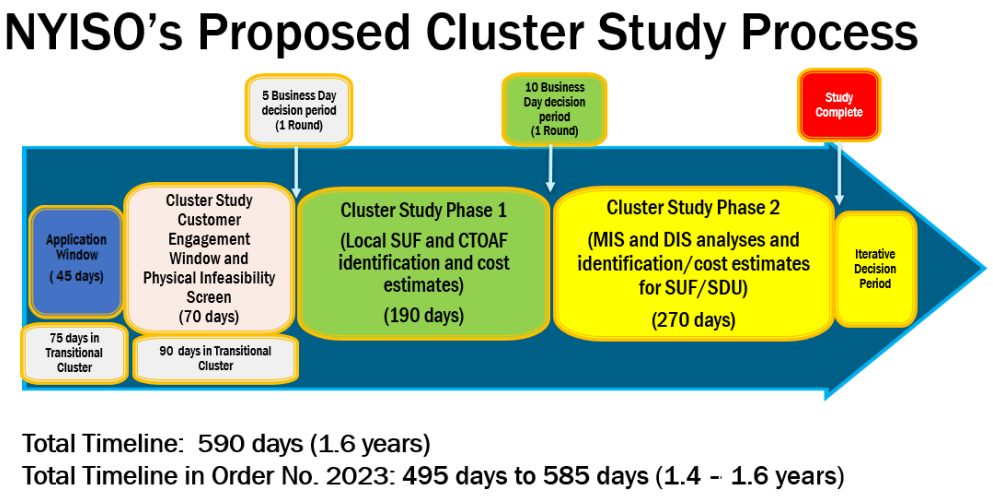
A. Cluster Study Process Overview

The core element of the Standard Interconnection Procedures is the Cluster Study Process, which is illustrated in Figure 1 and described in detail in Parts VII to XII of this filing letter. The NYISO proposes to use its longstanding "first ready, first served," clustered Class Year Study, as modified to include additional process improvements in line with the directives and goals of Order No. 2023. As described in Part VII.A.ii, the duration of the Cluster Study Process broadly aligns with the overall interconnection process timeframe adopted by the Commission in Order No. 2023. This timeframe represents a significant reduction in the NYISO's overall interconnection process from its existing procedures.

[59] The NYISO's current tariff uses the term "Developer" in Attachments X and S and "Interconnection Customer" in Attachment Z to refer to a project's developer. The NYISO proposes to use the term "Interconnection Customer" in the Standard Interconnection Procedures.

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

Figure 1



The proposed Cluster Study Process will operate as follows:

The NYISO will kick off each study process by opening the Application Window for that study cycle. To enter the study, an Interconnection Customer must submit during the 45 day Application Window an Interconnection Request or CRIS-Only Request and, as applicable, an Application Fee of $10,000 (or $5,000 for a CRIS-Only Request), a Study Deposit determined based on the size of the Facility, a demonstration of Site Control, and all other required application materials. If the Interconnection Customer submits a valid Interconnection Request or CRIS-Only Request or timely cures any deficiencies, the Interconnection Request or CRIS-Only Request will be a Cluster Study Project included in the Cluster for that study process.

The NYISO will then commence a 70 day Customer Engagement Window. Within 10 business days of the start of the Customer Engagement Window, the NYISO will publish the list of all of the Cluster Study Projects participating in that process. Within 5 business days of the NYISO's publication of this list, an Interconnection Customer will have the opportunity to modify its Point of Interconnection of its project and may also withdraw its project up to this point without penalty. The applicable Transmission Owner will then conduct a physical infeasibility screening to identify whether any of the proposed interconnections are physically infeasible and unable to proceed, in which case the projects will be withdrawn without penalty. Finally, the NYISO shall conduct a group scoping meeting for the Cluster Study Projects.

Interconnection Customers will then have a 5 business day period – the Phase 1 Entry Decision Period – to elect whether their Cluster Study Projects will proceed to the Phase 1 Study. To move forward, the Interconnection Customer must post the Readiness Deposit 1, which is calculated as $4,000 per MW for the project. If the Interconnection Customer instead elects to withdraw during this stage, it will be subject to a withdrawal penalty equal to 25% of its Study Deposit with limited exceptions.

The NYISO will then commence the 190 day Phase 1 Study process. For purposes of the Phase 1 Study and Phase 2 Study, the NYISO will finalize the Existing System Representation and the required base cases. The Connecting Transmission Owners and Affected Transmission Owners will then perform the Phase 1 Studies for the Cluster Study Projects to identify the Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities required to reliably interconnect the project in accordance with Applicable Reliability Requirements, to the extent such upgrades are not physically infeasible, and to provide cost estimates for and a preliminary schedule to construct the facilities. The Phase 1 Study will conclude with the NYISO's Operating Committee's approval of a summary of the Phase 1 Study cost estimates.

Interconnection Customers will then have a 10 business day period – the Phase 2 Entry Decision Period –to elect whether their Cluster Study Projects will proceed to the Phase 2 Study. To move forward, the Interconnection Customer must post the Readiness Deposit 2, which replaces the Readiness Deposit 1 and is calculated as the greater of the Readiness Deposit 1 amount and 20% of the cost estimates determined in the Phase 1 Study for the project. If the Interconnection Customer instead elects to withdraw during this stage, it will be subject to a withdrawal penalty equal to 50% of its Study Deposit and 10% of its Readiness Deposit 1 with limited exceptions.

The NYISO will then commence the 270 day Phase 2 Study process. The NYISO will perform assessments to identify the System Upgrade Facilities and Distribution Upgrades required for the reliable interconnection of Cluster Study Projects. For Cluster Study Projects requesting CRIS, the NYISO will also conduct a Cluster Study Deliverability Study to identify any required System Deliverability Upgrades. If the NYISO identifies a System Deliverability Upgrade that was not previously studied, Interconnection Customers may elect for the upgrade to be assessed through a separate parallel Additional SDU Study. The Connecting Transmission Owner, Affected Transmission Owner, or Affected System Operator will determine the cost estimates for and a preliminary schedule to construct the facilities. They will also update, as needed, the identification of and cost estimates of the facilities identified in the Phase 1 Study. The NYISO will allocate upgrade costs among Cluster Study Process using a proportional impact method.

At the conclusion of the Phase 2 Study, the NYISO will present a summary of the Phase 2 Study to the NYISO's Operating Committee for approval of the Phase 2 Study cost estimates. The NYISO will then commence the Final Decision Period. In the iterative decision rounds of this process, each Interconnection Customer will elect whether to accept the costs for the attachment facilities and upgrades identified for its project and to pay cash or post security for the allocated amount. If one or more projects reject their cost allocation, the NYISO will re-allocate the costs and perform additional rounds of the process until all remaining projects accept their allocated costs and pay cash or post security. Each of these iterative decision rounds are conducted within a 21-day timeframe, providing only fourteen (14) calendar days for the NYISO to update the Cluster Study results and provided updated cost allocations and deliverable MW, as applicable. After the issuance of the revised cost allocations, Interconnection Customers have seven (7) calendar days to accept or reject their respective cost allocations.

An Interconnection Customer that accepts its costs allocation and pays cash or posts security for the allocated amount for its project will move forward to negotiate an interconnection agreement and any construction agreements for the project. The Interconnection Customer will only be responsible for additional costs in excess of its secured amount under tariff-prescribed circumstances. Its security will be subject to forfeit if the project withdraws, and other Interconnection Customers are relying on its attachment facilities or upgrades. If, on the other hand, the Interconnection Customer does not accept its cost allocation or pay cash or post security for its project, the project will be withdrawn and will be subject to a withdrawal penalty equal to 100% of its Study Deposit and 20% of its Readiness Deposit 2.[61]

Following the conclusion of the Cluster Study Process, the NYISO will use the collected withdrawal penalty funds to first offset the remaining Interconnection Customers' study costs for that Cluster Study Process, and then to provide an incentive payment for those remaining projects that proceed to commercial operation. If any funds remain, the NYISO will use them to offset its administration costs.

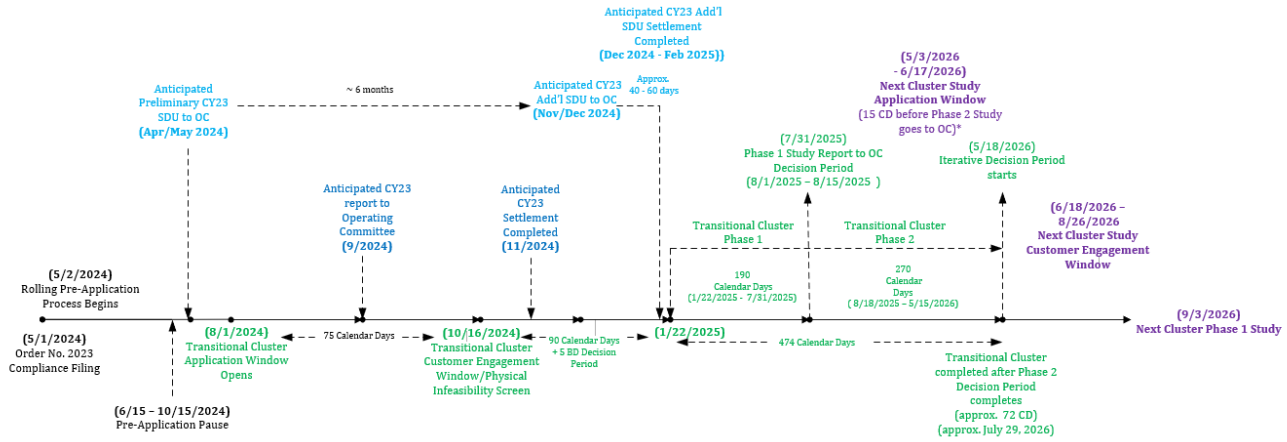
B. Transition Cluster Study Process

As described in Part X.B.i, the NYISO proposes to commence its Transition Cluster Study Process on August 1, 2024. The NYISO will conduct this process in accordance with the same requirements as the regular Cluster Study Process, with additional time permitted for certain steps to enable the NYISO and Interconnection Customers to implement the new requirements, to address any issues that may arise the first time the new process is conducted, and to align the process schedule with the conclusion of the ongoing Class Year Study for Class Year 2023. The transition timeframe is illustrated in Figure 2.

The NYISO proposes to withdraw projects that are currently in its queue upon the effective date of the new Standard Interconnection Procedures with limited exceptions for projects that have already completed their interconnection studies or are finalizing certain ongoing studies. Interconnection Customers may resubmit withdrawn projects during the Application Window of the Transition Cluster Study Process. There are no study prerequisites for entering the Transition Cluster Study Process.

[61] An Interconnection Customer seeking both ERIS and CRIS is only required to accept its cost allocation for any Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, and System Upgrade Facilities to proceed. If it does not accept its cost allocation for any System Deliverability Upgrades, it will not obtain CRIS in that Cluster Study Process but may seek to obtain CRIS in a subsequent Cluster Study Process or Expedited Deliverability Study.

Figure 2



C. Pre-Application Interconnection Information Available to Prospective Interconnection Customers

As described in Part VIII.A.i, the NYISO proposes to adopt the heatmap process established in Order No. 2023 to be implemented following the Transition Cluster Study Process. In addition, the NYISO proposes to establish a pre-application process in which prospective customers can request from Transmission Owners information concerning potential Points of Interconnection to improve their project Interconnection Request submissions. This approach is based on the existing pre-application process in the NYISO's SGIP. The NYISO proposes to commence this process on May 2, 2024, to assist Interconnection Customers in preparing their Interconnection Requests for the Transition Cluster Study Process.

D. Project Modifications

As described in Part VII.E.i.a, the Cluster Study Process will not provide for modifications during the process, with limited exceptions. This is consistent with the NYISO's current Class Year Study rules as modifications during the process would necessitate constantly updating modeling that would substantially extend the duration of the study. Following completion of the study, Interconnection Customers may submit proposed modifications for review concerning whether they are permitted or Material Modifications. As described in Part VII.E.i.b, the NYISO also proposes to modify the requirements for a project to extend the Commercial Operation Date for its project beyond the four-year permitted extension period, to permit an Interconnection Customer to request an extension if: (i) the extension period is up to May 2, 2028, (ii) the extension is required due to the project's technology type or the sequencing of work on the transmission or distribution system, or (iii) the project demonstrates reasonable progress. To obtain such extension, the Interconnection Customer must also demonstrate a workable milestone schedule developed with the Connecting Transmission Owner, and the Connecting Transmission Owner will have the opportunity to update the costs estimates and required security due to the extension.

E. Technological Advancements

As described in Part XII, the NYISO proposes to adopt or requests independent entity variations to address the Order No. 2023 reforms concerning certain technological advancements. The NYISO's existing interconnection procedures already provide for the co-location of generating resources behind the same point of interconnection with a shared interconnection request and for the addition of resources as non-material so long as the requested interconnection service does not increase. In addition, the NYISO proposes to adopt the Order No. 2023 requirements for consideration of alternative transmission technologies and for the modeling and ride-through requirements for non-synchronous generation. Further, the NYISO did not adopt the surplus interconnection service reforms as such service does not apply under NYISO's procedures. Finally, the NYISO proposes an independent entity variation related to energy storage operating assumptions that achieves the same goal of the rule to reduce the likelihood of upgrades required for such resources.

F. Affected System Study

As described in Part IX.C, the NYISO proposes to adopt with certain independent entity variations the Order No. 2023 requirements for coordinating with neighboring regions concerning impacts to those regions of interconnections in New York and for evaluating the impacts to the New York State Transmission System of interconnections in neighboring regions. Under the proposed process, the NYISO will perform a 300 day Affected System Study for projects interconnecting to neighboring regions that includes a system impact component to identify whether any upgrades are needed and a facilities study component to identify and allocate the costs of any required Affected System Network Upgrades. At the conclusion of the study, the Affected System Interconnection Customers must elect in an iterative decision period whether to accept and post security for their allocated costs of any upgrades.

G. Incorporation of Small Generating Facilities

As described in Part X, the NYISO requests an independent entity variation to complete the alignment of its LFIP and SGIP within the Cluster Study construct by applying the Standard Interconnection Procedures to generating facilities 20 MW or smaller. This is necessary to achieve the process reforms and expedited study timeframe proposed in this filing to comply with Order No. 2023, including by eliminating misalignments in process rules and base cases that create inefficiencies in the existing process.

H. Interconnection and Construction Agreements

As described in Part VII.E.ii, the NYISO proposes a revised Standard Interconnection Agreement based on its current Large Generator Interconnection Agreement as modified to address the Order No. 2023 directives and to account for the requirements in the new Cluster Study Process and Cluster Study Transmission Projects. In addition, as described in Part VII.E.iii, the NYISO proposes to include new pro forma single Interconnection Customer and multi Interconnection Customer construction agreements to address the construction of upgrades on Affected Systems or Connecting Transmission Owner's systems that are not addressed in

interconnection agreements in place of the *pro forma* agreements included in Order No. 2023 for Affected System Network Upgrades. These agreements are based on its Standard Interconnection Agreement, as modified for solely engineering, procurement, and construction activities.

I. Expedited Deliverability Studies

As described in Part VIII.B, the NYISO proposes to continue to offer Expedited Deliverability Studies as a mechanism by which a facility can seek to obtain CRIS outside of the NYISO's Cluster Study Process if the study determines that System Deliverability Upgrades are not required for the deliverability of its project.

J. Penalties for Study Delays

As described in Part XI, the NYISO proposes to eliminate the reasonable efforts standard for the performance of the Cluster Study and Affected System Study and to establish a penalty framework for study delays consistent with the framework established in Order No. 2023 with certain variations to address its proposed Cluster Study Process and the respective roles of the NYISO and Transmission Owners in the performance of components of the Cluster Study.

K. Miscellaneous/Conforming Changes

The NYISO's interconnection procedures are deeply intertwined in the NYISO's planning and market rules in its OATT and Services Tariff. Accordingly, the planning and market rules include a number of references or rules that are tied to the NYISO's administration of its interconnection process. As described in Part XII, the NYISO proposes conforming revisions to the OATT and Services Tariff that are necessary to align these rules, references, and terminology with the revisions in this compliance filing.

IV. Independent Entity Variations

Order No. 2023 explained that the Commission will continue to use the "independent entity variation standard" when considering compliance proposals from ISO/RTOs.[62] The independent entity standard "is a balanced approach that recognizes that an RTO or ISO has different operating characteristics depending on its size and location and is less likely to act in an unduly discriminatory manner than a Transmission Provider that is a market participant."[63] Under this standard, "the Commission will review the proposed variations to ensure they do not provide an unwarranted opportunity for undue discrimination or produce an interconnection process that is unjust and unreasonable."[64] The Commission has recognized both that (i) the

[62] *See* Order No. 2023 at P 1764 (citation omitted).

[63] *See Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 68 Fed. Reg. 49846 (Aug. 19, 2003), 104 FERC ¶ 61,103, at P 826 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15932 (Mar. 5, 2004), 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 19, 2005), 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37661 (July 18, 2005), 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

[64] *See N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,238, at P 17 (2008).

independent entity variation standard "is more flexible than the 'consistent with or superior to' standard and the regional differences standard"[65] and (ii) where changes to interconnection procedures "are clarifying and/or ministerial in nature and/or NYISO has supplied sufficient justification," such modifications are acceptable under the independent entity variation standard.[66]

The NYISO's existing interconnection process includes numerous and substantial independent entity variations previously accepted by the Commission to account for the NYISO's unique market and planning framework and other New York-specific considerations. The NYISO's interconnection procedures are fundamentally and inextricably integrated with the NYISO's market and planning rules. In this compliance filing, the NYISO builds on these existing variations and requests additional independent entity variations for purposes of addressing the directives and goals of Order No. 2023 within the unique circumstances in New York. These variations are critical to the successful implementation of the compliance reforms proposed by the NYISO, which tariff reforms are designed to work as a whole and constitute a careful balancing of interests among the various NYISO stakeholders that participate in the interconnection process. The NYISO believes that its proposed approach will result in faster interconnection processing, and provide superior information to guide Interconnection Customers' decisions, than either the NYISO's existing rules or the implementation of Order No. 2023's *pro forma* tariff revisions without New York-specific independent entity variations.

Order No. 2023-A clarified that transmission providers are only required to seek approval from variations previously approved by the Commission when those provisions are modified by Order No. 2023 and that an item-by-item justification must be offered for each variation for the *pro forma* provisions modified in Order No. 2023.[67] The NYISO details its requested independent entity variations below and includes for the Commission's reference a table in Attachment II compiling how it proposes to address the specific *pro forma* revisions included in Order No. 2023.

V. Consolidation of NYISO's Interconnection Procedures

The NYISO requests an independent entity variation to incorporate its interconnection procedures currently included in Attachment S, X, and Z of its OATT, as those procedures are revised to comply with Order No, 2023 in this filing, into a single Standard Interconnection Procedures located in a new Attachment HH to the NYISO OATT. Due to their historical development, including requirements that predated the Commission's *pro forma* requirements in Order Nos. 2003 and 2006, the NYISO's current procedures are currently scattered across three separate attachments, with multiple overlapping definitions sections, processes with related steps included piecemeal in different attachments, and the repetition of similar or identical

[65] *See* Order No. 2003 at P 26.
[66] *See N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,238, at PP 17-18.
[67] *See* Order No. 2023-A at PP 77, 79.

requirements in numerous locations.[68] The resulting tariff structure impedes a timely and efficient process by creating difficulty for both the NYISO in implementing and updating its procedures and for stakeholders and Interconnection Customers in understanding the applicable requirements. Building the Order No. 2023 structural reforms on top of this existing tariff framework would create further complexity and inefficiencies, particularly as the NYISO must retain its existing tariff rules in Attachments S, X, and Z during the transition period to complete its current Class Year Study for Class Year 2023 and SGIP facilities studies under their existing requirements.

The NYISO developed Attachment HH by using the structure of its current Large Facility Interconnection Procedures in Attachment X as the template, as revised to incorporate requirements currently included in Attachments S and Z to the OATT. Tariff provisions that have simply been relocated appear as new in the attached blackline. To assist the Commissions' review, the NYISO has included a table in Attachment I indicating where provisions from the prior tariff attachments have been relocated. In addition, the NYISO has included as Attachment XII an informational version of new Attachment HH that positions the NYISO's existing tariff requirements from Attachments S, X, and Z that are continuing in the new process into the new Attachment HH structure and shows in track changes the changes proposed to these existing provisions in this filing.

As the NYISO's proposed Standard Interconnection Procedures uses the existing Class Year Study process as its core element, many of the Attachment HH provisions are the same as the NYISO's existing tariff language with minor changes to conform to the new terminology and timeframes of the Cluster Study Process.[69] For example, the NYISO proposes to largely retain its existing rules for performing the Cluster Study (previously the Class Year Study), for allocating the costs of attachment facilities and upgrades, for addressing post-study security requirements, cost responsibility, and headroom, and for performing the related Expedited Deliverability Study. Where the NYISO proposes substantive changes to its existing tariff rules that are being carried over to the new Attachment HH, the NYISO describes such changes in the filing letter below or in the related table in Attachment I and justifies such changes in connection with its compliance with the requirements in Order No. 2023.

Finally, the NYISO proposes to retain Attachments S, X, and Z in the OATT for purposes of completing the transition studies, The NYISO proposes to indicate in the introductory

[68] For example, the Interconnection Facilities Study provisions from the Order No. 2003 *pro forma* LGIP appear in the NYISO's OATT Attachment X (as revised, including the defined term, "Class Year Study" to refer to the LFIP Interconnection Facilities Study), but also appear in OATT Attachment S, which pre-dated Order No. 2003 and in which the bulk of the Class Year Study requirements reside. *See* OATT Attachment X § 30.8.1; OATT Attachment S § 25.5.9.

[69] The NYISO has largely relocated its OATT Attachment S requirements concerning the performance of the Class Year Study and allocation of costs into the new Attachment HH rules for the Cluster Study. The NYISO, however, has not moved into new Attachment HH those rules that only applied to prior Class Years. *See, e.g.*, OATT Attach. S § 25.8.7.5 (establishing headroom rules for Class Years 2001 and 2002, which rules no longer apply as those Class Years have long since been completed).

sections of these attachments that they are being superseded by the Standard Interconnection Procedures in new Attachment HH except as otherwise described in the transition rules.[70]

VI. Effective Date

The NYISO requests that the tariff revisions submitted in this compliance filing become effective on May 2, 2024. This timeframe will enable the NYISO to move immediately to implement its new Standard Interconnection Procedures in concert with the completion of its final Class Year Study for Class Year 2023.[71] As illustrated in Figure 2 above, under this timeframe, the NYISO will begin its Transition Cluster Study Process this summer, so that the study work for the Transition Cluster Study is able to commence shortly after the conclusion of the NYISO's ongoing Class Year Study for Class Year 2023. A later start date of the Transition Cluster Study Process would delay the progress of numerous projects that are prepared to proceed into the new study process. The urgency to implement the new procedures is consistent with the Commission's determinations in Order No. 2023 that transmission providers should move quickly into their transition processes,[72] and more generally with the intent of Order No. 2023 to address the challenges created by queue backlogs and uncertainty regarding the cost and timing of interconnection.[73] Moreover, immediate action will assist the State of New York in achieving its goals for renewable energy established in its Climate Leadership and Community Protection Act.

The NYISO intends to commence implementing the Standard Interconnection Procedures beginning on May 2, 2024, subject to any determination or modification by the Commission. In particular, the NYISO intends to implement its transition rules and the pre-application process beginning on May 2, 2024. Prospective Interconnection Customers have expressed considerable support for the pre-application process to assist them in preparing Interconnection Requests for the Transition Cluster Study Process. The NYISO then intends to open the Application Window for the NYISO's Transition Cluster Study Process on August 1, 2024. The Application Window and Customer Engagement Window for the Transition Cluster Study Process will run in parallel with the completion of the Class Year Study for Class Year 2023.

The NYISO has provided existing and prospective Interconnection Customers with substantial notice in numerous stakeholder meetings concerning the transition to and the requirements of the new Standard Interconnection Procedures. This has included detailed discussions concerning the impact of the transition rules on existing projects in the NYISO's current interconnection queue and the applicability of the new rules for prospective projects.

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[70] *See* OATT Attach. S § 25.1; OATT Attach. X § 30.2; OATT Attach. Z § 32.1.

[71] In Order No. 2023-A, the Commission clarified that it would consider requests from transmission providers for an effective date that predates the Commission's order on a compliance filing on a case by case basis. Order No. 2023-A at P 669.

[72] *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); *id.* P 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.").

[73] *See, e.g., id.* P 3.

VII. Proposed Tariff Revisions for Cluster Study Process

A. Cluster Study Process Overview and Tariff Structure

i. Cluster Study Process Structure

The Commission's *pro forma* large generator interconnection procedures historically required that an Interconnection Customer submit an interconnection request, participate in an individual scoping meeting, and then be subject to a serial study process with a succession of individual feasibility, system impact, and facilities studies. Order No. 2023 revised the interconnection process methodology from a "first come, first served" serial study process to a "first ready, first served" cluster study process that removed the feasibility study and changed to a clustered study process.[74] In particular, Order No. 2023 established a new process in which an Interconnection Customer submits an interconnection request during a cluster request window to enter a given cluster, participates in a group scoping meeting with its cluster in a customer engagement window, is subject to a cluster system impact study and any required cluster restudies, and then is subject to an individual facilities study.

The NYISO requests an independent entity variation from the Commission's revised interconnection process structure to permit it to retain its Class Year Study – retitled the Cluster Study – and to include this study within the overall framework adopted in Order No. 2023. The NYISO's Class Year Study already makes use of a "first-ready, first served," clustered study process. The NYISO has worked with its market participants, stakeholders, and Interconnection Customers on a continuous basis over the last twenty years to enhance and improve this study process within the NYISO's market and planning structure and the unique circumstances in New York.

The NYISO proposes that its Cluster Study Process commence with an Application Window followed by a Customer Engagement Window, which process steps are generally consistent with the Commission's cluster request window and customer engagement window. The remainder of the NYISO's process is consistent with its existing Class Year Study process, with two key revisions. First, the NYISO proposes that the Cluster Study be broken up explicitly into a Phase 1 Study and Phase 2 Study, which mirrors the current Part 1 and Part 2 components of its Class Year Study. Second, the NYISO proposes that the Cluster Study include three decision periods to provide Interconnection Customers with the opportunity at different stages of the study to evaluate their potential costs and elect whether to proceed or withdraw, subject to increasing withdrawal penalties as the process proceeds. In sum, as illustrated in Figure 1 above, the NYISO's process structure will include the following phases: (i) an Application Window, (ii) a Customer Engagement Window, (iii) a Phase 1 Entry Decision Period, (iv) a Phase 1 Study, (v) a Phase 2 Entry Decision Period, (vi) a Phase 2 Study, and (vii) a Final Decision Period.

The NYISO proposes that projects move directly to the Cluster Study without prerequisite studies to expedite the study process and avoid duplicative work. Specifically, the NYISO proposes to remove the feasibility study consistent with the Commission's directives in

[74] *See id.* PP 165, 177, 316-317.

Order No. 2023.[75] In addition, the NYISO proposes to remove the system impact study as a separate stand-alone study and the related optional system impact study. As part of the NYISO's interconnection reform initiative, the NYISO and its stakeholders identified the system impact study as a process step that was not providing sufficient benefits for the additional time, efforts, and costs required for such study. As detailed in Attachment III to this filing, the affidavit of Thinh Nguyen, Sr. Manager, Interconnection Projects for the NYISO ("Nguyen Affidavit"), this process step regularly added an additional 268 days, on average, onto the study process.[76] In addition, as the base case used for the system impact study often substantially changes between the performance of the study and the Class Year Study, the project could be subject to significant changes in the identification and cost estimates of attachment facilities and upgrades. The system impact study elements are instead covered in the Cluster Study, creating a more efficient and expedited process.

Much like the cluster study process directed by Order No. 2023, the NYISO's Cluster Study, as with its existing Class Year Study, will evaluate the cumulative impact of a group of projects. While the Order's cluster study design involved only system impact-type analyses in the Cluster Study, the NYISO's proposed Cluster Study, consistent with its existing Class Year Study, will encompass both system impact and facilities study-type analyses, including the local design and engineering evaluations included in the Commission's pro forma individual facilities study.

ii. Cluster Study Process Duration

Order No. 2023 established a cluster study process that could run between 495 and 585 calendar days.[77] This timeframe could be further extended if more than one cluster restudy has to be performed with each re-study taking up to 150 additional calendar days.

The NYISO requests an independent entity variation from the timeframes included in Order No. 2023 to align with its separate study structure and requirements.[78] The NYISO proposes a timeframe for the overall Cluster Study Process of approximately 596 days from its commencement of the Application Window to its presentation of the Cluster Study Report at the conclusion of the Cluster Study for its Operating Committee's approval.[79] The NYISO then

[75] *See id.* P 316. The key benefit to the feasibility studies is physical infeasibility evaluations that the NYISO proposes to address as an element of the Customer Engagement Window. In addition, the NYISO proposes to adopt the Commission's heatmap requirements and to provide a Pre-Application Report process to provide Interconnection Customers with useful information early in the process.

[76] *See* Nguyen Affidavit at P 11.

[77] That is, the customer request window is a 45 day period; the customer engagement window is a 60 day period; the cluster study is 150 days; any cluster restudy may last up to 150 days, and the individual facilities study is 90 or 180 days depending on the requested study cost estimate.

[78] In Order No. 2023-A, the Commission clarified that Order No. 2023 did not preempt transmission providers from proposing tariff-defined study deadlines that differ from the timeframes established for the Commission's *pro forma* procedures. Order No. 2023-A at PP 156, 260.

[79] The 596 days is approximate as it includes process steps with both calendar and business days. Specifically, the Application Window is a 45 day period; the Customer Engagement Window is a 70 day period; the Phase 1 Entry Decision Period is a 5 business day period, the Phase 1 Study is a 190 day period; the Phase 2 Entry

kicks off its iterative decision period, which duration is driven by Interconnection Customers' elections in that process.

The NYISO's proposed timeframe for its study process is generally consistent with the overall timeframe established in Order No. 2023 and substantially shorter than the duration for Interconnection Customers to complete the NYISO's existing process. The NYISO developed this timeframe through an extensive review of its existing study process steps, including determining where it could remove duplicative efforts and where study elements could be performed earlier in the process or in parallel with other process steps to minimize the overall duration of the process.[80] In addition, the NYISO had detailed discussions with the New York Transmission Owners concerning their shared study responsibilities. The resulting timeframe is based on a reasonably anticipated number of Interconnection Requests and CRIS-Only Requests being submitted for a given Cluster.[81] To the extent unexpectedly larger numbers of Interconnection Customers seek to enter a Cluster Study, such volume could impact the reasonableness of the timelines proposed by the NYISO, which timeframes may then require further review and adjustment through subsequent tariff revisions.

The proposed timeframe already accounts for re-studies. Consistent with its current Class Year Process, the NYISO, in coordination with the New York Transmission Owners, will assess during the Phase 2 Study any impacts on remaining projects resulting from projects that withdrew at the conclusion of the Phase 1 Study. In addition, the NYISO will update cost estimates during the iterative decision rounds at the conclusion of the Cluster Study to account for projects that withdraw during that decision process in establishing the allocation of costs to the remaining projects.

iii. Cluster Study Process Start Date

Order No. 2023 adopted an annual cluster study process with the annual opening of a cluster request window and required that the start date of such window be included in the interconnection procedures.[82]

The NYISO requests an independent entity variation from the requirement that it commence its interconnection process on an annual basis. As described above, the NYISO's Cluster Study Process will require more than one year to conduct. If the NYISO were required to open the Application Window for the next study process on an annual basis, there would be substantial overlap across study processes. This would result in extensive and ongoing restudy work that would ultimately delay the study process and render earlier study results of little value to Interconnection Customers. As with its current Class Year Study, the NYISO must establish a system representation that forms the baseline for each Cluster Study. This baseline cannot be

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Decision Period is a 10 business day period, and the Phase 2 Study is a 270 day period. The NYISO also proposes to clarify in the definition of Calendar Days that if a deadline in Attachment HH does not fall on a Business Day, the deadline will be extended to the next Business Day. Proposed OATT Attach. HH § 40.1.

[80] *See* Nguyen Affidavit at P 7-10.

[81] *See id.* P 10.

[82] *See* Order No. 2023 at PP 204, 227.

finalized until the prior study process has been completed and the participants in the prior process have elected whether to accept the cost allocation for their required facilities and to post the related security. That is the point in the process in which such projects are considered firm for purpose of including them in the base case for subsequent studies. After extensive vetting with stakeholders, the NYISO believes this is a critical element needed to accelerate the overall process and to provide reliable information to Interconnection Customers in a timely manner.

As required by Order No. 2023, the NYISO proposes to establish in its tariff the method it will use to calculate the start date for each Cluster Study Process. Specifically, the NYISO will open the Application Window – *i.e.*, the Class Year Process Start Date – fifteen days prior to the scheduled date for the NYISO's presentation of the Cluster Study Report to its Operating Committee near the conclusion of its prior Cluster Study Process.[83] This start date provides for limited overlap between study processes during which the NYISO can accept applications and perform actions under the Application Window and Customer Engagement Window, but does not provide for the NYISO's performance of overlapping study work.[84] In the event the prior Cluster Study Process runs long for any reason, the NYISO proposes to extend the Customer Engagement Window for the next process on a day-for-day basis to avoid performing overlapping studies.[85]

B. Application Window

Order No. 2023 established a cluster request window, which is a 45 day window during which an Interconnection Customer must submit its interconnection request for a given cluster study process.[86] The NYISO proposes to adopt the cluster request window requirements included in Order No. 2023 – renamed the Application Window – with the proposed variations described below for which the NYISO requests independent entity variations.[87]

i. Interconnection Request/CRIS-Only Requests Validation and Addressing Deficiencies

Order No. 2023 established that a transmission provider has five business days to notify an Interconnection Customer of any deficiencies within its initial interconnection request and that the Interconnection Customer must address any deficiencies within ten business days but no

[83] *See* proposed OATT Attach. HH § 40.5.1.3. The NYISO will provide preliminary initial notice of the Class Year Process Start Date shortly after the commencements of the Phase 2 Study for the prior process. *Id.* The NYISO will then provide an updated, start date 60 days prior to the scheduled date of the NYISO's presentation of the Cluster Study Report for the prior study to its Operating Committee, which provides Interconnection Customers with at least 45 days final notice of the upcoming Application Window. *Id.*

[84] This is consistent with NYISO's existing Class Year Study rules in which all study work must be completed prior to the completion of the base case for the subsequent study. *See, e.g.*, OATT Attach. S § 25.8.2 ("[N]o Initial Decision Period will be triggered by an Additional SDU Study that is ongoing at the time the ISO completes the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study.").

[85] *See* proposed OATT Attach. HH § 40.5.1.3.

[86] *See* Order No. 2023 at P 223.

[87] *See generally* proposed OATT Attach. HH § 40.5.

later than the end of the customer request window.[88] The NYISO requests certain independent entity variations to ensure sufficient time for both the NYISO and Interconnection Customers to identify and address deficiencies in project proposals while also timely moving to commence study work.

First, the NYISO proposes a ten business day period to review an Interconnection Request or CRIS-Only Request and to notify the Interconnection Customer of any deficiencies. The NYISO expects to receive a substantial number of submissions over a short period of time, and five business days is not sufficient time to perform its required review for a large number of projects.[89] As an example, the NYISO's current Class Year includes over eighty projects, and the NYISO expects that its Cluster Studies will include a higher number of projects.

Second, at the request of existing and prospective Interconnection Customers, the NYISO proposes to establish clear timeframes for the NYISO to identify, and for Interconnection Customers to address deficiencies, in an Interconnection Request or CRIS-Only Request, when the Interconnection Customer does not successfully cure deficiencies on its first opportunity.[90] In particular, the NYISO will review the additional information submitted by the Interconnection Customer within ten business days and will notify the Interconnection Customer of any remaining deficiency.[91] The Interconnection Customer will then have ten business days to cure the remaining deficiency, but no later than the close of the Application Window.[92] In addition, the NYISO proposes to establish that it will have the opportunity to complete the validation of Interconnection Requests and CRIS-Only Requests early in the Customer Engagement Window to address submissions made late in the Application Window, but that Interconnection Customers will not have the opportunity to submit further information required to cure deficiencies after the completion of the Application Window.[93] Without such modification, the NYISO could be required to reject otherwise valid requests or information provided to cure identified deficiencies that are submitted within the Application Window due to a lack of time to confirm that the requests are valid before the completion of the Application Window.

Third, the NYISO proposes to establish a separate track for it to address with Interconnection Customers any deficiencies in their facility models. The NYISO requires more time to review such modeling than the limited validation period permits, particularly for the

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[88] *See* Order No. 2023 at P 223.

[89] *See* proposed OATT Attach. HH § 40.5.7.1.1. As described in Part VII.B.v below, the NYISO has certain limited priority rules based on when an Interconnection Request is submitted. The NYISO expects based on stakeholder input that many Interconnection Customers will seek to submit applications at the time the Application Window is opened.

[90] *See id.* § 40.5.7.2.2. In Order No. 2023-A, the Commission clarified that Interconnection Customers must receive as many cure periods as needed to remedy a deficiency as long as the end of the cure period falls prior to the end of the cluster request window. Order No. 2023-A at P 157. However, the Commission's *pro forma* language only describes a process for transmission provider to notify Interconnection Customers of deficiencies in the "initial" Interconnection Request. *See* FERC Order No. 2023 Pro Forma LGIP § 3.4.4.

[91] *See* proposed OATT Attach. HH § 40.5.7.2.2.

[92] *See id.*

[93] *See id.* § 40.5.7.2.2, 40.5.7.1.3. In Order 2023-A, the Commission indicated that "transmission providers may not continue determining whether interconnection requests are valid into the customer engagement window." Order No. 2023-A at P 159.

potential number of projects that must be validated, and the modeling does not have to be finalized in the Application Window for the NYISO to be able to proceed to the Customer Engagement Window process. Therefore, the NYISO proposes to require deficiencies in facility models be addressed prior to the scoping meeting in the Customer Engagement Window.[94]

Fourth, Connecting Transmission Owners and Affected Transmission Owners require certain additional data to perform the Phase 1 Studies, which information must be complete prior to the study to ensure it can be performed under the new stricter timeframes. The NYISO proposes to include a separate process by which Interconnection Customers must provide, and address deficiencies for, this Transmission Owner-specific information.[95] This process will commence after the validation process during which the NYISO identifies the appropriate Transmission Owner(s).

Fifth, Order No. 2023 established an additional process for transmission providers to address at any time errors or incomplete data.[96] The NYISO proposes to revise this language: (i) (i) to clarify that this is for information outside of the validation and deficiency rules, and (ii) to require that Interconnection Customers also provide any additional information required by the NYISO or Transmission Owner for their performance of their responsibilities under Attachment HH.[97] The NYISO proposes that the Interconnection Customer be required to provide such information within 10 business days to ensure any additional required information is timely provided and does not delay the overall process.[98]

Finally, the NYISO proposes to insert explicit requirement that detail what actions it will take during the validation process and establish that it will notify Interconnection Customers that their requests are valid or, in cases in which the Interconnection Customers fails to address a deficiency, to withdraw the request.[99] The proposed revisions establish clear tariff rules concerning the NYISO's implementation of the validation process.

ii. CRIS-Only Requests

The NYISO's interconnection procedures apply not only to new facilities seeking to interconnect, but also to new and existing facilities that request to be studied solely to obtain or increase Capacity Resource Interconnection Service to participate in the NYISO-administered

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[94] *See* Proposed OATT Attach. HH at § 40.5.7.4.

[95] *See id.* § 40.5.7.3. This process commences after the NYISO validates an Interconnection Request/CRIS-Only Request as the NYISO will first identify the applicable Connecting Transmission Owner (and certain Affected Transmission Owners) during the validation process.

[96] *See* FERC Order No. 2023 Pro Forma LGIP at 3.4.4.

[97] *See* proposed OATT Attach. HH § 40.5.7.4. In Order 2023-A, the Commission clarified that the requirement for addressing technical data that was incomplete or contained errors is not intended to extend the timeframe for validating interconnection requests but is intended to permit the transmission provider and Interconnection Customer to address any issues that may be discovered in the interconnection process. Order No. 2023-A at P 158.

[98] *See* Proposed OATT Attach. HH § 40.5.7.4.

[99] *See id.* §§ 40.5.7.1, 40.5.7.2.3. The requirements for deeming the Interconnection Request withdrawn is from Section 3.4.4 of the Commission's Pro Forma LGIP.

Installed Capacity markets. These projects are assessed solely for deliverability and are not subject to all of the requirements and studies required for Interconnection Requests.

The NYISO requests an independent entity variation to more clearly detail in the Standard Interconnection Procedures certain alternative or more limited requirements applicable to projects that are only seeking Capacity Resource Interconnection Service. This includes using a CRIS-Only Request form in place of the Interconnection Request for such applications.[100] In addition, as described further below, the CRIS-only requests are subject to different, more limited rules for application fees, study deposits, readiness deposits, and withdrawal penalties due to the narrower scope of such requests. The NYISO's proposed clarifications more clearly specify for Interconnection Customers the obligations associated with such requests to improve the efficiency and timeliness of the process and do not change the substance of the NYISO's existing approach for assessing requests for CRIS.

iii. Interconnection Request/CRIS-Only Request Requirements

The NYISO requests independent entity variations of certain of the Order No. 2023 requirements concerning the submission of the interconnection request.

a. Application Fee

Order No. 2023 established a non-refundable $5,000 application fee.[101] The NYISO proposes that the application fee be $10,000 for an Interconnection Request and $5,000 for a CRIS-Only Request. The NYISO's current application fee for Interconnection Requests is $10,000,[102] which amount more closely aligns with the NYISO's expenses in assessing applications and was previously accepted by the Commission. In addition, part of the Interconnection Request amount is shared with the New York Transmission Owners for their expenses in connection with the application.

b. Study Deposit

Order No. 2023 established one-time study deposits to be provided with the interconnection request based on the size of the proposed facility – (i) $35,000 + $1,000/MW for facilities greater than 20 MW and less than 80 MW, (ii) $150,000 for facilities greater than or equal than 80 MW and less than 200 MW, or (iii) $250,000 for facilities greater than or equal to 200 MW.[103]

The NYISO proposes to adopt the Study Deposit requirements with the following limited variations.[104] First, as described in Part X.A below, the NYISO proposes to incorporate

[100] *See id.* § 40.25.2 (proposed OATT Attach. HH, App'x. 2).
[101] *See* Order No. 2023 at P 223. The Commission confirmed in Order No. 2023-A that the application fee is non-refundable. Order No. 2023-A at P 189.
[102] *See* OATT Attach. X § 30.3.3.1.
[103] *See* Order No. 2023 at PP 502-505.
[104] *See* proposed OATT Attach. HH § 40.5.5.1.4.

generating facilities that are 20 MW or smaller into its Cluster Study Process and, therefore, proposes that the first rung of the study deposit amount be modified to include facilities smaller than 80 MW.[105] Second, the NYISO proposes to modify the study deposit amount for the first rung to $100,000, which amount is consistent with current study deposits for facilities participating in the Class Year Study and consistent with study deposits for Small Generating Facilities for their facilities study.[106] Third, the NYISO proposes to request a separate, more limited study deposit amount of $50,000 for CRIS-only projects, which amount is consistent with the study deposit requirements for CRIS-only projects.[107] The CRIS-only projects have lower deposits as they are not studied under a Phase 1 Study and are only subject to the deliverability study component of the Phase 2 Study.

A CRIS-only project must also provide documentation demonstrating that it is in service or has completed one of the following, as applicable: a Class Year Study or Cluster Study for ERIS, a completed facilities study for Small Generating Facilities processed under the SGIP, or a utility interconnection study if the facility is not subject to the ISO interconnection procedures under Attachment HH.[108] This is consistent with current practice and mirrors existing tariff language applicable to CRIS-only projects electing to enter an Expedited Deliverability Study.[109]

c. Site Control

1) Site Control Definition

Order No. 2023 established new stringent site control requirements for projects.[110] The NYISO proposes to adopt these requirements with the follow modifications developed with input from existing and prospective Interconnection Customers to address specific issues in New York.[111]

The NYISO proposes to adopt the Order No. 2023 definition of Site Control with the following variations.[112] First, the NYISO proposes to replace "exclusive" with "necessary" land right because the term "exclusive" may preclude the use of certain lands in New York, specifically in transmission owners' territories that hold legacy easements[113] For the same reasons, the NYISO propose to remove the reference to "exclusively" from prong three of the

[105] This is consistent with the Commission's approach for addressing small generating facilities that submit their interconnection requests under large generator interconnection procedures. *See* Order No. 2023-A at P 188; *see also* Nguyen Affidavit at P 18.

[106] *See* OATT Attach. X § 30.8.1.

[107] *See id.*

[108] *See* proposed OATT Attach. HH § 40.5.5.1.2.

[109] *See* OATT Attach. S § 25.5.9.2.1.

[110] *See* Order No. 2023 at PP 583-612.

[111] *See* proposed OATT Attach. HH §§ 40.1 (definitions of Site Control and Regulatory Limitation), 40.5.5.1.5, 40.5.5.4, 40.5.5.5, 40.21.3, 40.25.15 (proposed OATT Attach. HH, App'x. 15), 40.25.15 (App'x 15) Attach. B.

[112] *See id.* § 40.1 (definition of Site Control).

[113] *See generally,* New York Public Service Commission Matter No. 96-E-0897.

definition. Second, the NYISO proposes to clarify that the necessary land right be "sufficient" to develop, construct, operate, and maintain the facility.

Third, the NYISO proposes to replace the requirement that Site Control be demonstrated for the term of the expected operation of the facility with a term of at least ten years from the date the Interconnection Request is submitted. The NYISO is not positioned to accurately determine or assess the term of the project during its limited validation period. Under the NYISO's existing and proposed process, the Interconnection Customer is not required to specify the expected term of its generating facility as part of the interconnection process.[114] A ten-year period represents a reasonable proxy for the term of the facility as it is the standard term used in the interconnection agreement.

Fourth, the NYISO proposes to insert in the definition of the Site Control that "necessary land right" does not restrict multi-use application of the site in addition to the use of the Generating Facility, such as agriculture, ranching, etc. This insertion is based on the clarification in Order No. 2023 that exclusive land right does not restrict multi-use applications of a particular site.[115] Finally, as the Site Control provision will apply to both Generating Facilities and Cluster Study Transmission Projects, the NYISO proposes to revise the definition to account for Site Control for a "Facility," which includes a transmission facility.

2) Site Control Demonstration

The NYISO also proposes to adopt the Commission's new requirements for the demonstration of Site Control, with the following modifications.[116] First, the NYISO proposes to require Interconnection Customers to make a reasonable demonstration of "full" rather than 90% Site Control.[117] This is consistent with the NYISO's existing Site Control approach and eliminates the difficulties in determining fractions of acreage ownership.[118] Second, the NYISO proposes to require that an Interconnection Customer submit with its Site Control materials an attestation from the officer of the company indicating the acreage covered by the submitted materials and that such acreage is consistent with the acreage requirements set forth in the NYISO's procedures for the facility's technology type.[119] This requirement is necessary to enable the NYISO to review and validate the Site Control for a substantial number of Interconnection Requests in a short period of time.

[114] An Interconnection Customer may propose a term for the interconnection agreement other than the placeholder ten year term based on its expected operation of the facility; however, this determination is made at the conclusion of the interconnection process.

[115] *See* Order No. 2023 at P 587.

[116] *See* proposed OATT Attach. HH §§ 40.5.5.1.5, 40.5.5.4, 40.5.5.5.

[117] *See id.* § 40.5.5.1.5.

[118] Order No. 2023 provides for the Transmission Provider to confirm 100% Site Control at the time of execution of the facilities study agreement. Order No. 2023 at P 594. However, the NYISO's process moves immediately to its consolidated Cluster Study, so there are not interim studies during which the Interconnection Customer can complete its Site Control.

[119] *See* proposed OATT Attach. HH § 40.5.5.1.5.

Third, in response to existing and prospective Interconnection Customers' input concerning issues that could arise with Site Control, the NYISO proposes that Interconnection Customers have 15 business days rather than 10 to cure any issues that arise regarding their Site Control.[120] Finally, a number of existing and prospective Interconnection Customers raised concerns that the acreage requirements that will be included in the NYISO's procedures may not capture in all instances new technology types or reasonable variances in what acreage is required for a certain project.[121] For this reason, the NYISO proposes to permit an Interconnection Customer to satisfy Site Control in such instance by providing an attestation from an officer of the company detailing the specific circumstances that permit a different acreage amount along with a licensed professional engineer signed and stamped site plan that depicts that the provided Site Control can support the proposed arrangement of the facility.[122]

3) Regulatory Limitations

The NYISO also proposes to adopt the Order No. 2023 requirements for the limited instances in which an Interconnection Customer can submit a deposit in lieu of Site Control due to a Regulatory Limitation and has adopted the Commission's deposit amount.[123] To align with its different process structure, the NYISO proposes that Interconnection Customer must demonstrate to the NYISO that it is taking identifiable steps to satisfy the necessary regulatory requirements prior to entering the Phase 2 Study rather than prior to execution of the cluster study agreement.[124]

To provide clarity to Interconnection Customers, the NYISO proposes to define the term "Regulatory Limitation" in the NYISO's tariff as a "federal, state, Tribal, or local law, other than permitting and siting requirements, that makes it infeasible to obtain Site Control prior to an Interconnection Customer's submission of its Interconnection Request as set forth in ISO Procedures."[125] As directed by the order, the details of what constitutes a Regulatory Limitation will be publicly provided in ISO Procedures.[126]

d. Definitive Point of Interconnection

Order No. 2023 required each Interconnection Customer to select a definitive point of interconnection to be studied when executing a cluster study agreement.[127] The NYISO proposes to require that the Interconnection Customer specify a single, definitive Point of Interconnection with its Interconnection Request.[128] The definitive Point of Interconnection is critical to have at

[120] *See id.* § 40.5.5.5.

[121] Order No. 2023 provided for the acreage requirements to be publicly maintained, but not included in the tariff. Order No. 2023 at P 602. The NYISO is working with its stakeholders to update its acreage requirements for use in the Transition Cluster Study Process.

[122] *See* proposed OATT Attach. HH § 40.5.5.1.5.

[123] *See id.* §§ 40.5.5.1.5.1, 40.5.5.4.

[124] *See id.* § 40.5.5.4.

[125] *See id.* § 40.1 (definition of Regulatory Limitation); *see* Order No. 2023 at P 611.

[126] *See* Order No. 2023 at P 607.

[127] *See id.* PP 200-202.

[128] *See* proposed OATT Attach. HH § 40.5.5.1.7.

the Interconnection Request stage in order to identify the applicable Connecting Transmission Owner(s), Affected Transmission Owner(s), and Affected Systems.

The NYISO proposes to permit an Interconnection Customer to propose multiple Points of Interconnection for their project in two instances.[129] First, a Cluster Study Transmission Project can provide for two Points of Interconnection as a transmission project. Second, a generation project may propose to interconnect at two Points of Interconnection within the same Capacity Region. This may occur when the generation project has more than one unit and the units connect to different points on the New York State Transmission System or Distribution System or when the generation project included a three-winding transformer that enable it to connect at different voltage levels. In such case, modeling the interconnection of the single facility at the two Points of Interconnection is required to capture the actual impact of the project on the system so as not to overstate the project's impact.

In addition, the NYISO proposes to permit an Interconnection Customer with an opportunity to change its Point of Interconnection within 5 business days after the NYISO's publication of the Cluster Study Project List in the Customer Engagement Window.[130] This will provide Interconnection Customers with a one-time opportunity to modify their Points of Interconnection once they become aware of the location of the other projects participating in the same Cluster, which may impact their ability to interconnect or substantially change their required upgrades and costs. Any other modifications to the Point of Interconnection during the Cluster Study Process would constitute a Material Modification.[131]

Finally, consistent with its current requirements, the NYISO proposes to require that an Interconnection Customer, or an Interconnection Customer and its affiliates, cannot propose mutually exclusive projects with projects in the NYISO's interconnection queue or projects proceeding in the same Application Window.[132] This is a necessary to deter speculative Interconnection Requests, including Interconnection Customers proposing multiple variations of proposed interconnections. In addition, this is required to enable the identification of physically infeasible projects.

e. NYSRC Inverter Based Resource Attestations

The NYISO is subject to the Reliability Rules of the New York State Reliability Council ("NYSRC").[133] On February 9, 2024, NYSRC approved a new Reliability Rule B.5 concerning

[129] *See id.*

[130] *See id.* § 40.7.2.3.

[131] *See* Part VII.E.i.a, *infra*; *see also* Order 2023 P 281.

[132] See proposed OATT Attach. HH § 40.5.5.3. The NYISO provides for a limited exception to this rule for Contingent Projects, which are described in Part VII.B.iii.d below.

[133] NYSRC has the authority to create Reliability Rules that are consistent with, and may be more stringent than, those created by the North American Electric Reliability Corporation ("NERC") and the Northeast Power Coordinating Council, Inc. ("NPCC"), as established in the Federal Power Act, Energy Policy Act of 2005 §215(i)(3) ("Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent

the interconnection of inverter-based resources greater than 20 MW.[134] Pursuant to this rule, the NYISO is required to have an officer of each facility that is submitting an Interconnection Request for an inverter-based resources greater than 20 MW complete a form attesting that its facility will be designed in compliance with certain designated requirements identified in IEEE 2800-2022.[135] Accordingly, the NYISO proposes to insert a requirement that Interconnection Customers submit such attestations with their Interconnection Request, which attestation form will be included in the NYISO's procedures.

f. Interconnection Request Form

The NYISO proposes to retain its current Interconnection Request form with certain revisions to align with the additional information and materials required under the new Cluster Study Process.[136] In addition, the NYISO proposes to fold into the Interconnection Request form the information requests currently included in the appendices of its Class Year Study Agreement to eliminate duplication and provide for the submission of all information early in the process. Finally, the NYISO proposes to include an attestation form concerning the accuracy of the submitted information and Interconnection Customer's responsibility for study costs.

g. CRIS-Only Requests Form

As described above, the NYISO proposes to insert a new form that will apply to CRIS-Only Requests.[137] The form is based on the NYISO's Interconnection Reform as modified to request only the information required for assessing a request for Capacity Resource Interconnection Service. In addition, the form incorporates the NYISO's existing form for External CRIS requests. Finally, the NYISO proposes to include an attestation form concerning the accuracy of the submitted information and Interconnection Customer's responsibility for study costs.

h. Miscellaneous Interconnection/CRIS-Only Request Materials

The NYISO proposes to specify in the body of Attachment HH key items that must be submitted with the Interconnection Request form, including required technical data, modeling,

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with any reliability standard, *except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards*") (emphasis added).

[134] *See* Proposed Reliability Rule (PRR) 151 (Final Approval Version Feb. 9, 2024), https://www.nysrc.org/wp-content/uploads/2024/02/RR-151-2-12-2024.pdf.

[135] Specifically, the officer for the facility, after conducting due diligence, must complete a form attesting to the following two statements at the time of submitting an Interconnection Request:

(1) The proposed Facility will be designed to be in compliance with the mandatory requirements of IEEE 2800-2022, as amended by "NYSRC Procedure for Application of IEEE 2800-2022 Standard for Large IBR Generating Facilities for the New York Control Area," and

(2) The models and data provided for the proposed Facility for use in NYISO's Interconnection Studies accurately simulates the performance of their compliant IBR plant.

[136] *See* proposed OATT Attach. HH § 40.25.1 (OATT Attach. HH App'x 1).

[137] *See id.* § 40.25.2 (OATT Attach. HH App'x 2).

and a conceptual one-line project layout.[138] The NYISO also requires that the Interconnection Customer indicate with its request whether it is seeking Energy Resource Interconnection Service and/or Capacity Interconnection Resource Service, subject to the tariff requirements detailing the Interconnection Customer's ability to request such service or increases in such service.[139]

iv. Cluster Study Agreement

Order No. 2023 required that the transmission provider tender the cluster study agreement to the Interconnection Customer no later than five business days after the close of the cluster request window and that Interconnection Customer execute it no later than the close of the customer engagement window.[140] The order indicated that the agreement require the Interconnection Customer to compensate transmission provider for actual study costs.[141]

The NYISO requests independent entity variations concerning the Cluster Study Agreement process and requirements. The NYISO proposes to revise the process for executing the Cluster Study Agreement to provide for the agreement to become effective earlier in the study process. The NYISO will begin performing study work, including developing study base cases, early in the new Cluster Study Process as part of its reforms for expediting the overall study duration. In addition, Transmission Owners will be performing their physical infeasibility study during the Customer Engagement Window. Accordingly, the NYISO proposes to tender an executable version of the Cluster Study Agreement in the Application Window as soon as practicable after its validates the Interconnection Customer's Interconnection Request or CRIS-Only Request.[142] If the NYISO completes this validation within the Customer Engagement Window, it will instead tender the agreement within ten business days.[143] The NYISO, Interconnection Customer, Connecting Transmission Owner, and, as applicable, Affected Transmission Owner(s)/Affected System Operator(s) must execute the agreement within ten calendar days.[144]

The NYISO will be performing study work in parallel with the Application Window and Customer Engagement Window, including the development of required study cases benefitting all projects, including those that may not yet have a fully executed study agreement. Accordingly, the NYISO proposes to insert in the Interconnection Request and CRIS-Only Request forms a requirement that the Interconnection Customer acknowledge that it will be required following validation to execute the Cluster Study Agreement and acknowledge and

[138] *See id.* § 40.5.5.1.1.
[139] *See id.* § 40.5.5.1.6.
[140] *See* FERC Order No. 2023 Pro Forma LGIP §§ 7.1, 7.2.
[141] *See id.* § 7.1.
[142] *See* Proposed OATT Attach. HH § 40.5.7.1.2.1.
[143] *See id.*
[144] *See id.* § 40.5.7.1.2.2. If the NYISO were subsequently to identify additional Connecting Transmission Owner(s), Affected Transmission Owner(s), or Affected System Operator(s) for the project, the parties would amend the agreement to incorporate the additional entity. *See id.* § 40.5.7.1.2.3.

agree that it will be responsible for the study costs incurred in connection with its request, including study costs incurred prior to the full execution of the Cluster Study Agreement.[145]

The NYISO also proposes to revise its existing Class Year Study Agreement form for use as the new Cluster Study Agreement in Appendix 3 of Attachment HH with the following additional revisions. First, the NYISO proposes to relocate the information requirements currently included in the study agreement into the Interconnection Request form to provide for one process for Interconnection Customers to submit the required information. Second, the NYISO proposes to update the parties to the agreement to also include any applicable Affected Transmission Owners and Affected System Operators that are responsible for study work concerning the proposed interconnection. Third, the NYISO proposes to revise the scope of work and procedures described in the agreement to align with the NYISO's new study scope and procedures. Fourth, the NYISO proposes to align the description of the invoicing and deposit requirements to align with the related provisions in the body of Attachment HH. Finally, the NYISO proposes to revise the Miscellaneous provision of this agreement to align the provisions with the new process requirements and to provide for uniform agreement terms across NYISO study agreements. This includes revisions: (i) to apply the provisions equally to the Transmission Owner performing study work for the Cluster Study, (ii) to clarify that the agreement will not be terminated until final reconciliation of payments, deposits, and Withdrawal Penalties under the Attachment HH rules, (iii) consistent with other NYISO study agreements, to explicitly provide that the NYISO and Transmission Owner are not liable for direct damages for their actions and omissions under the agreement absent gross negligence or willful misconduct,[146] and (iv) to revise the existing requirement that the NYISO and Transmission Owner are not liable for any delay in the performance of obligations under the agreement to account for the requirements associated with study delays in Attachment HH.

v. Queue Position

Order No. 2023 directed revisions to the queue position requirements to address the changes from a serial to a cluster study interconnection process.[147] In particular, Order No. 2023 required that transmission providers must assign queue positions based on the date and time of receipt of a valid interconnection request, but all interconnection customers that submit interconnection requests within a cluster request window must be considered equally queued.[148] In addition, Order No. 2023 required that clusters initiated earlier in time must have a higher queue position than clusters initiated later in time.[149]

[145] *See id.* § 40.25.1 (proposed OATT Attach. HH, App'x 1), § 40.25.2 (proposed OATT Attach. HH, App'x 2.

[146] *See, e.g.*, OATT Attach. Y § 31.12 (Study Agreement for Evaluation of Public Policy Transmission Projects).

[147] Order No. 2023 at P 277.

[148] *See id.*

[149] *See id.*

The NYISO proposes to adopt queue position requirements generally consistent with the rules in Order No. 2023, but requests certain independent entity variations to align the Commission's requirements with the NYISO's interconnection process. [150]

First, the NYISO proposes to clarify that Queue Position will be set based on the date and time of its receipt of the Interconnection Customer's complete submission of an Interconnection Request or CRIS-Only Request.[151] Upon the NYISO's subsequent validation of the request, the project will retain its assigned Queue Position based on that date and time its request was initially filed.[152] The NYISO adopted the date and time of its receipt of the Interconnection Customer's submission as the only objectively equal measure for granting queue position. The date and time of validation, for example, could be subject to many factors outside of the Interconnection Customer's control.

Second, the NYISO proposes to specify consistent with Order No. 2023 that projects participating in the same cluster are considered equally queued and are considered to have a higher priority than requests in a subsequent Cluster.[153] The NYISO, however, proposes one limited exception to these requirements concerning access to limited Points of Interconnection as described in Part VII.C.iii below.

The NYISO notes that Queue Position plays a very limited role in the NYISO's current Class Year and its proposed Cluster Study processes. The NYISO does not include proposed projects in the base case of an interconnection study simply because the project has a higher Queue Position or participated in a prior or ongoing Class Year Study or Cluster Study. Rather, a project is only included in the base case for a subsequent interconnection study when an Interconnection Customer has accepted the cost allocation and posted security for the facilities identified for its project in that prior interconnection study.[154] This is consistent with the NYISO's "first ready, first served" approach where only projects that have elected to proceed by accepting their cost allocation and posting related security are accounted for in future study base cases.

Finally, the NYISO modified the rules for transferring Queue Position to account for the need for the acquiring Interconnection Customer to post the required deposits required under the new Cluster Study Process and to specify when the NYISO would refund or authorize cancellation of the deposits posted by the Interconnection Customer transferring the project.[155]

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[150] *See* proposed OATT Attach. HH §§ 40.6.1.1, 40.6.1.2. In addition, the NYISO's existing tariff does not define the term interconnection queue. The NYISO, therefore, proposes to define in Section 40.1 the term Queue, which includes projects participating in the new Standard Interconnection Procedures, transmission projects in the Transmission Interconnection Procedures in Attachment P of the OATT, load and transmission expansion projects participating in the study process in Sections 3.7 and 3.9 of the OATT, projects subject to an Affected System Study, and those projects from the NYISO's LFIP and SGIP that retain their Queue Position in accordance with the transition rules described in this compliance filing.

[151] *See id.* 40.6.1.1.

[152] See *id.*

[153] *See id.* § 40.6.1.2.

[154] *See* NYISO OATT §§ 22.6.1, 25.5.5.1, 30.2.3, 32.3.5.7.

[155] *See* proposed OATT Attach. HH § 40.6.2.

vi. Contingent Projects

As described in Part VII.A.iii above, under the NYISO's proposed process, the Application Window for a given study process will open and may conclude prior to the conclusion of the prior study process.[156] In response to existing and prospective Interconnection Customers' input, the NYISO requests an independent entity variation to permit Interconnection Customers with projects participating in an ongoing study process to submit the same project as a "Contingent Project" during the Application Window for the next study process. This provides Interconnection Customers with the opportunity to enter the subsequent study process as a hedge against the results of the ongoing study process (*e.g.*, high upgrade costs that may be lower in a subsequent Cluster Study Process).

The NYISO proposes that Contingent Projects be subject to the following requirements.[157] The Contingent Project must meet all of the entry requirements to enter the next study process, including the non-refundable Application Fee, Study Deposit, and Site Control requirements. If the Contingent Project accepts its Project Cost Allocation in its ongoing interconnection study process, the Contingent Project will be withdrawn without penalty from the subsequent study process. If, on the other hand, the Contingent Project withdraws from or does not accept its cost allocation in the ongoing interconnection study process, the Contingent Project will proceed in the subsequent study process in the same manner as any other project, including being subject to any Withdrawal Penalties. If the Contingent Project requested both ERIS and CRIS in the ongoing interconnection study and accepts the cost allocation required for the requested ERIS in that study but does not accept the cost allocation required for CRIS, the Contingent Project will be converted into a CRIS-only project to seek to obtain CRIS in the subsequent study process. In such case, the Contingent Project can elect prior to entering the Phase 1 Study to withdraw the CRIS-only project without penalty.

C. Customer Engagement Window

Order No. 2023 established a customer engagement window, which is a 60 day window for the transmission provider to post a list of the validated projects participating in the cluster and to perform a scoping meeting for the cluster.[158] The NYISO proposes to adopt the customer engagement window requirements included in Order No. 2023 with the proposed variations described below for which the NYISO requests independent entity variations.[159]

[156] The NYISO is currently performing its final Class Year Study for Class Year 2023 and performing its final Small Generator facilities studies. Interconnection Customers participating in these studies may submit their same projects into the Application Window for the Transition Cluster Study Process as Contingent Projects.

[157] *See* proposed OATT Attach. HH § 40.5.4.1.

[158] *See* Order No. 2023 at PP 232, 237, 245-251.

[159] *See generally* proposed OATT Attach. HH §§ 40.7.1-40.7.4.

i. Date and Duration of the Customer Engagement Window

The NYISO proposes that the customer engagement window be scheduled as a 70 calendar day period that commences on the first business day after the end date of the Application Window.[160] The NYISO requires additional time in the customer engagement window as its proposed process includes performing additional analysis, including a physical infeasibility screening, in this process step. Further, as described in Part VII.A.iii above, the NYISO proposes that in instances in which the prior study process is delayed in being completed (*e.g.*, more iterative decision rounds than usual are required at the conclusion of the study), the Customer Engagement Window will be extended on a day-for-day basis to the completion of the final decision period in the prior study process.[161] This extension is required to ensure that the NYISO can incorporate the final results from its prior study process in the base cases for the next study process prior to the commencement of the Phase 1 Studies.

ii. Posting of Cluster Study Project List and Permissible Change to Point of Interconnection and Penalty Free Withdrawals

Order No. 2023 required the transmission provider to post within 10 business days of the opening of the customer engagement window a list of the validated projects participating in the cluster for that study process, along with certain details concerning the projects.[162] The NYISO proposes to adopt the posting requirements in Order No. 2023 with the following proposed variations from the *pro forma* requirements.[163]

First, the NYISO proposes to insert a few additional categories of information in the list (*e.g.*, Queue Position, number of proposed generator leads, the applicable Connecting Transmission Owner and Affected Transmission Owner, whether the project is a Contingent Project). This additional information will further assist an Interconnection Customer in determining the potential impacts of the other projects in the same cluster on its project.

Second, the NYISO proposes not to include the requirement that the posted list is anonymized.[164] This requirement creates an additional administrative burden on the NYISO, which currently identifies Interconnection Customers in its posted interconnection queue for all valid Interconnection Requests and in other publicly-posted materials.[165] The anonymity requirement would represent a step backwards in transparency in New York and would likely result in the asymmetrical and unequal disclosure of such information as information concerning projects under development are often publicly available in federal, state, and local proceedings or

[160] *See id.* § 40.7.1.
[161] *See id.*
[162] *See* Order No. 2023 at P 237.
[163] *See* proposed OATT Attach. HH § 40.7.2.
[164] *See* Order No. 2023 at P 237; *see also id.* P 161 (denying NYISO's request for rehearing on anonymized requirement but indicating transmission providers can explain specific circumstances for an independent entity variation).
[165] *See* OATT Attach. X 30.3.4.1; *see also* NYISO 2023 Load and Capacity Data Report, https://www.nyiso.com/documents/20142/2226333/2023-Gold-Book-Public.pdf/c079fc6b-514f-b28d-60e2-256546600214.

otherwise publicly posted, including by the Interconnection Customer themselves. Accordingly, maintaining the list as confidential could provide benefits to a subset of projects vis a vis those projects for which information is already readily available. Moreover, all Interconnection Customers will be participating in the group scoping meeting, making anonymity impracticable to maintain.

Finally, Interconnection Customers may, based on their review of the project list, determine that their projects no longer remains viable or face high risk of substantial upgrades and related costs.[166] For this reason, the NYISO proposes to permit Interconnection Customers within 5 business days of the posting of the project list to modify their Points of Interconnection or withdraw their project without a Withdrawal Penalty.[167] If an Interconnection Customer elects to modify its Point of Interconnection in this window, the NYISO will modify the priority designation of its Queue Position within the cluster for purposes of the limited physical infeasibility determination described in Part VII.C.iii below. This window will enable an Interconnection Customer to assess its project in light of the other projects in the cluster and to take appropriate action prior to being subject to penalties.

iii. Physical Infeasibility Screening

The NYISO requests an independent entity variation to add a process step in its Customer Engagement Window for the Connecting Transmission Owner and any identified Affected Transmission Owners to review a project's proposed interconnection to assess whether its proposed Point of Interconnection is physically infeasible.[168] The purpose of the screening is to catch early in the study process, when possible, those projects that will not be able to interconnect due to physical infeasibility, so that such projects can withdraw without incurring significant costs, time, and resources. Notwithstanding this screening, physical infeasibility issues may also become apparent later in the Phase 1 or Phase 2 studies as more detailed analysis is performed for the cluster of studies. In all cases, the NYISO proposes that, if it determines in coordination with the applicable Transmission Owner that a project is physically infeasible, the project will be withdrawn. As an Interconnection Customer may not be able to identify such physical infeasibility issues ahead of time despite developing its project in good faith, projects determined to be physically infeasible may withdraw without being subject to a Withdrawal Penalty.[169]

The NYISO proposes to determine that a project is Physically Infeasible if:

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[166] As the Commission noted in extending the customer engagement window duration, "[a]t the same time, we provide interconnection customers with more time to consider information collected during this period of engagement with the transmission provider—including the makeup of the cluster—and assess the continued viability of their proposed generating facilities before withdrawal of the interconnection request will incur a penalty. For example, the interconnection customer can assess the expected costs of potential network upgrades and the impact of those costs on the viability of its proposed generating facility in the context of the size and location of other interconnection requests in the cluster." Order No. 2023 at P 233.

[167] *See* proposed OATT Attach. HH §§ 40.7.2.2, 40.7.2.3.

[168] *See id.* § 40.7.3.

[169] *See, e.g., id.* § 40.7.6.2.

> (1) (i) the substation for the selected Point of Interconnection does not have any available bus positions and (ii) (a) is not expandable electrically or within the existing substation footprint, or (b) adjacent usable vacant land is not available, or (c) proposals by Interconnection Customer are inconsistent with Good Utility Practice or Applicable Reliability Requirements; or
>
> (2) a viable tie line cable route(s) cannot be established from either the Point of Change of Ownership to the Point of Interconnection or, where these points are the same, a viable route cannot be established within or from the fence line; or
>
> (3) (i) the project capacity exceeds the ratings of equipment at the substation selected for the Point of Interconnection, (ii) replacement equipment that would be adequately rated for the project capacity is not commercially available from an approved supplier and within applicable specifications set by the Transmission Owner, and (iii) an alternative upgrade is not physically feasible (*e.g.*, higher voltage Point of Interconnection substation).[170]

As described in Part VII.B.v above, projects in the same cluster are considered equally queued with the following limited exception.[171] If: (i) more than one project in a cluster proposes to interconnect at the same Point of Interconnection and (ii) all of the projects proposing to interconnect at that location are not able in the aggregate to interconnect due to a physical infeasibility, then a project with a Queue Position with a higher designated priority in the same cluster shall have priority over one with a lower designated priority.[172] This "jump ball" situation does not currently occur often in New York as in most cases an approach can be developed to permit the interconnection. However, with an increasing number of projects seeking to interconnect, there is an increased potential for such scenario.

Finally, as described in Part VII.B.vi, the NYISO proposes to permit Interconnection Customers participating in an ongoing study process to enter the subsequent study process as a Contingent Project pending the outcome of the ongoing study. If there are remaining Contingent Projects in the study process at the time the Transmission Owners perform their physical infeasibility screening, the applicable Transmission Owner will perform two separate assessments to address the uncertainty as to whether the Contingent Projects will accept the cost allocations for their projects and post security in the ongoing study, which will determine

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[170] *See id.* § 40.7.3.2. For purposes of this subpart (3), "commercially available" equipment shall mean equipment manufactured by an approved supplier of a particular Connecting Transmission Owner and conforming with engineering specifications and procedures of the Connecting Transmission Owner.

[171] In Order No. 2023-A, in response to comments concerning this priority issues raised by the New York Transmission Owners, the Commission reiterated that the NYISO could request an independent entity variation and explain the need for such priority rules. Order No. 2023-A at P 164.

[172] *See* proposed OATT Attach. HH § 40.7.3.4. In most cases, the Queue Position number will clearly indicate which Interconnection Customer has a higher priority. However, in cases in which an Interconnection Customer elects to modify its Point of Interconnection following the NYISO's posting of the Cluster Study Project list, the NYISO will modify the priority designation of those projects that changed their Point of Interconnection. In such case, those projects that did not change their Point of Interconnection will have higher priority.

whether they will be in the base case for the subsequent study process.[173] For the first assessment, the Transmission Owner will assume that all Contingent Projects will satisfy the requirements to move forward in the ongoing study and will incorporate them into the baseline of their physical infeasibility assessment for the remaining projects in the cluster.[174] For the second assessment, the Transmission Owner will assume that the Contingent Projects are not moving forward in the ongoing study and are not in the baseline and will assess the Contingent Projects for physical infeasibility in the same manner as any other project in the cluster.[175]

iv. Scoping Meeting

Order No. 2023 required transmission providers to hold a scoping meeting during the customer engagement window with all interconnection customers that submitted interconnection requests during the cluster request window.[176] Transmission providers will be required to use non-disclosure agreements to maintain confidentiality of identifying or commercially sensitive information for all other interconnection customers in a group scoping meeting until the close of the customer engagement window.[177]

The NYISO proposes to adopt the scoping meeting requirements in Order No. 2023 with the following variations.[178]

First, consistent with its current requirements, the NYISO proposes to retain Connecting Transmission Owners and identified Affected Transmission Owners as participants in the scoping meeting.[179] The Transmission Owners share with the NYISO a substantial role in the interconnection study process, including in assessing the physical feasibility of Points of Interconnection and performing elements of the Phase 1 and Phase 2 studies. They play an important role in the scoping meeting, providing critical information to Interconnection Customers, and should remain included in the meeting.[180]

Second, the NYISO proposes that the scope of the scoping meeting be focused on the following: discussing the study scope, schedule, and work plan for the Cluster Study, exchanging

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[173] *See id.* § 40.7.3.5. As a result of this uncertainty, there may be instances in which the NYISO, in coordination with the applicable Transmission Owner, cannot determine with certainty during the physical infeasibility screening as to whether a proposed interconnection will be physically infeasible. If Interconnection Customers elect to proceed to the Phase 1 Study and are later determined to be physically infeasible, they would be withdrawn at that point in the process and would not be subject to a Withdrawal Penalty.

[174] *See id.* § 40.7.3.5.1.

[175] *See id.* § 40.7.3.5.2.

[176] *See* Order No. 2023 at P 245.

[177] *See id.* P 247.

[178] *See* proposed OATT Attach. HH § 40.7.4. The NYISO included clarifying language indicating how it will notify applicable parties of the scoping meeting. *Id.*

[179] See *id.*

[180] Order No. 2023 at P 251 provides that, in the case of an RTO/ISO, "only the entity that independently administers the cluster study is required to attend the scoping meetings." As indicated in Order No. 2023-A, ISO/RTOs may propose to include Transmission Owners in scoping meetings as an independent entity variation when the transmission owner is needed to provide critical information to Interconnection Customers. Order No. 2023-A at P 147.

information including any transmission data that would reasonably be expected to impact such interconnection options, discussing the results of the physical infeasibility screening, including summarizing potential physical infeasibility issues, and analyzing such information.[181] The NYISO proposes not to use the scoping meeting to examine alternative Points of Interconnection or to designate such points. As described in Part VII.B.iii.d, the NYISO's proposed process requires that the Point of Interconnection be set and not subject to change, with limited exception, early in the Customer Engagement Window. Interconnection Customers will have the opportunity to explore different potential Points of Interconnection through the heatmap and pre-application process.

Third, the NYISO proposes that in setting the date for the Scoping Meeting, the NYISO will consult with the Transmission Owners concerning the timeframe for completion of the Physical Infeasibility Screening, with the Scoping Meeting to take place no later than the last Business Day before the close of the Customer Engagement Window.[182]

Finally, as the NYISO proposes not to adopt the anonymized requirement for its posted Cluster Study Project List, as described in Part VII.C.ii, the NYISO proposes similarly not to include the requirement that the non-disclosure agreement requirement for the scoping meeting provide for the confidentiality of identifying information, which information would be public in the NYISO's process.[183]

D. Cluster Study

As described in Part VII.A.i, the NYISO requests an independent entity variation to include in its Standard Interconnection Procedures a single, two phase Cluster Study in place of the cluster study, cluster restudy, and individual facilities study structure adopted in Order No. 2023. The NYISO proposes the Cluster Study mirror its existing Class Year Study requirements previously accepted by the Commission, with certain modifications described below.

The NYISO's existing Class Year Study process includes the following critical elements:

- The NYISO conducts the Class Year Study as a two-part study. The first part assesses the local impacts of the proposed interconnection and identifies any Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities required for a project's reliable interconnection. The second part assesses the broader system impacts of the proposed interconnection and identifies any System Upgrade Facilities required for reliable interconnection using the NYISO Minimum Interconnection Standard.

[181] *See* proposed OATT Attach. HH § 40.7.4.
[182] *See id.*
[183] *See* Order No. 2023-A at P 167.

- The study separately assesses deliverability for those projects seeking Capacity Resource Interconnection Service and identifies any System Deliverability Upgrades using the NYISO Deliverability Interconnection Standard.

- The NYISO is required to identify the least costly configuration of commercially available components of electrical equipment.

- The study allocates costs through a "but for" process that allocates to each project in a cluster the net impact of the interconnection of its project on the reliability of the transmission system (*i.e.*, the cost of facilities that would not be needed but for its project).[184] The Interconnection Customer is not responsible for the cost of facilities that are required anyway, without the construction of its project, to maintain transmission system reliability.

- If the NYISO identifies a new System Deliverability Upgrade on Highways, Byways, or Other Interfaces, the NYISO commences an Additional SDU Study process in parallel with the ongoing study to assess, determine cost estimates, and allocate the costs of such upgrade for those impacted projects that agree to proceed with such study.[185]

- The study process concludes with a Final Decision Period, which includes iterative decision rounds in which each Interconnection Customer elects whether to accept and post full security for the cost allocated to its project in the study for any System Upgrade Facilities required to obtain ERIS and any System Deliverability Upgrades required to obtain CRIS.

- Once an Interconnection Customer accepts and post security for any upgrades, its project is considered firm and included in the base case for future interconnection studies; its security is subject to forfeiture if it withdraws if such security is required to cover the costs of its upgrades that are relied on by other projects; and any differences between its estimated and actual costs are allocated in accordance with tariff-prescribed rules.

[184] The Commission previously accepted, as an independent entity variation, the removal of the following language that is included in the Pro Forma LGIA from Section 11.3 of the NYISO LGIA: "Unless Transmission Provider or Transmission Owner elects to fund the capital for the Network Upgrades, they shall be solely funded by Interconnection Customer." In its Order on the NYISO's Order No. 2003 compliance filing, the Commission recognized that some transmission providers have permissibly adopted a "but for" pricing approach versus the "crediting" pricing approach for transmission service. *See N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,159, at PP 57-59 (2004).

[185] A new System Deliverability Upgrade is one not previously identified and cost allocated in a Class Year Study and not substantially similar to a System Deliverability Upgrade previously identified and cost allocated in a Class Year Study.

- Subsequent Interconnection Customers that make use of previously identified upgrades are responsible for paying headroom to the initial Interconnection Customer responsible for such upgrade.

As detailed below, the NYISO requests independent entity variations to adopt certain reforms to this existing study framework to address the Order No. 2023 directives and goals.[186] The additional reforms proposed by the NYISO are required to facilitate the NYISO's, New York Transmission Owners', and Interconnection Customers' satisfaction of the more stringent and expedited study requirements required by Order No. 2023. The additional reforms proposed by the NYISO include the following, which are described in greater detail below:

- Explicitly divide the study process into two, stand-alone process steps;
- Insert decision periods for Interconnection Customers to enter the Phase 1 Study and the Phase 2 Study;
- Detail the respective responsibilities of the NYISO and New York Transmission Owners in the study process;
- Require readiness deposits to enter into the study phases;
- Require withdrawing projects to be subject to Withdrawal Penalties and distribute collected penalty funds to projects that have advanced in the new process;
- Revise the Additional SDU Study process to clarify the application of such additional study within the new study framework;
- Establish a threshold during the Final Decision Period to limit an Interconnection Customer's ability to reject costs in subsequent rounds due to cost increases between rounds of 10% or less; and
- Additional edits and reforms required to align the existing Class Year Study process rules with the new Cluster Study Process requirements.

i. Phase 1 Study, Phase 2 Study, and Interim Decision Periods

The NYISO proposes to explicitly divide the Cluster Study Process into two distinct phases – a Phase 1 Study process and a Phase 2 Study process – with new decision periods to enter these studies. The Phase 1 Study process will assess the local impacts of proposed interconnections, while the Phase 2 Study process will assess the broader systemwide impacts of

[186] The Class Year Study requirements are currently included in Attachment S to the NYISO OATT. The NYISO proposes to relocate these requirements as part of the Cluster Study to new OATT Attachment HH. The proposed tariff requirements are generally located in Sections 40.9 to 40.18 of Attachment HH as reflected in the table in Attachment I.

the proposed interconnections.[187] These revisions to the NYISO's existing study procedures will enable Interconnection Customers to elect whether to proceed at different stages of the study process or be subject to increasing Withdrawal Penalties if they subsequently withdraw.

The NYISO also proposes to detail in its tariff the respective responsibilities of the NYISO and New York Transmission Owners for the performance of the Cluster Study. The responsibilities of the transmission provider in New York are divided in the NYISO's interconnection procedures between the NYISO and New York Transmission Owners.[188] For the NYISO's current Class Year Study process, the NYISO is primarily responsible for administering interconnection studies and contracts with the applicable Transmission Owner or a third party contractor to perform the study work for the Class Year Study as a consultant. For the new process, the NYISO and New York Transmission Owners have agreed for the Transmission Owners to take on the responsibility of directly performing certain study work in the Cluster Study.[189] Accordingly, the NYISO proposes to detail this allocation of responsibilities in the tariff requirements for the Phase 1 Study and Phase 2 Study, specifying the NYISO's and New York Transmission Owners' respective obligations and key process handoffs and timeframes.[190] As Transmission Owners will be directly performing certain study work, which could result in disputes, the NYISO proposes to clarify that, if a dispute arises for which it is not identified as a party, it will participate in the dispute resolution process to assist the other parties in resolving the claim or dispute.[191] In addition, the NYISO also proposes to delete the *pro forma* requirements that Interconnection Customers may use third party consultants to perform the study work as the new Cluster Study Process establishes detailed timeframes and handoffs for the performance of study responsibilities to meet tariff prescribed deadlines potentially subject to penalties.[192] Any Interconnection Customer consultants would not be bound by these requirements and could result in delays to the detailed process structure carefully developed among the responsible entities.

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[187] This is consistent with the NYISO's current Part 1 and Part 2 elements of its Class Year Study. However, the NYISO's existing tariff consolidates the description of the scope and procedures for performing the entire study, which includes both the Part 1 and Part 2 components. *See* OATT Attach. X §§ 30.8.2, 30.8.3.

[188] *See* Order No. 2023 at P 1 & n.1 ("The term [transmission provider] should be read to include the Transmission Owner when the Transmission Owner is separate from the Transmission Provider.")

[189] Section 2.11.3 of the NYISO OATT establishes certain limitation of liability requirements for the NYISO and New York Transmission Owners concerning their performance of services under the OATT. The NYISO proposes to clarify in Section 40.2.10 of the OATT that the services provided under Attachment HH are included within the limitation of liability requirements in Section 2.11.3.

[190] The NYISO also proposes to specify in the OATT that the NYISO and Transmission Owners will enter into appropriate agreements concerning the performance of this work prior to the end of the Application Window. *See* proposed OATT Attach. HH § 40.10.4.6. This is consistent with the NYISO's current process for entering into study work agreements with the Transmission Owners to establish additional detail concerning their responsibilities for interconnection studies and with the Commission's guidance in Order No. 2003-A. *See* Order No. 2003-A, 106 FERC ¶ 61,220 at P 56 (2004) (providing for ISO/RTOs and transmission owners to enter into contractual arrangements to allocate responsibilities under the interconnection procedures).

[191] *See* proposed OATT Attach. HH § 40.24.5.1.

[192] See *id.* § 40.24.4.

a. Phase 1 Study

The NYISO proposes to insert in its tariff additional details concerning the development of the base cases that will be used for the Cluster Study. The NYISO will be responsible for developing the system representation and bases cases used for the study.[193] In addition, the Transmission Owners will have the opportunity to review and provide input on such base cases.[194] The NYISO is required to finalize certain bases cases as a prerequisite for the New York Transmission Owners to commence certain study work.[195]

The NYISO also proposes to insert additional details concerning the Phase 1 Study process. Transmission Owners will be responsible for performing the Phase 1 Studies. Consistent with the NYISO's current Part 1 study, the Phase 1 Studies will identify any Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, and Local System Upgrade Facilities, along with the related metering, protection, and telecommunication facilities, required for the reliable interconnection of each project in accordance with Applicable Reliability Requirements, to the extent such upgrades are not physically infeasible.[196,197] The study will also provide a +30%/-15% estimate of the cost of equipment, engineering and design work, procurement, construction and commissioning of the identified facilities and a preliminary schedule to construct such facilities.[198] The Transmission Owner will develop the draft study within 150 days after the NYISO's provides an updated project list and a finalized short-circuit base case, and the Transmission Owner will finalize the study within an additional 30 days addressing NYISO and Interconnection Customer input.[199] The NYISO will present the cost estimates determined in the Phase 1 Studies to its stakeholder Transmission Planning Advisory Subcommittee for review and then to its Operating Committee for its approval.[200]

[193] *See id.* § 40.10.2. The NYISO proposes to change the terminology used for its base cases from the "Annual Transmission Baseline Assessment" to the "Cluster Baseline Assessment" and from the "Annual Transmission Reliability Assessment" to the "Cluster Project Assessment." Proposed OATT Attach. HH § 40.1.

[194] *See id.*

[195] *See, e.g., id.* § 40.10.4 (indicating NYISO must provide finalized Cluster Project Assessment short-circuit base case for New York Transmission Owners to commence Phase 1 Study).

[196] *See id.* §§ 40.10.4.1, 4.10.4.2.

[197] The NYISO's interconnection procedures currently contain two different terms referring to the applicable reliability requirements taken into consideration in the evaluation of a project's reliability impacts – Applicable Reliability Requirements (OATT Attachment S) and Applicable Reliability Standards (OATT Attachments P, X and Z). To eliminate confusion and streamline the applicable definition, NYISO has consolidated these terms into a single definition for Applicable Reliability Requirements, except in the interconnection and construction agreements where the term Applicable Reliability Standards continues to be required.

[198] *See id.* § 4.10.4.3. Section 4.10.4.3 establishes requirements concerning the determination of the cost estimates that are consistent with the current studies performed in the NYISO's Class Year Study, including reasonable exclusions from the estimates and calculations of estimates based on the assumption that the Transmission Owner will be performing the work.

[199] *See id.* § 4.10.5.

[200] *See id.* § 4.10.6.

b. Phase 2 Study

The NYISO similarly propose to insert additional details for the Phase 2 Study. The NYISO will be responsible for identifying within sixty days of the start of the Phase 2 Study process: (i) any System Upgrade Facilities required for the reliable interconnection of the projects requesting Energy Resource Interconnection Service and (ii) any System Deliverability Upgrades required for projects requesting Capacity Resource Interconnection Service.[201] For purpose of this analyses, the NYISO requires that bus flow analysis and individual breaker analysis be performed.[202] The NYISO proposes to detail the responsibilities and timeframes for such analyses.[203] Under these requirements, a Transmission Owner may elect for the NYISO to perform such analyses to ensure they are timely completed, in which case the Transmission Owner must provide the NYISO with the information required by the NYISO to perform such analyses.[204]

Upon the NYISO's submission of the identified upgrade to the Transmission Owner or Affected System Operator, the Transmission Owner or Affected System Operator will have 150 days to perform the Phase 2 Study and determine the draft cost estimate and a preliminary schedule for such upgrade.[205] They will then finalize the study within an additional 30 days addressing NYISO and Interconnection Customer input.[206] In addition, the Transmission Owner will separately update the Phase 1 Study results to account for the impacts of any projects that have withdrawn and to perform sensitivities to address projects that could withdraw within the Phase 2 Study process.[207] Transmission Owners will commence such work following the NYISO's provision of an updated project list and an updated short-circuit base case.[208] The Transmission Owner will have 175 days to perform such update, with an additional 30 days to address NYISO and Interconnection Customer input.[209]

Following the NYISO's receipt of the finalized Phase 2 Study reports from the Transmission Owners and Affected System Operators, the NYISO will complete the draft Cluster Study Report.[210] The NYISO will present the draft report to the NYISO's stakeholder Transmission Planning Advisory Subcommittee and Interconnection Project Facilities Study Working Group for their review and then to the Operating Committee for its approval.[211]

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[201] *See id.* §§ 40.11.2, 40.11.3.
[202] *See* § 40.10.7.
[203] See *id.*
[204] *See id.* § 40.10.7.1.3.
[205] *See id.* § 40.11.4. The Transmission Owner will apply the same requirements for the cost estimates established for the Phase 1 Study. *Id.* § 40.11.4.2.
[206] *See id.*
[207] *See id.* § 40.11.2.2.
[208] *See id.*
[209] *See id.*
[210] *See id.* § 40.11.7.
[211] *See id.*

c. Performance of Study Work in Transition Cluster Study Process

As described above, the New York Transmission Owners have agreed to be responsible for performing more of the interconnection study work under the new Cluster Study Process. However, certain Transmission Owners require additional time to take on this work. Accordingly, the NYISO proposes to permit a Transmission Owner to elect for the NYISO to continue to perform or coordinate with a contractor to perform such study work for the Transition Cluster Study Process for good cause shown that the Transmission Owner is unable to perform or use a contractor to perform such work.[212] In such case, the Transmission Owner will be required to use commercially reasonable efforts to coordinate with the NYISO and any contractor concerning the development of and performance of the interconnection studies and the completion of the draft and final studies within the tariff-prescribed times periods.[213] As of the date of the filing, the NYISO has determined that the Long Island Power Authority ("LIPA"), New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation have shown good cause for the NYISO to perform the study work for the Transition Cluster Study Process.

Due to LIPA's status as a non-jurisdictional municipal utility pursuant to Section 201(f) of the Federal Power Act ("FPA") and its performance of work being subject to procedures adopted by the LIPA Board of Trustees, the NYISO proposes to include as Section 40.9.9 of Attachment HH, provisions describing LIPA's voluntary assumption of responsibilities assigned to it as a Connecting Transmission Owner or Affected Transmission Owner in the Cluster Study Process. Proposed Section 40.9.9.1 provides that commencing with the first Cluster Study Process following the Transitional Cluster Study, if LIPA is identified as the Connecting Transmission Owner or an Affected Transmission Owner for an Interconnection Request or CRIS-Only Request participating in the Cluster Study, LIPA will perform the applicable responsibilities established in Attachment HH in accordance with Section 40.9.9.2.[214]

Proposed Section 40.9.9.2 provides that unless LIPA's Board of Trustees exercises its authority to adopt comparable standards and procedures for LIPA's responsibilities in the performance of the Cluster Study for the Long Island Transmission District, LIPA shall voluntarily follow the Cluster Study procedures set forth in Attachment HH. This section also provides that for purposes of any comparability procedures for LIPA's responsibilities in the performance of the Cluster Study adopted by LIPA's Board of Trustees, such procedures shall be consistent with the applicable Connecting Transmission Owners and Affected Transmission Owners procedures for the performance of the Phase 1 Study, Phase 2 Study, and Additional SDU Study established in Attachment HH. Further, upon adoption by the LIPA Board of Trustees of such procedures, LIPA shall provide such procedures to the NYISO for filing with FERC on an informational basis and subject to confirmation that the adopted procedures meet

[212] *See id.* § 40.10.4.1.

[213] *See id.*

[214] *See id.* § 40.9.9.1 (also providing that in the event that it is determined that LIPA's distribution system may be materially affected by a Cluster Study Project, analysis of the need for any distribution upgrades to address such material impacts shall be undertaken by LIPA as part of the Phase 1 Study and Phase 2 Study, the procedures for which will be adopted pursuant to Section 40.9.9.2).

the comparability standard under the Commission's reciprocity policy for the provision of interconnection service by non-jurisdictional utilities.

d. Decision Periods

The NYISO proposes to establish two new decision periods for its Cluster Study Process in addition to its existing Final Decision Period at the conclusion of the study. The first decision period – the Phase 1 Entry Decision Period – will be a 5 business day period following the Customer Engagement Window in which the Interconnection Customer will elect whether to proceed to the Phase 1 Study.[215] The second decision period – the Phase 2 Entry Decision Period – will be a 10 business day period following the Phase 1 Study in which the Interconnection Customer will elect whether to proceed to the Phase 2 Study.[216] At the conclusion of the Phase 2 Study, the NYISO will retain its existing Final Decision Period process by which each Interconnection Customer elects whether to accept its Project Cost Allocation and post full security for its allocated costs to proceed.[217] The new decision periods provide additional decision points prior to the conclusion of the Cluster Study for Interconnection Customers to assess the information gained in the process to that point and to elect whether to proceed, including whether to incur additional study cost and additional withdrawal penalty exposure.

ii. Readiness Deposits and Withdrawal Penalties

Order No. 2023 adopted entry requirements for the different *pro forma* interconnections studies, including the requirement that Interconnection Customers submit commercial readiness deposits at each study phase and when executing a large generator interconnection agreement (or requesting that it be filed unexecuted).[218] The order indicated that the deposits are intended to reduce the submission of speculative, commercially non-viable interconnection requests.[219] The order did not require, but permitted, transmission providers to propose as variations non-financial commercial readiness demonstrations.[220]

The NYISO proposes to adopt readiness deposits and withdrawal penalty requirements included in Order No. 2023 with proposed variations for which the NYISO requests independent entity variations as further described below.

a. Readiness Deposits and Security

Order No. 2023 established four successive commercial readiness deposits, which commence with a deposit two times the study deposit amount with subsequent deposits based on increasing percentages of the estimated upgrade costs determined in the interconnection studies (5%, 10%, and finally 20%).[221] The deposits are not additive; rather, an Interconnection

[215] *See id.* § 40.7.5.
[216] *See id.* § 40.10.8.
[217] *See id.* § 40.15.
[218] *See* Order No. 2023 at PP 690, 714.
[219] *See id.* P 691.
[220] *See id.* PP 694, 701.
[221] *See id.* PP 692-693, 714.

Customer must true up its previously provided deposit amount to cover any difference for the next deposit amount.[222]

The NYISO requests an independent entity variation to adopt deposit requirements that align with its distinct study structure and its existing upgrade security rules. In particular, the NYISO proposes to establish two commercial readiness deposits during the study process and to retain its current security rules at the conclusion of the Cluster Study.[223] The readiness deposits replace the NYISO's existing Class Year Study requirement that an Interconnection Customer make a non-financial commercial readiness demonstration or post a deposit in lieu of such demonstration.[224] The NYISO's proposed approach aligns with the goals of Order No. 2023 to establish more stringent deposit requirements to minimize speculative projects, while maintaining the security framework that is an essential element of the NYISO's interconnection process.

The NYISO proposes that an Interconnection Customer provide it with the first deposit – Readiness Deposit 1 – during the Phase 1 Entry Decision Period to enter the Phase 1 Study.[225] The NYISO proposes to calculate Readiness Deposit 1 as $4,000/MW in place of the two times the study deposit amount methodology included in the *pro forma* rules.[226] The NYISO's approach is consistent with its current methodology for calculating deposits in lieu of regulatory milestones for entry into the Class Year Study[227] and with the approach used in other ISO/RTO regions.[228] In addition, it is consistent with the Order No 2023 determination that the initial deposit be based on the size of the generating facility.[229]

The NYISO proposes that an Interconnection Customer then be required to provide it the second deposit – Readiness Deposit 2 – during the Phase 2 Entry Decision Period to enter the Phase 2 Study.[230] Consistent with Order No. 2023,[231] this subsequent deposit amount will be based on the cost estimates identified in the Phase 1 Study. In particular, the NYISO will calculate Readiness Deposit 2 as the greater of: (i) the Readiness Deposit 1 amount for the Cluster Study Project, and (ii) 20% of the cost estimate for the subset of upgrades determined in the Phase 1 Study – Connecting Transmission Owner's Attachment Facilities, Distribution

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[222] *See id.* P 703.

[223] *See* Nguyen Affidavit at P 20.

[224] Under the NYISO's existing Class Year Study process, an Interconnection Customer must demonstrate commercial readiness to enter the study by either demonstrating that it has satisfied one of the tariff-prescribed regulatory milestones or, in lieu of such demonstration, providing a qualifying contract or deposit. The Interconnection Customer is ultimately required to satisfy the regulatory milestone within 6 months of the NYISO's tender of its draft interconnection agreement.

[225] *See* proposed OATT Attach. HH § 40.7.5.3; *see also* Nguyen Affidavit at P 20.

[226] *See* proposed OATT Attach. HH § 40.7.5.3. The MW for this calculation will be based on the requested ERIS amount at the Point of Interconnection for the Cluster Study Project.

[227] *See* OATT Attach. S 25.5.9.1 (establishing regulatory milestone deposit amount as $100,000 plus $3,000/MW); *see also* Nguyen Affidavit at P 20.

[228] *See, e.g.*, Southwest Power Pool Open Access Transmission Tariff Attach. V, § 8.2(f) (requiring an initial security deposit of $4,000 per MW of requested interconnection service).

[229] *See* Order No. 2023 at P 692.

[230] *See* proposed OATT Attach. HH § 40.10.8.3.

[231] *See* Order No 2023 at P 693.

Upgrades, and Local System Upgrade Facilities for the Cluster Study Project.[232] Readiness Deposit 2 is not additive to Readiness Deposit 1. Rather, it replaces Readiness Deposit 1, with the Interconnection Customer required to provide any incremental amount required to satisfy the above calculated amount.[233] The 20% figure represents a reasonable threshold for proceeding in the NYISO's process. In New York, the local upgrades and attachment facilities identified in the Phase 1 Study will in most cases constitute the largest amount of each Interconnection Customer's interconnection facility costs, and an Interconnection Customer's willingness to provide a deposit of 20% of these costs provides some certainty as to the project's ability to move forward into Phase 2 and its ability at the end of Phase 2 to provide the full security required to proceed to an interconnection agreement.[234]

The two readiness deposits will not apply to a project that is solely seeking CRIS through the Cluster Study Process.[235] Such project will in most cases already be an existing facility or have obtained ERIS in a prior interconnection study.

Finally, the NYISO proposes to retain in the Cluster Study Process its existing requirement that at the conclusion of the study process the Interconnection Customer post security to the applicable Transmission Owner in the full amount (100%) of its estimated costs allocated in the study process. The NYISO also proposes that following the Interconnection Customer's satisfaction of the security requirement, the NYISO will return or provide authorization to cancel the Interconnection Customer's Readiness Deposit 2.

The NYISO's full security requirement is an integral component of the NYISO's interconnection process.[236] An Interconnection Customer's posting of this security establishes its project as a firm project, which project and related upgrades are included in the base case relied upon for subsequent interconnection studies.[237] This mechanism is a unique element of the NYISO's process that enables the NYISO to avoid costly and time and resource intensive restudies in the event the project later withdraws.[238] Subsequent projects and future system development rely on the inclusion of these facilities, backed up by this security. In the event the Interconnection Customer withdraws, the Transmission Owner which system is subject to the upgrade may make use of the forfeited security if the upgrade has to be constructed because other projects are relying on it.[239]

b. Withdrawal Penalties

Order No. 2023 established the imposition of penalties for projects that withdraw or are withdrawn at different phases of the interconnection process or do not enter commercial

[232] *See* proposed OATT Attach. HH § 40.10.8.4.
[233] *See id.* §§ 40.10.8.4.1, 40.10.8.4.2.
[234] *See* Nguyen Affidavit at P 21.
[235] *See* proposed OATT Attach. HH §§ 40.7.5.3, 40.10.8.3.
[236] *See* Nguyen Affidavit at P 22.
[237] *See id.*
[238] *See id.*
[239] *See id.*

operation.[240] The penalty amount would be the greater of the study deposit and an amount two times the study costs or an increasing percentage of upgrade costs depending on the time of withdrawal.[241] The order required the transmission provider to impose the penalty if it determines that the withdrawal has a material impact on the cost of timing of an interconnection request with an equal or lower queue position.[242] In addition, the order established exceptions to these withdrawal penalties if an Interconnection Customer withdraws after receiving a study report with a significant increase in upgrade costs.[243]

The NYISO requests an independent entity variation to retain its existing security mechanism at the conclusion of the Cluster Study Process by which an Interconnection Customer must accept and post security for its full allocation of its required facilities to proceed. This security is subject to forfeiture if the Interconnection Customer withdraws, and other Interconnection Customers are relying on the attachment facilities and upgrades. As described above, these security rules are an integral component of the NYISO's interconnection procedures.

The NYISO proposes to supplement the security forfeiture requirements by adopting Withdrawal Penalties for projects that withdraw or are deemed withdrawn during the Cluster Study Process and prior to the posting of any required security at the conclusion of the process.[244] The NYISO agrees that such Withdrawal Penalties will assist in reducing speculative projects and the harms to the process that can arise when projects withdraw from the study at various phases.[245]

The NYISO proposes variations from the penalty amounts identified in Order No. 2023 to align with the NYISO's different process structure, which concludes with the final security payment. Consistent with the order's requirements, the NYISO's penalties "increase in amount as interconnection customers proceed through the interconnection process in order to ensure that interconnection customers continue to evaluate whether their proposed generating facilities are commercially viable, thereby reducing the number of late-stage withdrawals and companying re-studies."[246] In particular, the NYISO proposes to impose Withdrawal Penalties as follows:

[240] *See* Order No. 2023 at PP 780, 783-784, 794.
[241] *See id.* P 791.
[242] *See id.* PP 783, 789.
[243] *See id.* P 784.
[244] *See* proposed OATT Attach. HH § 40.6.5.1.
[245] *See* Order No. 2023 at P 781.
[246] *See id.*

Withdrawal Period	Withdrawal Penalty Amount
Project withdraws during Application Window or in Customer Engagement Window up to 5 business days after NYISO posts Cluster Study Project List	No penalty[247]
Project subsequently withdraws in the Customer Engagement Window or at the Phase 1 Entry Decision Period	Withdrawal Penalty in an amount equal to twenty-five percent (25%) of its initial Study Deposit amount for the project[248]
Project subsequently withdraws during the Phase 1 Study or at the Phase 2 Entry Decision Period	Withdrawal Penalty in an amount equal to fifty percent (50%) of its initial Study Deposit and ten percent (10%) of its Readiness Deposit 1 for the project[249]
Project subsequently withdraws during the Phase 2 Study or decision process (*i.e.*, the Final Decision Period or the Additional SDU Study Decision Period if participating in an Additional SDU Study) or does not accept its cost allocation or post security in the applicable decision process,[250]	Withdrawal Penalty equal to one hundred percent (100%) of the initial Study Deposit amount for the project and twenty percent (20%) of the Readiness Deposit 2 for the project[251]

Consistent with Order No. 2023, the NYISO proposes the following exceptions for the imposition of penalties based on the unique elements of its process:

- Projects solely requesting CRIS in the Cluster Study Process do not provide readiness deposits, so they are only subject to the Withdrawal Penalty assessed on their Study Deposit amount.[252]

- The NYISO will not assess a Withdrawal Penalty on a project that the NYISO, in consultation with the applicable Transmission Owner, determines is physically infeasible, as Interconnection Customers may not have the opportunity to identify

[247] *See* proposed OATT Attach. HH § 40.6.5.1.1.

[248] *See id.* §§ 40.6.5.1.2, 40.7.6.2. While defined as a "Study Deposit," this deposits functions similarly to the Readiness Deposits except that the NYISO can use the Study Deposit amounts to offset unpaid study costs.

[249] *See id.* §§ 40.6.5.1.2, 40.10.9.2.

[250] Interconnecting projects in New York must obtain ERIS. If a project seeks both ERIS and CRIS in the Cluster Study Process and accepts its Project Cost Allocation and posts the related security to obtain ERIS but elects not to accept its Project Cost Allocation or post the security required to obtain CRIS, the project will not be subject to a Withdrawal Penalty. If, however, the project is participating in the process as a CRIS-only project and does not accept its Project Cost Allocation or post security to obtain that CRIS, the project will be subject to a Withdrawal Penalty (unless the Additional SDU Study is not completed). *See* proposed OATT Attach. HH §§ 40.15.5.1.

[251] *See* proposed OATT Attach. HH §§ 40.6.5.1.2, 40.15.5.1.

[252] *See id.* §§ 40.10.9.2, 40.15.5.1.

such infeasibility on the Transmission Owner's system when submitting its Interconnection Request.[253]

- The NYISO will not assess a Withdrawal Penalty on a Contingent Project: (i) that is withdrawn because it has accepted its cost allocation in the prior study process and will not proceed in the current process or (ii) that elects to withdraw prior to the Phase 1 Study if it is converted into a CRIS-only project due to its actions in the prior study process.[254]

- Finally, the NYISO will not assess a full Withdrawal Penalty if the total costs determined in the Phase 2 Study for the attachment facilities and upgrades required for the project to obtain ERIS is greater than 50% higher than the amount determined for the attachment facilities and local upgrades determined in the Phase 1 Study. In such case, the Withdrawal Penalty will be limited to one hundred percent (100%) of the initial Study Deposit amount and not include a penalty based on the project's Readiness Deposit 2.[255]

The NYISO proposes that the penalties described above be applied without it being required to conduct some form of materiality review or harms test.[256] Such a review would create significant inefficiencies and administrative burdens on the NYISO, requiring it to redirect resources from meeting stringent study timeframes to instead assess each withdrawing project – which could potentially be dozens – at each study phase and to determine on a case-by-case basis what individual impact that project has on the cost and timing of other interconnection requests. A project's withdrawal during the study process will already necessitate additional study work for that process, making use of the NYISO's and Transmission Owners' limited time and resources to the detriment of other projects that are ready to proceed and the overall time for completing the study phase. This harm occurs regardless of whether or not the actual study results indicate that the withdrawal of its project has a material impact on the cost or timing of other interconnection requests.

Finally, as described in Part VII.D.vii.d below, the NYISO proposes to clarify in its invoicing requirements how it will invoice for a Withdrawal Penalty and how it will use, or draw on as needed, the study and readiness deposits for purposes of recovering an unpaid Withdrawal Penalty, particularly in the case of deposits that are satisfied through letters of credit or surety bonds.[257] In addition, consistent with Order No. 2023,[258] the NYISO clarified that Interconnection Customers are responsible for their actually incurred study costs, which is not supplanted by any Withdrawal Penalties.[259]

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[253] *See id.* §§ 40.7.6.2, 40.10.9.2, 40.15.5.1.

[254] *See id.*

[255] *See id.* § 40.15.5.1

[256] *See Midcontinent Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,054, at P 70 (2024) (accepting MISO proposal to implement an automatic withdrawal penalty that would apply in most circumstances, regardless of whether a withdrawal meets a harm test).

[257] *See* proposed OATT Attach. HH §§ 40.7.6.2.1, 40.10.9.3.1, 40.15.5.2, and 40.24.3.3.

[258] *See* Order No. 2023 at P 811.

[259] *See* proposed OATT Attach. HH § 40.24.3.3.1.

c. Distribution of Withdrawal Penalties

Order No. 2023 established that the transmission provider hold the collected withdrawal penalty funds until all interconnection customers in the cluster have withdrawn or been deemed withdrawn, executed an interconnection agreement, or requested that such agreement be filed unexecuted.[260] The order then required the transmission provider to implement a multi-prong process to use the collected funds. In short, "the transmission provider must use the withdrawal penalty funds as follows: (1) to fund studies and restudies in the same cluster; (2) if withdrawal penalty funds remain, to offset net increases in costs borne by other remaining interconnection customers from the same cluster for network upgrades shared by both the withdrawing and non-withdrawing interconnection customers prior to the withdrawal; and (3) if any withdrawal penalty funds remain, they will be returned to the withdrawing interconnection customer."[261]

The NYISO requests an independent entity variation to adopt requirements for distributing collected Withdrawal Penalties that account for its different process structure and requirements. As directed by Order No. 2023, the NYISO will post the balance of the Withdrawal Penalties that it has collected and holds but has not yet dispersed and will update this posting on a quarterly basis.[262]

Consistent with Order No. 2023, the NYISO proposes as the first step to distribute any collected withdrawal penalties – the Withdrawal Penalty Funds – to offset Interconnection Customers' study costs incurred in that Cluster Study Process.[263] The NYISO proposes to make such payments to "Payment Eligible Projects" that completed the Cluster Study Process.[264] These include: (i) Interconnection Customers that accepted their Project Cost Allocation and posted security (if any required) for any attachment facilities and upgrades required for their requested ERIS and (ii) Interconnection Customers requesting only CRIS that: (A) accepted their Deliverable MW or accepted their Project Cost Allocation and paid cash or posted security (if any required) for any required System Deliverability Upgrades or (B) participated in an Additional SDU Study that was not completed.[265] The NYISO proposes to calculate the refund payment for each individual Payment Eligible Project by dividing the total Withdrawal Penalty Funds amount by the number of Payment Eligible Projects.[266] Consistent with the directive in Order No. 2023,[267] the NYISO proposes that an Interconnection Customer cannot receive a

[260] *See* Order No. 2023 at P 801.
[261] *See id.* P 798.
[262] *See id.* P 797; *see* proposed OATT Attach. HH § 40.6.5.2.1.
[263] *See* proposed OATT Attach. HH § 40.6.5.2.3.
[264] In Order No. 2023-A, the Commission clarified that recoverable study costs include all costs incurred by the Interconnection Customer in the transmission provider's existing interconnection study process prior to the effective date of transmission provider's compliance filing. Order No. 2023-A at P 241. Under the NYISO's proposed process, projects participating in the NYISO's existing study process will be withdrawn from its queue with limited exception and any Interconnection Customer that intends to enter the Transition Cluster Study will need to submit a new interconnection request, so there will not be carry over study costs for these new projects.
[265] *See* proposed OATT Attach. HH § 40.6.5.2.2.
[266] *See id.* § 40.6.5.2.3.
[267] *See* Order No. 2023 at P 801.

higher study refund payment for its Payment Eligible Project than the total payment it made to the NYISO for the actual study costs for that project in the particular Cluster Study Process.[268]

The NYISO proposes to apply these penalties within 150 days of the conclusion of the last decision period for a Cluster Study Process in place of waiting until all remaining Interconnection Customers have entered into interconnection agreements or requested that they be filed unexecuted.[269] This will avoid potentially lengthy delays if one or more interconnection agreement negotiations requires more time than usual or an Interconnection Customer elects to wait to execute its interconnection agreement pending the results of an affected system study in a neighboring region.

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

For this reason, the NYISO proposes as an alternative second step that it use any remaining penalty funds to calculate and pay a Commercial Operation Incentive Payment Amount as an incentive for those Interconnection Customers that have completed the study process to complete their project and enter Commercial Operation.[270] For purposes of this step, the NYISO will first calculate the Commercial Operation Incentive Payment Amount by dividing the remaining Withdrawal Penalty Funds by the total number of Payment Eligible Projects.[271]

The NYISO will hold the remaining Withdrawal Penalty Funds for the cluster until the Commercial Operation Incentive Payment Amount has been applied for each Payment Eligible Project, as follows.[272] If a Payment Eligible Project enters Commercial Operation, the NYISO will pay the Interconnection Customer for that project the Commercial Operation Incentive

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[268] *See* proposed OATT Attach. HH § 40.6.5.2.3.

[269] *See id.* The 150 day period is required to provide the NYISO with sufficient time to complete the final invoicing for that Cluster Study Process.

[270] *See id.* § 40.6.5.2.4.

[271] *See id.* § 40.6.5.2.5. This second step excludes CRIS-only projects as they are a party to the Cluster Study solely to obtain CRIS. *See id.*

[272] *See* § 40.6.5.2.6.

Payment Amount.[273] If a Payment Eligible Project withdraws or is withdrawn prior to entering Commercial Operation, it shall forfeit at that time its opportunity for the incentive payment.[274] The NYISO will instead use any forfeited amounts to offset its administration costs.[275] This approach is consistent with other ISO/RTOs' use of remaining penalty funds to offset administrative costs.[276] In addition, refunding any remaining penalty funds back to the projects that were subject to the penalties would ultimately limit the benefits to the NYISO's applying these penalties, namely disincentivizing speculative projects by imposing a cost on their proceeding through the interconnection process without completing their projects.

d. Example of Withdrawal Penalty Distribution

The NYISO proposes to include in Attachment HH the following example illustrating its rules for allocating the Withdrawal Penalty Funds it collected for a given Cluster Study Process.[277]

For purposes of this example, assume that at the conclusion of a Cluster Study Process there are ten Payment Eligible Projects and $2,000,000 in Withdrawal Penalty Funds. The NYISO will first determine the share of study costs that will be refunded to the Payment Eligible Projects by dividing the $2,000,000 by 10, which results in a refund payment share for each project of $200,000. The NYISO would make this refund payment to each Payment Eligible Project up to the amount in actual study cost such project paid in that Cluster Study Process. Accordingly, if a Payment Eligible Project only paid $100,000 in actual study costs during the Cluster Study Process, its refund payment would be limited to $100,000, and the remaining $100,000 would be subject to the second stage of the Withdrawal Penalty Fund distribution.

For purposes of the second stage, assume that $500,000 remained following the study cost refund payments. The NYISO would then calculate the Commercial Operation Incentive Payment Amount. This would be calculated as the remaining $500,000 divided by 10 or a $50,000 amount for which each Payment Eligible Project would be eligible. Assume 7 of the 10 Payment Eligible Projects entered into Commercial Operation. In such case, those 7 projects would each receive the $50,000 Commercial Operation Incentive Payment Amount. The remaining $150,000 associated with the 3 projects that did not enter Commercial Operation would be forfeited and used by the NYISO to offset its administration costs.

iii. Final Decision Period

The NYISO requests an independent entity variation for limited changes to the rules for the final decision period rules previously accepted by the Commission to align with the more stringent study timeframes adopted in this compliance filing and to ensure the consistent

[273] *See id.*
[274] *See id.*
[275] *See id.*
[276] Southwest Power Pool OATT Attach V § 13.3 ("Any remaining study funds will be used to reduce fees associated with SPP's tariff administrative services.").
[277] *See* proposed OATT Attach. HH § 40.6.5.2.7.

application of the security deposit rules across the identified interconnection facilities and upgrades.[278]

First, under the NYISO's existing rules, if an Interconnection Customer's costs have increased at all between the rounds in the decision process due to other project's withdrawals – by as little as a dollar – the Interconnection Customer must accept its cost allocation anew in the next round. This can necessitate subsequent decision periods due to limited or de minimis cost changes, which would unreasonably prolong the Cluster Study for participating Interconnection Customers, while delaying the NYISO's ability to commence the next Cluster Study. The NYISO proposes to establish that if an Interconnection Customer's costs do not increase by greater than 10% between rounds the Interconnection Customer will not have the opportunity to make a new election.[279] Interconnection Customers can factor the potential for this change in cost estimate when making their determination as to whether to accept their cost allocation. This requirement is consistent with the inclusion of more stringent requirements to assist transmission providers in shortening the interconnection process.

Second, under the NYISO's existing decision period rules, an Interconnection Customer must accept its allocated costs for its System Upgrade Facilities and post related security to obtain ERIS. The NYISO proposes to require that the Interconnection Customer also accept and post the related security for any Connecting Transmission Owner's Attachment Facilities and Distribution Upgrades.[280] When a project meets the base cases inclusion rules, the project, together with its Connecting Transmission Owner's Attachment Facilities, are modeled in the base case for subsequent Cluster Studies and could therefore impact the requirement for and design of Connecting Transmission Owner's Attachment Facilities, System Upgrade Facilities, Distribution Upgrades and System Deliverability Upgrades of subsequent Cluster Study Projects. An increasing number of projects are sharing or relying on these facilities, which are included in the base case for subsequent interconnection studies. Accordingly, the Transmission Owner may be required to construct such facilities if a project withdraws and requires the same protection concerning such facilities.

Finally, the NYISO proposes to clarify certain defined terms concerning the application of the decision period rules. The NYISO replaced the terms "Initial Decision Period" and "Subsequent Decision Period" with "Initial Decision Round" and "Subsequent Decision Round"

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[278] *See id.* § 40.15. As described above, in the final decision period, Interconnection Customers elect across one or more rounds with tightly prescribed timeframes whether to accept the costs for the upgrades identified for their projects and to post security for this allocation. After each round, the NYISO updates the cost estimates of the upgrades based on the projects that did not accept their cost allocation and withdrew, and an Interconnection Customer with increased costs must elect anew whether to accept its updated cost allocation and post security. When all remaining Interconnection Customers have accepted their cost allocation and posted security, the decision period is concluded. The NYISO will then tender as soon as practicable thereafter the draft interconnection agreements to those remaining Interconnection Customers.

[279] *See id.* § 40.15.2.5.

[280] *See id.* § 40.15.1. The NYISO made a conforming change to replace the term "SUF Project Cost Allocation" to "CTOAF and SUF Project Cost Allocation.

to clarify that these are rounds, which along with the Final Decision Round, occur within the Final Decision Period.[281]

iv. Additional SDU Study

The NYISO requests an independent entity variation for certain revisions to its existing Additional SDU Study process rules previously accepted by the Commission to align this study process with the new Cluster Study Process requirements.[282] Consistent with the current Class Year Study rules, the Additional SDU Study will bifurcate from the Cluster Study the evaluation of new System Deliverability Upgrades, which can take significantly longer to assess and are not required for Interconnection Customers to obtain the Energy Resource Interconnection Service required for projects to interconnect in New York.[283]

First, the NYISO proposes to include additional details concerning the performance of the Additional SDU study and the allocation of responsibilities between the NYISO and the Transmission Owner or Affected System Operator for this study. These rules are generally consistent with requirements and responsibilities for the Phase 2 Study, with the NYISO responsible for identifying the required upgrade, and the Transmission Owner or Affected System Operator responsible for determining the cost estimate and a preliminary schedule for constructing the upgrades.[284]

Second, the NYISO proposes to clarify that it will prepare a draft Additional SDU Study report that will be subject to the same stakeholder review and approval process as the Cluster Study Report.[285] Further, in instances in which the Additional SDU Study is assessing more than one System Deliverability Upgrade, the NYISO proposes to clarify that it can proceed with a separate report and decision process for each upgrade so that it can complete the process for those upgrades that can be assessed and cost allocated on a faster timeframe.[286] These clarifications are consistent with the NYISO's current practice and are being added to align with the description of the Cluster Study Report preparation and review under the Cluster Study process.

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[281] *See id.* § 40.1.

[282] *See generally id.* § 40.14. Under the Additional SDU Study process, the NYISO performs a separate study of any new System Deliverability Upgrades identified in the Cluster Study that are required for one or more Interconnection Customers requesting Capacity Resource Interconnection Service if those impacted Interconnection Customers elect for that upgrade to be studied. This study is performed in parallel with the Cluster Study to assess and determine the cost estimate for the new upgrade. Upon completion of the study, the NYISO conducts an iterative decision period for Interconnection Customers to elect whether to accept their cost allocation for the upgrade and to post security for their allocated amount. If the study is unable to be completed before the NYISO establishes the base case for the next Cluster Study, the NYISO terminates that Additional SDU Study, and Interconnection Customers may seek to obtain Capacity Resource Interconnection Service in a subsequent Cluster Study or an Expedited Deliverability Study.

[283] *See* OATT Attach. S § 25.5.10. A "new" System Deliverability Upgrade is a System Deliverability Upgrade not previously identified and cost allocated in a Class Year Study and not substantially similar to a System Deliverability Upgrade previously identified and cost allocated in a Class Year Study. *See id.*

[284] *See* proposed OATT Attach. HH § 40.14.2.2.

[285] *See id.* § 40.14.2.3.

[286] *See id.*

Third, the NYISO proposes to revise the description of when the Additional SDU Study must be completed or be subject to termination under the timelines of the new Cluster Study Process. As with the current tariff requirements, the Additional SDU Study and related decision period must be completed in time for the NYISO to account for the process results when finalizing its base case for the Phase 1 Study in the next Cluster Study Process.

The NYISO, therefore, proposes to clarify that if the Additional SDU Study report is completed prior to or at the same time of the Cluster Study Report for a given Cluster Study Process, then the ISO will perform a combined final decision process for these combined studies.[287] If the Additional SDU Study report is approved at a later date, but at least 60 days prior to the scheduled Phase 1 Study Start Date for the next study process, the NYISO will commence a stand-alone final decision period for the study – an Additional SDU Study Decision Period.[288] The NYISO will terminate an Additional SDU Study or Additional SDU Study Decision Period that is not completed 10 business days prior to the scheduled Phase 1 Study Start Date for the next process.[289] In such case, an Interconnection Customer that was participating in that study may enter a subsequent Cluster Study Process or Expedited Deliverability Study to seek to obtain Capacity Resource Interconnection Service.[290]

Finally, the NYISO proposes to eliminate the option under its current Class Year Study rules by which an Interconnection Customer that is participating in the Class Year Study and an Additional SDU Study may defer at the conclusion of the Class Year Study its determination on accepting its cost allocation required for Energy Resource Interconnection Service until the decision period at the completion of the Additional SDU Study.[291] Allowing an Interconnection Customer the option to defer the cost allocation decision on required Connecting Transmission Owner's Attachment Facilities and System Upgrade Facilities until after the completion of the cost estimates for its System Deliverability Upgrades postpones the lockdown of the base case projects and their respective upgrades, particularly in cases in which the Additional SDU Study may not be completed for a given Cluster Study. This in turn jeopardizes the tight study timeframe.

v. Allocation of Upgrade Costs

Order No. 2023 established requirements for the allocation of network upgrade costs identified in cluster studies, which differentiated between substation network upgrades and system network upgrades.[292]The order directed the transmission provider to provide for each type of upgrade, how the costs for that type of upgrade would be allocated (*e.g.*, voltage support,

[287] *See id.* § 40.14.2.4.
[288] *See id.*
[289] *See id.*
[290] See *id.* § 40.14.2.5. An Interconnection Customer participating in an Additional SDU Study may also enter the subsequent Cluster Study Process as a Contingent Project for purposes of proceeding in that process to obtain Capacity Resource Interconnection Service if its Additional SDU Study is terminated. *Id.* § 40.5.4.1.
[291] *See id.* § 40.15.2.6 (not adopting in Attachment HH the deferral option currently included in Section 25.8.2 of Attachment S of the OATT).
[292] *See* Order No. 2023 at PP 453, 458.

short circuit).[293] The order further indicated that the costs of interconnection facilities will be directly assigned to the Interconnection Customers using such facilities.[294] Where Interconnection Customers agree to share such facilities, the costs would be allocated on a per capita basis, unless the parties agreed to a different cost sharing arrangement.[295]

The NYISO's requests an independent entity variation to maintain its existing cost allocation requirements and terminology, which already address the Commission's directives as described below.

First, the NYISO's process already distinguishes between Local System Upgrade Facilities (*i.e.*, substation network upgrades) and non-Local System Upgrade Facilities (*i.e.*, system network upgrades).

Second, the NYISO's existing rules establish that each Interconnection Customer is responsible for 100% of the cost of Attachment Facilities and Distribution Upgrades required for the reliable interconnection of its project.[296]

Finally, the NYISO's existing rules allocate the costs of upgrades to Interconnection Customers through a proportional impact method approach that bases such allocation on the trigger for the particular upgrade: (i) for thermal upgrades: MW impact; (ii) for short circuit upgrades; ampere impact; (iii) for stability upgrades; ampere impact; (iv) for voltage upgrades: voltage deviation impact; and (v) for protection/communication upgrades: equally per project.[297] The application of the NYISO's existing rules assigns the costs on a per capita basis if there is more than one impacted Interconnection Customer for a Local System Upgrade Facility.

vi. Study Costs

a. Study Cost Allocation for Cluster Study

Order No. 2023 provided for each transmission provider to propose its own study cost allocation ratio for allocating the shared costs of cluster studies between a per capita basis and pro rata by MW, provided that between 10% and 50% of study costs must be allocated on a per capita basis, with the remainder (between 90% and 50%) allocated pro rata by MW.[298]

The NYISO requests an independent entity variation to retain its existing study cost allocation approach that was developed to address unique attributes of its Class Year Study that are being carried over to the Cluster Study. The Cluster Study includes both individual and clustered study elements. The Phase 1 Study assesses the local impacts of, in many cases,

[293] *See id.* P 461.
[294] *See id.* P 454.
[295] *See id.*
[296] *See* OATT Attach. S §§ 25.5.6, 25.5.7; proposed OATT Attach. HH §§ 40.9.8.2, 40.9.8.3. The NYISO's tariff requirements also permit Interconnection Customers to enter into side agreements between themselves concerning their cost allocation. *See* OATT Attach. S § 25.5.1; proposed OATT Attach. HH § 40.9.8.4.
[297] *See* OATT Attach. S §§ 25.6.2.3.1-25.6.2.7.7; proposed OATT Attach. HH §§ 40.12.2.3-40.12.2.6.7."
[298] *See* Order No. 2023 at P 416.

individual projects, while the Phase 2 Study assesses the broader system impacts of the cluster of projects. In addition, the Cluster Study includes assessments that apply solely to those Interconnection Customers requesting Capacity Resource Interconnection Service.

Pursuant to the NYISO's requirements, each project is only responsible for the costs associated with the study of its particular project. In particular, each project shall pay: (i) the actual cost of studying the Attachment Facilities and Distribution Upgrades for its own facility; (2) the actual cost of studying Local System Upgrade Facilities for its own facility; and (3) an equal share of all other systemwide Cluster Study costs (*i.e.*, those not related to Attachment Facilities, Distribution Upgrades or Local System Upgrade Facilities).[299] In the event that more than one project contributes to the need for particular Attachment Facilities, Distribution Upgrades, or Local System Upgrade Facilities, those study costs are shared equally among the projects.[300] Further, an Interconnection Customer that is only evaluated for Energy Resource Interconnection Service will not be responsible for the costs associated with the Capacity Resource Interconnection Service evaluation or studies required for System Deliverability Upgrades.[301]

This approach allocates study costs in accordance with cost causation principles to the particular Interconnection Customer or Interconnection Customers responsible for such costs in place of a more general allocation of costs. In addition, this approach accounts for the fact that study costs need not be correlated to project size. Many factors can determine the extent and costs of required studies (*e.g.*, where on the system a project is interconnecting, what interconnection service the project is requesting, etc.).

b. Study Cost Allocation for Other Studies Under NYISO Standard Interconnection Procedures

The NYISO requests an independent entity variation to detail in its tariff the methodology for allocating the costs of the studies other than the Cluster Study that are included in the Standard Interconnection Procedures. These include the Expedited Deliverability Study, Affected System Study, Fast Track Process supplemental review, and Facility Modification Request study. The NYISO proposes to apply the same cost causation approach to allocate these study costs, with Interconnection Customers responsible for an equal share of the study or study elements applicable to them.[302]

[299] *See* proposed OATT Attach. HH § 40.24.3.2.1.1.
[300] *See id.* §§ 40.24.3.2.1.2, 40.24.3.2.1.3.
[301] *See id.* § 40.24.3.2.1.4.
[302] *See id.* §§ 40.24.3.2.2-40.24.3.2.5.

vii. Invoicing and Requirements for Deposits

a. Monthly Invoicing of Study Costs

Order No. 2023 removed the requirement that the transmission provider invoice Interconnection Customers on a monthly basis for the work conducted on the facilities study finding the requirement to be burdensome on the transmission provider.[303]

The NYISO requests an independent entity variation to continue to invoice Interconnection Customers on a monthly basis for the actual costs of the study work incurred by the NYISO and New York Transmission Owners for the Cluster Study Process and to apply the same monthly invoicing approach for the other studies performed under the Standard Interconnection Procedures.[304] The NYISO's proposed revisions are required to ensure a uniform invoicing process and requirements across the Cluster Study Process and all interconnection-related studies.

The NYISO currently invoices Interconnection Customers on a monthly basis for the costs incurred under the Class Year Study process and has structured its finance processes to invoice Interconnection Customers on this basis. As further described in Attachment IV to this filing, the affidavit of Cheryl L. Hussey, Chief Financial Officer for the NYISO ("Hussey Affidavit"), based on the NYISO's experience performing both monthly invoicing for the Class Year Study and end of study invoicing for certain other interconnection studies, the NYISO has determined the latter approach to be administratively cumbersome, to expose the NYISO to a higher risk of non-payment than monthly invoicing, and to lack transparency during the process for Interconnection Customers.[305] The monthly invoicing process provides both greater transparency to Interconnection Customers of their study costs throughout the study process and timely reimbursement of costs incurred by the NYISO.[306]

Using the Study Deposit as the means to address ongoing payments creates a substantial additional administrative burden on the NYISO and Interconnection Customers. Under such approach, the Interconnection Customer would have to continually replenish its required Study Deposit amount to protect the NYISO from being exposed to financial loss due to inadequate remaining Study Deposit amounts to satisfy remaining study costs.[307] Further, as described below, the NYISO has agreed to accept letters of credit and surety bonds for Study Deposits. Using a letter of credit or surety bond to pay ongoing study costs is not appropriate. They are not intended for payment but instead, as a form of financial security and a means to collect in the event of an invoice and/or penalty default. Drawing on a letter of credit or surety bond for payment will create significant administrative burdens and timing issues for both the NYISO and Interconnection Customers to manage draws on and amendments of letters of credit or surety bonds as they are drawn down. Accordingly, the NYISO proposes to retain its existing monthly

[303] *See* Order No. 2023 at P 506.
[304] *See* proposed OATT Attach. HH §§ 40.24.3.1, 40.24.3.4.
[305] *See* Hussey Affidavit at P 8.
[306] *See id.* P 9.
[307] *See id.* PP 10-11.

invoicing mechanism with the Study Deposit serving as financial security to the NYISO in the event an Interconnection Customer defaults on its invoice(s) and/or fails to pay any assessed penalties.[308]

b. Requirements Applicable to Fees and Deposits

Order No. 2023 required that an Interconnection Customer be allowed to use for deposits either cash, a letter of credit, a surety bond, or any other form of security reasonably acceptable to the transmission provider.[309] The NYISO proposes to permit Interconnection Customers to provide their deposits (*e.g.*, Study Deposit, Site Control Deposit, Readiness Deposits) in the Cluster Study Process in the form of either cash, a letter of credit, or a surety bond, while Interconnection Customers must satisfy any fees using cash (*e.g.*, the application fee).[310] The forms of security the NYISO's proposal includes is applicable to deposits and does not apply to Security held by Connecting Transmission Owners or Affected Transmission Owners for Connecting Transmission Owner Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades, which is held by the applicable Transmission Owner.[311]

The NYISO requests certain independent entity variations to account for deposits and, in particular, the ability of Interconnection Customers to use letters of credit or surety bonds to satisfy the deposit requirements.

First, the NYISO proposes to accept only the financial security mechanisms of cash, letters of credit, and surety bonds, which are forms of secured credit that the NYISO permits for its Market Participants under its tariffs and are the only reasonably acceptable forms of security for the types of payments due to the NYISO under Attachment HH.[312] Second, the NYISO proposes to clarify in Attachment HH its requirements for accepting cash, letters of credit, or surety bonds for deposits.[313] These requirements are consistent with the NYISO's existing credit requirements under its tariffs applicable to Market Participants.[314] Third, the NYISO proposes to specify how it will hold and apply such deposits, refund any cash deposits, and/or provide authorization to the Interconnection Customer to request that the issuing entity cancel a letter of credit or surety bond.[315] It is necessary to establish clear rules in the tariff concerning acceptable

[308] *See id.* P 12.

[309] *See* Order No. 2023-A at P 185.

[310] *See, e.g.*, proposed OATT Attach. HH § 40.2.4.

[311] Security, as defined in the NYISO OATT Attachment HH, "can be a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Connecting Transmission Owner, Affected Transmission Owner(s), and/or Affected System Operator(s), meeting the requirements of the cost allocation rules in this Attachment HH, and meeting the commercially reasonable requirements of the Connecting Transmission Owner, Affected Transmission Owner(s), and/or Affected System Operator(s)." To the extent a Connecting Transmission Owner, Affected Transmission Owner, or Affected System Operator deems a surety bond to meet its commercially reasonable requirements, it may permit such form of Security.

[312] *See* Hussey Affidavit at P 13.

[313] *See* proposed OATT Attach. HH § 40.24.4.

[314] *See* Services Tariff Attach. K §§ 26.6.1.1, 26.6.1.2.

[315] *See* proposed OATT Attach. HH § 40.24.3.4.3.

deposits, as the NYISO must quickly validate deposits submitted in the Application Window and Interconnection Customers must quickly provide acceptable deposits during the decision periods to proceed.

c. Invoicing Process

The NYISO also requests independent entity variations to establish a uniform invoicing process for its Standard Interconnection Procedures across its procedures and study agreements. First, the NYISO proposes to consolidate the invoicing rules in one location in Attachment HH that provides that the NYISO will invoice on a monthly basis and that Interconnection Customers must pay such invoices with 30 days or such unpaid costs may be recovered through their deposits.[316] In addition, the NYISO proposes that the invoicing provision require the NYISO to issue a final invoice and for Interconnection Customers to pay such invoice using the same 30 day period requirement.[317] Finally, the NYISO proposes to insert rules for addressing invoicing disputes[318] consistent with the Commission's *pro forma* requirements for addressing invoice disputes[319] and with other NYISO invoicing provisions.[320] The NYISO also proposes to retain the existing requirement that the NYISO and Transmission Owner are not required to perform or continue to perform study work unless the Interconnection Customer has paid all undisputed amounts.[321] These proposed revisions will eliminate the uncertainty and issues that can arise from incomplete or different invoicing requirements for different components of the NYISO's interconnection process.[322]

d. Invoicing for Withdrawal Penalties

The NYISO requests an independent entity variation to establish how it will address invoicing for Withdrawal Penalties. This is not addressed in the NYISO's current rules, which do not include such penalties. Specifically, the NYISO proposes to issue the Interconnection Customer an invoice for any Withdrawal Penalty.[323] If the Interconnection Customer does not make such payment, the resulting default will allow the NYISO to draw on the Interconnection Customer's deposit.[324] Evidence of default is required to draw on a letter of credit or surety bond. As such, NYISO intends for the invoice to serve as evidence of default in the event the Interconnection Customer fails to pay the Withdrawal Penalty.[325]

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[316] *See id.* §§ 40.24.3.4.1, 40.24.3.4.2, 40.24.3.4.3.

[317] *See id.* § 40.24.3.4.4.

[318] See *id.* § 40.24.3.4.5.

[319] *See, e.g.*, FERC Order 2023 Pro Forma Large Generator Interconnection Agreement Art. 12.4.

[320] *See, e.g.*, NYISO OATT Attach. Y § 31.4.4.4.

[321] *See* proposed OATT Attach. HH § 40.24.3.4.6.

[322] *See* Hussey Affidavit at PP 7-12.

[323] *See* proposed OATT Attach. HH §§ 40.24.3.3.1, 40.24.3.4.1; *see also* Hussey Affidavit at P 12.

[324] *See id.* § 40.24.3.4.3. The NYISO expects that many Interconnection Customers will use a single letter of credit to cover the different deposits they are required to provide in the Cluster Study Process.

[325] The Commission has clarified that it does not preclude transmission providers from allowing Interconnection Customers to pay cash in lieu of drawing on previously submitted letters of credit or surety bond. Order No. 2023-A at P 186. *See also*, Hussey Affidavit at P 12.

In addition, consistent with Order No. 2023,[326] the NYISO proposes to clarify that any penalty is in addition to the Interconnection Customer's obligation to pay its study costs.[327] For this reason, the NYISO further proposes to clarify that, if it is required to draw on an Interconnection Customer's Study Deposit for any unpaid study costs, the NYISO will use the initial Study Deposit amount to calculate the penalty amounts tied to the Study Deposit.[328] Finally, the NYISO proposes to clarify that it is not liable for unpaid Withdrawal Penalties and is not permitted to recover any unpaid penalties from other Interconnection Customers and Market Participants.[329]

e. Conforming Revisions in Study Agreements

The NYISO requests an independent entity variation to provide for the application of these invoicing rules across the different study agreements and related terms and conditions in its Standard Interconnection Procedures.[330] This includes providing for the application of the NYISO's deposit related rules in these study agreements.[331] These revisions will ensure that there is one uniform set of invoicing requirements across the interconnection procedures and agreements.

E. Post-Cluster Study Process Requirements

i. Modifications and Extensions of Commercial Operation Dates

a. Material Modifications

The NYISO's current interconnection procedures establish the modifications that an Interconnection Customer may request at different stages of the interconnection process, with the categories of permitted modifications narrowing as the Interconnection Customer progresses through the different interconnection studies.[332] The modification tariff provisions and the related request form also establish procedures concerning the NYISO's performance of required studies concerning the requested modification.[333] Once an Interconnection Customer reaches the Class Year Study process, the NYISO does not permit modifications until the completion of the study, as even minor modifications would require updated facility models which may require updates to base cases and auxiliary study files and therefore would delay the performance of the study. Once the study is completed, Interconnection Customers may again request the NYISO's

[326] *See* Order No. 2023 at P 811.

[327] *See* proposed OATT Attach. HH § 40.24.3.3.1.

[328] *See id.* § 40.24.3.3.2.

[329] *See id.* § 40.24.3.3.4. This is consistent with the Commission's clarification that "withdrawal penalties cannot exceed the dollar amount collected from interconnection customers that have withdrawn from the interconnection study process secured by transmission providers." Order No. 2023 at P 231.

[330] *See, e.g., id.* § 40.25.3 (proposed OATT Attach. HH, App'x 3), Section 9.0 (Cluster Study Agreement); *id.* § 40.25.5 (proposed OATT Attach. HH, App'x 5), Attach. A (Facility Modification Request Terms and Conditions), Section 6.0; *id.* § 40.25.6 (proposed OATT Attach. HH, App'x 6), Section 6.2 (Two-Party Affected System Study Agreement).

[331] *See* proposed OATT Attach. HH § 40.25.3.

[332] *See* OATT Attach. X § 30.4.4.

[333] *See id.* § 30.4.4, 30.14 (App'x 3).

review of proposed modifications to determine whether they are permitted under the NYISO's interconnection procedures and are not material.

The NYISO requests an independent entity variation to update its modification rules to address the structural changes to its interconnection process. In the revised process, there will not be prerequisite interconnection studies prior to commencing the Cluster Study. In addition, the NYISO must begin developing the base cases for the study early on to meet the more stringent study timeframes. Accordingly, the NYISO proposes to specify that, as with its existing Class Year Study rules, an Interconnection Customer may not request to modify the project information that it proposed in its Interconnection Request or CRIS-Only Request until the Cluster Study is complete.[334] As with the Class Year Study, permitting such modifications would require the NYISO to update the modeling and base cases used for the performance of the study, creating delays and adversely impacting the other projects in the cluster.[335] As a result, such modifications necessarily have a material impact on the cost or timing of other Interconnection Requests in that Cluster Study and are therefore Material Modifications.[336]

The NYISO proposes one limited exception to this requirement described in Part VII.B.iii.d above in which an Interconnection Customer may modify its Point of Interconnection during a 5 business day period following the publication of the Cluster Study Project List.[337] This will enable an Interconnection Customer to assess the other projects in the cluster and to determine if, based on those projects' location, they would like to use an alternative Point of Interconnection. In the event an Interconnection Customer elects to make this change, the NYISO will modify that project's designated priority in the event of any jump ball situation for accessing the new Point of Interconnection, as described in Part VII.C.iii. That is, an Interconnection Customer may not cut in front of another project by means of this change to its Point of Interconnection.[338]

The NYISO also proposes to make unform the requirements for its assessment of modification requests to ensure an efficient and timely modification process. In particular, the NYISO proposes to clarify that the Interconnection Customer must submit the modification form, any supporting information or documentation, and a study deposit in the amount of $10,000.[339] The study deposit will only be required for the modification requests that may

[334] *See* proposed OATT Attach. HH § 40.6.3. During the Application Window, an Interconnection Customer may always withdraw and submit a new, modified Interconnection Request or CRIS-Only Request for its project, subject to the normal entry requirements for such submission. *See also* Nguyen Affidavit at P 23.

[335] As the NYISO proposes that Interconnection Customers not be permitted to modify their projects during the Cluster Study Process with limited exceptions, the NYISO requests an independent entity variation from the Commission's proposed updates to its modification rules that apply during the study process.

[336] In Order No. 2023 the Commission indicted that it was not opining on whether moving a point of interconnection within a cluster will be material modification, leaving this determination to the transmission provider. Order No. 2023 at P 281.

[337] *See* proposed OATT Attach. HH §§ 40.6.3.1, 40.7.2.3. This exception does not apply to Contingent Projects that are participating in a prior ongoing interconnection study in parallel. However, if the Contingent Project is no longer participating in the parallel study at this point in the process, it may request a change to the Point of Interconnection through this exception.

[338] See *id.* § 40.7.2.3.

[339] *See id.* § 40.6.3.

require study by the NYISO.[340] The NYISO also clarifies that it will commence any required study within 30 calendar days of receipt of the complete request form with limited exceptions for extending Commercial Operation Dates and for permissible technological advances, which have separate, more detailed rules.[341] The NYISO also proposes non-substantive revisions to improve the readability of the modifications tariff provisions and to eliminate duplication by relocating certain existing rules within the modification provisions.

b. Extensions of Commercial Operation Date

The Commission's *pro forma* interconnection procedures establish that an Interconnection Customer can receive an extension of fewer than three cumulative years of its generating facility's Commercial Operation Date ("COD") without having to request such an extension from the transmission provider.[342] Order No. 2023 modified how this three year period would be calculated. Prior to a project entering into an interconnection agreement, this three year date would be calculated from the COD included in the project's initial interconnection request.[343] After the project has an interconnection agreement, the three year date will be calculated from the COD in the agreement.[344]

The NYISO requests an independent entity variation for the extension requirements that builds on its existing variations previously accepted by the Commission. The NYISO's existing rules permit Interconnection Customers to extend their COD as a matter of right up to four years after the completion of the final interconnection study for the project.[345] For an extension beyond this four year period not to constitute a Material Modification, the Interconnection Customer must have an interconnection agreement and be able to demonstrate via an officer certification that it has made reasonable progress against milestones in the agreement, such as completion of engineering design, major equipment orders, and commencement and continuation of construction of the facility and associated upgrades.[346]

The NYISO proposes not to adopt the changes included in Order No. 2023, which could expand the time period in which an Interconnection Customer may extend its COD as a matter of right beyond the NYISO's existing four-year period after the completion of its final interconnection study.[347] The NYISO's interconnection studies are based on a five year study

[340] *See id.* Study deposits will not be required with Interconnection Customer's submission of a permitted extension of its Commercial Operation Date, a change to its Point of Interconnection for the limited 5 business day period, a name change for the Cluster Study Project, or a name change for the Interconnection Customer.

[341] *See id.* The NYISO will commence its review concerning permissible technological advancements within 30 calendar days. *See id.* § 40.6.3.7.1.

[342] *See* Order No. 2023 at P 293.

[343] *See id.*

[344] *See id.*

[345] *See* OATT Attach. X § 30.4.4.5. For Small Generating Facilities, the four year period commences when the NYISO tenders the draft interconnection agreement. *Id.*

[346] *See id.* § 30.4.4.5.2. If an Interconnection Customer addresses this extension through the filing of an unexecuted interconnection agreement, additional requirements apply for the timing of when reasonable progress must be demonstrated. *Id.*

[347] *See* proposed OATT Attach. HH § 40.6.3.4.

period and do not assess potential system impacts beyond that period.[348] In addition, the cost estimates provided to Interconnection Customers in the NYISO's applicable interconnection study, and the related security Interconnection Customers have provided to secure their upgrades, grow increasingly outdated the further out in time from the performance of the study. As described above, the security provided by Interconnection Customers at the conclusion of the study process is an integral component of the NYISO's process that eliminates the need for re-studies and enables the NYISO, Transmission Owners, and subsequent Interconnection Customers to rely on the resulting system base cases. Further, extended delays create uncertainty for projects connecting near or at the same location, including creating issues with synchronizing work across projects and aligning their protection and telecommunication work.

However, based on extensive discussions with Interconnection Customers and stakeholders concerning these requirements, the NYISO has determined that additional flexibility in the extension rules is required to address the concerns raised in Order No. 2023 about Interconnection Customers having sufficient time to achieve their CODs, provided that this flexibility is bounded so as not to encourage projects that are speculative or less commercially ready to linger in the queue.[349] Addressing the rules for COD extensions is a necessary component of the new process. There are currently a substantial number of projects that have already proceeded through the NYISO's interconnection study process that will not be able to achieve their COD and, in the absence of the proposed rules, will be required to withdraw and reenter the NYISO's new process. Requiring these projects to go through the process anew will significantly increase the number of projects requiring study and threatens the efficiency gains from the proposed new process. Accordingly, the NYISO proposes certain modifications to its existing rules that provide additional flexibility for reasonable extensions within the overall framework of the NYISO's process.

First, the NYISO proposes to remove the requirement that an Interconnection Customer have an interconnection agreement as a prerequisite for requesting an extension beyond the four year period. An increasing number of Interconnection Customers have identified during the interconnection agreement negotiation process that their project will not be able to achieve COD within the permitted four year period through no fault of the Interconnection Customer. Under the NYISO's existing tariff rules, the Interconnection Customer has been required to obtain a waiver from the Commission to obtain an extension in such cases, so that the parties could execute the interconnection agreement, which delays development of the project.[350]

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[348] This five year period includes the time required to perform the interconnection study.

[349] *See* Order No. 2023 at P 294 (identifying the difficulty many Interconnection Customers have with satisfying the current timeframes for achieving their Commercial Operation Date).

[350] *See, e.g.*, *Homer Solar Energy Center, LLC*, 183 FERC ¶ 61,170, at P 32 (2023) ("[W]e find that granting waiver will allow Homer to execute the interconnection agreement that accurately reflects an estimated commercial operation date of April 30, 2026, avoiding withdrawal of the interconnection request and the subsequent delay of the Project."); *Empire Offshore Wind LLC*, 177 FERC ¶ 61,215, at P 21 (2021) ("[W]e find that the waiver addresses a concrete problem. Specifically, it will allow Empire Wind to execute the interconnection agreement with an accurate commercial operation date of December 14, 2026, avoiding withdrawal of the interconnection request and the subsequent delay of the Project.").

Second, the NYISO proposes to establish a three-part process for an Interconnection Customer to obtain a COD extension beyond its permitted four year period that does not constitute a Material Modification. This process is the product of a careful balancing of interests across Transmission Owners, existing and prospective Interconnection Customers, and stakeholders in New York, which approach is consistent with a first-ready, first served process. It will provide additional flexibility to Interconnection Customers, while also ensuring that projects are continuing to make timely progress towards entering operation and have provided sufficient security to the Transmission Owners for upgrades relied on by other Interconnection Customers. The Interconnection Customer must satisfy the requirements of all three of the following parts to obtain the requested extension.

Part 1 – The Interconnection Customer must provide the NYISO with a milestone schedule agreed upon with the Connecting Transmission Owner, which agreement cannot be unreasonably withheld, that provides for the project to meet its requested extended COD.[351]

Part 2 – To extend the COD, the Interconnection Customer must also satisfy one of the following three requirements. First, the Interconnection Customer may demonstrate via an officer certification (i) that its facility cannot meet the four year timeframe due to its technology type or due to the sequencing of work on the transmission or distribution system that is beyond its control and (ii) that its project is still progressing to the extent possible.[352] Second, consistent with the NYISO's existing rules, the Interconnection Customer may demonstrate via an officer certification that it has made reasonable progress against the milestones in its interconnection agreement or the milestones developed with the Connecting Transmission Owner.[353] The NYISO proposes to add to the examples of critical milestones that can be used to demonstrate reasonable progress – specifically, the NYISO propose to include: (i) the completion of applicable permitting process and (iii) the application of the applicable primary siting permitting process deemed complete with demonstration that project is on course to obtain final permit in time to meet requested Commercial Operation Date.[354] Third, for Interconnection Customers that cannot satisfy one of the above two means for requesting an extension, the NYISO proposes to establish a one-time extension of Interconnection Customers' permitted Commercial Operation Date to May 2, 2028, which is four years following the proposed effective date of the new procedures, provided that the Interconnection Customer satisfies the other two parts of the extension requirements.[355] This extension is needed to address the unique circumstances associated with the Covid pandemic and the related supply chain and inflation impacts that are in many cases beyond the Interconnection Customers' control and have resulted in a substantial number of projects in New York being delayed and unable to otherwise satisfy the extension rules.

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[351] *See* proposed OATT Attach. HH § 40.6.3.5.2.

[352] *See id.* § 40.6.3.5.1.1. Delays due to sequencing issues beyond the Interconnection Customer's control could include, for example, the unavailability of system or delays in the construction of facilities in the base case of the study for the impacted project that are required at the Point of Interconnection for that project to enter commercial operation).

[353] *See id.* § 30.6.3.5.1.2.

[354] *See id.* § 40.6.3.5.1.3.

[355] *See id.* § 40.6.3.5.1.1.

To implement these requirements, the NYISO proposes that the Interconnection Customer must promptly provide it with information concerning its satisfaction of these rules.[356] In addition, an Interconnection Customer that has already extended it COD by demonstrating progress must demonstrate the satisfaction of additional milestones for further extensions.[357]

Part 3 – In connection with the requested extension, the NYISO, in coordination with the applicable Connecting Transmission Owner(s) and Affected Transmission Owner(s), will determine whether and when an update is required to the cost estimates of the attachment facilities and upgrades for an Interconnection Customer's project due to the extension.[358] Such update is not a restudy using updated assumptions and system representations. In determining whether and when a cost update is required, the NYISO and Transmission Owners will consider the requested length of the extension, the duration in time since the cost estimates were determined in the interconnection study, the updated milestone schedule, and whether the interconnection facilities are shared with other projects.[359] If such an update is required, the Interconnection Customer must agree in writing that the update be performed at its expense and that the extension is subject to its acceptance and provision of security for any additional cost estimates.[360] The need and timeframe for such an update would be memorialized in the interconnection agreement or an amended interconnection agreement unless such update will be performed prior to entering into the agreement.[361]

The applicable Transmission Owner would perform the update agreed upon by the Interconnection Customer, at the Interconnection Customer's expense.[362] If the Transmission Owner determines that equipment identified for the project in its interconnection study is no longer available, the Transmission Owner may, as part of the update, identify and provide cost estimates for the replacement equipment that is available.[363] If the update identifies revised cost estimates, including for any replacement equipment, the Interconnection Customer can only proceed with the extension if, within 10 business days of the conclusion of the update, it accepts the updated cost allocation and posts security to the Transmission Owner for the revised amount.[364] The revised amount will be the basis for the application of the security forfeiture rules and the updated baseline for allocating any actual costs for attachment facilities and upgrades

[356] *See id.* § 40.6.3.5.1.3.
[357] *See id.* § 40.6.3.5.1.4.
[358] *See id*. § 40.6.3.5.3. If an Interconnection Customer requests a lengthy extension shortly after its interconnection study is complete, the NYISO and Transmission Owner may determine that the re-study should occur at a later date to more accurately address the impacts of the extension to the cost estimates and required security.
[359] *See id.* § 40.6.3.5.3.1.
[360] *See id.* § 40.6.3.5.3.
[361] *See id.* § 40.6.3.5.3.1.
[362] *See id.* § 40.6.3.5.3.2.
[363] *See id.*
[364] *See id.* § 40.6.3.5.3.3.

incurred above the estimated amount.[365] The updated amount will be included in the project's interconnection agreement.[366]

c. Additional Revisions to Modification Requirements

The NYISO proposes the following additional revisions to its modification requirements. First, the NYISO adopted the Order No. 2023 revisions to the definition of Material Modification.[367] Second, the NYISO proposes to clarify the requirements for when an Interconnection Customer must inform the NYISO of changes to its Initial Backfeed Date, Synchronization Date, and Commercial Operation Date as the existing tariff rules establish duplicative timeframes for such notice.[368] Finally, the NYISO proposes to update its modification request form to align the descriptions of requested modifications with the updated tariff requirements and to update the terms and conditions for the NYISO's performance of any required study so that they are uniform with the other study agreements in Attachment HH.[369]

ii. Standard Interconnection Agreement

As part of the NYISO's consolidation of its interconnection procedures into the Standard Interconnection Procedures in Attachment HH, the NYISO requests an independent entity variation to include a *pro forma* Standard Interconnection Agreement in Appendix 15 to Attachment HH that is consistent with the NYISO's current *pro forma* Large Facility Interconnection Agreement located in Attachment X to the NYISO OATT, as modified to address the Order No. 2023 directives and to align with the new Standard Interconnection Procedures proposed in this compliance filing.[370] As described in the transition rules in Part X.B.iv, the NYISO proposes to use the Standard Interconnection Agreements for projects currently participating in Class Year 2023 and in Cluster Studies going forward.

a. Compliance with Order No. 2023 Directives

Order No. 2023 made certain revisions to the Commission's *pro forma* large generator interconnection agreement. As described below, the NYISO adopts certain of these revisions with certain independent entity variations to align with the NYISO's proposed procedures.

Order No. 2023 inserted revised defined terms in the agreement to align it with the Commission's new process structure and terminology.[371] As the NYISO's Standard Interconnection Procedures includes different process elements and terminology, the NYISO proposes to include in the Standard Interconnection Agreement the defined terms used in the

[365] *See id.* §§ 40.6.3.5.3.3, 40.16.3.
[366] *See id.* § 40.6.3.5.3.3.
[367] *See* Order No. 2023 at P 192.
[368] *See* proposed OATT Attach. HH § 40.6.3.6.
[369] *See id.* § 40.25.5 (proposed OATT Attach. HH, App'x 5).
[370] The NYISO proposes not to include in new Attachment HH its current Appendix 5 to Attachment X (Interconnection Procedures for a Wind Generating Plant). Such procedures are now outdated, as wind facilities are able to provide all of the required information through the Interconnection Request.
[371] *See* Order No. 2023 Pro Forma LGIA Art. 1.

NYISO's process in place of the Commission's *pro forma* terms and to make use of such terms in the agreement. The NYISO proposes to adopt the following new defined terms included in Order No. 2023: Balancing Authority, Balancing Authority Area, Cluster and Electric Reliability Organization.[372] The NYISO proposes not to adopt the order's deletion of, or remove the application of, the term Applicable Reliability Council, as in the NYISO's procedures, this term applies not only to NERC, but also to the Northeast Power Coordinating Council and the New York State Reliability Council.

Order No. 2023 replaced the term "Control Area" with "Balancing Authority Area" in certain provisions, including in the Operations requirements.[373] The NYISO is a NERC registered Reliability Coordinator and Transmission Operator and is subject the applicable NERC as well as to other reliability requirements imposed by the Northeast Power Coordinating Council and New York State Reliability Council. As such, the NYISO proposes to retain the term New York Control Area in certain of these provisions where it more accurately reflects the NYISO's operational responsibilities. Order No. 2023 also adopted certain ride through capability and performance requirements.[374] As described in Part XII.F.ii, the NYISO adopted these requirements with a limited variations: (i) to address the potential for more stringent Northeast Power Coordinating Council and the New York State Reliability Council requirements in defining the term "no trip zone", and (ii) to permit the use of any requirements applied by the Transmission Owner in its Transmission District on a comparable basis in applying the term "ride through".[375]

Order No. 2023 also adopted revisions to the security requirements concerning its LGIA deposit.[376] The NYISO proposes not to adopt such requirements as the NYISO's process does not include this LGIA deposit. Similarly, the NYISO adopted the new Site Control requirement in Appendix B but did not include the language in that provision concerning the LGIA deposit. The NYISO also proposes not to adopt the revision in Order No. 2023-A to 10 Business Days for Interconnection Customers and Transmission Owners to provide renewals of insurance policy, as the Commission previously accepted variations to the NYISO's requirement to establish a placeholder for the Interconnection Customer and Transmission Owner to specify such term.

Finally, the NYISO did not adopt the order's insertion concerning violations of operating assumptions for electric storage resources as the NYISO proposes not to adopt such requirements as described in Part XII.D.[377]

In its transition rules, the NYISO proposes to apply the new Standard Interconnection Agreement to projects participating in Class Year 2023 and to those participating in subsequent Cluster Studies.[378] The NYISO also proposes to continue to apply its current Large Facility

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[372] *See* Order No. 2023 at P 1735.
[373] *See id.* P 1735.
[374] *See id.* P 1715.
[375] *See* proposed OATT Attach. HH § 40.25.15 (proposed OATT Attach. HH, App'x 15) Art. 9.6.3.
[376] *See* Order No. 2023 Pro Forma LGIA Art. 11.5.
[377] *See id.* Art. 17.2.
[378] *See* proposed OATT Attach. HH § 40.3.1.3.4.

Interconnection Agreement to those projects with interconnection agreements currently under negotiation that participated in Class Year 2021 or a prior Class Year.[379] For this reason, the NYISO proposes to also make the above revisions as conforming revisions to the NYISO's *pro forma* Large Facility Interconnection Agreement in Attachment X to the NYISO OATT, except for any terms that are only required for the new Cluster Study Process.[380]

b. Additional Revisions to the Standard Interconnection Agreement

The NYISO requests an independent entity variation to include certain additional revisions to its Standard Interconnection Agreement to align the agreement with its new Standard Interconnection Procedures.

First, the Standard Interconnection Agreement will apply to the interconnection of all Generating Facilities and to Cluster Study Transmission Projects, with the applicable facility defined as the "Facility" for the agreement. In addition, the NYISO proposes to use the term "Interconnection Customer" in the agreement to align with its new interconnection procedures, in place of the term "Developer."

Second, the NYISO's existing Large Generating Interconnection Agreement primarily concerns the interconnection of generating facilities, even though certain transmission facilities are evaluated under the NYISO's Class Year Study process and require an interconnection agreement. Currently, the NYISO must develop a non-conforming agreement for such agreements. The NYISO proposes to modify the agreement so that it can apply to a transmission project evaluated under its Cluster Study Process.[381] Certain requirements in the agreement will still have to be modified for transmission by the NYISO, Connecting Transmission Owner, and Interconnection Customer based on the specifics of the transmission project (*e.g.*, metering, operations). The revised agreement provides for the parties to memorialize such variations in Attachment C of the Agreement. [382]

Third, the NYISO proposes to update and align the defined terms in the agreement with the revised defined terms in Section 40.1 of Attachment HH and to remove those terms not used in the agreement.[383]

Fourth, the NYISO's interconnection procedures permit an Interconnection Customer to request that the NYISO tender it with an interconnection agreement prior the completion of the Class Year or Cluster Study, which agreement may be executed prior to study completion. This is subject to the Interconnection Customer's agreement to accept its cost allocation and post security at the completion of the study and to update the equipment and cost estimate information in the agreement. The NYISO proposes to incorporate these requirements in Article

[379] *See id.* § 40.3.1.2.
[380] *See* proposed OATT Attach. HH, App'x 4.
[381] *See* proposed OATT Attach. HH § 40.25.15 (proposed OATT Attach. HH, App'x 15) Art. 2.3.1(ii).
[382] *See id.* §§ 5.17 (Taxes), 7.1 (Metering), 9.1 (Operations), 24.4 (Information Supplementation).
[383] *See id.* § 1.

4.1.2 of the Standard Interconnection Agreement to conform the agreement with these requirements in the body of Attachment HH.

Fifth, as the Standard Interconnection Agreement will apply to projects participating in Class Year 2023 and those participating in subsequent Cluster Studies, the NYISO proposes to account for the terminology, rules, and tariff references for these two different processes. For example, in the NYISO's current Class Year Study process, the Interconnection Customer is required to post security for any System Upgrade Facilities but posts the security for Connecting Transmission Owner's Attachment Facilities as part of the interconnection agreement. As the NYISO is proposing to require that the Interconnection Customer also accept, and post security, for the Connecting Transmission Owner's Attachment Facilities at the conclusion of the Cluster Study, the NYISO has included different security rules based on whether the project participated in the Class Year Study or Cluster Study.[384]

Fifth, as Interconnection Customers may elect the Option to Build the Connecting Transmission Owner's Attachment Facilities and/or Stand-Alone System Upgrade Facilities, the NYISO revised certain provisions to account for the possibility that either the Transmission Owner or Interconnection Customer would be performing the work.[385]

Sixth, the NYISO proposes certain modifications to the terms of the interconnection agreement to ensure their alignment with the requirements in the body of the Standard Interconnection Procedures. For example, the NYISO clarified in the suspension requirements that the three year suspension period does not toll the time period for an Interconnection Customer to extend its Commercial Operation Date without such extension being a Material Modification to ensure that the suspension requirements align with the NYISO's modification rules.[386] Similarly, the NYISO proposes to clarify that Interconnection Customers requesting a modification to their project must comply with the NYISO's modification requirements in the NYISO OATT and NYISO's procedures.[387] In addition, the NYISO proposes to update the references to Affected System impacts on the project to account for the new External Affected System rules and the related new *pro forma* construction agreements.[388]

Seventh, the NYISO proposes to revise the Assignment provision to account for Co-located Storage Resources, which under the NYISO's rules which must share a single interconnection agreement. The NYISO, therefore, proposes to clarify that the interconnection agreement for such Facility could only be assigned in its entirety.[389]

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[384] *See id.* § 11.5 (Provision of Security).

[385] *See id.* § 5.16 (Suspension); *id.* § 11.2 (Connecting Transmission Owner's Attachment Facilities); *id.* § 11.3 (System Upgrade Facilities and System Deliverability Upgrades).

[386] *See id.* § 5.16 (Suspension).

[387] *See id.* § 5.19 (Modifications).

[388] *See id.* § 11.4 (Upgrades on Affected Systems or Upgrades Required for Multiple Projects on Connecting Transmission Owner's System or Affected Systems).

[389] *See id.* § 19.

Eight, as the NYISO is requesting a May 2, 2024, effective date for the new procedures, the NYISO could enter into this interconnection agreement prior to the Commission's order in this proceeding. For this reason, the NYISO proposes to provide in the interconnection agreement that if the Commission directs any modifications to an agreement that has been entered into before the Commission issue an order in this proceeding, the parties will amend the agreement to incorporate those modifications or will file any requested non-conforming changes with the Commission for its acceptance.[390]

Finally, the NYISO proposes to correct a few minor nits and updates[391] and to make certain edits to ensure internal consistency of terms and deadlines.[392]

c. Tender/Execution Requirements

Order No. 2023 required transmission providers to incorporate a 60 calendar day negotiation period for an interconnection agreement.[393] The NYISO requests an independent entity variation to maintain its existing negotiation timeframe of 6 months.[394] Based on the NYISO's experience, the NYISO, Transmission Owner, and Interconnection Customers will continue to require at least six months to negotiate interconnection agreements, particularly given the current and expected volume of agreements subject to these requirements. The NYISO has been developing revisions to its *pro forma* interconnection agreement that it believes can reduce the negotiation timeframe and anticipates submitting those to the Commission in a subsequent Section 205 filing.

The NYISO proposes the following additional independent entity variations to the interconnection agreement negotiation requirements to align with the NYISO's revisions to its interconnection process in this compliance filing.

First, the NYISO proposes to apply the same requirements and timeframes for negotiating an interconnection agreement to the negotiation of the construction agreements, including the same requirements concerning their execution and the filing of unexecuted agreements.[395] These agreements require a similar level of work and follow a similar administrative process. The NYISO also proposes conforming revisions to address the fact that certain construction agreements could have more than three parties.[396]

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[390] *See id.* § 29.16. The NYISO proposes to include the same requirement for its proposed construction agreements and for the Large Generator Interconnection Agreement and Small Generator Interconnection Agreement.

[391] *See id.* § 15.3 (removed facsimile as an alternative form of notice).

[392] *See id.* § 24.2 (aligning timeframe with related timeframe earlier in agreement).

[393] *See* Order No. 2023 at P 344.

[394] The NYISO proposes to change the 6 months to 180 Calendar Days to enable the NYISO to more accurately calculate this time period.

[395] *See* proposed OATT Attach. HH § 40.21.

[396] *See id.* § 40.21.3 (replacing executing three originals with reference to the number of parties to the agreement).

Second, under the NYISO's interconnection agreement negotiation process, the NYISO develops a final review version of the agreement with the Interconnection Customer and Transmission Owner and then, upon the parties' confirmation that they have no further changes, tenders that execution version to the group for execution. Accordingly, the NYISO proposes to revise the time frame for Interconnection Customer to demonstrate continued site control and satisfaction of the prescribed milestones to align with this execution process. Specifically, the NYISO proposes to require that the Interconnection Customer make the site control and milestone demonstration as a prerequisite for the NYISO to tender the execution version of the interconnection agreement or to file such agreement unexecuted (unless the site control or applicable milestone is the basis of the request to file the agreement unexecuted).[397] This will ensure that Interconnection Customer has satisfied this requirement before completion of the interconnection agreement and eliminate the need to immediately terminate an agreement for an Interconnection Customer that cannot satisfy this requirement.

Third, as described above, an Interconnection Customer may currently request the NYISO to tender the draft interconnection agreement before the decision period of the Class Year Study process, which agreement can be executed subject to the Interconnection Customer agreeing to accept its cost allocation and post security in the decision period. The NYISO proposes to revise this requirement to specify the comparable time period for when in the new Cluster Study process the Interconnection Customer could request the NYISO tender an early draft agreement – *i.e.*, after the Interconnection Customer has satisfied the requirements to enter the Phase 2 Study.[398]

Finally, the NYISO proposes to clarify the requirements concerning termination of the interconnection agreement to address terminations for those transmission projects subject to the agreement under the Standard Interconnection Procedures. Specifically, the NYISO proposes to clarify that the agreement terminates when the transmission project permanently ceases commercial operation.[399]

iii. Construction Agreements

Order No. 2023 required transmission providers to adopt new *pro forma* single Interconnection Customer and multiple Interconnection Customer construction agreements for the construction of network upgrades required for affected system interconnection customers.[400] The order determined that the additional *pro forma* agreements would improve coordination and minimize opportunities for undue discrimination.[401]

The NYISO requests an independent entity variation of the *pro forma* construction agreements adopted by Order No. 2023. The NYISO supports the inclusion of uniform, *pro forma* construction agreements in its interconnection procedures and proposes to include in its

[397] *See id.*
[398] *See id.* § 40.21.4.
[399] *See id.* § 40.21.6.
[400] *See* Order No. 2023 at P 1231.
[401] *See id.* PP 1232-1233.

procedures alternative single Interconnection Customer and multi Interconnection Customer *pro forma* agreements that align with its interconnection process and the applicable terms of its *pro forma* interconnection agreement.

The NYISO's existing interconnection procedures require it to develop engineering, procurement, and construction agreements for the construction of System Upgrade Facilities or System Deliverability Upgrades on an Affected System or, in the case of multiple Interconnection Customers, on either an Affected System or a Connecting Transmission Owner's system.[402] Under its existing requirements, the NYISO is required to use its Standard Large Generator Interconnection Agreement as the template for these agreements, as modified to address only the engineering, procurement, and construction of the upgrade.[403] Pursuant to these requirements, the NYISO has entered into numerous engineering, procurement, and construction agreements with Interconnection Customers and Transmission Owners or Affected System Operators in New York that align with its distinct interconnection procedures and agreement.[404]

The Commission's *pro forma* construction agreements adopted in Order No. 2023 are largely based on the agreements used in the Midcontinent Independent System Operator ("MISO").[405] However, the NYISO's and MISO's interconnection procedures and agreements diverge in important ways based on the unique requirements in each region. For example, the NYISO's procedures include different upgrade funding and security approaches.[406]

The NYISO proposes instead to include two new *pro forma* construction agreements that are based on the terms of the NYISO's Standard Interconnection Agreement, as modified as described below, which agreements are consistent with the numerous prior construction agreements developed in New York among the NYISO, Transmission Owners, and Interconnection Customers and filed with accepted by the Commission.[407] In particular, the NYISO proposes to insert a Standard Upgrade Construction Agreement in Appendix 16 to

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[402] *See* OATT Attach. S § 25.7.13, Attach. X §§ 30.3.5, 30.12.1.

[403] *See* OATT Attach. S § 25.7.13, Attach. X § 30.3.5.

[404] *See, e.g.*, *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-2971-000 (November 22, 2023); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-15-000 (November 15, 2022*); N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER22-1007-000 (April 8, 2022); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER15-2079-000 (August 5, 2015); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER08-230-000 (December 18, 2007).

[405] *See Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194, at P 201 (2022) ("The proposed Appendix 16 includes 11 articles based on the pro forma facilities construction agreement included in MISO's tariff, including: terms of the agreement; construction of network upgrades; taxes; force majeure; information reporting; security, billing, and payments; assignment; indemnity; breach, cure, and default; termination; contractors; confidentiality; information access and audit rights; dispute resolution; and notices.").

[406] Similarly, the Commission's draft agreements require reimbursement of upgrade costs that does not align with the cost responsibility for constructing upgrades under the NYISO's interconnection process. *See, e.g.*, Order No. 2023-A at PP 525, 539.

[407] *See, e.g.*, *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-2971-000 (November 22, 2023); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-15-000 (November 15, 2022); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER22-1007-000 (April 8, 2022); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER15-2079-000 (August 5, 2015); *N.Y. Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER08-230-000 (December 18, 2007).

Attachment HH and a Standard Multiparty Upgrade Construction Agreement in Appendix 17 to Attachment HH. The agreements would apply in the following circumstances: (i) an Interconnection Customer or multiple Interconnection Customers interconnecting in New York that require the construction of System Upgrade Facilities or System Deliverability Upgrades on an Affected System, (ii) multiple Interconnection Customers interconnecting in New York that require the construction of System Upgrade Facilities or System Deliverability Upgrades on a Connecting Transmission Owner's system,[408] or (iii) one or more affected system interconnection customers interconnecting in a neighboring region that require the construction of Affected System Network Upgrades on an Affected System located in New York.

Consistent with its current tariff requirements, the pro forma construction agreements mirror the NYISO's Standard Interconnection Agreement, as modified to only address the engineering, procurement, and construction of the required upgrades. The key differences between the Standard Interconnection Agreement and the Standard Upgrade Construction Agreement are:

- The construction agreement has been modified to include the different purpose of the agreement as described above, including alternative recitals based on the specific upgrade construction scenario. In addition, the construction agreement includes different terminology to account for the different potentially impacted parties and upgrades (*e.g.*, System Owner, Upgrades).

- The construction agreement addresses the performance of the construction of the Upgrades ("Construction Services") and will terminate upon the later of the completion of the Construction Services and the payment of related invoices and release or refund of any remaining Security.[409] For this reason, the construction agreement does not include the operating and maintenance requirements from the interconnection agreement. Following construction, the Upgrade will be incorporated into the System Owner's system and operated and maintained by System Owner in the same manner as the rest of its system.[410]

- The Upgrades are not stand-alone upgrades that are subject to an option to build and are the responsibility of the Transmission Owner to construct. However, certain New York Transmission Owners have agreed with Interconnection Customers for the Interconnection Customers to construct such Upgrades based on the particular circumstances. Accordingly, the construction agreement provides that the Transmission Owner is responsible for constructing the Upgrades, but permits the Transmission Owner and Interconnection Customer to agree for the Interconnection Customer to perform the

[408] If a System Upgrade Facility or System Deliverability Upgrade is identified on a Connecting Transmission Owner's system for a single project, this upgrade is addressed in the interconnection agreement for that project.

[409] *See* proposed OATT § 40.25.16 (proposed OATT Attach. HH. App'x 16), Art. 2.2 (Term of Agreement).

[410] *See id.* Art. 3.7 (Ownership and Control of Upgrades).

work.[411] For this reason, the construction agreement retains provisions addressing Interconnection Customer's responsibilities in line with the option to build rules for instances in which the Interconnection Customer is responsible for the Upgrades.[412] Similarly, the termination cost provisions have been revised to account for the possibility that the Interconnection Customer will be performing the construction work.[413]

- The security and invoicing provisions have been modified to be consistent with the requirements concerning security and cost responsibility for the Upgrades in Attachments S and HH of the NYISO OATT.[414]

- The tax provisions in the construction agreement use the rules included in the Commission's *pro forma* construction agreements in place of the tax rules in the NYISO's interconnection agreement as the latter addresses tax matter for generating facilities.[415]

- The construction agreement establishes requirements for modifications to the Upgrades and the allocation of any cost impacts of such modifications that align with the cost allocation rules in the NYISO's interconnection procedures.[416]

- The construction agreement does not include the provisions of the interconnection agreement that govern the NYISO's performance of interconnection studies or its provision of interconnection service to an Interconnection Customer, which matters are addressed in the interconnection agreement.

- The construction agreement also includes minor clean-ups, updated cross-references, and revisions that are consistent with the terms and purpose of the pro forma construction agreement.

The multiple Interconnection Customer version of the construction agreement is the same as the single Interconnection Customer version with the following additional modifications: (i) updated recitals to address additional alternative scenarios requiring the use of the multiparty agreement; (ii) requirements for addressing cost responsibility across multiple Interconnection Customers in line with the NYISO's requirements for an Interconnection Customer's future cost responsibility;[417] (iii) requirements that permit termination of agreement for some, but not all, Interconnection Customers and alignment with tariff rules concerning forfeiture of security;[418]

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[411] *See id.* Art. 3.1 (Performance of Construction Services).

[412] *See, e.g., id.* Art. 3.4 (General Conditions Applicable to Interconnection Customer's Performance of the Construction Services); *id.* Art. 11.3 (Insurance).

[413] *See id.* Art. 2.4 (Termination Costs).

[414] *See id.* Art. 5.1 (Cost Responsibilities), *id.* Art. 5.2 (Provision and Application of Security).

[415] *See id.* Art. 3.12 (Taxes).

[416] *See id.* Art. 3.14 (Modifications).

[417] *See* proposed OATT § 40.25.17 (proposed OATT App'x 17), Art. 1 (definitions of Interconnection Customer Common Upgrades Costs Cap, Invoice Share); *id.* Art. 5.1 (cost responsibilities); *id.* App'x A.

[418] *See id.* Art. 2.5 (Termination of One or More Interconnection Customers), *id.* Art. 10.2 (right to terminate).

(iv) requirements that if Interconnection Customers agree to construct Upgrades, they will be jointly and severally liable for such work;[419] and (v) revisions to account for more than one Interconnection Customer under the agreement (*e.g.*, division of cost responsibility for invoices, termination costs, etc.).[420]

iv. Revision to Security Forfeiture Rules

The NYISO requests an independent entity variation for limited revisions to its existing requirements concerning when an Interconnection Customer is required to forfeit its security for the attachment facilities and/or upgrades that it accepted in the NYISO's study process and for which it posted security. First, the NYISO proposes to specify that the forfeiture rules also apply to the security that an Interconnection Customer provides for the Connecting Transmission Owner's Attachment Facilities and Distribution Upgrades required for its project in the decision period at the conclusion of the Cluster Study as described in Part VII.D.iv.[421] Second, the NYISO proposes to revise the scope of projects that are eligible to rely on the attachment facilities and upgrades included in their study base cases for purposes of applying the Security forfeiture rules to include transmission projects assessed in the Transmission Interconnection Procedures in Attachment P to the OATT and load projects and transmission expansion projects assessed under Sections 3.7 and 3.9 of the OATT[422] Third, the NYISO proposes to clarify, consistent with its existing practice, that it will determine whether other projects are relying on a withdrawing project upon the project's withdrawal.[423]

These revisions are critical to the implementation of the new Cluster Study Process. First, expanding the existing security forfeiture rules to include Connecting Transmission Owner Attachment Facilities and Distribution Upgrades is necessary to align with the upgrades for which an Interconnection Customer posts security in the Final Decision Period. Once an Interconnection Customer has accepted cost allocation and posted security for required upgrades, the project and its upgrades – Connecting Transmission Owner Attachment Facilities, Distribution Upgrades, System Upgrade Facilities, and System Deliverability Upgrades – become part of the base case for other interconnection studies, including the studies performed under Sections 3.7 and 3.9 of the OATT and under the Transmission Interconnection Procedures in OATT Attachment P. Appropriate alignment of the base case rules in these processes necessitates provisions in the security forfeiture provisions to reflect the termination or modification of base case facilities. As the Commission recently recognized with respect to NYISO's proposed revisions to align base case rules in its various interconnection processes, such alignment "would accomplish the purposes of Order No. 2023 by improving the efficiency of NYISO's interconnection request process and the accuracy of the models used in NYISO's

[419] *See id.* Art. 22.5 (Joint and Several Liability).

[420] *See, e.g.*, *id.* Art. 2.4 (Termination Costs); *id.* Art. 3.2.12 (oversight cost responsibility); *id.* Art. 6 (Invoices); *id.* Art. 20 (Disputes) (*i.e.*, revisions to address even number of parties to agreement).

[421] *See* proposed OATT Attach. HH § 40.16.1.1.2.

[422] *See id.*

[423] *See id.*

interconnection studies."[424] To fully effectuate this improvement and to align with the new Cluster Study Process, the revisions to the existing security forfeiture rules are necessary.

As these proposed changes would modify the existing security forfeiture rules in a manner that prior Interconnection Customers may not have been able to anticipate when posting their security, the NYISO proposes to apply the updated rules only to those projects that accept their cost allocation and post security after the effective date of the new Standard Interconnection Procedures.[425]

VIII. Proposed Tariff Revisions for Information Sharing before a Cluster Study and Additional Studies in the Standard Interconnection Procedures

A. Pre-Application Interconnection Information Available to Prospective Interconnection Customers

i. Heatmap

Order No. 2023 required that a transmission provider publicly post certain available information pertaining to generator interconnection (*i.e.*, public interconnection information or a heatmap) for each point of interconnection for its whole footprint.[426] The transmission provider is required to update the heatmap within 30 calendar days after completing each cluster study and cluster re-study.[427]

The NYISO proposes to adopt the Order No. 2023 heatmap requirements with the following limited requested independent entity variations.[428] First, the NYISO proposes to clarify how the incremental capacity in the heatmap would be determined for use by those transmission projects that can participate in its Standard Interconnection Procedures. Second, the NYISO proposes to insert language clarifying that the heatmap information is solely for informational purposes, and an entity seeking interconnection service must do so pursuant to the NYISO's interconnection procedures. Finally, the NYISO proposes to insert language specifying that the heatmap would first become available 30 calendar days after the conclusion of the latest decision period that concludes its Transition Cluster Study Process and proposes to indicate that under its proposed study structure, the NYISO would update the heatmap within 30 calendar days of the conclusion of the latest decision period at the conclusion of the prior Cluster Study Process.

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[424] *See New York Independent System Operator, Inc.*, 186 FERC ¶ 61,188, at PP 14-15 (2024) ("NYISO's proposed [revisions to align base case rules in OATT Attachments P, S, X an Z] will enhance the coordination of NYISO's Class Year Study and the TIP Facilities Study processes" and "will enable the studies under NYISO's transmission expansion and interconnection processes to evaluate the collective impact of various types of interconnection requests and further increase the clarity of the rules for establishing the Existing System Representation for each study.").

[425] *See* proposed OATT Attach. HH §§ 40.16.1.1.1, 40.16.1.1.2.

[426] *See* Order No. 2023 at P 135.

[427] *See id.*

[428] *See* proposed OATT Attach. HH § 40.4.1.

ii. Pre-Application Report Process

The NYISO requests an independent entity variation to establish a Pre-Application Report process in the Standard Interconnection Procedures by which a prospective Interconnection Customer may request from Transmission Owners information concerning potential Points of Interconnection based on readily available data.[429] The process creates another mechanism by which a prospective Interconnection Customer may obtain existing information concerning potential Points of Interconnection to enhance its ability to develop its project Interconnection Request. The proposed process is based on the pre-application report process that the Commission incorporated into the SGIP in its Order No. 792.[430]

The NYISO proposes that a prospective Interconnection Customer be able to request a Pre-Application Report by submitting: (i) a Pre-Application Request Form that may request information for up to two Points of Interconnection and (ii) a non-refundable pre-application fee of $5,000 for each requested Point of Interconnection.[431] An Interconnection Customer may submit a request at any time, except for a narrow window starting 45 days prior to the Cluster Study Process Start Date through the completion of the Application Window during which the NYISO and Transmission Owners must administer the Application Window requirements.[432] Upon the NYISO's receipt of the completed form and fee, the NYISO will provide the information to the applicable Transmission Owner. Once the Transmission Owner confirms it is the appropriate Connecting Transmission Owner for the Point of Interconnection, it will coordinate with the Interconnection Customer and any Affected Transmission Owner for a pre-application scoping meeting.[433] Within 25 business days of this scoping meeting, the Connecting Transmission Owner shall complete, in coordination with any Affected Transmission Owner(s), and return the Pre-Application Report.[434]

The Pre-Application Report will be in the form set forth in Appendix 4 to Attachment HH as completed using readily available data to the extent available.[435] This pre-application process is not a mandatory step for an Interconnection Customer to proceed into the Cluster Study Process and is solely for information purposes and non-binding.[436] The Interconnection Customer will be informed if the proposed interconnection is not subject to the Standard Interconnection Procedures, and the information report will be completed to the extent possible.[437]

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[429] *See id.* §§ 40.4.2, 40.25.4 (proposed OATT Attach HH, App'x 4).

[430] *See Small Generator Interconnection Agreements and Procedures,* Order No. 792, 145 FERC ¶ 61,159, at PP 28-82 (2013), *clarified*, Order No. 792-A, 146 FERC ¶ 61,214 (2014).

[431] *See* proposed OATT Attach. HH § 40.4.2.1.

[432] *See id.*

[433] *See id.* § 40.4.2.3. The requesting entity will be required to execute any confidentiality or non-disclosure agreement required by the applicable Transmission Owner for the disclosure of information concerning its system. *Id.*

[434] *See id.* § 40.4.2.1.

[435] *See id.* § 40.4.2.4.

[436] *See id.* §§ 40.4.2.4, 40.4.2.5.

[437] *See id.* § 40.4.2.4.

B. Expedited Deliverability Study

The NYISO performs a recurring Expedited Deliverability Study, which is a mechanism by which a facility can seek to obtain CRIS outside of the NYISO's Class Year Study if the expedited study determines that System Deliverability Upgrades are not required for the deliverability of its project.[438] The NYISO requests limited independent entity variations for certain revisions to its existing Expedited Deliverability Study rules to align this study process with the new Cluster Study Process requirements.

First, the NYISO's existing tariff requirements establish the time periods in which the Expedited Deliverability Study can commence and be performed or updated to avoid conflicts with the existing Class Year Study requirements. The NYISO proposes to insert analog timeframes for the Expedited Deliverability Study's interaction with the new Cluster Study Process.[439]

Second, the NYISO proposes to clarify in the Expedited Deliverability Study rules that a project cannot participate in both a Cluster Study and Expedited Deliverability Study at the same time.[440] This is consistent with the NYISO's existing tariff requirements for its Class Year Deliverability Study and its proposed rules for its Cluster Study Deliverability Study.[441]

Third, the requirements for the NYISO's performance of deliverability studies, including for Expedited Deliverability Studies, are incorporated with the rules for the Class Year Deliverability Study (now Cluster Study Deliverability Study). The NYISO proposes to explicitly reference that the Expedited Deliverability Study is performed in accordance with these rules.[442]

Fourth, the NYISO proposes to clarify that the rules for invoicing for study work and the treatment of deposits for the Expedited Deliverability Study are the same as for all other studies performed under the Standard Interconnection Procedures.[443]

Finally, the NYISO proposes conforming revisions to the study agreement for the Expedited Deliverability Study included in Appendix 8 to Attachment HH to align with the standard terms used across the NYISO's interconnection study agreements, including the study deposit and invoicing requirements and the miscellaneous provisions.

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[438] *See* NYISO OATT Attach. S §§ 25.5.9.2, 25.7; proposed OATT Attach. HH § 40.19.
[439] *See* proposed OATT Attach. HH §§ 40.19.1, 40.19.5.
[440] *See id.* § 40.19.2
[441] *See* OATT Attach. S § 25.7.1; proposed OATT Attach, HH § 40.13.1.
[442] *See* proposed OATT Attach. HH §§ 40.19.5.
[443] *See id.* § 40.19.3.2.

IX. Affected System Requirements

A. Affected Systems and External Affected Systems

Order No. 2023 established a standardized affected system study process.[444] The order indicated that an affected system is "an electric system other than the transmission provider's transmission system that may be affected by the proposed interconnection."[445] The *pro forma* term affected system covers two different categories of affected systems that are addressed differently under the NYISO's interconnection procedures – the first is affected systems located within the New York Control Area, including the Affected Transmission Owners,[446] and the second is the neighboring region's systems (*e.g.*, PJM, ISO-New England).

The NYISO requests an independent entity variation to distinguish the rules applicable to these different affected systems in the NYISO's interconnection process.[447] In particular, the NYISO proposes to use the terms "Affected System", "Affected System Operator", and "Affected Transmission Owner" for an electric system within the New York Control Area other than the transmission system owned, controlled or operated by the Connecting Transmission Owner that may be affected by the proposed interconnection.[448] The NYISO proposes to use the new terms "External Affected System" and "External Affected System Operator" for electric systems outside of the New York Control Area that may be affected by the proposed interconnection.[449]

B. Requirements for Affected Systems in the New York Control Area

The NYISO currently accounts for the impacts of proposed interconnections on Affected Systems located within the New York Control Area through its normal interconnection studies.[450] The NYISO will identify any impacts on such Affected Systems and any upgrades require to address the impacts in the Class Year Study. The NYISO is required to enter into an engineering, procurement, and construction agreement with the Interconnection Customer and affected party for the construction of any required upgrades using the NYISO's Standard Large Facility Interconnection Agreement as modified for this purpose.[451]

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[444] *See* Order No. 2023 at PP 1032, 1110.

[445] *See id.* P 1118.

[446] An Affected Transmission Owner is a subset of an Affected System Owner and refers to "the New York public utility or authority (or its designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the ISO OATT, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Deliverability Upgrades, System Upgrade Facilities, Affected Network Upgrade Facilities, or Network Upgrade Facilities are or will be installed pursuant to Attachment HH or Attachment P to the ISO OATT." *See* Proposed OATT Attach. HH § 40.1.

[447] *See* Order No. 2023 P 1178 ("[I]n RTO/ISO regions, the RTO/ISO serves as the transmission provider for affected system study purposes, and the RTO/ISO footprint as the affected system, and thus intra-RTO/ISO considerations do not apply in this context and are beyond the scope of this final rule.").

[448] *See* proposed OATT Attach. HH § 40.1.

[449] *See id.*

[450] *See* NYISO OATT Attach. X §§ 30.3.5.

[451] *See id.* §§ 30.3.5, 30.12.1.

The NYISO proposes to retain this approach in its new Cluster Study Process to address impacts on Affected Systems within the New York Control Area.[452] Under this approach, the NYISO will identify the impacts on Affected Systems in New York in the context of the cluster of projects being studied in the Cluster Study Process and Interconnection Customers will continue to be required to accept and post security for any required upgrades for them to become part of the base case of the New York State Transmission System. The Affected System Operator or Affected Transmission Owner will participate throughout the Cluster Study Process, including in the scoping meeting and in performing study work in the Phase 1 and Phase 2 studies. In addition, as described in Part VII.E.iii above, the new Standard Upgrade Construction Agreement or Standard Multiparty Upgrade Construction Agreement will be used for the construction of such upgrades on Affected Systems in place of developing such agreement on a case by case basis.[453]

C. Coordination with External Affected Systems

Order No. 2023 established requirements for the host transmission provider to notify the neighboring region at the first instance of an identified potential affected system impact on the neighboring region.[454] The order also required that the transmission provider provide the impacted Interconnection Customer with a list of potential Affected Systems.[455] The NYISO proposes to adopt these requirements with the following independent entity variations due to its different interconnection process steps.

The NYISO proposes to notify External Affected Systems of potential impacts to their systems during its Customer Engagement Window once the Cluster Study Projects have been confirmed.[456] In addition, as additional impacts may be later identified in the course of the Cluster Study, the NYISO proposes to notify an External Affected System if it subsequently identifies additional potential impacts.[457] The NYISO also proposes to specify that it will coordinate and cooperate with the neighboring region concerning the studies performed in the other region, which is consistent with its existing Affected System rules. The NYISO proposes not to adopt the requirement established in Order No. 2023-A that it notify a neighboring region with Affected System impacts of a restudy of the applicable Cluster Study as the NYISO's process does not provide for restudies.[458]

In addition, the NYISO requests an independent entity variation from the requirement that an Interconnection Customer be permitted to delay posting security and funding for required upgrades under its LGIA until External Affected Systems study results are received after the deadline for execution of the interconnection agreement or the deadline to request that the

[452] *See* proposed OATT Attach. HH § 40.8.1.
[453] *See id.*
[454] *See* Order No. 2023 at PP 1119-1120.
[455] *See* FERC Order No. 2023 Pro Forma LGIP § 3.6.1.
[456] *See* proposed OATT Attach. HH § 40.8.2.
[457] *See id.*
[458] *See* Order No. 2023 Commission Pro Forma LGIA at 3.6.2, 3.6.3.

interconnection agreement filed unexecuted.[459] Under the NYISO's Cluster Study Process, an Interconnection Customer must post security as part of the Cluster Study Final Decision Period, not at the interconnection agreement stage. As noted above in Part VII.D.ii.a, this is a unique element of the NYISO's process that enables the NYISO to avoid costly and time and resource intensive restudies in the event the project later withdraws. In the event the Interconnection Customer withdraws, the Transmission Owner which system is subject to the upgrade may make use of the forfeited security if the upgrade has to be constructed because other projects are relying on it. To allow Interconnection Customers to postpone posting such Security eliminates the protections afforded to the Transmission Owner(s) and other projects adversely affected by the project if it elects not to proceed.

D. NYISO Performance of Affected System Studies

Order No. 2023 established detailed affected system study requirements for the affected system impacted by a proposed interconnection in another region.[460] The NYISO proposes to adopt these requirements concerning its performance of Affected System Studies with certain independent entity variations detailed below.[461]

i. Queue Position

Order No. 2023 required the transmission provider to assign an Affected System Queue Position to projects being assessed in the region for affected system impacts.[462] The order also directed that the interconnection requests of the affected system interconnection customer will be higher queued and have priority in the identification of upgrades over the interconnection request of interconnection customers in that host region that have not yet received their cluster study results.[463] The NYISO requests an independent entity variation to incorporate in its new Affected System Study rules its existing requirements for aligning any affected system study with an ongoing clustered Class Year Study.[464] Specifically, during an Affected System Study, the ISO will be required to refine and update the description of any Affected System Network Upgrades based on changes in the base case that occur during the study. This flexibility to adjust the upgrades during the Affected System Study is necessary to enable the NYISO to account for the impact of Cluster Studies that are running in parallel with the Affected System Study and may be completed prior to the completion of the Affected System Study. In the NYISO's

[459] *See* Order No. 2023 at P 1129.
[460] *See, generally*, Order No. 2023 at PP 1119-1180, 1183, 1192-1198, 1231-1255, 1276-1393.
[461] *See* proposed OATT Attach. HH § 40.8.3.
[462] *See* Order No. 2023 at P 1138.
[463] *See id.* PP 1138-1148.
[464] The NYISO currently performs such studies under its Transmission Interconnection Procedures in Attachment P to the OATT. *See* OATT Attach. P § 22.9.3 ("The Facilities Study shall 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, and identify any additional Network Upgrade Facilities that are necessary to interconnect the Transmission Project in accordance with the Transmission Interconnection Standard described in Section 22.8.3 of Attachment P based on, among other things, changes in the Base Case since the completion of the System Impact Study.").

process an upgrade is not considered firm until the Interconnection Customer has accepted the cost allocation for such upgrades and posted the related security.

ii. Affected System Study Agreements

Order No. 2023 inserted a new *pro forma* Two-Party Affected System Study Agreement and Multiparty Affected System Study Agreement.[465] The NYISO proposes to adopt these agreements, as modified to align with the updated Affected System tariff requirements proposed in this compliance filing, the scope of the NYISO's Affected System Study as detailed below, and the standard terms used across the NYISO's interconnection study agreements concerning the incorporation of the applicable tariff requirements, the study deposit and invoicing requirements, and the miscellaneous provisions.[466] The NYISO also proposes to modify the time period for identifying deficiencies in the technical data provided with the study agreement from five to ten business days to align with its review period in its Cluster Study Process.[467]

iii. Affected System Study Scope and Timeframe

Order No. 2023 established that the affected system study consider the base case as well as all higher-queued generating facilities on the transmission provider's system and consist of a power flow, stability, and short-circuit analysis.[468] The order permitted the study to consist of a system impact study, a facilities study, or a combination of the studies.[469] The order required that the study be performed and results provided to the Interconnection Customer within 150 calendar days of receipt of the affected system study agreement and deposit.[470] The order also required that the study be conducted on a clustered basis.[471] The transmission provider is required to provide in a list of affected system network upgrades required because of the affected system interconnection customer's proposed interconnection and a non-binding good faith estimate of cost responsibility and time to construct.[472] The transmission provider must allocate affected system network upgrade costs using a proportional impact method.[473]

Under its existing procedures, the NYISO performs the equivalent of a system impact study to assess affected system impacts and identify required upgrades. If upgrades are required, they are studied, and the cost are allocated under a facilities study in the NYISO's Transmission Interconnection Procedures in Attachment P to the NYISO OATT. Consistent with the requirements in Order No. 2023, the NYISO proposes to perform a single Affected System Study going forward that consolidates these system impact study and facilities study elements.[474]

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[465] *See* Order No. 2023 at PP 1183, 1192-1198.

[466] *See* proposed OATT Attach. HH §§ 40.25.6 (proposed OATT Attach. HH, App'x 6), 40.25.7 (proposed OATT Attach. HH, App'x 7).

[467] *See id.* § 40.8.3.5.

[468] *See* Order No. 2023 at P 1160.

[469] *See id.* PP 1161, 1163.

[470] *See id.* PP 1134, 1136.

[471] *See id.* P 1133.

[472] *See id.* PP 1160, 1162.

[473] *See id.* P 1149.

[474] *See id.* PP 1160-1163.

The NYISO proposes to use the most recent Annual Transmission Reliability Assessment or Cluster Project Assessment as the base case for the study and to coordinate with the applicable neighboring region to align to the extent possible the network system modeling between the regions for purposes of the study.[475] The NYISO proposes that the first phase of the study consist, as applicable, of a power flow, stability, and short circuit analysis to assess the impact on the New York State Transmission System of the proposed interconnection.[476] If a need is identified in the first phase that requires Affected System Network Upgrades, the NYISO proposes to next perform analysis consistent with a facilities study to identify the upgrades required for the reliability of the New York State Transmission System in accordance with the NYISO Transmission Interconnection Standard.[477] The study will then determine the cost estimate for such upgrades and a preliminary schedule consistent with the determination of such costs and schedule in a Cluster Study.[478] The NYISO proposes to allocate the Affected System Network Upgrade costs among Affected System Interconnection Customers using the same proportional impact method as for its Cluster Study Process.[479] If multiple Affected System Interconnection Customers' impacts are reported to the NYISO, the NYISO proposes to perform the Affected System Study on a clustered basis for a given region (*e.g.*, all impacts identified for interconnections in PJM).[480]

The NYISO proposes a 300 calendar day time period to perform the Affected System Study.[481] This date will commence after the NYISO has received the completed Affected System Study Agreement without any deficiencies, the related study deposit, and the network system model from the neighboring region required for the performance of the study.[482] The 300 day time period is necessary as the study will include both system impact study and facilities study elements. This time period is comparable to the amount of the time required within the Cluster Study to determine the need for upgrades, to identify any required upgrades, and to determine a cost estimate and preliminary schedule. The NYISO also proposes that it may toll this period for up to 60 days if it is performing a cluster Affected System Study and one or more Affected System Interconnection Customers withdraw from the study, so that the NYISO has time to update its study work in light of the withdrawal.[483]

iv. Decision Process

The NYISO proposes to require at the conclusion of the Affected System Study that each Affected System Interconnection Customer elect through an iterative decision process whether to accept its cost allocation for any Affected System Network Upgrades and post security in the

[475] *See* proposed OATT Attach. HH § 40.8.3.6.1.

[476] *See id.* § 40.8.3.6.2. The NYISO clarified that it will not assess deliverability for this analysis and is not required to assess impacts of which it is not notified. *Id. See also* Order No. 2023 at P 1276-1277.

[477] *See* proposed OATT Attach. HH § 40.8.3.6.3.

[478] *See id.*

[479] *See id.*

[480] *See id.* § 40.8.3.3.

[481] *See id.* § 40.8.3.7.

[482] *See id.*

[483] *See id.*

estimated amount for such upgrades to the applicable Transmission Owner.[484] The NYISO proposes to apply a process consistent with its iterative decision processes at the conclusion of the Cluster Study and Additional SDU Study. This decision process is an integral component of the NYISO's interconnection study process as it establishes when upgrades, including Affected System Network Upgrades, are considered firm and can be relied upon by other projects.[485] This process also eliminates the need for re-studies as the NYISO conducts any updates within the decision rounds for the remaining projects.[486] Consistent with the NYISO's other interconnection studies, once an Affected System Interconnection Customer accepts its cost allocation and post security, its cost responsibility for any costs greater than the estimated costs will be allocated pursuant to tariff prescribed requirements and its security will be subject to the security forfeiture rules if its project does not proceed and other Interconnection Customers are relying on such upgrades.[487]

v. Construction Agreements

Order No. 2023 adopted a new *pro forma* Two-Party Affected System Facilities Study Agreement and a Multiparty Affected System Facilities Construction Agreement to establish the terms and conditions for the design, procurement, construction, and installation of the affected system network upgrades.[488] As described in Part VII.E.iii, the NYISO proposes to use, as applicable, its proposed new Standard Upgrade Construction Agreement and Standard Multiparty Upgrade Construction Agreement for the construction of such upgrades.

vi. Other

Order No. 2023-A established requirements for pausing an Affected System Study when the applicable projects in the neighboring region are subject to a restudy.[489] The NYISO proposes to adopt these requirements with limited variation to replace the reference to "Cluster Study" and "Cluster Restudy" with generic references to "restudy" or "applicable interconnection study" as the NYISO's neighboring regions each use distinct processes and studies that differ from the Commission's *pro forma* procedures and terminology.[490]

Order No. 2023 does not establish a set dollar amount for the study deposit for the Affected System Study. The NYISO proposes to require a $100,000 study deposit.[491] This amount is reasonable given the scope of the Affected System Study, which is a consolidated system impact and facilities study.[492] For comparison, the combined study deposits for the

[484] *See id.* § 40.8.3.10.
[485] *See id.* §§ 40.10.3.1(iii).
[486] *See id.* §§ 40.8.3.10, 40.8.3.12.
[487] *See id.* § 40.8.3.10.3; *see also* proposed OATT Attach. HH §§ 40.16.1, 40.16.3.
[488] *See* Order No. 2023 at P 1231.
[489] *See id.* PP 497-498.
[490] *See* proposed OATT Attach. HH § 40.8.3.2.2.
[491] *See id.* § 40.8.3.5.
[492] *See* Nguyen Affidavit at P 19.

system impact study and facilities study under the NYISO's existing rules adds up to $220,000.[493]

Finally, Order No. 2023 provided for the transmission provider to draw on the study deposit to make payments for the Affected System Study.[494] As described in Part VII.D.vii.a, the NYISO proposes to require monthly invoicing of study costs.[495] In addition, the NYISO proposes to specify how the NYISO will allocate study costs in the event of a clustered Affected System Study. Specifically, each project participating in an Affected System Study will pay an equal share of the Affected System Study costs required for the identification of the need for any Affected Network Upgrade Facilities.[496] With respect to the costs of identifying any Affected System Network Upgrades, if more than one project contributes to the need for particular Affected System Network Upgrade, those projects will share equally in the cost to study the Affected System Network Upgrade.[497] This approach is consistent with cost causation principles as it allocates to the Interconnection Customer those study costs incurred on behalf of the Interconnection Customer.

X. Treatment of Generating Facilities 20MW or Smaller, and Transition Rules

A. Treatment of Generating Facilities 20 MW or Smaller

i. Incorporation of Small Generating Facilities

Order No. 2023 largely proposed reforms to the Commission's *pro forma* large generator interconnection procedures and did not modify its *pro forma* to require small generating facilities to make use of the new process structure or clustered studies.[498] However, there is a long-established alignment in the treatment of Small Generating Facilities and Large Facilities in the NYISO's existing Class Year Study much as there is in other ISO/RTO regions. The NYISO therefore requests an independent entity variation to allow its compliance tariff revisions to incorporate Small Generating Facilities in New York into a single, consolidated Standard Interconnection Procedures, including the new Cluster Study Process. In this way, compliance with Order No. 2023 will build on an existing mechanism in New York instead of causing Small Generating Facilities to be misaligned with the overall interconnection study process and thereby face greater interconnection challenges than they do today.

As detailed below, the NYISO's consolidation of all Generating Facilities seeking to interconnect to the New York State Transmission System or Commission-jurisdictional Distribution System into a single, consolidated interconnection process is a necessary element for it to address the evaluation of Small Generating Facilities in the Cluster Study and to achieve

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[493] *See* OATT Attach. X §§ 30.7.2.1 (establishing $120,000 study deposit for System Reliability Impact Study, with a lesser $40,000 if Interconnection Customer hires contractor for this work), 30.8.1 (establishing $100,000 study for facilities study); *see also* Nguyen Affidavit at P 19.

[494] *See* Order No. 2023 at P 1157.

[495] *See* proposed OATT Attach. HH § 40.8.3.4, 40.24.3.

[496] *See id.* § 40.24.3.2.3.

[497] *See id.*

[498] *See, e.g.*, Order No. 2023 at P 1603.

the process efficiencies and time savings required to satisfy Order No. 2023's goals. Specifically, this reform is required in New York to enable Interconnection Customers of all Generating Facilities to interconnect "in a reliable, efficient, transparent, and timely manner," preventing undue discrimination, reducing interconnection queue backlogs, and providing greater certainty during the interconnection process.[499] The Commission has previously accepted independent entity variations proposed by other ISO/RTO regions to incorporate rules for small generating facilities for rulemakings primarily focused on large generator interconnection procedures. For example, in Order 2003, the Commission explicitly severed the issues related to small generator interconnections from its rulemaking,[500] but accepted independent entity variations from ISO/RTOs in compliance filings to address small generator interconnections.[501]

When Order No. 2006 established separate interconnection procedures for Small Generating Facilities, the Commission stated its expectation that the interconnection of Small Generating Facilities would take substantially less time and cost substantially less than Large Generating Facilities and that, in most cases, network upgrade would not be required.[502] However, with the substantial influx of proposed interconnections of Small Generating Facilities in New York, often concentrated in just a few regions within the state, these expectations and the anticipated benefits of separate, stand-alone procedures are not being realized. In New York the time, costs, and impacts of the proposed interconnection of Small Generating Facilities has proven not to be correlated to their size, but tied to their proposed Points of Interconnection on the system and the numbers in which such facilities are now seeking to interconnect. The additional time required for Small Generating Facilities to complete the interconnection process is exacerbated by the fact that Small Generating Facilities are evaluated in separate, non-clustered studies under different procedures for which base cases cannot be perfectly aligned. There is an increasing need to assess such interconnections on a broader basis in concert with all other proposed interconnections in New York, to appropriately identify and cost allocate the upgrades associated with such impacts, and to eliminate misalignments that can arise in interconnection studies and the base cases due to overlapping study processes.

The NYISO's existing SGIP already include prior independent entity variations accepted by the Commission to incorporate the assessment of certain Small Generating Facilities into the NYISO's overall Class Year Study structure. Small Generating Facilities for which non-Local System Upgrade Facilities are identified are required to enter the Class Year Study to complete the interconnection process in place of individual facilities studies.[503] In addition, Small Generating Facilities seeking Capacity Resource Interconnection Service are required with

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[499] *See id.* PP 1, 48.

[500] *See, e.g.*, Order No. 2003 at P 17 ("To that end, the Commission severed the issues related to interconnecting generators no larger than 20 MW from this proceeding and initiated another rulemaking docket, RM02-12-000, for the former.")

[501] *See, e.g.*, *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025, at PP 5-6 (2004) (accepting as independent entity variations "provisions addressing the interconnection of small generators").

[502] *See, e.g.*, Order No. 2006 at P 40 ("However, we expect that, for most interconnections of Small Generating Facilities, there will be no Network Upgrades."); *id.* n.40 ("The Study Process is similar to the LGIP. However, we expect that the interconnection of a Small Generating Facility will take substantially less time and cost substantially less than a Large Generating Facility.").

[503] *See, e.g.*, OATT Attach. Z § 32.3.5.3.2.

limited exceptions to either enter a Class Year Study or a separate Expedited Deliverability Study to obtain their requested CRIS rights.[504] These processes currently extend the benefits of a clustered evaluation (through the Class Year, for example) to Small Generating Facilities, recognizing that such projects can interact with each other and with Large Facilities being evaluated for interconnection within the same timeframe. The process allows for a structured approach to identifying upgrades for multiple projects, addresses cost allocation, and minimizes the need for potentially repeated restudy.

However, these alignments are not sufficient to address the broader complications that arise from the NYISO having to maintain and implement separate interconnection procedures.[505] The requirement that the NYISO administer different process rules, studies, timeframes, and agreements and address misalignments between the processes,[506] impedes its reform effort and establishes needless complexities for Market Participants and Interconnection Customers. Furthermore, the accelerated study process proposed by the NYISO herein in response to Order No. 2023 does not lend itself to an approach where Small Generating Facilities would be incorporated into a Cluster at some designated point (analogous to the current approach where Small Generating Facilities join a Class Year). Such an approach would disrupt progress already made and extend significantly the time needed to complete a Cluster Study.

Therefore, the NYISO proposes that all Generating Facilities, including those 20 MW or smaller, that propose to interconnect to the New York State Transmission System or Distribution System proceed through the Standard Interconnection Procedures. That is, all Generating Facilities would be required to submit an Interconnection Request in the Application Window for a Cluster Study Process subject to the same requirements and would participate in that Cluster Study Process. All Generating Facilities that complete the Cluster Study Process would then enter into a Standard Interconnection Agreement with the NYISO.

The efficiencies provided by a single set of procedures and studies are essential to the NYISO's ability to move forward with the expedited and more stringent process rules and study timeframes that it proposes in this compliance filing. The revised approach establishes a clear process to identify the impact of all Generating Facilities that are progressing in parallel and most efficiently identifies and cost allocates the upgrades required to reliably interconnect that Cluster of projects. Without this approach, the NYISO would need to manage the separate, serial studies for Small Generating Facilities that run in parallel with ongoing Cluster Studies. Because of the ad hoc nature of serial studies, the assumptions in those studies about other proposed

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[504] *See, e.g., id.* § 32.3.5.3.2 ("If the Interconnection Customer elects CRIS, and its Small Generating Facility is larger than 2 MW, it will be evaluated as a member of the next Class Year to determine the Interconnection Customer's responsibility for System Deliverability Upgrades in accordance with Attachment S.").

[505] *See* Nguyen Affidavit at P 12.

[506] The Commission has acknowledged the gaps between what is addressed in its large generator and small generator interconnection procedures and has directed transmission providers to interpret small generator requirements in the context of the large generator requirements. *See* Order No. 2006 at P 47 ("However, the SGIP and SGIA also need to be interpreted in the broader context of the entire collection of generator interconnection documents that will appear in a Transmission Provider's OATT, including the LGIP and LGIA."); *id.* P 59 ("Unless expressly changed in this Final Rule, the Commission's existing interconnection precedent and Order No. 2003 are relevant to this Final Rule and should be used as guidance for interpretation and implementation.").

projects will be misaligned with final outcome of the Cluster Study. Likewise, the assumptions in the Cluster Study about proposed Small Generating Facilities will not reflect certain proposed projects with serial studies that commence after the base case is finalized for the Cluster Study. Because of these unavoidable timing issues, some form of restudy—likely for the Small Generating Facilities after they complete serial studies—would be necessary to achieve some level of alignment between the two parallel processes. The result would be extended periods of uncertainty for Small Generating Facilities regarding their final responsibility for upgrades.

Further, if Small Generating Facilities are excluded from the new Standard Interconnection Procedures, the NYISO would have to dedicate resources to administering and performing studies under separate interconnection procedures. The combined study work can more efficiently be performed under one process and without having to address overlapping studies or directing certain small generators into the Cluster Study Process as uncertain times. Interconnection Customers will similarly benefit from being subject to a single set of interconnection rules for all of their proposed projects, regardless of project size. These reforms would bring the NYISO into alignment with most other ISO/RTO regions, which have already consolidated their interconnection procedures.[507]

Based on the NYISO's proposed timeframe for the Cluster Study Process, the NYISO expects that many Small Generating Facilities proceeding through the new process will complete the process either no longer than or faster than the timeframe for completing the overall process under the current SGIP.[508] This is particularly true for those Small Generating Facilities that would otherwise have to wait to enter the next available Cluster Study Process under the NYISO's existing rules because non-Local System Upgrade Facilities were identified in the small generator process.[509]

To consolidate the SGIP into the Standard Interconnection Procedures, the NYISO proposes transition rules for Interconnection Customers in its Queue that are currently participating in the existing SGIP. These transition rules are described in Part X.B.v. An Interconnection Customer which Small Generating Facility project is withdrawn from the NYISO's Queue pursuant to the transition rules may submit an Interconnection Request for that project in the Application Window of the Transition Cluster Study Process, which does not require that any prerequisite studies be performed. As the NYISO does not proposes to process new interconnection requests or perform new interconnection studies under its SGIP with the limited exception of those studies being finalized in the transition, the NYISO does not propose to adopt the revisions to the small generator interconnection request form and study requirements adopted in Order No. 2023.[510]

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[507] For example, PJM, MISO, and SPP have each consolidated their respective interconnection processes. *See* PJM OATT Part IV, Subpart G; MISO OATT Attach. X, § 14; SPP OATT Attach. V, § 14.

[508] *See* Nguyen Affidavit at P 13. It takes approximately 1,000 days to complete the Small Generator Interconnection Study Process through Attachment Z. The NYISO's proposed Cluster Study Process timeframe is approximately 596 days from the opening of the Application Window to the completion of the Cluster Study.

[509] *See id.* P 14.

[510] *See* Order No. 2023 Pro Forma SGIP §§ 1.4, 3.3.6, 3.4.10, Attach. 2.

ii. Retained Small Generator Requirements

In consolidating the SGIP into the Standard Interconnection Procedures, the NYISO proposes to retain certain of the small generator requirements in its new procedures.

First, the NYISO proposes to incorporate from its existing SGIP in Attachment Z to the OATT the existing Fast Track Process and 10kW Inverter interconnection procedures from its SGIP, which will remain available to any project that satisfies the entry requirements for these streamlined processes.[511] This is consistent with other ISO/RTOs that have consolidated their small generator interconnection procedures into a single set of procedures.[512] As Interconnection Customers currently request to be assessed under the Fast Track Process under the NYISO's Small Generator Interconnection Request form, the NYISO proposes to repurpose that form as a new Fast Track Request form in Attachment HH.[513] The NYISO also proposes to make conforming revisions within these processes: (i) to clarify that Interconnection Customers that do not meet the eligibility rules for these processes must submit an Interconnection Request go forward with the Cluster Study Process,[514] (ii) to align with the uniform invoicing and deposit requirements,[515] and (iii) to align with the study agreement terms for other NYISO interconnection studies.[516]

Second, the NYISO proposes to incorporate requirements from Attachment Z that clarify that, consistent with the NYISO's current rules, the Standard Interconnection Procedures do not apply to interconnections made simply to receive power from the New York State Transmission System and/or the Distribution System, nor to interconnections made solely for the purpose of generation with no wholesale sale for resale nor to net metering.[517] In addition, consistent with the current rules, the Standard Interconnection Procedures do not apply to interconnections to the Long Island Power Authority's ("LIPA") distribution facilities, which are addressed by LIPA under its own tariffs and procedures.[518]

Finally, the NYISO's existing interconnection procedures establish different rules for determining whether a requested increase in Energy Resource Interconnection Service is material and requires the submission of an Interconnection Request. This determination is based on whether the project is a Large Facility – in which case an increase of 10 MW or 5% or less would not be material – or a Small Generating Facility – in which case an increase of 2 MW or

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[511] *See* proposed OATT Attach. HH §§ 40.1 (inserting from Attachment Z definitions of 10kV Inverter Process, Fast Track Process, Minor Modification); *id.* § 40.2.7; *id.* § 40.2.8; *id.* § 40.23 (Fast Track Process); *id.* § 40.25.10 (proposed OATT Attach. HH, App'x 10) (Certification Code and Standards); *id.* § 40.25.11 (proposed OATT Attach. HH, App'x 11) (Certifications of Equipment Packages for Generating Facilities 20 MW or Less); *id.* § 40.25.12 (proposed OATT Attach. HH, App'x 12) (Application, Procedures, and Terms and Conditions for Interconnecting a Certified Inverter-Based Generating Facility No Large than 10kW ("10 kW Inverter Process").

[512] *See supra* note 507.

[513] *See* proposed OATT Attach. HH §§ 40.2.3.2, 40.25.13 (proposed OATT Attach. HH, App'x 13) (Fast Track Request).

[514] *See, e.g., id.* § 40.2.3.1, 40.23.4.5.

[515] *See, e.g., id.* § 40.23.4.1, 40.23.4.3.

[516] *See, e.g., id.* App'x 13, Attach. A.

[517] *See id.* § 40.2.3.5.

[518] *See id.*

less would not be material. The NYISO proposes to retain the different requirements in the consolidated procedures as this distinction remains reasonable due to the differences in the project's sizes.[519]

iii. Revisions to Small Generator Interconnection Agreement

Order No. 2023 adopted revisions to the Commission's *pro forma* Small Generator Interconnection Agreement to adopt and incorporate the terms "Balancing Authority" and "Balancing Authority Area" and to insert certain requirements on abnormal frequency conditions and voltage conditions with the "no trip zone."[520]

As described in Part X.B.v, as part of the transition to these new procedures, the NYISO proposes to complete certain facilities studies under the existing requirements in Attachment Z to the OATT.[521] If such studies are completed, the NYISO proposes to tender a Small Generator Interconnection Agreement for those projects.[522] Accordingly, the NYISO proposes to include the Order No. 2023 revisions to its SGIP in Attachment Z, with the limited exceptions described for these changes for the NYISO's Standard Interconnection Agreement in Part VII.E.ii.

B. Transition Rules

Order No. 2023 established requirements to transition Interconnection Customers participating under the Commission's existing *pro forma* interconnection structure with three serial individual interconnection studies to its new *pro forma* structure with a cluster study, cluster re-study, and individual facilities study.[523] Order No. 2023, however, recognized that some transmission providers have existing cluster studies in progress and stated that the Commission does not intend to interfere with these in-progress cluster studies.[524]

The Commission's proposed transition rules do not directly translate to the NYISO's interconnection process as the NYISO's existing and new interconnection studies are structured differently than the Commission's *pro forma* structure.[525] The NYISO therefore requests an independent entity variation to include transition rules that align with the transition from its existing process structure to its new proposed process.

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[519] *See id.* § 40.2.3.2.

[520] *See* Order No. 2023 at PP 1715, 1735.

[521] *See* proposed OATT Attach. HH § 40.3.1.4.1.

[522] *See id.*

[523] *See* Order No. 2023 at PP 855-871.

[524] *See id.* P 861.

[525] The NYISO is in the middle of performing its Class Year Study, which is the clustered facilities study for Class Year 2023. The NYISO anticipates that the Class Year Study will be presented to the NYISO's Operating Committee in late Q3 2024, approval of which will trigger iterative decision round(s) that typically take at least 2 months. Under its existing tariff requirements, the NYISO would not tender Class Year Study Agreements to Interconnection Customers not currently participating in Class Year 2023 until the completion of the Class Year Study, so there are no Interconnection Customers that satisfy the Commission's requirements to transition to a transitional facilities study. In addition, as described above, the NYISO is proposing to remove a stand-alone system impact study from its Cluster Study Process, so neither the NYISO's existing nor new rules include a clustered system impact study.

iv. Transition Cluster Study Process

The NYISO proposes to conduct a Transition Cluster Study Process pursuant to the same requirements as the Cluster Study Process, including using the same pro forma forms and agreements, with limited exceptions described below to assist the NYISO and Interconnection Customers with adapting to the new rules.[526] Most importantly, the transition rules do not establish prerequisite studies for projects to proceed into this transition cluster. Accordingly, the Interconnection Customer of any project that is capable of satisfying the Interconnection Request or CRIS-Only Request requirements in the Application Window may submit its project in the Transition Cluster Study Process and need not wait for current queue projects to complete individual transition studies before participating in the new Cluster Study process. The NYISO's urgency to move directly to a full transition study is consistent with the Commission's determinations in Order No. 2023 that transmission providers move quickly into their transition process and its concerns with delays in developing and implementing transition rules.[527]

The NYISO intends to open the Application Window for its Transition Cluster Study Process on August 1, 2024 and to use a 75 day Application Window (in place of the normal 45 day duration).[528] In addition, the NYISO plans to use a 90 day Customer Engagement Window for the Transition Cluster Study Process (in place of the normal 70 day duration).[529] These extended windows for the transition period will provide the NYISO and Interconnection Customers with additional time to address any issues with the implementation of substantial new process requirements. Further, there is uncertainty concerning the number of projects that will participate in the initial cluster study process with the potential for a significant number of project proposals requiring additional time. For these reasons, the NYISO has also provided for additional time – 15 business days rather than 10 – for it to identify deficiencies in the transition Application Window when validating Interconnection Requests and CRIS-Only Requests and for Interconnection Customers to cure such deficiencies.[530]

In addition, the Phase 1 Study for the Transition Cluster Study Process cannot commence until the NYISO completes the base case for such study, which can only be finalized following the completion of the Class Year Study for Class Year 2023. Accordingly, if the completion of the Class Year Study were to be delayed, the NYISO proposes to extend the Customer Engagement Window on a day for day basis to enable it to complete the required base case prior to commencing the Phase 1 Study process.[531]

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[526] *See* proposed OATT Attach. HH § 40.5.2.
[527] *See, e.g.*, Order No. 2023 at P 862.
[528] *See* proposed OATT Attach. HH §§ 40.5.1.1, 40.5.3.2.
[529] *See id.* § 40.7.1.2.
[530] *See id.* §§ 40.5.7.1.1, 40.5.7.2.2.
[531] *See id.* § 40.7.1.2.

v. Transition of Existing Interconnection Requests and CRIS-Only Requests

Order No. 2023 provided that those interconnection requests that are not subject to the transitional serial facilities study or transitional cluster study will be withdrawn from the interconnection queue.[532] The order does not establish a separate process for winding down any existing interconnection studies for projects that do not satisfy the requirements to enter one of the transition studies.

The NYISO proposes that, as of the effective date of the Standard Interconnection Procedures, it will withdraw from its Queue all existing Interconnection Requests for Large Generating Facilities, Class Year Transmission Projects, Small Generating Facilities, or Class Year Projects and cease its evaluation of all existing CRIS-only requests for Class Year Projects that were submitted prior to the effective date of the Standard Interconnection Procedures under its existing LFIP and SGIP, with certain exceptions detailed below.[533] All projects that remain in the Queue in accordance with these transition requirements will be subject to the new requirements in Attachment HH to the ISO OATT except as otherwise indicated in the transition rules.[534]

This rule is necessary to close out the NYISO's old interconnection process in order to transition to the new Cluster Study Process. In particular, the NYISO will remove from its interconnection queue those projects that have not sufficiently progressed to complete their final interconnection studies under the old process during the transition period. This is consistent with the Order No. 2023 requirements that existing projects in the transition provider's interconnection queue that do not satisfy specific transition rules are to be withdrawn from the interconnection queue and may submit their projects anew under the new process rules. The Interconnection Customers of the withdrawn projects may resubmit their projects into the Application Window for the NYISO's Transition Cluster Study Process and are not subject to any prerequisite interconnection studies to enter this new process.

vi. Projects with Completed Interconnection Studies

The NYISO proposes to retain the Queue Position of a Large Facility or Small Generating Facility that, as of the effective date of the Standard Interconnection Procedures, has completed its applicable final interconnection studies under the NYISO's existing interconnection procedures, but that has not yet entered Commercial Operation. These include projects that have an executed interconnection agreement or an unexecuted agreement accepted by the Commission.[535] This also includes projects that completed the applicable final interconnections studies, satisfied the requirements to proceed (*e.g.*, accepted cost allocation and posted security), and are in the process of negotiating an interconnection agreement for the project or requesting that the agreement be filed unexecuted by the Commission.[536] For the latter

[532] *See* Order No. 2023 at P 855.
[533] *See* proposed OATT Attach. HH § 40.3.1.
[534] *See id.* § 40.3.1.10.
[535] *See id.* § 40.3.1.1.
[536] *See id.* § 40.3.1.2.

projects, the NYISO proposes for the NYISO, Interconnection Customer, and the applicable Connecting Transmission Owner, Affected Transmission Owner, or Affected System Owner to complete the existing interconnection agreement and/or any engineering, procurement, or construction agreement(s) in accordance with the existing forms and requirements in Attachments X and Z to the OATT to which these projects were subject.[537]

vii. Class Year Study for Class Year 2023

The NYISO proposes to retain the Queue Position of a Large Facility or Small Generating Facility participating in Class Year 2023 and to perform and complete the Class Year Study for Class Year 2023 in accordance with the existing rules in Attachment S and X of the NYISO OATT.[538] If the project were to withdraw or not accept its cost allocation or post security in Class Year 2023, it will be withdrawn from the Queue.[539] The NYISO proposes to use the revised Standard Interconnection Agreement and the new *pro forma* construction agreements for Class Year 2023 projects.[540]

The NYISO proposes to make two changes to the requirements applicable to the existing Class Year rules. First, the NYISO proposes to remove the requirement that Class Year Study projects in Class Year 2023 or prior Class Years that have not satisfied their regulatory milestone will be withdrawn if they do not satisfy the milestone within six month of the NYISO's tender of their interconnection agreement.[541] This change is consistent with the NYISO's determination in its new process to eliminate non-financial commercial readiness requirements and would apply to projects that remain in the queue as of the effective date of the new rules. The NYISO does not propose to change the application to Class Year Projects of the rules associated with regulatory milestone financial deposits.[542]

Second, under the NYISO's existing rules for Additional SDU Studies, an Additional SDU Study may be terminated if it is not completed prior to the completion of the Annual Transmission Baseline Assessment study cases for the subsequent Class Year Study.[543] This ensures that the base case for the next Class Year Study can be timely completed and the next study commenced. As the Transition Cluster Study Process will have different process steps than the existing Class Year Study, the NYISO proposes to clarify that it will terminate any Additional SDU Study required for Class Year 2023 if its decision period is not completed 10

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[537] *See id.* Such interconnection agreements would include any modifications proposed in this compliance filing to comply with Order No. 2023.

[538] *See id.* § 40.3.1.3.1.

[539] *See id.* § 40.3.1.3.4.

[540] *See id.*

[541] *See* § 40.3.1.3.3. Under the NYISO's existing Class Year Study process, an Interconnection Customer must demonstrate commercial readiness to enter the study by either demonstrating that it has satisfied one of the tariff-prescribed regulatory milestones or, in lieu of such demonstration, providing a qualifying contract or deposit. The Interconnection Customer is ultimately required to satisfy the regulatory milestone within 6 months of the NYISO's tender of its draft interconnection agreement. The applicable requirements are located in Section 30.11.1 of Attachment X and Section 25.6.2.3.2 of Attachment S to the NYISO OATT.

[542] *See id.* The applicable regulatory financial deposit rules are located in Section 25.6.2.3.1 of Attachment S to the NYISO OATT.

[543] See OATT Attach. S § 25.5.10.2.

business days prior to the Phase 1 Study Start Date.[544] This will enable the NYISO to complete the base cases to timely commence the Phase 1 Study for the Transition Cluster Study Process.

viii. Facilities Studies for Small Generating Facilities

The NYISO proposes to retain the Queue Position of a Small Generating Facility to complete a facilities study if, prior to the effective date of the Standard Interconnection Procedures, either: (i) the facilities study has already commenced or (ii) the facilities study has not yet commenced, but the following requirements have been satisfied: (A) a system impact study for the Small Generating Facility has been completed that did not identify any non-Local System Upgrade Facilities, (B) the Interconnection Customer has executed a Small Generator facilities study agreement tendered by the NYISO, (C) the Connecting Transmission Owner has confirmed receipt of the complete data provided by the Interconnection Customer that is required for the performance of the applicable study, and (D) the NYISO has provided to the Connecting Transmission Owner the final short-circuit base case required for the facilities study.[545]

If these requirements are met, the NYISO, in coordination with the Connecting Transmission Owner, will commence or complete the facilities study in accordance with the requirements in the SGIP in Attachment Z.[546] However, if the facilities study is not completed by the end of the Application Window in the Transition Cluster Study Process, the facilities study identifies any non-Local System Upgrade Facilities, or the Interconnection Customer does not satisfy the requirements for the NYISO to tender an interconnection agreement, the facilities study will be terminated and the project withdrawn from the Queue.[547] The Interconnection Customer of such project will have the opportunity to submit its project as a Contingent Project in the Application Window of the Transition Cluster Study Process as described in Part VII.B.vi above. If the facilities study is completed and the Interconnection Customer satisfies the requirements for tendering an interconnection agreement, the NYISO will tender and negotiate a Standard Small Generator Interconnection Agreement in accordance with the requirements in Attachment Z to the ISO OATT.[548]

The NYISO acknowledges that under its proposed rules certain Interconnection Customers that are potentially close to completing their interconnection process for a Small Generating Facility may need instead to enter the Transition Cluster Study. However, establishing a cutoff date is necessary to enable the NYISO and Transmission Owners to timely move forward to perform their obligations in the Transition Cluster Study to the benefit of the vast majority of projects in New York. As noted in Order No. 2023-A, any cutoff date will inevitably exclude certain Interconnection Customers.[549] The NYISO and Transmission Owners must complete the ongoing facilities studies by the completion of the Application Window to be able to redirect their resources to performing the Transition Cluster Study, including developing

[544] *See* proposed OATT Attach. HH § 40.3.1.3.2.
[545] *See id.* § 40.3.1.4.
[546] *See id.* §§ 40.3.1.4.1, 40.3.1.9.
[547] *See id.* § 40.3.1.4.1.
[548] *See id.*
[549] *See* Order No. 2023-A at P 260.

the applicable base cases and performing the physical infeasibility screening during the Customer Engagement Window. In addition, the NYISO must account for the results of these studies in establishing the base cases for the Transition Cluster Study.

ix. Feasibility and System Impact Studies

As a result of the updated interconnection study structure, an Interconnection Customer in the feasibility or system impact stage of the NYISO's existing LGIP or SGIP cannot proceed to a facilities study under the existing procedures. However, as described above, the Interconnection Customers do not require a completed feasibility or system impact study to enter into the Transition Cluster Study Process. The Interconnection Customer must only satisfy the requirements for a valid Interconnection Request or CRIS-Only Request during the Application Window of the transition period.

Certain Interconnection Customers have requested the ability for the NYISO to perform or complete feasibility or system impact studies that have already commenced or for which the Interconnection Customer has satisfied the requirements for commencing such studies. The NYISO proposes the following requirements for commencing or performing these studies, which will be for information purposes only and will continue to be performed through Reasonable Efforts.

If, prior to the effective date of the Standard Interconnection Procedures, an Interconnection Customer has commenced: (i) an optional feasibility study or system impact study for a Small Generating Facility or an Optional Feasibility Interconnection Study, System Reliability Impact Study, or Optional System Reliability Impact Study for a Large Facility,[550] or (ii) has (A) satisfied, as applicable, the requirements in Attachment X or Z to commence the study, (B) Connecting Transmission Owner has confirmed receipt of the complete data provided by the Interconnection Customer that is required for the performance of the applicable study, and (C) the NYISO has provided to the Connecting Transmission Owner the final base case required for the applicable study, then the NYISO will commence or complete the study in accordance with the applicable requirements in Attachments X or Z of the NYISO OATT.[551] If the study is not completed by the end of the Application Window, the NYISO will terminate the study.[552] Upon the completion or termination of the study, the NYISO will withdraw the Interconnection Request from the NYISO's Queue.[553] In addition, an Interconnection Customer may not submit the same project or one using the same Site Control in the Application Window of the Transition Cluster Study Process, unless the feasibility or system impact study is complete or terminated, so that only one project is proceeding to be studied.[554]

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[550] A proposed Large Facility is only eligible for an Optional Feasibility Interconnection Study, System Reliability Impact Study, or Optional System Reliability Impact Study in accordance with the interim transition rules that the NYISO previously filed on November 3, 2023 in Docket No. ER24-342, as further modified by this compliance filing. *See* OATT Attach. X § 30.5.3.

[551] *See* proposed OATT Attach. HH §§ 40.3.1.5, 40.3.1.6, 40.3.1.9.

[552] *See id.* §§ 40.3.1.5, 40.3.1.6.

[553] *See id.*

[554] *See id.* §§ 40.3.1.5.1, 40.3.1.6.1.

As described above, this cutoff date at the conclusion of the Application Window of the transition study is necessary to enable the NYISO and New York Transmission Owners to timely perform their responsibilities in the transition study process. In addition, the information in any study performed after the completion of the Application Window would be developing outdated information as the next Cluster Study Process that such project could enter would be using a substantially different base case.

x. Affected System Studies

As described in Part IX, the NYISO is proposing to revise its requirements for assessing Affected System impacts in New York of projects connecting to the neighboring regions in accordance with Order No. 2023. The NYISO is currently performing studies of Affected System impacts on New York under its existing requirements and proposes to complete those studies in accordance with the agreed upon terms of the studies.[555] If the study identifies that upgrade are required on the New York State Transmission System, then, consistent with the NYISO's current requirements, the Interconnection Customer may submit a Transmission Interconnection Application for the upgrade in accordance with the requirements in Attachment P to the ISO OATT and ISO Procedures.[556] Pursuant to Order No. 2023, the NYISO is not proposing to terminate these ongoing studies or to commence them under the new Affected System Study requirements established in this compliance filing.[557] The NYISO proposes to apply the new Affected System Study requirement proposed in this compliance filing for any study it agrees to perform following the effective date of the Standard Interconnection Procedures.

xi. Expedited Deliverability Studies

The NYISO was required by its existing tariff requirements to commence an Expedited Deliverability Study shortly before this compliance filing.[558] Certain Small Generating Facilities that are currently permitted to enter the study will not be able to complete their interconnection studies to obtain the Energy Resource Interconnection Service required for them to interconnect and, therefore, cannot proceed to obtain Capacity Resource Interconnection Services rights through an Expedited Deliverability Study at this time. Accordingly, the NYISO proposes to withdraw any Small Generating Facility that entered the Expedited Deliverability Study unless it has a completed facilities study or has commenced or will commence a facilities study under these transition rules.[559] Upon withdrawal, the NYISO will thereby terminate its Expedited Deliverability Study Agreement, if fully executed, and return to the Interconnection Customer its study deposit. The NYISO has been proactive in communicating this transition rule to all projects that have elected to enter the current Expedited Deliverability Study. As described

[555] *See id.* § 40.3.1.8.
[556] *See id.*
[557] *See* Order No. 2023 at P 1179 (declining to apply the affected system study process reforms adopted in Order No. 2023 to pending and ongoing affected system interconnection requests and studies).
[558] *See* OATT Attach. S § 25.5.9.2.1.
[559] *See* proposed OATT Attach. HH § 40.3.1.7.

above, such projects can submit an Interconnection Request to enter the Transition Cluster Study without any prerequisite interconnection studies.

XI. Tariff Revisions Regarding the Reasonable Efforts Standard, Study Delay Penalties, and Study Metrics

A. Elimination of the Reasonable Efforts Standard

Order No. 2023 directed the removal of the reasonable efforts standard, requiring transmission providers to conduct cluster studies, cluster restudies, facilities studies, and affected system studies by tariff-prescribed deadlines.[560] Consistent with this requirement, the NYISO proposes not to include a reasonable efforts standard for the conduct of the Cluster Study Process or Affected System Study. The NYISO requests a limited independent entity variation to clarify in its tariff that if the NYISO, a Connecting Transmission Owner, or Affected Transmission Owner is unable to complete a component of the Cluster Study Process in accordance with the tariff-prescribed timeframe, the responsible entity will complete that component as soon as practicable, and the NYISO will notify Interconnection Customers of any anticipated resulting delay.[561] In the absence of reasonable efforts language, this tariff insert is required to ensure that the NYISO or Transmission Owner can complete a delayed component of the Cluster Study Process without such action constituting non-compliance with the NYISO's tariff. The consequence of missing a date or time period in the tariff is addressed through the required proposal for penalties for missed study deadlines or the study metric requirements as described below.[562]

B. Penalties for Missed Study Deadlines

Order No. 2023 established rules for imposing penalties on transmission providers for delays in completing cluster studies, cluster restudies, facilities studies, and affected system studies.[563] This aspect of the final rule was challenged on rehearing by numerous parties, including the NYISO. The NYISO in particular challenged the reasonableness of the penalty structure for not-for-profit ISOs/RTOs which do not have other avenues to recover penalties paid other than through amounts provided by customers. The NYISO also challenged the contemplated structure of having penalty provisions in the tariff without also providing a tariff-based mechanism to recover any penalty amounts. Order No. 2023-A upheld the penalty structure, rejected proposed alternative to penalties, and confirmed that ISOs/RTOs cannot use Order No. 2023 compliance filings to add a mechanism to recover penalty amounts paid.

The NYISO is, therefore, submitting proposed tariff revisions with a penalty structure to comply with Order No. 2023. This submission should not be interpreted as the NYISO's agreement with the missed study deadline penalty requirements adopted in Order No. 2023 or as

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[560] *See* Order No. 2023 at P 962.

[561] *See* proposed OATT Attach. HH § 40.9.2.2.

[562] *See id.* ("The ISO shall address any failure of the responsible entity to achieve a study component within a tariff-prescribed timeframe period through the requirements set forth in [the section on study metrics and penalties for study delays]").

[563] *See* Order No. 2023 at P 962.

any kind of waiver, concession, or change in position related to the NYISO's petition for review concerning the penalty rules that is currently pending in abeyance before the United States Court of Appeals for the District of Columbia Circuit.[564]

Order No. 2023 established specific requirements for imposing and challenging penalties for study delays. In particular, the order included penalty amounts, with penalties to be distributed on a pro rata basis per interconnection request to offset study costs and total penalties capped at 100% of the initial study deposits received for the study.[565] The order established a 10 business day grace period for completion of a study and the ability for Interconnection Customers unanimously agree to provide an additional 30 business day extension.[566] The order also established that the transmission provider could appeal any penalties under a "good cause" standard.[567] The order established that the penalties would first be applied starting in the third cluster study cycle, including the transitional cluster study cycle, following the effectiveness of a transmission provider's compliance filing.[568] Finally, the order required that certain information concerning penalties be posted on a transmission provider's OASIS or publicly available website.[569] Order No. 2023-A clarified that when ISOs/RTOs conduct studies in coordination with member Transmission Owners that penalties could be assigned to Transmission Owners that are in "formal lead" role.[570]

The NYISO requests an independent entity variation to adopt the missed study deadline penalty structure established in Order No. 2023 with certain adjustments described below that are necessary in light of the structure of the NYISO's proposed interconnection study process.

First, the NYISO would adapt the *pro forma* penalty framework deadlines to reflect the structure of its proposed Cluster Study Process.[571] As described above, the NYISO proposes a single clustered study process that completes all required studies for a defined group of proposed projects. This single cluster is studied through two main phases with a total study duration of 460 days.[572] The defined phases allow for the necessary sequencing of work, but some study

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[564] *See Adv. Energy United, et al. v. FERC*, D.C. Cir. Nos. 23-1282, *et al.*, Order (Apr. 24, 2024) (consolidating cases and holding newly consolidated case in abeyance pending further order of the court).

[565] *See* Order No. 2023 at P 963.

[566] *See id.*

[567] *See id.*

[568] *See id.*

[569] *See id.*

[570] *See* Order No. 2023-A at P 404.

[571] *See* proposed OATT Attach. HH § 40.9.3.2.2. The NYISO proposes to also include the 300 day period for an Affected System Study based on the NYISO's proposed timeframe for this study. *Id.*

[572] The 460-day time period is based on the NYISO's proposed study timeframes. The Phase 1 Study is a 190 day period that runs from the start date of the Phase 1 Study to the NYISO's presentation of the cost estimates determined in the Phase 1 Study to its Operating Committee. Proposed OATT Attach. HH § 40.9.2.1(i). The Phase 2 Study is a 270 day period that runs from the start date of the Phase 2 Study to the NYISO's presentation of the draft Cluster Study Report to its Operating Committee for approval. Proposed OATT Attach. HH § 40.9.2.1(ii). The remaining stages of the Phase 1 and Phase 2 processes are driven by stakeholders in their review and approval of the provided materials and Interconnection Customers in their determinations as to whether to accept their cost allocation at the conclusion of the study.

work may be accelerated and bridge the two phases to allow efficient completion of the overall study objectives.

The NYISO proposes that penalties would apply if the Cluster Study is not completed in that 460 day timeframe. This is consistent with the *pro forma* penalty requirements that apply penalties on a single study basis, rather than a per project basis (*e.g.*, cluster studies). This approach also recognizes that the NYISO will not perform any individual project Facilities Studies, as contemplated by the *pro forma* requirements. While the intermediate deadlines in the tariff are meant to support the completion of all required study work in 460 days, missing one of these deadlines—for example, the timeframe for Phase 1—does not necessarily mean that the overall timeframe will exceed 460 days. For example, under the NYISO's approach, if any delays arise during the first phase of the Cluster Study, the NYISO and/or Transmission Owners will have the opportunity to take appropriate action to expedite the remaining study work. This could eliminate any delay in the overall study process for a project, negating any potential harm to the Interconnection Customer and thus eliminating any grounds for a penalty by the end of Cluster Study. The NYISO proposes to apply the same penalty requirements if an Affected System Study is not completed within the 300 day period described in Part IX.D.iii.

Order No. 2023-A expressly confirmed that "where transmission providers conclude that the 150-day deadline for the *pro forma* study process is not appropriate for their particular study processes, they can raise this issue in their compliance filings, under the appropriate standard."[573] The NYISO's proposed study penalty deadlines are appropriate for the NYISO's "particular study process" for the reasons specified above.

Second, as described in Part VII.D.i, both the NYISO and Transmission Owners will have responsibilities for conducting certain components of the Cluster Study. Accordingly, consistent with the principle established in Order No. 2023-A,[574] each of these entities will be leads for particular study work under the process and may be subject to penalties for delays in such process components.[575] Specifically, the Transmission Owners will be considered to be the lead for work specifically assigned to them under the tariff or for work performed under specific contracting arrangements.

In the event that the completion of a Cluster Study is late, the NYISO proposes to establish a process for addressing the allocation of penalties as between the NYISO and Transmission Owners before the deadline for pursuing an appeal.[576] Specifically, the NYISO will have a 20 business day period following the completion of a late Cluster Study to prepare a draft penalty summary that will compute the total penalty amount and the allocation of the

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[573] *See* Order No. 2023-A at P 324; *see also* Order No. 2023-A at P 156 ("Order No. 2023 does not preempt transmission providers from proposing tariff-defined study deadlines that may differ from the pro forma LGIP's 150-day schedule.").

[574] *See id.* P 404.

[575] In Order No. 2023, the Commission clarified that in ISO/RTO regions, penalties are applied to the transmission owners when they are formally designated the lead of the process. Order No. 2023-A at P 404. The NYISO's new Attachment HH establishes Transmission Owner specific components of the Phase 1 Study process and the Phase 2 Study process. *See generally* Attach. HH §§ 40.10, 40.11.

[576] *See* proposed OATT Attach. HH §§ 40.9.3.2.2.1-40.9.3.2.2.4.

penalties among the NYISO and Transmission Owners.[577] The Transmission Owners will then have 20 business days to review and provide comments, and the NYISO will have 10 business days to finalize the penalty summary.[578] Both the NYISO and the Transmission Owners may appeal any penalties determined in the penalty summary, and the Transmission Owners' appeal may challenge the allocation of penalty amounts in the penalty summary.[579] To provide sufficient time for this process, the NYISO proposes that the NYISO and Transmission Owners have 65 business days after the completion of the late study to request an appeal. This independent entity variation is a brief extension of the *pro forma* deadline that reasonably reflects the complex and overlapping nature of the NYISO's and the Transmission Owners' roles regarding studies.[580] The NYISO similarly requests that it have 90 business days to distribute penalties (or 60 calendar days after the completion of any appeal proceeding at the Commission), as the NYISO will have to receive any penalty amounts from the Transmission Owners to distribute, and such payments may not be known unless and until the Transmission Owner decides whether it will appeal or an appellate process is complete.[581]

The independent entity variations proposed above will not materially delay the beginning of the appeal process. However, they would provide the NYISO and New York Transmission Owners with a reasonable time to determine whether they agree or disagree with proposed penalty allocations, which may help to reduce or simplify appeals. The proposed revisions are meant to provide reasonable due process protections to the NYISO and Transmission Owners, which is consistent with the Commission's stated intent within the construct required by Order No. 2023.

Third, the NYISO proposes that the study delay penalty amount for the Cluster Study be $2,000 per day, which is consistent with the *pro forma* cluster study penalty amount, and $2,000 per day for the Affected System Study as required by Order No. 2023.[582]

Fourth, the NYISO proposes to clarify the Interconnection Customers eligible to receive penalty payments. Order No. 2023 provides for payment to projects that did not withdraw or were not deemed withdrawn before the missed study deadline. The NYISO proposes to clarify in the context of its study process that Interconnection Customers that have accepted their project cost allocation and posted the related security in the applicable study will be eligible to receive study payments.[583]

Fifth, the NYISO proposes to modify the mechanism by which Interconnection Customers can grant a 30 business day extension of the study timeframes. Specifically, the NYISO proposes that Interconnection Customers can agree to such an extension so long as 10%

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[577] *See id.* §§ 40.9.3.2.2.1- 40.9.3.2.2.3.
[578] *See id.* § 40.9.3.2.2.4.
[579] *See id.* § 40.9.3.2.7.
[580] *See id.* The NYISO also proposes to clarify what constitutes the date at which an appeal is concluded (*i.e.*, "the date that the Commission issues a substantive order on any requests for rehearing").
[581] *See id.* § 40.9.3.2.5.
[582] *See id.* § 40.9.3.2.6.
[583] *See id.* §§ 40.9.3.2.3, 40.9.3.2.4.

or more of the projects do not vote against such an extension.[584] The NYISO's proposed variation is reasonable given the number of projects that participate in the NYISO's process, and the ability of one project to reject an extension in spite of the position of the vast majority of projects. Over 80 projects participated in Class Year 2023, and the NYISO expects a greater number of projects to participate in future Cluster Studies. Based on this high number of projects, it is highly unlikely that the NYISO could obtain unanimous agreement on any extension, regardless of the circumstances or the NYISO's and Transmission Owner's good faith efforts timely to complete the studies. The NYISO's proposed variation maintains a high bar as a mere 10% of projects could block an extension but does permit an extension when the vast majority of Interconnection Customers supports it. The NYISO also proposes to clarify that Interconnection Customers can voluntarily agree to more than one extension, so far as they agree to such extension consistent with the previously described requirements.[585] The NYISO recognizes that Order No. 2023-A declined the NYISO's request to modify the unanimous consent rule in the *pro forma* rules.[586] But the NYISO does not interpret that ruling as barring it from making its proposal here under the independent entity variation.

Finally, the NYISO proposes to include language that clarifies in the context of the NYISO's process when the application of penalty commences (*i.e.*, the second Cluster Study Process following the completion of the Transition Cluster Study Process).[587] This clarification is entirely consistent with the timeframe established in Order No. 2023.

C. Study Metrics/Informational Filing

Order No. 2023 required transmission providers to post metrics for cluster study processing time and cluster restudy processing time, including the number of cluster studies completed within 150 calendar days of the close of the customer engagement window.[588]

The NYISO requests an independent entity variation to align its study metrics and informational reporting requirements to its proposed new interconnection study process. In particular, as the NYISO proposes not to perform feasibility and system impact studies, the NYISO proposes to remove the study metrics for such studies and intends to cease reporting on such studies following the effective date of the new Standard Interconnection Procedures.

The NYISO proposes to establish new study metrics for its Cluster Study that align with the key process components for the Phase 1 Study and Phase 2 Study, including the process components that are the responsibility of the NYISO and the Transmission Owners.[589] As the NYISO's study process will only have a single ongoing Cluster Study, the NYISO proposes to post such metrics only following the completion of each Phase 1 Study and each Phase 2 Study, rather than on a quarterly basis.[590] In addition, the NYISO proposes to incorporate the

[584] *See id.* § 40.9.3.2.9.
[585] *See id.*
[586] *See* Order No. 2023-A at P 335.
[587] *See* proposed OATT Attach. HH §§ 40.9.3.2.1, 40.9.3.2.10.
[588] *See* Order No. 2023 at P 259.
[589] *See* proposed OATT Attach. HH § 40.9.3.1.
[590] *See id.* §§ 40.9.3.1.1.1, 40.9.3.1.1.2.

Commission's reporting metrics for withdrawn interconnection requests, as modified to align with the steps in the NYISO's proposed process for Interconnection Requests and CRIS-Only Requests.[591] The NYISO proposes to post these metrics on an annual basis as the NYISO's proposed study process steps will occur over a longer period than a quarterly basis.[592] The NYISO will update the previously provided information as part of its annual update.[593]

Finally, the NYISO proposes to retain its requirements to file a report with the Commission if there are delays in its study process, as modified to align with the new process steps. In particular, the NYISO proposes that if its combined Phase 1 Study and Phase 2 Study timeframes exceed 460 days, it will make a report with the Commission describing the reasons for the delay and the steps taken to remedy the specific issues and prevent their occurrence in the future.[594] The NYISO will file the report within 65 business days, which aligns with the period for appealing any penalty determination for that study process.[595] The NYISO will also post the aggregate NYISO, Transmission Owner, and consultant hours expended for the Cluster Study within this time period.[596]

XII. Tariff Revisions Regarding Incorporating Technological Advancements

A. Co-Located Generating Facilities Behind One Point of Interconnection with Shared Interconnection Requests

Order No. 2023 required transmission providers to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and share a single interconnection request.[597]

The NYISO requests an independent entity variation from these requirements to permit it to continue to apply its existing Co-located Storage Resource ("CSR") requirements.[598] The NYISO revised its interconnection procedures in 2021 to allow for the use of CSRs in the NYISO's unique market and planning framework.[599] Pursuant to the NYISO's CSR rules, an Energy Storage Resource and a wind or solar Intermittent Power Resource that share a common Point of Injection can participate in the ISO Administered Markets as CSRs. The two resources participating in the CSR will submit a single, shared interconnection request, or consolidate two interconnection requests, in the NYISO's interconnection queue and will share a single interconnection agreement. The ERIS rights and CRIS rights will be allocated to each Generator in the CSR separately. The CSR rules are not limited to interconnection procedures; the Tariffs

[591] *See id.* § 40.9.3.1.2.
[592] *See id.* § 40.9.3.1.2.1.
[593] *See id.*
[594] *See id.* § 40.9.3.1.3.
[595] *See id.*
[596] *See id.*
[597] *See generally* Order No. 2023 at PP 1346-1357.
[598] The NYISO adopted the CSR rules for its Standard Large Facility Interconnection Procedures and Small Generator Interconnection Procedures, which tariff provisions have been incorporated into the new Standard Interconnection Procedures.
[599] *See N.Y. Indep. Sys. Operator, Inc.*, 174 FERC ¶ 61,242 (2021) (accepting tariff revisions to implement participation model for co-located storage resources).

were extensively modified to allow Generators in a CSR configuration to participate in the NYISO's Energy, Capacity and Ancillary Service markets.[600]

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

Order No. 2023 required transmission providers to evaluate the proposed addition of a generating facility at the same point of interconnection before deeming such an addition a material modification, so long as the addition does not change the originally requested interconnection service level.[601] Transmission providers need only evaluate whether a request to add a generating facility to an existing interconnection request is material if the request is submitted before the interconnection customer returns the executed facilities study agreement to the transmission provider.[602]

The NYISO requests an independent entity variation from these requirements to permit it to continue to apply its existing tariff requirements that permit the NYISO to determine that the proposed addition of a generating facility is not material so long as the total requested ERIS and CRIS does not increase.[603] An increase in ERIS above the permissible *de minimis* amount or an increase in CRIS is per se material. In the CSR transition rules modified in tariff revisions approved by the NYISO's Management Committee on December 21, 2022, the NYISO proposed to retain this limitation on permissible modifications; however, NYISO proposed a limited exception to this rule in a transition rule applicable to co-located resources in the interconnection queue as of the effective date of those tariff revisions.[604] This requirement should apply under the Cluster Study Process to avoid disparate treatment among resource types in the NYISO's interconnection process.

The NYISO proposes to request an independent entity variation to allow co-located resources the flexibility to request a generator addition (or to submit a single IR) even where the facilities are interconnecting via two kV levels (as long as they are in the same Capacity Region. This is consistent with the NYISO's proposed rule described in Part VII.B.d that allows a limited exception to the restriction on multiple Points of Interconnection where the generation project has more than one unit and the units connect to different points on the New York State Transmission System or Distribution System or when the generation project includes a three-winding transformer that enables it to connect at different voltage levels.

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[600] The NYISO has proposing revisions to its OATT and to its Services Tariff to implement enhancements that will expand the participation options available to resources that share a common Point of Injection. The proposed Tariff revisions (a) introduce a new Hybrid Storage Resource ("HSR") market participation option, (b) expand the range of resources that can participate using the CSR model that the Commission accepted in 2021, and (c) implement rules for a Fast-Start Resource (a Generator that can start-up in 30 minutes or less) to add a battery that enhances its operating characteristics. The NYISO expects to file such tariff revisions in May 2024.

[601] *See* Order No. 2023 at P 1406.

[602] *See id.* P 1409.

[603] *See* proposed OATT Attach. HH § 40.2.3.2 (incorporating existing requirements from Section 30.3.1 of Attachment X to the NYISO OATT).

[604] *See* Hybrid Aggregated Storage (HSR) Tariff, Sections 30.3.2.2 and 30.4.4.2, NYISO Management Committee (Dec. 21, 2022), https://www.nyiso.com/management-committee-mc-?meetingDate=2022-12-21.

C. Availability of Surplus Interconnection Service

Order No. 2023 required transmission providers to allow Interconnection Customers to access the surplus interconnection service process once the original Interconnection Customer has an executed interconnection agreement or requests the filing of an unexecuted agreement at the Commission.[605]

The NYISO requests an independent entity variation not to incorporate these rules as the NYISO's process does not provide for the use of "surplus" interconnection service. In Order No. 845, the Commission revised its *pro forma* Large Generator Interconnection Procedures and Large Generator Interconnection Agreement to require transmission providers to establish an expedited interconnection process outside of the interconnection queue to allow for transfers of surplus interconnection service.[606] In its compliance filing,[607] the NYISO explained that the concept of surplus interconnection service relies on the premise that a facility's interconnection service is based on an evaluation of the facility at full capacity, with reliability upgrades being required for any adverse reliability impacts of the facility's injection of its full capacity, with no re-dispatch or dispatching down of the facility to mitigate such adverse impacts. However, that is not the case under the NYISO's unique Minimum Interconnection Standard, which allows for re-dispatch of a facility (*i.e.*, both the studied project and existing generators in the case) in interconnection studies to less than the facility's full capacity in order to mitigate reliability impacts at full capacity. Even if an interconnection study did not require re-dispatch, a facility is never guaranteed that it can operate at its full capacity in normal operations due to various system conditions and subsequent new project entry.

The Commission granted the NYISO's requested independent entity variation finding that:

> NYISO's existing interconnection process, including the NYISO Minimum Interconnection Standard, accomplishes the stated purposes of Order No. 845's surplus interconnection service proposal by reducing costs for interconnection customers and improving wholesale market competition by increasing the utilization of existing interconnection facilities and network upgrades rather than requiring new ones. In particular, NYISO's ERIS interconnection process already reduces the cost burdens for interconnection customers by making the need for network upgrades less likely. We therefore find that NYISO's interconnection process, including the NYISO Minimum Interconnection Standard, is just and reasonable, not unduly discriminatory, and accomplishes Order No. 845's purpose of efficient use of the transmission system. [608]

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[605] *See* Order No. 2023 at P 1436.

[606] *See Reform of Generator Interconnection Procs. & Agreements*, Order No. 845, 83 Fed. Reg. 21342 (May 9, 2018), 163 FERC ¶ 61,043, at P 24 (2018), *order on reh'g*, Order No. 845-A, 84 Fed. Reg. 8156 (Mar. 6, 2019), 166 FERC ¶ 61,137, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019), at P 467.

[607] *See N.Y. Indep. Sys. Operator, Inc.*, Compliance Filing at 23-24, Docket No. ER19-1949-000 (May 22, 2019).

[608] *See N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117, at P 98 (2020) (internal citation omitted).

The NYISO is not proposing in this compliance filing any changes to the application of the NYISO Minimum Interconnection Standard, which is a cornerstone of its process, and requests that the Commission uphold as needed its granting of the independent entity variation that the NYISO's existing approach is just and reasonable and does not provide for the use of surplus interconnection service.

D. Operating Assumptions for Energy Storage Resources in Interconnection Studies

Order No. 2023 requires transmission providers, at the request of Interconnection Customers, to use operating assumptions in interconnection studies that reflect the proposed charging behavior of electric storage resources (*i.e.*, whether the interconnecting generating facility will or will not charge during peak load conditions) unless good utility practice otherwise requires the use of different operating assumptions.[609] The transmission provider may require the Interconnection Customer to install additional control technologies to limit operations in peak load conditions and/or require the generating facility's operating assumptions be memorialized in the project's interconnection agreement.[610] Interconnection Customers that violate the operation assumptions could be subject to breach and default of their interconnection agreement.[611]

As discussed in the NYISO's Request for Rehearing and Clarification, allowing each Energy Storage Resource ("ESR") to elect whether or not to withdraw on-peak would add significant new complexity to the NYISO's Cluster Study and increase the time required to complete such study, which is at odds with the intent of Order No. 2023 to expedite such studies.[612] In addition, even if the elections submitted by each proposed ESR could be studied, the market software cannot enforce or effectuate these assumptions in actual operations. While an ESR can install a control device to prevent it from withdrawing Energy during peak periods and be bound to such limitation in its Interconnection Agreement, as suggested by the Commission in Order No. 2023-A,[613] implementation of such limitation would further reduce operating flexibility for ESRs, as the limitation would likely apply to the peak period on all days, not just on peak days.

The NYISO requests an independent entity variation to the Order No. 2023 requirements to propose alternative reforms that achieve the Commission's objectives in a manner that is carefully tailored to the NYISO's unique market and planning framework.[614] The NYISO understands Interconnection Customers' concerns that their interconnecting electric storage resources should not be studied in a manner that subjects them to upgrades if the need for such upgrades can be otherwise addressed. As described below and discussed in Attachment IV to this filing, the affidavit of Jon Sawyer, Director of Grid Operations for the NYISO ("Sawyer Affidavit"), the Order No. 2023 approach for addressing this issue would require limitations on

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[609] *See generally* Order No. 2023 at PP 1509-1533; Order No. 2023-A at PP 575-587.
[610] *See* Order No. 2023 at PP 1511, 1517.
[611] *See id.* P 1521; *See* Order No. 2023-A at PP 578-579.
[612] *See* NYISO Request for Rehearing and Clarification at 53-54.
[613] *See* Order No. 2023-A at P 578-579.
[614] *See id.* P 581 ("[I]f NYISO continues to believe the instant reform conflicts with its market rules, NYISO may explain the specific circumstances on compliance and justify why any deviations merit independent entity variation.").

the offering behavior and withdrawal schedules of electric storage resources that conflict with the NYISO's market rules for ESRs, which allow ESRs to offer flexibly in all hours. However, the NYISO already has operating procedures in place that will in many cases mitigate Interconnection Customer's concerns, and the NYISO proposes to expand the application of these existing measures with supporting tariff language to reduce the need for upgrades on the New York State Transmission System for electric storage resources, wind, and solar projects.

i. The NYISO Minimum Interconnection Standard Already Achieves Objectives of the Operating Assumption Rules for Many Electric Storage Resources Interconnecting to the New York State Transmission System

The NYISO currently minimizes the need for upgrades for proposed interconnections of all resource types, including electric storage resources, to much of the New York State Transmission System through the use of its NYISO Minimum Interconnection Standard. Under this standard, the NYISO only requires upgrades if adverse reliability impacts cannot be mitigated through normal operating procedures, including the redispatch of resources to address identified reliability impacts.[615] This approach recognizes that in actual operations, the NYISO market systems will dispatch generation in a manner that avoids thermal overloads on NYISO-secured transmission facilities.[616] In interconnection studies, the NYISO simulates what will happen in operations through redispatch consistent with normal operating procedures. The NYISO performs this assessment for *all* interconnecting projects; it does not require a specific request or designation by the Interconnection Customer.[617] This permitted redispatch in studies under the NYISO Minimum Interconnection Standard applies to interconnections to transmission facilities that are secured in the NYISO's market models – its Business Management System ("BMS"). These existing requirements already achieve the Commission's objectives by reducing the need for upgrades for electric storage resources interconnecting in New York. By applying the Minimum Interconnection Standard, the NYISO avoids restricting ESR operating flexibility and avoids the need to prohibit most or all withdrawals by ESRs on-peak.[618]

ii. NYISO's Proposed Enhancements to NYISO Tariffs and Procedures to Address Interconnection of Intermittent Resources to Currently Unsecured Transmission Facilities in New York Operated at 100 kV or Greater

Currently, the NYISO Minimum Interconnection Standard, and normal operating procedures, may not permit redispatch in studies for interconnections to transmission facilities that are not secured by the NYISO or are not secured by New York Transmission Owners for planning study purposes.[619] To address concerns raised by Interconnection Customers in the NYISO's stakeholder process about ESR interconnections to unsecured transmission facilities 100 kV or above, the NYISO worked with stakeholders and existing and prospective

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[615] *See N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,117, at P 101 (2020) (noting the "fact that NYISO's Minimum Interconnection Standard does not result in unused and available ERIS on the system").

[616] *See generally* Nguyen Affidavit at P 15-17; Sawyer Affidavit at P 7.

[617] *See* Nguyen Affidavit at P 16.

[618] *See id.*

[619] *See id.* P 17.

Interconnection Customers to develop enhancements to its normal operating procedures.[620] As detailed below, the NYISO's proposed approach would enable energy storage, solar, and wind facilities whose interconnection causes thermal overloads in a NYISO's interconnection study on transmission facilities operated at 100 kV or greater that the NYISO does not secure to move forward in the interconnection study without being subject to upgrades to correct such thermal overloads.[621] The proposed process changes and supporting tariff revisions will effectively extend the redispatch under the NYISO Minimum Interconnection Standard to the identified project types so long as they impact a 100 kV or greater facility and redispatch provides a viable solution.

The enhanced procedures would function as follows. Prior to or during the interconnection study process, the connecting and affected New York Transmission Owners and the NYISO must agree that the overloaded facilities can be evaluated to be secured by the NYISO BMS, consistent with the process outlined in the NYISO's Transmission and Dispatch Operations Manual ("T&D Manual").[622] When the NYISO and Transmission Owner(s) agree, projects will be dispatched for purposes of the interconnection study at their full capability (including both injection and withdrawals for projects that are capable of withdrawing Energy) to determine if overloads exist on non-ISO or non-New York Transmission Owner secured 100 kV or greater elements. If a thermal overload is identified in an interconnection study, then the project(s) being studied will be backed down in that study (*i.e.*, redispatched), as needed to clear the overload.[623] The NYISO will keep track of the non-ISO and non-New York Transmission Owner secured 100 kV and greater elements for which the project was redispatched to avoid an overload in the study.[624]

When the new resources approach their commercial operation date and are integrated in the NYISO's market systems, the NYISO will follow the process outlined in its T&D Manual to potentially secure additional transmission facilities in its market systems.[625] If the NYISO determines, and the connecting and affected New York Transmission Owner(s) confirm, that a facility that was subject to a thermal overload in an interconnection study can be secured in the NYISO's market systems, the transmission facility or facilities will be added to the BMS and secured by the NYISO going forward.[626] In such case, the procedures for addressing the impacts to secured facilities described above would apply.[627]

If, on the other hand, the NYISO is unable to secure an overloaded element in the BMS because it does not meet the criteria outlined in the T&D Manual, and a limitation to the output or withdrawals of the resource is needed to secure a thermal overload that was identified in the

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[620] *See* Sawyer Affidavit at P 9.

[621] In other words, if reducing an interconnecting ESR's withdrawals or injections to zero MW addresses the thermal constraint, then no upgrades will be required to address that constraint.

[622] *See* NYISO Manual 12: Transmission and Dispatch Operations Manual, § 5 (November 2023), https://www.nyiso.com/documents/20142/2923301/trans_disp.pdf/9d91ad95-0281-2b17-5573-f054f7169551.

[623] *See* Sawyer Affidavit at P 10.

[624] *See id.*

[625] *See* NYISO Manual 12, § 5.

[626] *See* Sawyer Affidavit at P 11.

[627] *See id.*

interconnection study, then during real time operations the NYISO will limit the output or withdrawal of the resource to resolve the overload.[628] This will be managed via an Out-of-Merit redispatch for an ESR and/or the issuance of a Wind and Solar Output Limit to a wind or solar Generator.[629]

Specifically, if necessary, the NYISO will reduce an ESR's injections and withdrawals in real-time operations via an Out-of-Merit redispatch instruction to prevent an overload on a non-ISO secured, 100kV or greater transmission facility.[630] If, and to the extent, an overload was observed in the interconnection study process but not addressed with an upgrade, the NYISO will not reimburse the market participant for any required reductions in output (or withdrawals) of the ESR that are necessary to secure the thermal overload.[631] That is, the economic impact of the reduced injection or withdrawal will be the ESR's responsibility.[632]

To produce appropriate settlements, the NYISO proposes to revise Section 25 of the NYISO's Services Tariff to establish that the ESR will not be eligible to receive a Day-Ahead Margin Assurance Payment[633] ("DAMAP") when the Energy Storage Resource is "scheduled or dispatched Out-of-Merit by the ISO to inject or withdraw less Energy than its real-time Energy schedule … in response to an ISO or Transmission Owner request to relieve a constraint on a Local Area Transmission System Facility that was identified as limiting in the Energy Storage Resource's interconnection study and not able to be set as secured in the NYISO's market systems."[634] This is appropriate because the NYISO's Day-Ahead Commitment will not have the opportunity to secure the constraint that was identified in the interconnection study, so the Energy Storage Resource (or wind or solar project) may be overcommitted in the Day-Ahead Market.[635]

Notwithstanding the NYISO Minimum Interconnection Standard and the revised normal operating procedures proposed in this filing, there may be instances in which using the coordinated redispatch approach described above does not resolve a reliability issue identified in an interconnection study.[636] Under those circumstances, upgrades will still be necessary. This

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[628] The NYISO will redispatch the resource by issuing an Out-of-Merit instruction for an energy storage project and/or a Wind and Solar Output Limit for a wind or solar project.

[629] *See* Sawyer Affidavit at P 12.

[630] *See id.* P 13.

[631] *See id.*

[632] *See id.*

[633] DAMAP is intended to reimburse a Supplier for any lost Day-Ahead Margin that may result from actions taken by the NYISO in real-time that reduce a Resource's Day-Ahead Margin. This typically happens when the NYISO, in real-time, reduces the otherwise applicable schedule of a Generator, as determined in the Day-Ahead Market, for reliability reasons. DAMAP is not warranted when the Supplier's own actions cause lost, or reduced, Day-Ahead Margin.

[634] *See* proposed NYISO Services Tariff § 25.2.2.7. Wind and solar Generators are never eligible to receive DAMAP. *See* currently effective NYISO Services Tariff § 25.2.2.1(iii).

[635] *See* Sawyer Affidavit at P 14.

[636] This may be the case when a project is interconnecting to facilities that do not satisfy the NERC standard to be Bulk Electric System ("BES") facilities. In such cases, redispatch would not be an appropriate normal operating procedure to rely on in interconnection studies. For example, a 100 kV or greater transmission

process will maintain the existing coordination between the NYISO and the Transmission Owners to identify the transmission facilities where upgrades must be required in the interconnection process.

iii. Order No. 2023 Approach Conflicts with NYISO Market and Planning Rules

The NYISO's proposed alternative approach is required as the approach adopted in Order No. 2023 is not consistent with the NYISO-administered Energy and Installed Capacity market framework and would add substantial additional complexity to the NYISO's study process.

Permitting each ESR to specify whether it will withdraw Energy during on-peak periods is not entirely consistent with the NYISO-administered Energy and Installed Capacity market framework.[637] In New York, the charging of ESRs is an important component of their participation in the markets.[638] The ability of an ESR to charge when necessary provides flexibility and robustness to grid operations at all times of the day.[639] The NYISO Minimum Interconnection Standard, supplemented by the enhancements to its normal operating procedures that the NYISO proposes in this filing, will allow ESRs with interconnections impacting transmission facilities at 100kV or greater to charge on-peak when they are able (consistent with maintaining reliability) and economically scheduled to do so.[640] The NYISO's proposal will enable ESRs in New York to operate flexibly and avoid the need to broadly prohibit on-peak charging.[641]

The NYISO's market rules do not allow ESRs to dictate to the NYISO at the interconnection stage the limited periods during the day that they will seek to charge. With the exception of ESRs with Energy Duration Limitations, ESRs participating as Installed Capacity Suppliers are required to bid, schedule, and/or declare to be unavailable their entire withdrawal operating range in the Day-Ahead Market.[642] These rules first became effective in 2021 and

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facility which is only a radial connection to supply load or "load networks" may not constitute a BES facility. In addition, even when redispatch is accommodated under normal operating procedures, an interconnection study may identify a reliability issue that redispatch is not able to resolve. For example, upgrades may be required to connect the proposed project to the existing system or to mitigate short circuit issues. In cases where permitted redispatch does not mitigate an identified reliability issue, upgrades will still be required and identified in the interconnection study.

[637] *See* Sawyer Affidavit at P 16.

[638] *See id.*

[639] *See id.*

[640] *See id.*

[641] *See id.*

[642] An ESR that supplies Installed Capacity is required to Bid Energy, schedule a bilateral transaction, or notify the NYISO of an outage ("Bid/Schedule/Notify") for each hour of a Day-Ahead Market ("DAM") Day. The specific obligation depends on the ESR's capability. An ESR with an Energy Duration Limitation (*i.e.*, an ESR that is not capable of supplying Energy in each hour of the day due to a run-time limitation) is required to (i) Bid/Schedule/Notify at least the injection portion of its operating range during the NYISO-defined Peak Load Window and (ii) Bid or notify the NYISO of an outage for at least the withdrawal portion of its operating range in each hour that is outside the Peak Load Window. An ESR is never prohibited from offering to withdraw Energy

were developed to optimize the usage of this important resource type. The NYISO does not prescribe the time periods when an ESR can or cannot charge, nor is it able to programmatically restrict an ESR from offering to withdraw Energy in some (but not all) hours of the Day-Ahead or real-time market-day.[643] Grid or market conditions may make it desirable for ESRs to charge during peak demand hours and/or during the NYISO's Peak Load Window.[644] For example, charging of ESRs during peak periods can allow capture of "excess" energy production during peak output of intermittent renewables such as solar generating facilities.[645]

Installed Capacity Suppliers that do not comply with the NYISO's Day-Ahead Market bidding rules may be subject to financial penalties.[646] In addition, if in real-time operations the NYISO identifies a reliability need in an upcoming hour and asks an ESR to respond, the ESR may need to charge in an otherwise uneconomic and unanticipated hour in order to be ready to provide the requested assistance by the start of the identified reliability need.

The above ESR rule set applies to all ESRs on a comparable basis. The NYISO developed complex market software to implement its Commission-accepted ESR rules. The market software the NYISO developed to accommodate ESR operation, in conjunction with the NYISO Minimum Interconnection Standard and the proposed enhancements to the NYISO's normal operating procedures described in this filing, will provide greater opportunities and flexibility to ESRs and to the NYSO-Administered Markets than implementing the solutions described in Order No. 2023.[647]

iv. Interconnections to Facilities Below 100 kV

Existing and prospective Interconnection Customers and other stakeholders have been supportive of the NYISO's proposed application of its existing approach to use its normal operating procedures, including redispatch, to minimize the need for upgrades on the secured transmission system, and of its proposal for expanding this process as described above for many non-secured transmission facilities operated at 100kV or greater. While certain stakeholders

during the Peak Load Window or from offering to inject Energy outside the Peak Load Window. An ESR that does not have an Energy Duration Limitation is required to Bid/Schedule/Notify its full withdrawal to injection offer curve for each hour of the Day-Ahead Market Day. *See* NYISO Services Tariff § 5.12.7. For ESRs that only receive Energy Resource Interconnection Service and are not eligible to be Installed Capacity Suppliers, there is no Day-Ahead Market bidding obligation. Currently, most ESRs are Installed Capacity Suppliers. The NYISO expects that the majority of future ESRs will also be Installed Capacity Suppliers.

[643] *See* Sawyer Affidavit at P 17.

[644] *See* NYISO Services Tariff § 5.12.14.

[645] *See* Sawyer Affidavit at P 17.

[646] *See* NYISO Services Tariff § 5.12.12.2.

[647] Order No. 2023-A allows ISOs and RTOs to require ESRs to install equipment that will prevent on-peak charging, or to remove from market participation ESRs that charge on-peak in a manner that is inconsistent with the operating assumptions included with an ESR's interconnection request. See Order No. 2023-A at PP at PP577-578. The NYISO's proposed rules will retain ESR operating flexibility to the extent possible and avoid the need to impose the types of inflexible measures the Commission offers as permissible solutions in Order No. 2023-A.

have requested that the NYISO expand this process to transmission facilities operated at less than 100 kV, the NYISO is unable to do so.[648]

With limited exceptions, the NYISO does not secure or have visibility concerning the transmission facilities below the 100 kV level – typically the sub-transmission system.[649] The NYISO's operations systems are not designed to recognize facility rating limits or to allow analysis of contingencies and dispatch of resources in real time for facilities below 100 kV.[650] Accordingly, upgrades remain necessary to resolve overloads on such facilities.[651] To expand the NYISO's proposed redispatch approach below 100 kV, the NYISO would have to substantially redesign its operating systems hardware and software, staffing, and operating procedures to modify how facilities below 100 kV are managed in real time.[652] Such a fundamental change to the NYISO's operating system is not directed or required by Order No. 2023.

The sub-transmission portion of the power system was planned and is designed to support load.[653] The addition of load and generation resources on these sub-transmission facilities increases the scenarios that must be studied and managed to maintain reliability.[654] While the NYISO and the Transmission Owners monitor real-time status, neither performs analysis of post-contingency flows in real-time for sub-transmission facilities. It remains necessary for interconnection studies to identify upgrades required to keep the facilities within required limits in real time.[655] The management of any resources connected on facilities below 100 kV require manual intervention by the Transmission Owner to maintain facilities within ratings, consistent with Good Utility Practice and applicable reliability standards.[656] Actions to correct limit exceedances on these facilities is taken in response to real time loading, which cannot be predicted in outage conditions.[657]

E. Consideration of the Enumerated Alternative Transmission Technologies in Interconnection Studies Upon Request of the Interconnection Customer

Order No. 2023 required transmission providers to evaluate certain specified alternative transmission technologies during the cluster study and to determine, in its sole discretion, whether the technology should be used consistent with good utility practice, applicable reliability standards, and applicable laws and regulations.[658] Transmission providers must also include in the *pro forma* LGIP cluster study report an explanation of the transmission provider's evaluation

[648] *See* Sawyer Affidavit at P 18.
[649] *See id.* P 19.
[650] *See id.*
[651] *See id.*
[652] *See id.*
[653] *See id.* P 20.
[654] *See id.*
[655] *See id.*
[656] *See id.*
[657] *See id.*
[658] *See* Order No. 2023 at P 1578; Order No. 2023-A at PP 625-627.

of the enumerated technologies for feasibility, cost, and time savings as an alternative to a traditional network upgrade.[659]

The NYISO proposes to incorporate these requirements in its new Standard Interconnection Procedures with limited variations to align with its process.[660] The NYISO proposes to include its explanation of the results of its evaluation of these technologies in the Cluster Study Report. In addition, the NYISO proposes to specify which facilities are specifically listed in its Cluster Study Report – *i.e.*, non-Local System Upgrade Facilities and System Deliverability Upgrades, which are the facilities that the NYISO lists in its final report.

F. Modeling and Ride Through Requirements for Non-Synchronous Generating Resources and Applicability of Ride Through Requirements

v. Models for Non-Synchronous Generation

Order No. 2023 required that each interconnection customer that seeks to interconnect a non-synchronous generating facility must submit to the applicable transmission provider certain specified modeling.[661]

The NYISO proposes to insert the Models for Non-Synchronous Generators attachment in the Interconnection Request form in Appendix 1 to Attachment HH.[662] The NYISO requests a limited independent entity variation from including the associated table of Acceptable Generic Library RMS Positive Sequent Dynamics Models, as the information in the table is regularly subject to change. The NYISO proposes instead to indicate that this information is set forth in its procedures, where it can be more easily updated.

vi. Ride Through Requirements

Order No. 2023 also established ride through requirements during abnormal frequency conditions and voltage conditions within the "no trip zone' defined by NERC Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards.[663]

The NYISO proposes to incorporate these revisions into Article 9.6.3 of its new Standard Interconnection Agreement with a limited independent entity variation. As the Northeast Power Coordinating Council or New York State Reliability Council may develop more stringent definitions of "no trip zone," the NYISO proposes to revise these provisions to account for the possibility of the generating facility having to satisfy those more stringent rules. The NYISO also proposes to include these revisions in Article 9.6.3 of its existing Standard Large Facility

[659] *See id.* P 1578.
[660] *See* proposed OATT Attach. HH §§ 40.11.5.1, 40.11.5.2.
[661] *See* Order No. 2023 P 1659.
[662] As Generating Facilities 20 MW or smaller will be using the same Interconnection Request from in the Standard Interconnection Procedures going forward, the NYISO proposes not to revise the Interconnection Request in the Small Generator Interconnection Procedures in Attachment Z to the OATT, which will no longer be used.
[663] *See* Order No. 2023 at PP 1711, 1715 (citation omitted); Order No. 2023-A at PP 660-661.

Interconnection Agreement and Article 1.5.7 of its existing Small Generator Interconnection Agreement as such agreements will be still used for certain projects under the transition rules.

Finally, Order No. 2023 required all newly interconnecting large generating facilities to provide frequency and voltage ride through capability consistent with any standards and guidelines applied to other generating facilities in the corresponding balancing authority area on a comparable basis.[664] The NYISO proposes to incorporate these requirements with a limited independent entity variation in Articles 9.6.3 of its new Standard Interconnection Agreement and Article 9.6.3 of its existing Standard Large Facility Interconnection Agreement. Specifically, the NYISO proposes to clarify that if there are different requirements for the Transmission Owner's Transmission District in which the project will connect that apply on a comparable basis to all Generating Facilities in that district, those specifications would apply.

XIII. Conforming Revisions to OATT And Services Tariff Provisions

The NYISO's interconnection procedures and Class Year Study process are intertwined with the NYISO's market and planning rules in its OATT and Services Tariff. The updated interconnection procedures require certain conforming changes to the OATT and Service Tariff requirements to update defined terms and cross references, to supplement existing defined terms and cross references with the related Attachment HH terms and references, and to align tariff requirements with the changes to the interconnection procedures.

A. Existing Interconnection Procedures

As described in Part V, the NYISO proposes revisions to the introductory sections of the existing Attachments S, X, and Z to the NYISO OATT to establish that these attachments are being superseded by the new Standard Interconnection Procedures in Attachment HH to the NYISO OATT subject to the transition rules.[665]

B. Transmission Interconnection Procedures

The NYISO proposes conforming revisions to its separate interconnection procedures for transmission facilities that are not subject to the current Large Facility Interconnection Procedures or new Standard Interconnection Procedures, which Transmission Interconnection Procedures are located in Attachment P to the OATT. In particular, the NYISO proposes to update definitions that apply equally to the Standard Interconnection Procedures and the Transmission Interconnection Procedures (*i.e.*, Applicable Reliability Requirements, Queue Position).[666] The NYISO also proposes revisions to clarify that Cluster Study Transmission Projects – as currently with Class Year Transmission Projects – will be assessed in the Cluster Study Process and to align the base case inclusion rules in Attachment P with updates to the

[664] *See id.* P 1733.
[665] *See* OATT Attach. S § 25.1; Attach. X § 30.2; Attach. Z § 32.1.
[666] *See* OATT Attach P § 22.1.

Attachment HH rules.[667] Further, the NYISO included revisions to align its new External Affected System rules across its interconnection procedures.[668] The NYISO also proposes revisions to provide for the use of its updated *pro forma* interconnection and construction agreements as the template for any required agreements under the Transmission Interconnection Procedures.[669] Finally, the NYISO deleted a duplicate copy of Appendix 1 to Attachment P, as there is currently a copy of such appendix both at the end of Attachment P and as a stand-alone Appendix 1 tariff section.

C. Transmission Planning Requirements

The NYISO proposes conforming revisions to its transmission planning requirements located in Rate Schedule 10, Attachment Y, and Attachment FF of the OATT.[670] The NYISO updated and supplemented, as applicable, defined terms and cross references in these provisions to incorporate Attachment HH references. In addition, the NYISO established the interconnection study milestones that Cluster Study Transmission Projects must satisfy if proposed as transmission solutions in the NYISO's competitive transmission planning processes, which differ from Class Year Transmission Projects due to the new interconnection study structure and timeframe.[671]

D. Buyer Side Mitigation/ Market Mitigation Requirements

The NYISO proposes conforming revisions to its buyer side mitigation and market mitigation requirements in Attachments H and O of its Service Tariff. The NYISO updated and supplemented, as applicable, defined terms and cross references in these provisions to incorporate Attachment HH references throughout these attachments. The NYISO also updated the definitions in Attachment H of the Services Tariff to align with the revised requirements in Attachment HH to the NYISO OATT.[672] In addition, for certain process steps in the buyer side mitigation tied to the Class Year Start Date, the analog date in the new process due to structural changes in the process is not the Cluster Study Process Start Date. Accordingly, the NYISO replaced Class Year Start Date with analog date.[673] The NYISO also revised the description in these provisions of elements of the interconnection process to align with the new rules.[674]

E. Load and Facility Interconnection Procedures

The NYISO revised the description of Load and Facility interconnection procedures in the body of the OATT to clarify that Facilities are subject to the interconnection procedures in Attachment HH and to remove the description of procedures that are included in Attachment

[667] *See id.* §§ 22.3.1.3, 22.6, 22.9.4.
[668] *See id.* §§ 22.4.4, 22.11.2.
[669] *See id.* § 22.11.2.
[670] *See* OATT § 6.10; Attach. Y §§ 31.2, 31.3, 31.4, 31.5, 31.7; Attach. FF §§ 38.11-38.23.
[671] *See* OATT Attach. Y §§ 31.2.5.1, 31.2.6.1, 31.2.6.3, 31.4.4.3.4, 31.4.6.6.
[672] *See* Services Tariff § 23.2.1.
[673] *See, e.g.*, *id.* §§ 23.4.5.7.14.3, 23.4.5.7.5.2, 23.4.5.7.9.4.1 (clarifying analog dates for new process).
[674] *See, e.g.*, *id*. § 23.4.5.7.2 (revised to clarify that under Cluster Study Process Interconnection Customers provide security for Connecting Transmission Owner's Attachment Facilities and Distribution Upgrades).

HH.[675] The NYISO also reserved off provisions concerning SGIP that are addressed in Attachment HH.[676] Finally, the NYISO updated and supplemented, as applicable, defined terms and cross references in these provisions to incorporate Attachment HH references.[677]

F. Additional Conforming Revisions

The NYISO made the following additional conforming revisions to its OATT and Service Tariff.

Tariff Subsection	**Title**	**Description of Changes**
OATT § 1.4	Definitions - D	Deleted defined term "Developer," which is replaced in Attachment HH with Interconnection Customer.
OATT § 6.12	Schedule 12 - Rate Mechanism for the Recovery of the Highway Facilities Charge ("HFC")	Revised defined terms and cross-references to include Attachment HH terms and references.
OATT § 6.16	Schedule 16 - Rate Mechanism for the Recovery of the Short-Term Reliability Process Facilities Charge for a Regulated Transmission Solution in the Short-Term Reliability Process ("STRPFC")	Revised defined terms and cross-references to include Attachment HH terms and references.
OATT Attach. M, § 19.2	Award of TCCs Other Than Through TCC Auctions: Fixed Price TCCs and Incremental TCCs	Revised defined terms and cross-references to include Attachment HH terms and references.
Services Tariff § 2.5	Definitions - E	Added cross-reference to OATT Attachment HH to definition of External-to-ROS Deliverability Rights

[675] *See* OATT §§ 3.9, 4.5.
[676] *See id.* §§ 3.10, 4.5.9.
[677] *See id.* §§ 3.9, 3.10, 4.5.

Tariff Subsection	Title	Description of Changes
Services Tariff § 2.12	Definitions - L	Added cross-reference to OATT Attachment HH to definition of Locational Export Capacity.
Services Tariff § 5.12	Requirements Applicable to Installed Capacity Suppliers	Revised defined terms and cross-references to include Attachment HH terms and references and clarified alignment of CRIS deliverability requirements.
Services Tariff § 5.16	New Capacity Zone Study and Procedures	Revised defined terms and cross-references to include Attachment HH terms
Services Tariff § 5.18	Generator Outages and Generator Obligations While in These Outages	Revised defined terms and cross-references to include Attachment HH terms
Services Tariff § 11	Dispute Resolution Procedure	Revised defined terms and cross-references and clarified applicability of the dispute resolution rules in new OATT Attachment HH.
Services Tariff § 15.5	Payments and Charges for Black Start Service	Revised cross-reference.

XIV. Miscellaneous Tariff Revisions

The NYISO proposes to make additional clarifications and revisions to new OATT Attachment HH as detailed in the tables provided in Attachments I and II to this filing letter. The table in Attachment I also indicates where the new OATT Attachment HH provisions originated from in the existing Attachments S, X, and Z of the NYISO OATT. The NYISO also made certain ministerial changes not included in the table, including updating or supplementing the current defined terms and cross references in the tariff provisions with the analog terms and cross references used in the new process and making non-substantive corrections, such as correcting spacing and formatting.

XV. Conditional Requests for Prospective Tariff Waivers

The NYISO respectfully requests two sets of conditional waivers to address scenarios that might arise because the NYISO is proposing to move quickly, in accordance with Order No. 2023, to implement its proposed interconnection reforms.

Both conditional waiver requests are prospective in nature because they would apply exclusively to procedures that will not commence until after the date that the NYISO is

requesting them. There is thus no question that the Commission has legal authority to grant them.

As discussed below, both requested waivers are 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."[678] The NYISO respectfully submits that the circumstances here are fully consistent with these criteria.

A. First Conditional Waiver Request

As described above, the NYISO intends to begin implementing the tariff revisions in this compliance filing on May 2, 2024. This includes commencing the pre-application process on May 2, 2024, beginning to wind down the studies in progress under the applicable transition rules, and opening the Application Window for the Transition Cluster Study Process on August 1, 2024. This approach will allow the NYISO to quickly transition to the new Standard Interconnection Procedures. Accordingly, the NYISO is requesting an effective date of May 2, 2024 for all the tariff modifications submitted herein.

However, because the Commission will presumably issue an order on this compliance filing after May 2, 2024, the NYISO respectfully requests any needed prospective waivers in the event that the Commission sets a later effective date or requires modification to elements of this filing that might invalidate actions taken by the NYISO between May 2 and whenever the NYISO is able to respond to a Commission order addressing this filing ("First Waiver Request").[679] Specifically, the NYISO requests waivers of any of the existing requirements in the NYISO's Standard Large Facility Interconnection Procedures in Attachment S and X, the existing SGIP in Attachment Z to the OATT, and the new Standard Interconnection Procedures in Attachment HH that might otherwise limit the NYISO's ability to perform and complete the Transition Cluster Study Process.

The NYISO is acting in good faith to commence the Transition Cluster Study Process as soon as reasonably possible to address in a timely manner the influx of projects seeking to interconnect in New York. The NYISO's transition proposal is a good faith attempt to achieve Order No, 2023's goals more rapidly and this will be the case even if the Commission concludes that some details of the proposal should be changed. The NYISO's proposed compliance revisions for its Cluster Study Process function as an integrated whole and any changes to such requirements would be likely to necessitate substantial restudy work and study delays. The First Waiver Request is intended in good faith to avoid wasted resources and study delays which is beneficial to Interconnection Customers.

The First Waiver Request is of limited scope because it would apply just once and because its duration would be limited to the transition timeframe described in Figure 2, above. These temporal limits distinguish the NYISO's request here from other instances in which the

[678] *See, e.g., Citizens Sycamore-Pensaquitos Transmission LLC*, 169 FERC ¶ 61,263, at P 14 (2019).
[679] 18 C.F.R. §385.207(a)(5).

Commission has denied waivers that were deemed to be too broad in scope or lacking in specificity.[680] Furthermore, although multiple tariff provisions could be implicated by the First Waiver Request they are all related to the same issue, *i.e.*, eliminating any uncertainty regarding the implementation of the Transition Study Cluster Process. Granting the First Waiver Request would not create uncertainty but would instead ensure that all NYISO stakeholders will continue to be on notice of which interconnection rule regime is in effect during the transition.[681]

The First Waiver Request addresses the concrete problem of the NYISO having to take action in an expeditious manner to commence its new process to enable proposed projects to move forward in a timely and efficient manner and to enable Interconnection Customers to assist New York in achieving time sensitive requirements for implementing renewable generation. It bears re-emphasizing that this is a case in which Order No. 2023's instruction that transmission providers should transition to Order No. 2023-compliant rules as soon as practicable supports a "concrete problem" designation.

Finally, the First Waiver Request will not have undesirable consequences, such as harming third parties. As described above, the NYISO has addressed in detail the transition rules with stakeholders and existing and prospective Interconnection Customers. It is restudies or delays in the Transition Cluster Study Process or uncertainty concerning the timeframe and requirements for the study that would harm Interconnection Customers. Granting the First Waiver Request will thus prevent, not cause, harm to third parties.

B. Second Conditional Waiver Request

In addition, the NYISO requests that, if the Commission determines that the inclusion of Small Generating Facilities in the Cluster Study Process is outside the scope of this compliance filing, that the Commission then waive the SGIP requirements to the extent necessary to permit the NYISO to temporarily incorporate small projects in the Transition Cluster Study Process ("Second Waiver Request"). The purpose of the Second Waiver Request would be to avoid disrupting and delaying the Transition Cluster Study Process that will include Small Generating Facilities when it begins. It is possible that months will pass between the start of the Transition Cluster Study on August 1 and a potential Commission order finding that Small Generating Facilities should be excluded from it. Granting the Second Waiver Request would provide the NYISO with time to seek stakeholder approval[682] to make a separate FPA Section 205 filing to

[680] *See, e.g., Mw. Indep. Transmission Sys. Operator, Inc.*, 136 FERC ¶ 61,212, at P 29 (2011) (denying waiver of tariff provisions governing the cost allocation for network upgrades for a period from five to ten years in order to facilitate Entergy Corporation's integration into MISO). The Commission emphasized in that order that the length, and uncertain duration of the waiver request was a significant reason why the request was denied.

[681] *Contra* P 29 (emphasizing that MISO's "lack of specificity does not provide adequate notice of what cost allocation rules would apply at what times during that five-year interval.").

[682] With narrow exceptions that are not relevant here, the NYISO may not make an FPA Section 205 filing without the consent of both its stakeholder Management Committee and its independent Board of Directors. Thus, if the Commission were to hold that Small Generating Facilities may not be addressed in this compliance filing it would, at minimum, take some time for the NYISO to make another filing addressing Small Generating Facilities.

either re-submit the Small Generating Facility provisions proposed herein or take some other appropriate action.

The NYISO is making the Second Waiver Request in good faith. Addressing Small Generating Facilities in this compliance filing will extend the benefits of Order No. 2023's reforms to smaller generation projects. As discussed in Part X, doing so would be consistent with the NYISO's existing interconnection rules, which align the processing of larger and smaller projects, and with practices in other ISO/RTO regions. Excluding Small Generating Facilities from the Standard Interconnection Procedures would serve no useful purpose and would only result in such facilities being treated less favorably than they are today.

The Second Waiver Request is of limited scope as it solely concerns the one-time transition to the Standard Interconnection Procedures. As with the First Waiver Request, the Second Waiver Request could affect multiple tariff provisions, but all would relate to the single question of including Small Generating Facilities in the Transition Cluster Study Process. Similarly, granting waiver would not deprive customers or others stakeholder of notice of which interconnection rules would apply to Small Generating Facilities; to the contrary the waiver would clarify the answer to that question.

The Second Waiver Requests addresses a concrete problem by ensuring that Small Generating Facilities participating the Transition Cluster Study Process will not be required to drop out in the middle of the study restart a project under the currently effective version of the SGIP.

Finally, the Second Waiver Request will not have undesirable consequences, such as harming third parties. As described above in Part X.B., the NYISO has addressed in detail the transition rules with stakeholders and existing and prospective Interconnection Customers. It is restudies or delays in the Transition Cluster Study Process or uncertainty concerning the timeframe and requirements for the study that will harm Interconnection Customers. Granting the requested waiver would help them.

XVI. Service

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

XVII. Communications

All communications and service with regard to this filing should be directed to:

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XVIII. Conclusion

Wherefore, the NYISO respectfully requests that the Commission accept the Tariff revisions proposed in this compliance filing without modification and without initiating any other procedures and determine that the NYISO fully complies with the requirements of Order No. 2023 and Order No. 2023-A.

Respectfully submitted,
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