

40.9 Cluster Study Overview/ NYISO Minimum Interconnection Standard/ NYISO Deliverability Interconnection Standard/ Cluster Study Cost Allocation Rules Overview

40.9.1 Cluster Study Overview

The Cluster Study shall consist of:

- (i) the ISO's development of the Existing System Representation used for the Cluster Study as set forth in Sections 40.10.3;
- (ii) the Connecting Transmission Owners' and Affected Transmission Owners' performance of the Phase 1 Study for the Cluster Study Projects as set forth in Section 40.10.4;
- (iii) the Phase 2 Study Entry Decision Period in which Interconnection Customers elect whether to satisfy the requirements for their Cluster Study Projects to proceed to the Phase 2 Study as set forth in Section 40.10.8;
- (iv) the ISO's performance of the Phase 2 Study, in conjunction with the Connecting Transmission Owner and Affected Transmission Owner, for the Cluster Study Projects as set forth in Sections 40.11 through 40.14, including: (A) the ISO's development of the Cluster Baseline Assessment and Cluster Project Assessment used for the Cluster Study as set forth in Section 40.12, (B) the ISO's assessment of the reliable interconnection of the Cluster Study Projects requesting ERIS in accordance with the NYISO Minimum Interconnection Standard as set forth in Section 40.12, (C) the ISO's assessment of the deliverability of Cluster Study Projects, including CRIS-Only Cluster Study Projects, requesting CRIS in accordance with the NYISO Deliverability Interconnection Standard in the Cluster Study Deliverability Study in accordance with Section 40.13, and (D) if applicable, the ISO's performance of an Additional SDU Study in accordance with Section 40.14; and

(v) the Final Decision Period at the conclusion of the Phase 2 Study and, if applicable, the Additional SDU Study Decision Period, at the conclusion of any Additional SDU Study as set forth in Section 40.15.

40.9.2 Timeframes

40.9.2.1 The timeframe for the ISO's, Connecting Transmission Owners', and Affected Transmission Owners' performance of their responsibilities for the Phase 1 Study and Phase 2 Study will be scheduled for each Cluster Study Process as follows:

(i) The scheduled duration of the Phase 1 Study process will be a one hundred ninety (190) Calendar Day period between the Phase 1 Study Start Date and the ISO's presentation to its Operating Committee for its approval of the Phase 1 Cost Estimates Summary Report ("Scheduled Phase 1 Study Timeframe"). Within this period, the scheduled duration for the key individual components of the Phase 1 Study process are set forth in Section 40.10.

(ii) The scheduled duration of the Phase 2 Study process will be a two hundred seventy (270) Calendar Day period between the Phase 2 Study Start Date and the ISO's presentation of the draft Cluster Study Report to the Operating Committee for its approval ("Scheduled Phase 2 Study Timeframe"). Within this period, the scheduled duration for the key individual components of the Phase 2 Study process are set forth in Section 40.11.

40.9.2.2 If the ISO, Connecting Transmission Owner, or Affected Transmission Owner is unable to complete an individual component of the Cluster Study Process in accordance with that component's timeframe established in this Attachment HH, the entity responsible for performing that component shall complete it as soon as practicable, and the ISO shall notify Interconnection Customers of any anticipated resulting delay in the overall timeframe of, as applicable, the Phase 1 Study or Phase 2 Study. The ISO shall address any failure of the

responsible entity to achieve a study component within a tariff-prescribed time period through the requirements set forth in Section 40.9.3.

40.9.3 Study Metrics and Penalties for Study Delays

40.9.3.1 Metrics and Reporting Obligation

40.9.3.1.1 Publicly Posted Study Metrics for Cluster Study Process

40.9.3.1.1.1 Within thirty (30) Calendar Days of the completion of the Phase 2 Entry Decision Period for a given Cluster Study Process, the ISO will post on a publicly accessible portion of its website the following statistics related to processing of Cluster Studies performed in accordance with this Attachment HH:

(A) Number of individual Phase 1 Study reports completed during the Phase 1 Study process for a given Cluster Study Process;

(B) Number of individual Phase 1 Study reports during the Phase 1 Study process for a given Cluster Study Process that were finalized beyond the timeframe set forth in Section 40.10.5 of this Attachment HH;

(C) For each individual Phase 1 Study report completed during the Phase 1 Study for a given Cluster Study Process: (i) the details of the Interconnection Request posting on the ISO's Queue; (ii) the identity of Connecting Transmission Owner(s) and Affected Transmission Owner(s), as applicable; (iii) the total time (in Calendar Days) from the Phase 1 Study Start Date to the date the ISO provided the applicable Transmission Owner with an updated Cluster Study Project List and the finalized CPA short-circuit base case pursuant to Section 40.10.4.1; (iv) if the total time calculated for Section 40.9.3.1.1.1(C)(iii) is greater than the time period for the ISO to provide the required materials to the applicable Transmission Owner as set forth in Section 40.10.4.1, the

reasons for the delay; (v) the total time (in Calendar Days) from the date the ISO provided to the applicable Transmission Owner with an updated Cluster Study Project List and the finalized CPA short-circuit base case to the date when the applicable Transmission Owner provides the individual final version of the Phase 1 Study report to the ISO and the Interconnection Customer; and (vi) if the total time calculated for Section 40.9.3.1.1.1(C)(v) is greater than the time period set forth in Section 40.10.5 for the Transmission Owner to provide the final report, the reasons for the delay reported to the ISO by the applicable Transmission Owner;

(D) Total time (in Calendar Days) from the Phase 1 Study Start Date to the date when the ISO presents the Phase 1 Cost Estimates Summary Report to the ISO Operating Committee; and

(E) Number of Interconnection Requests or CRIS-Only Requests withdrawn from the ISO's Queue during the period between the commencement of the Customer Engagement Window and the completion of the Phase 2 Entry Decision Period for the given Cluster Study.

For purposes of this section, the Phase 1 Study process includes (i) individual Phase 1 Study reports for each Cluster Study Project, including reports from the Connecting Transmission Owner(s) and any applicable Affected Transmission Owners; and (ii) a Phase 1 Cost Estimates Summary Report compiled by the ISO from cost estimates identified for all Cluster Study Projects in the Phase 1 Study. An individual Phase 1 Study report for a Cluster Study Project is deemed complete on the date upon which the applicable Transmission Owner provides the final version of the study report to the ISO and the Interconnection Customer in accordance with Section 40.10.5. A Phase

1 Cost Estimates Summary Report is deemed complete on the date upon which the Phase 1 Cost Estimates Summary Report is presented to the ISO's Operating Committee in accordance with Section 40.10.6.

Connecting Transmission Owners and Affected Transmission Owners shall timely provide any information reasonably requested by the ISO to complete the study metrics specified in this Section 40.9.3.1.1.

40.9.3.1.1.2 Within thirty (30) Calendar Days of the completion of the Phase 2 Study Final Decision Period for a given Cluster Study Process, the ISO will post on a publicly accessible portion of its website the following statistics related to processing of Cluster Studies performed in accordance with this Attachment HH:

(A) For each updated individual Phase 1 Study report completed during the Phase 2 Study for a given Cluster Study Process: (i) the details of the Interconnection Request posting on the ISO's Queue; (ii) the identity of Connecting Transmission Owner(s) and Affected Transmission Owner(s), as applicable; (iii) the total time (in Calendar Days) from the Phase 2 Study Start Date to the date the ISO provided the applicable Transmission Owner with an updated Cluster Study Project List and an updated CPA short-circuit base case pursuant to Section 40.11.2.2; (iv) if the total time calculated for Section 40.9.3.1.1.2(A)(iii) is greater than the time period for the ISO to provide the required materials to the applicable Transmission Owner as set forth in Section 40.11.2.2, the reasons for the delay; (v) the total time (in Calendar Days) from the date the ISO provided to the applicable Transmission Owner with an updated Cluster Study Project List and the updated CPA short-circuit base case to the date when the applicable Transmission Owner provides the individual final, updated version of the Phase 1 Study

report to the ISO and the Interconnection Customer; and (vi) if the total time calculated for Section 40.9.3.1.1.2(A)(v) is greater than the time period set forth in Section 40.11.2.2 for the Transmission Owner to provide the final updated report, the reasons for the delay reported to the ISO by the applicable Transmission Owner;

(B) For each individual Phase 2 Study report completed during the Phase 2 Study for a given Cluster Study Process: (i) the details of the Interconnection Request or CRIS-Only Request posting on the ISO's Queue; (ii) the identity of Connecting Transmission Owner(s) and Affected Transmission Owner(s), as applicable; (iii) the total time (in Calendar Days) from the Phase 2 Study Start Date to the date the ISO provided the applicable Transmission Owner with any System Upgrade Facilities, Distribution Upgrades, and System Deliverability Upgrades identified by the ISO for a Cluster Study Project and their major electrical characteristics pursuant to Section 40.11.4.1; (iv) if the total time calculated for Section 40.9.3.1.1.2(B)(iii) is greater than the time period for the ISO to provide the applicable Transmission Owner with the identified upgrades and their major electrical characteristics as set forth in Section 40.11.4.1, the reasons for the delay; (v) the total time (in Calendar Days) from the date the ISO provided to the applicable Transmission Owner the identified upgrades and their major electrical characteristics for a Cluster Study Project to the date when the applicable Transmission Owner provides the individual final version of the Phase 2 Study report to the ISO and the Interconnection Customer; and (vi) if the total time calculated for Section 40.9.3.1.1.2(B)(v) is greater than the time period set forth in Section 40.11.4.3 for the Transmission Owner to provide the final report, the reasons for the delay reported to the ISO by the applicable Transmission Owner;

(C) Total time (in Calendar Days) from the Phase 2 Study Start Date to the date when the ISO presents the summary Cluster Study Report to the ISO's Operating Committee;

(D) Total time (in Calendar Days) for the Phase 1 Study process and Phase 2 Study process of the given Cluster Study Process (excluding the Phase 2 Entry Decision Period); and

(E) Number of Interconnection Requests or CRIS-Only Requests withdrawn from the ISO's Queue during the period between the commencement of the Phase 2 Study and the completion of the Final Decision Period.

For purposes of this section, the Phase 2 Study process is deemed complete on the date upon which the Cluster Study Report is presented to the ISO's Operating Committee.

Connecting Transmission Owners and Affected Transmission Owners shall timely provide any information reasonably requested by the ISO to complete the study metrics specified in this Section 40.9.3.1.2.

40.9.3.1.2 Publicly Posted Study Metrics for Interconnection Requests and CRIS-Only Requests Withdrawn from the Queue

40.9.3.1.2.1 On an annual basis, the ISO will post on a publicly accessible portion of its website the following statistics, or an update to previously posted statistics, related to the Interconnection Requests and CRIS-Only Requests that withdraw or are deemed withdrawn by the ISO from the Queue for each Cluster Study Process during that prior year in accordance with this Attachment HH:

(A) Number of validated Interconnection Requests and CRIS-Only Requests for a given Cluster Study Process;

(B) Number of Interconnection Requests and CRIS-Only Requests in the Cluster Study Process withdrawn from the Queue after the commencement of the Phase 1 Study, but before commencement of the Phase 2 Study;

(C) Number of Interconnection Requests and CRIS-Only Requests in the Cluster Study Process withdrawn from the Queue after the commencement of the Phase 2 Study, but prior to the completion of the Final Decision Period for the Cluster Study;

(D) Number of Interconnection Requests and, if applicable, CRIS-Only Requests withdrawn from the Queue after the completion of the Final Decision Period for the Cluster Study, but before execution of a Standard Interconnection Agreement or an Interconnection Customer requesting the filing of an unexecuted, new Standard Interconnection Agreement; and

(E) Number of Interconnection Requests and, if applicable, CRIS-Only Requests withdrawn from the Queue after execution of a Standard Interconnection Agreement or an Interconnection Customer requesting the filing of an unexecuted, new Standard Interconnection Agreement.

40.9.3.1.3 Informational Reports of Study Processing Times

40.9.3.1.3.1 If: (A) the ~~combined~~ duration of the Phase 1 Study process between the Phase 1 Study Start Date and the ISO's presentation to its Operating Committee of the Phase 1 Cost Estimates Summary Report (the "Actual Phase 1 Study Timeframe") exceeds the Scheduled Phase 1 Study Timeframe or (B) ~~and~~ the duration of the Phase 2 Study process between the Phase 2 Study Start Date and the ISO's presentation of the draft Cluster Study Report to the Operating Committee for its approval (the "Actual Phase 2 Study Timeframe") exceeds the Scheduled Phase 2 Study Timeframe for a given

Cluster Study Process ~~(excluding the Phase 2 Entry Decision Period and Final Decision Period)~~ exceeds the four hundred sixty (460) Calendar Days scheduled for total Phase 1 Study and Phase 2 Study processes, the ISO will file a report with the Commission: describing (i) the reason(s), as applicable, that the Actual Phase 1 Study Timeframe ~~Phase 1 Study~~ exceeded the Scheduled Phase 1 Study Timeframe ~~its one hundred ninety (190) Calendar Day schedule for completion~~ and/or the Actual Phase 2 Study Timeframe exceeded the Scheduled Phase 2 Study Timeframe for that process ~~its two hundred seventy (270) Calendar Day schedule for completion~~; and (ii) steps taken to remedy these specific issues and, if applicable, prevent such delays in the future. ~~The~~A report must be filed at the Commission within sixty-five (65) Business Days following, as applicable, (i) the completion of the Phase 2 Entry Decision Period for a late Phase 1 Study process, and (ii) the completion of the Final Decision Period for a late Phase 2 Study process ~~the completion of the Cluster Study~~. The ISO will also aggregate the total number of its and Transmission Owners' employee hours and third party consultant hours expended towards ~~a late~~the Phase 1 Study process or a late ~~and~~ Phase 2 Study process ~~for the delayed Cluster Study~~. The ISO will post this information within sixty-five (65) Business Days following, as applicable: (i) the completion of the Phase 2 Entry Decision Period for a late Phase 1 Study process, and (ii) the completion of the Final Decision Period for a late Phase 2 Study process ~~the completion of the Cluster Study~~. Connecting Transmission Owners and Affected Transmission Owners shall timely provide any information reasonably requested by the ISO to complete the report and the aggregation of employee and consultant hours.

40.9.3.2 Penalties for Failure to Meet Study Deadlines

40.9.3.2.1 Commencing with the first Cluster Study Process for which penalties may be applied as set forth in Section 40.9.3.2.10, the ISO and/or Transmission Owners shall be subject to a penalty to the extent required in this Section 40.9.3.2 if ~~a~~the Phase 1 Study process, the Phase 2 Study process, Cluster Study or an Affected System Study is not completed within the applicable deadline set forth in this Section 40.9.3.2.

40.9.3.2.2 If: (A) the Actual Phase 1 Study Timeframe exceeds the Scheduled Phase 1 Study Timeframe, (B)(A) the combined duration of the Phase 1 Study process and the Phase 2 Study process the Actual Phase 2 Study Timeframe (excluding the Phase 2 Entry Decision Period and Final Decision Period) exceeds the ~~four hundred sixty (460) Calendar Days scheduled for the total Phase 1 Study and Phase 2 Study processes as those study process durations are established in Section 40.9.2.1 (the “Scheduled Total Phase 2 Study Cluster Study~~ Timeframe”), or (CB) the duration of the Affected System Study (excluding the final decision period) (the “Actual Affected System Study Timeframe”) exceeds the three hundred (300) Calendar Days scheduled duration for ~~this~~at study as ~~that study process duration is~~ established in Section 40.8.3.7 (“Scheduled Total Affected System Study Timeframe”), the ISO will take the following action, unless the study process is completed within the ten (10) Business Day grace period set forth in Section 40.9.3.2.8 or within an agreed upon extended period as set forth in Section 40.9.3.2.9:

40.9.3.2.2.1 The ISO will prepare a Draft Penalty Summary within twenty (20)

Business Days of, as applicable: (i) the completion of the Phase 2 Entry Decision Period for a delayed Phase 1 Study process, (ii) the completion of the Final Decision Period, as applicable, for a delayed the Phase 2 Study process, and (iii)

the completion of the Final Decision Period for a delayed- or Affected System

Study, that Each Draft Penalty Summary will compute the total penalty amount and the allocation of such penalty amount among the ISO and the Transmission Owners.

40.9.3.2.2.2 The ISO will calculate the penalty amount by multiplying: (i) the daily penalty amount set forth in Section 40.9.3.2.6 by (ii) the number of Business Days that, as applicable, (A) the Actual Phase 1 Study Timeframe exceeded the Scheduled Phase 1 Study Timeframe with any agreed upon extension(s) as set forth in Section 40.9.3.2.9, (BA) the Actual Total Phase 2 Cluster Study Timeframe exceeded the Scheduled Phase 2 Study Timeframe with combined four hundred sixty (460) Calendar Day scheduled study period and any agreed upon extension(s) as set forth in Section 40.9.3.2.9, or (CB) the Actual Total Affected System Study Timeframe exceeded the Scheduled Affected System Study Timeframe with three hundred (300) Calendar Day scheduled study period and any agreed upon extension(s) as set forth in Section 40.9.3.2.9.

40.9.3.2.2.3 The ISO will allocate the computed penalty amount among itself and each individual Transmission Owner based on the delays of each party in completing the portions of, as applicable, the Phase 1 Study process or Phase 2 Study process for which each party is explicitly responsible for under this Attachment HH and/or under any contract to implement these responsibilities between the ISO and the applicable Transmission Owner.

40.9.3.2.2.4 The Transmission Owners will have twenty (20) Business Days to review the Draft Penalty Summary and to provide any comments to the ISO. The ISO will then have ten (10) Business Days to finalize the Penalty Summary.

40.9.3.2.3 The ISO and/or Transmission Owner must pay the penalty set forth in the Penalty Summary, as applicable, for each late Phase 1 Study process or Phase 2 Study process as follows:~~Cluster Study~~

40.9.3.2.3.1 For a penalty resulting from a late Phase 1 Study process, the ISO and/or Transmission Owner shall pay the penalty set forth in the Penalty Summary on a pro rata basis per Interconnection Request or CRIS-Only Request for all Interconnection Customer(s) included in the Cluster during the Phase 1 Study that satisfied the Phase 1 Entry Decision Period requirements in Section 40.10.8.3 to enter into the Phase 2 Study in proportion to the final study costs for the Phase 1 Study process for each Interconnection Request or CRIS-Only Request.

40.9.3.2.3.2 For a penalty resulting from a late Phase 2 Study process, the ISO and/or Transmission Owner shall pay the penalty set forth in the Penalty Summary on a pro rata basis per Interconnection Request or CRIS-Only Request to all Interconnection Customer(s) included in the Cluster during the Phase 2 Study of the relevant Cluster Study that accepted any required cost allocation identified in the study and paid cash or posted security, if any, for their allocated amount, in proportion to the final study cost for the Phase 2 Study process for each Interconnection Request or CRIS-Only Request.

40.9.3.2.4 The ISO must pay the penalty set forth in the Penalty Summary for a late Affected Systems Study on a pro rata basis to all Affected System Interconnection Customer(s) included in the relevant Affected System Study that accepted any required

cost allocation identified in the study and paid cash or posted security, if any, for their allocated amount, in proportion to each Affected System Interconnection Customer's final study cost.

40.9.3.2.5 Unless otherwise indicated in this Section 40.9.3.2, the study delay penalty for each late study set forth in Sections 40.9.3.2.3 and 40.9.3.2.4 shall be distributed no later than ninety (90) Business Days after, as applicable: (i) the completion of the Phase 2 Entry Decision Period for a penalty resulting from a late Phase 1 Study process; (ii) the completion of the Final Decision Period for a penalty resulting from a late Phase 2 Study process, or (iii) the completion of the Final Decision Period for a penalty resulting from a late Affected System Study.~~the late study has been completed, unless otherwise indicated in this Section 40.9.3.2.~~ If a Transmission Owner is responsible for paying a penalty amount and has not appealed the penalty amount, it shall make such payment to the ISO within sixty-five (65) Business Days after, as applicable: (i) the completion of the Phase 2 Entry Decision Period for a penalty resulting from a late Phase 1 Study process; (ii) the completion of the Final Decision Period for a penalty resulting from a late Phase 2 Study process, or (iii) the completion of the Final Decision Period for a penalty resulting from a late Affected System Study;~~the late study has been completed if not appealed by the Transmission Owner.~~ The ISO will be responsible for distributing the penalty amount to the applicable Interconnection Customers.

40.9.3.2.6 For penalties assessed in accordance with this Section 40.9.3.2, the penalty amount will be equal to: (i) \$2,000 per Business Day for delays of, as applicable, the Phase 1 Study process or the Phase 2 Study process~~Cluster Studies~~ beyond the applicable deadline set forth in this Section 40.9.3.2 and (ii) \$2,000 per Business Day for delays of

Affected System Studies beyond the applicable deadline set forth in this Section 40.9.3.2.

The total amount of ~~a~~ penalties assessed under this Section 40.9.3.2 for a given Cluster Study (i.e., the combined total amounts of any penalties for a late Phase 1 Study process and any penalties for a late Phase 2 Study process) shall not exceed ~~(a)~~ one hundred percent (100%) of the initial study deposit(s) received for all of the Interconnection Requests and CRIS-Only Requests in the Cluster for that Cluster Studies. The total amount of a penalty assessed under this Section 40.9.3.2 for an Affected System Study shall not exceed ~~and (b)~~ one hundred percent (100%) of the study deposit(s) that the ISO collects for conducting the Affected System Study.

40.9.3.2.7 The ISO and/or each Transmission Owner may appeal to the Commission any penalties set forth in the Penalty Summary that will be imposed under this Section 40.9.3.2. The Transmission Owner's right to appeal includes the right to challenge the ISO's allocation of penalty amounts in the Penalty Summary. Any such appeal must be filed no later than sixty-five (65) Business Days after as applicable, (i) the completion of the Phase 2 Entry Decision Period for a penalty resulting from a late Phase 1 Study process; (ii) the completion of the Final Decision Period for a penalty resulting from a late Phase 2 Study process, or (iii) the completion of the Final Decision Period for a penalty resulting from a late Affected System Study ~~the late study has been completed.~~

While an appeal to the Commission is pending, the ISO and/or Transmission Owner shall remain liable for the penalty, but need not distribute the penalty until sixty (60) Calendar Days after the later of: (1) the deadline for filing a rehearing request has ended, if no requests for rehearing of the Commission's order on the appeal have been filed, or (2) the date that the Commission issues a substantive order on any requests for rehearing. The

Transmission Owner shall make any penalty payment to the ISO within fifteen (15) Calendar Days of this date. The Commission may excuse the ISO and/or Transmission Owner from penalties under this Section 40.9.3.2 for good cause..

40.9.3.2.8 No penalty will be assessed under this Section 40.9.3.2 where a study is delayed by ten (10) Business Days or less. If the study is delayed by more than ten (10) Business Days, the penalty amount will be calculated from the first Business Day the applicable study misses its deadline.

40.9.3.2.9 If (a) a [Phase 1 Study process](#), a [Phase 2 Study process](#), ~~Cluster Study~~ or [an](#) Affected System Study will not be completed within the applicable deadline set forth in this Section 40.9.3.2 or an extended deadline for the study established pursuant to this Section 40.9.3.2.9 and (b) unless ten percent (10%) or more of the total number of Interconnection Requests and CRIS-Only Requests included in the relevant [Phase 1 Study process or Phase 2 Study process](#) ~~Cluster Study~~ or [of the total number of](#) projects in the Affected System Study vote affirmatively against an extension, the deadline for that study [process](#) shall be extended thirty (30) Business Days from the original deadline. In such a scenario, no penalty will be assessed for missing the original deadline.

40.9.3.2.10 No penalties shall be assessed until the third Cluster Study Process cycle after the Commission-approved effective date of the Standard Interconnection Procedures (i.e., the second Cluster Study Process following the completion of the Transition Cluster Study Process).

40.9.3.2.11 The ISO must maintain on its OASIS or its public website summary statistics related to penalties assessed under this Section 40.9.3.2, updated quarterly. For each calendar quarter, the ISO must calculate and post (1) the total amount of penalties

assessed under this Section 40.9.3.2 during the previous reporting quarter and (2) the highest penalty assessed under this Section 40.9.3.2 paid to a single Interconnection Customer or Affected System Interconnection Customer during the previous reporting quarter. The ISO must post on its OASIS or its website these penalty amounts for each calendar quarter within thirty (30) Calendar Days of the end of the calendar quarter. The ISO must maintain the quarterly measures posted on its OASIS or its website for three (3) calendar years with the first required posting to be the third Cluster Study Process cycle after the Commission-approved effective date of the Standard Interconnection Procedures (i.e., the second Cluster Study Process following the completion of the Transition Cluster Study Process).

40.9.4 No Prioritization of Cluster Study Projects

There will be no prioritization of the Projects grouped and studied together in a Cluster Study, except as otherwise indicated in Section 40.6.1.2 or as set forth in Section 40.7.3.4 in the event of a Physical Infeasibility determination. Each Project in a Cluster Study will, with other Projects in the same Cluster Study, share in the then currently available functional or electrical capability of the transmission system, and share in the cost of the System Upgrade Facilities required to interconnect its respective Project and, for Interconnection Customers seeking CRIS, System Deliverability Upgrades required under the NYISO Deliverability Interconnection Standard, in accordance with the rules set forth herein. For purposes of this Section 40.9.4, the “then currently available functional or electrical capability of the transmission system” is the functional or electrical capability of the transmission system currently available in the applicable base case.

40.9.5 Interconnection Facilities Covered by the Cluster Study

40.9.5.1 Interconnection Standards

The interconnection facilities covered by the Cluster Study and its cost allocation rules are (i) those required for the proposed project to reliably interconnect to the New York State Transmission System or to the Distribution System in a manner that meets the NYISO Minimum Interconnection Standard for ERIS, and (ii) those required for the project to meet the NYISO Deliverability Interconnection Standard for CRIS.

40.9.5.2 Interconnection Facilities

The interconnection facilities covered by the Cluster Study and its cost allocation rules include the following types of facilities: Attachment Facilities, Distribution Upgrades, System Upgrade Facilities, and System Deliverability Upgrades.

40.9.6 NYISO Minimum Interconnection Standard

40.9.6.1 Scope and Purpose of Standard

Each Facility must be evaluated under the NYISO Minimum Interconnection Standard in a Cluster Study.

40.9.6.1.1 The NYISO Minimum Interconnection Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System and to the Distribution System. The NYISO Minimum Interconnection Standard does not impose any deliverability test or deliverability requirement on the proposed project. Application of these rules, including the Cluster Baseline Assessment and the Cluster Project Assessment, to allocate responsibility for the cost of new transmission facilities to permit interconnection is not intended to affect the NYISO Minimum Interconnection Standard.

40.9.6.1.2 Consequently, the NYISO Minimum Interconnection Standard is not intended to address in any way the allocation of responsibility for the cost of upgrades and other new facilities associated with transmission service and the delivery of power across the Transmission System, the reduction of Congestion, economic transmission system upgrades, or the mitigation of Transmission System overloads associated with the delivery of power.

40.9.6.1.3 It is not anticipated that the installation of any interconnection facilities covered by the NYISO Minimum Interconnection Standard will improve the deliverability of power, reduce Congestion, or mitigate overloads associated with the delivery of power. If the installation of any facilities by an Interconnection Customer does improve deliverability, reduce Congestion and create Incremental Transmission Congestion Contracts, or mitigate overloads, then that situation will be handled in accordance with the relevant provisions of the ISO OATT, including Sections 3.7 and 4.5, and applicable FERC precedent.

40.9.7 NYISO Deliverability Interconnection Standard

40.9.7.1 Scope and Purpose of Standard

Each proposed or existing facility larger than 2 MW, and each facility with CRIS that requests an increase to its CRIS, must meet the NYISO Deliverability Interconnection Standard before it can receive CRIS or Unforced Capacity Deliverability Rights, unless otherwise provided for in this Attachment HH. For purposes of this Section 40.9.7.1, a facility comprised of multiple Generators is a single “facility.”

40.9.7.1.1 The NYISO Deliverability Interconnection Standard is designed to ensure that the Project is deliverable throughout the New York Capacity Region(s) where

the Project will interconnect or is interconnected. The NYISO Deliverability Interconnection Standard is also designed to ensure that the Interconnection Customer of the Project restores the transfer capability of any Other Interfaces degraded by its interconnection.

40.9.7.1.2 Each Project electing CRIS will be allowed to become an Installed Capacity Supplier, or will be allowed to receive Unforced Capacity Deliverability Rights or External-to-ROS Deliverability Rights, in accordance with the rules of the ISO's Installed Capacity market, up to the amount of its deliverable capacity, as that amount is determined in accordance with the rules in this Attachment HH, once the Interconnection Customer of the Project has paid cash or posted Security for any required System Deliverability Upgrades in accordance with the rules in this Attachment HH.

40.9.8 Overview of Cost Allocation Rules for Cluster Study

40.9.8.1 Purpose of the Rules

As set forth in this Attachment HH, the Cluster Study will (1) allocate responsibility among Interconnection Customers, Transmission Owners, and Load Serving Entities ("LSEs"), as described herein, for the cost of the new interconnection facilities that are required for the reliable interconnection of Projects to the New York State Transmission System and to the Distribution System in compliance with the requirements of the type of interconnection service elected by the Interconnection Customer; and (2) allocate responsibility for the cost of interconnection facilities required for Capacity Resource Interconnection Service and interconnection in compliance with the NYISO Deliverability Interconnection Standard. Section 40.12 of this Attachment HH describes the rules to estimate and allocate responsibility for the cost of the interconnection facilities required for Energy Resource Interconnection Service and

interconnection in compliance with the NYISO Minimum Interconnection Standard. Section 40.13 of this Attachment HH describes the rules to estimate and allocate responsibility for the cost of interconnection facilities required for CRIS and interconnection in compliance with the NYISO Deliverability Interconnection Standard. Every Interconnection Customer is responsible for the cost of the new interconnection facilities required for the reliable interconnection of its Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules. In addition, every Interconnection Customer electing CRIS is also responsible for the cost of the interconnection facilities required pursuant to the NYISO Deliverability Interconnection Standard, as that responsibility is determined by these rules.

As described herein, the intent of the cost allocation rules for the Cluster Study in this Attachment HH is that each Interconnection Customer be held responsible for the net impact of the interconnection of its Project on the reliability of the New York State Transmission System. An Interconnection Customer is held responsible for the cost of the interconnection facilities that are required by its Project, facilities that would not be required but for its Project. However, an Interconnection Customer is not responsible for the cost of facilities that are, without considering the impact of its Project, required to maintain the reliability of the New York State Transmission System. Transmission Owners are, in accordance with the ISO OATT and FERC precedent, responsible for the cost of the facilities that are, without considering the impact of Interconnection Customer's Project, required to maintain the reliability of the New York State Transmission System.

40.9.8.2 Attachment Facilities

Each Interconnection Customer is responsible for 100% of the cost of the Attachment Facilities required for the reliable interconnection of its Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules.

40.9.8.3 Distribution Upgrades

Each Interconnection Customer is responsible for 100% of the cost of the Distribution Upgrades required for the reliable interconnection of its Project in compliance with the NYISO Minimum Interconnection Standard, as that responsibility is determined by these rules.

40.9.8.4 Side Agreements

These cost allocation rules will not preclude or supersede any binding cost allocation agreements that are executed between or among Interconnection Customers, Connecting Transmission Owners, and/or Affected Transmission Owners; *provided, however*, that no such agreements will increase the cost responsibility or cause a material adverse change in the circumstances as determined by these rules of any Interconnection Customer or Transmission Owner who is not a party to such agreement.

40.9.8.5 Costs Covered By Attachment HH

The interconnection facility cost allocated by these rules is comprised of all costs and overheads associated with the design, procurement, and installation of the new interconnection facilities. These rules do not address in any way the allocation of responsibility for the cost of operating and maintaining the new interconnection facilities once they are installed. Nor do these rules address in any way the ownership of the new interconnection facilities.

40.9.8.6 Dispatch Costs

Interconnection Customers, Connecting Transmission Owners, and Affected

Transmission Owners will not be charged directly for any redispatch cost that may be caused by the temporary removal of transmission facilities from service to install new interconnection facilities, as such cost is reflected in Locational Based Marginal Prices. Nor will existing generators be paid for any lost opportunity cost that may be incurred when their units are dispatched down or off in connection with the installation of new interconnection facilities.

40.9.8.7 Transmission Owners' Cost Recovery

Any Connecting Transmission Owner or Affected Transmission Owner implementation and construction of (i) System Upgrade Facilities as identified in the Cluster Baseline Assessment or Cluster Project Assessment, or (ii) System Deliverability Upgrades as identified in the Cluster Study Deliverability Study, shall be in accordance with the ISO OATT, Commission-approved ISO Related Agreements, the Federal Power Act and Commission precedent, and therefore shall be subject to the Connecting Transmission Owner's or Affected Transmission Owner's right to recover, pursuant to appropriate financial arrangements contained in agreements or Commission-approved tariffs, all reasonably incurred costs, plus a reasonable return on investment.

40.9.9 LIPA's Prospective Assumption of Cluster Study Responsibilities

40.9.9.1 LIPA Assumption of Cluster Study and Supporting Analyses

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 responsibilities established in this Attachment HH, for, as applicable, a

Connecting Transmission Owner or Affected Transmission Owner in the performance of the Phase 1 Study, Phase 2 Study, and Additional SDU Study concerning the Interconnection Request or CRIS-Only Request, in accordance with Section 40.9.9.2. LIPA's distribution system is not included within the defined scope of the Distribution System. 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 established in this Attachment HH, the procedures for which will be adopted pursuant to Section 40.9.9.2.

40.9.9.2 Applicable Procedures

Unless LIPA's Board of Trustees exercises its authority, under applicable state law, 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 this Attachment HH. 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 this Attachment HH. Upon adoption by the LIPA Board of Trustees, such procedures for the Cluster Study within the Long Island Transmission District shall be provided to the NYISO for filing with FERC on an informational basis and subject to confirmation that the adopted procedures meet the comparability standard under the Commission's reciprocity policy for the provision of interconnection service by non-jurisdictional utilities.

40.9.9.3 Disputes

With respect to any dispute arising out of, or relating to, LIPA's performance of its responsibilities under this Attachment HH that is not resolved through the dispute resolution requirements in Section 40.24.5, any succeeding action at law or equity seeking resolution of such dispute that: (i) is within the primary or exclusive jurisdiction of FERC, shall be brought in the first instance at FERC, or (ii) is raised solely within the jurisdiction of LIPA's Board of Trustees, shall be raised in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules or the United States District Court of the Eastern District of New York, as applicable.