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Independent System Operator

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September 3, 2025

By Electronic Delivery

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

Re: New York Independent System Operator, Inc., Proposed Tariff Revisions to Implement the New York Transmission Owners' Right of First Refusal Regarding Upgrades to Their Transmission Facilities Identified in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process, Docket No. ER25-___-000

Dear Secretary Reese:

In accordance with Section 205 of the Federal Power Act[1] and Part 35 of the regulations of the Federal Energy Regulatory Commission ("Commission"),[2] the New York Independent System Operator, Inc. ("NYISO")[3] submits proposed revisions to its transmission planning requirements in its Open Access Transmission Tariff ("OATT"). The proposed revisions establish the rules by which a Transmission Owner in New York (hereinafter, an "NYTO") can exercise a federal right of first refusal ("ROFR") regarding upgrades to its existing transmission facilities identified in the NYISO's Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process. The proposed revisions also align the development, funding, and cost allocation and recovery provisions for certain Network Upgrade Facilities identified through the NYISO's Transmission Interconnection Procedures for the reliable interconnection of a regulated transmission solution that is identified for inclusion in the NYISO's regional transmission plan for purposes of cost allocation through the NYISO's Reliability Planning Process, Economic Planning Process, or Short-Term Reliability Process.

In 2021, the Commission accepted revisions to the OATT that contained rules by which an NYTO could exercise a federal ROFR regarding upgrades for Public Policy Transmission Projects selected as the more efficient or cost-effective solution to a need in the NYISO's Public Policy Transmission Planning Process ("Public Policy Process").[4] Those revisions were based on the Commission's confirmation that the NYTOs possess a federal ROFR under the NYISO's foundational agreements and as reserved by Section 31.6.4 of the OATT to build, own, and recover the costs of upgrades to their existing transmission facilities that are part of a competitive transmission solution identified through the NYISO's transmission planning processes, as

[1] 16 U.S.C. § 824d.
[2] 18 C.F.R. § 35 (2025).
[3] Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in Attachments P, Y, and FF of the NYISO OATT and, if not defined therein, in Section 1 of the NYISO OATT.
[4] *See generally, New York Indep. Sys. Operator, Inc.*, 178 FERC ¶ 61,179 (2022) ("March 2022 Order").

permitted by Order No. 1000 ("NYTOs' ROFR Rights").[5] The Commission also determined that there were no defined rules at that time in the NYISO's planning processes to implement the NYTOs' ROFR Rights.[6]

While the NYISO focused its initial efforts on establishing a mechanism in the Public Policy Process because it had been the most active planning process in New York, the NYTOs' ROFR Rights are not limited to the Public Policy Process.[7] The absence of related rules in the NYISO's other transmission planning processes creates uncertainty concerning the implementation of the NYTOs' ROFR Rights in these processes and could result in disputes and process delays, diminishing developers' interest in participating in the process and limiting the pool of potentially more efficient or cost-effective transmission solutions in future solicitations.

Accordingly, the NYISO, in consultation with its stakeholders, developed the proposed tariff revisions to implement the NYTOs' ROFR Rights in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process. The revisions are modeled on the requirements previously accepted by the Commission for the Public Policy Process. They amount to a balanced proposal in line with the directives of Order No. 1000 by which developers may continue to offer innovative transmission solutions, while providing clear, transparent rules through which an NYTO can exercise its ROFR Rights.

As described in detail in Part IV.A below, the NYISO proposes to include several additional steps to the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process to account for the NYTOs' ROFR Rights. These include steps: (i) to identify upgrades that are subject to the NYTOs' ROFR Rights; (ii) to afford interested parties the ability to comment or dispute the NYISO's determination as to the characterization of facilities as new transmission facilities or upgrades to existing transmission facilities; and (iii) to designate either to the developer sponsoring the transmission project or an NYTO the new transmission facilities and any upgrades, respectively, that are part of the selected, triggered, or approved regulated transmission solution. The NYISO will designate each grouping of project components as a separate designated project. The sponsoring developer and the NYTO will each be a "Designated Entity" that will be responsible for developing, constructing, financing, operating, and maintaining its separate designated project. These designated projects will collectively make up the selected, triggered, or approved regulated transmission solution. An NYTO will have the opportunity to forego such designation within a specified time period for one or more of the upgrade(s) that would otherwise be designated to it.

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[5] *New York Independent System Operator, Inc.,* Order on Petition for Declaratory Order, 175 FERC ¶ 61,038 (April 15, 2021) ("April 2021 Declaratory Order"), at PP 30, 33-39; *see also Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) ("Order No. 1000"), at P 704, *order on reh'g*, Order No. 1000-A at P 625, 139 FERC ¶ 61,132 ("Order No. 1000-A"), *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom*. *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

[6] April 2021 Declaratory Order at PP 13–14, 40–42.

[7] *New York Indep. Sys. Operator, Inc.*, Section 206 Filing of Tariff Revisions to Implement the New York Transmission Owners' Right of First Refusal Regarding Upgrades to Their Transmission Facilities Identified in the Public Policy Transmission Planning Process, Docket No. EL22-2-000 (October 8, 2021) ("2021 ROFR Filing"), at n 36.

With the proposed revisions to the Reliability Planning Process, Short-Term Reliability Planning Process, and Economic Planning Process that establish a mechanism for NYTOs to exercise their ROFR Rights for upgrades, the NYISO also proposes tariff revisions to its Transmission Interconnection Procedures located in Attachment P to the OATT to establish clear and transparent rules that align the development and funding responsibilities and cost allocation and recovery eligibility for Network Upgrade Facilities that satisfy the definition of "upgrade" under Section 31.6.4 of the OATT with the rules for the associated selected, triggered, or approved regulated transmission solution in the reliability and economic planning processes. These proposed tariff revisions expand upon and are consistent with the existing provisions contained in the Transmission Interconnection Procedures that identify and assign responsibility for eligible Network Upgrade Facilities identified for selected Public Policy Transmission Projects. Such expansion of the existing rule represents a reasonable approach to the development and funding responsibilities and cost allocation and recovery eligibility for Network Upgrade Facilities that meet the definition of upgrade in Section 31.6.4 of the OATT and are associated with a selected, triggered, or approved regulated transmission solution in the Reliability Planning Process, Short-Term Reliability Process, or Economic Planning Process.

The NYISO reviewed the proposed reforms with its stakeholders in numerous stakeholder meetings in 2025. The proposed revisions were then approved by the NYISO's stakeholder Operating Committee, Business Issues Committee, and Management Committee without opposition.

As detailed below, the NYISO's proposed tariff revisions are just and reasonable, are consistent with the Commission's precedent, and comply with the requirements of Order Nos. 890 and 1000. The NYISO respectfully requests that the proposed tariff revisions become effective on November 3, 2025 (*i.e.*, the day following the end of the statutory 60-day notice period).

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I. Documents Submitted

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

- Order on Petition for Declaratory Order, 175 FERC ¶ 61,038 (2021) (Attachment I);
- Overview of Public Policy Transmission Planning Process with the Existing Mechanism to Implement the NYTOs' ROFR Rights (Attachment II);
- Overview of Reliability Planning Process with a Proposed Mechanism to Implement the NYTOs' ROFR Rights (Attachment III);
- Overview of Short-Term Reliability Planning Process with a Proposed Mechanism to Implement the NYTOs' ROFR Rights (Attachment IV);
- Overview of Economic Planning Process with a Proposed Mechanism to Implement the NYTOs' ROFR Rights (Attachment V);
- Overview of Designation Process for Network Upgrade Facilities Related to Regulated Transmission Projects Identified in Transmission Interconnection Procedures (Attachment VI);

- A clean version of the proposed revisions to the OATT (Attachment VII);
- A blacklined version of the proposed revisions to the OATT (Attachment VIII); and
- A blacklined version of the proposed *pro forma* Economic Planning Process Development Agreement against the currently effective *pro forma* Public Policy Transmission Planning Process Development Agreement (Attachment IX).

II. Communications and Correspondence

All communications, pleadings, and orders with respect to this proceeding should be directed to:

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III. Background

A. NYISO's Comprehensive System Planning Process

The NYISO's Comprehensive System Planning Process ("CSPP") establishes the rules and processes in Attachments Y and FF to the OATT by which the NYISO solicits, evaluates, and identifies the more efficient or cost-effective solutions to address reliability, economic, and public policy driven transmission needs in New York for inclusion in the NYISO's regional transmission plan for purpose of cost allocation.[8] The CSPP includes (i) a biennial Reliability Planning Process by which the NYISO identifies and addresses long-term Reliability Needs on the Bulk Power Transmission Facilities ("BPTF"); (ii) a separate Short-Term Reliability Process by which the NYISO addresses local and bulk transmission system needs driven by proposed

[8] Interregional transmission projects identified under the Northeastern ISO/RTO Planning Coordination Protocol are eligible for consideration for selection in the NYISO's regional planning processes.

Generator deactivations and other system changes arising within a five-year period; (iii) an Economic Planning Process that conducts an overall analysis of the economic benefits of relieving transmission congestion and includes a process for Developers to propose regulated transmission projects to address such congestion; and (iv) a Public Policy Process by which the NYISO addresses any Public Policy Transmission Needs identified by the New York Public Service Commission ("NYPSC").

B. NYTOs' Reserved Rights

Order No. 1000 required transmission providers, such as the NYISO and NYTOs, to eliminate provisions in their Commission-jurisdictional tariffs and agreements that establish a federal ROFR for an incumbent transmission provider with respect to transmission facilities included in a regional transmission plan for purposes of cost allocation.[9] Order No. 1000, however, included certain exceptions to this requirement. Relevant to the current filing, the Commission provided that the requirement to eliminate federal ROFRs "does not remove or limit any right an incumbent may have to build, own and recover costs for upgrades to the facilities owned by an incumbent."[10]

As the NYISO detailed to the Commission in Docket No. EL22-2-000,[11] the NYTOs expressly reserved certain ownership rights with regard to their existing transmission facilities in the NYISO's foundational agreements—including the Agreement Between New York Independent System Operator and Transmission Owners ("ISO-TO Agreement") applicable to the Member Systems,[12] the ISO Agreement, and the operating agreements for new NYTOs.[13] These agreements establish that the NYTOs retain various rights concerning their transmission facilities as a condition of their agreement to participate in the NYISO and to turn over

[9] Order No. 1000, 136 FERC ¶ 61,051 at P 313.

[10] *Id.* at P 319. The Commission noted in Order No. 1000-A that it was not "eliminating the right of an owner of a transmission facility to improve its own existing transmission facility by allowing a third-party transmission developer to, for example, propose to replace the towers or the conductors of a transmission line owned by another entity." Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

[11] 2021 ROFR Filing at pp 4–6; *see* March 2022 Order at P 50.

[12] The Member Systems include "[t]he eight Transmission Owners that comprised the membership of the New York Power Pool, which are: (1) Central Hudson Gas & Electric Corporation, (2) Consolidated Edison Company of New York, Inc., (3) New York State Electric & Gas Corporation, (4) Niagara Mohawk Power Corporation d/b/a National Grid, (5) Orange and Rockland Utilities, Inc., (6) Rochester Gas and Electric Corporation, (7) the Power Authority of the State of New York, and (8) Long Island Lighting Company d/b/a Long Island Power Authority." OATT § 1.13 (definition of "Member Systems").

[13] *See* OATT § 31.11 Appendix H – Form of Operating Agreement; *see also New York Indep. Sys. Operator, Inc.,* Filing of an Executed Operating Agreement Between the New York Independent System Operator, Inc. and LS Power Grid New York Corporation I; Request for Waiver of the 60-Day Notice Period, Letter Order, Docket No. ER21-2104-000 (August 5, 2021); *New York Indep. Sys. Operator, Inc.,* Filing of an Executed Operating Agreement Between the New York Independent System Operator, Inc. and NextEra Energy Transmission New York, Inc.; Request for Waiver of the 60-Day Notice Period, Letter Order, Docket No. ER21-2105-000 (July 30, 2021); *New York Indep. Sys. Operator, Inc.,* Filing of an Executed Amended and Restated Operating Agreement Between the New York Independent System Operator, Inc. and New York Transco, LLC, Letter Order, Docket No. ER18-2015-000 (September 6, 2018).

operational control of these facilities to the NYISO. This includes preserving, among other things, property rights incident to the ownership of the facilities that they own.[14]

In their compliance filings under Order No. 1000, the NYISO and the Member Systems added Section 31.6.4 of Attachment Y to the OATT that provides that nothing in the CSPP affects certain rights of the NYTOs, which rights align with the exceptions in Order No. 1000 to the requirement to eliminate a federal ROFR in Commission-jurisdictional tariffs and agreements.

In 2019, as part of an effort to enhance the Public Policy Process, certain NYTOs raised concerns regarding the application of Section 31.6.4 of the OATT. The NYISO and its stakeholders discussed tariff revisions and enhancements that sought to address more clearly when and how the NYISO would assign upgrades to existing transmission facilities owned by NYTOs that are included as part of transmission projects selected in the Public Policy Process. Stakeholders were unable to agree on the threshold issue as to whether the NYTOs' ROFR Rights exist. For this reason, on August 18, 2020, the NYISO submitted a petition requesting that the Commission issue a declaratory order confirming, among other things, (i) that the NYTOs (both incumbent and non-incumbent) possess the NYTOs' ROFR Rights and (ii) if so, that the NYTO should be treated, to the extent applicable, as the Developer of the upgrade portion of the selected transmission project and subject to OATT provisions relevant to the Developer of a selected transmission project.[15]

On April 15, 2021, the Commission issued an order granting in part and denying in part the NYISO's petition ("April 2021 Declaratory Order"), which order is included as Attachment I. The Commission found that:

> the NYISO's foundational agreements provide NYTOs a federal ROFR for upgrades to their own existing transmission facilities, and OATT section 31.6.4 reflects the Commission's finding that Order No. 1000 did not affect the right of an incumbent transmission provider to build, own, and recover the costs for upgrades to its own transmission facilities.[16]

The Commission further confirmed that the federal ROFR includes the right to build, own, and recover the costs of upgrades that are part of another Developer's proposed transmission project

[14] In particular, Section 3.10(c) of the ISO-TO Agreement states that "[e]ach Transmission Owner retains all rights that it otherwise has incident to its ownership of its assets, including, without limitation, its transmission facilities including, without limitation, the right to build, acquire, sell, merge, dispose of, retire, use as security, or otherwise transfer or convey all or any part of its assets." The NYTOs similarly preserved these rights in Section 17.A.3 of the ISO Agreement. These rights are also included in Section 3.08(c) of the operating agreements that have been entered into between the NYISO and new non-incumbent Transmission Owners in New York, and they are included in the *pro forma* Operating Agreement that non-incumbent Transmission Owners must execute prior to energizing their transmission facilities to become an NYTO. *See* OATT § 31.11.

[15] *See* April 2022 Declaratory Order at PP 30, 33–34, 40–42.

[16] *Id.* at P 39. The NYISO sought a third clarification in its request for a declaratory order related to the scope of the definition of "upgrade" under Commission precedent. The clarification is not relevant to the present proceeding in establishing rules to implement the NYTOs' ROFR Rights in the reliability and economic planning processes.

selected by the NYISO.[17] The Commission, however, determined that the OATT was "silent as to how to implement a federal ROFR for a NYTO's upgrades to its own transmission facilities"[18] and rejected treating the NYTO as the Developer of the upgrade portion of a transmission project under the existing OATT rules if the NYTO exercises its ROFR.[19] The Commission specifically noted that a first step in implementing the NYTOs' ROFR Rights in the Public Policy Process is to establish a defined mechanism in the OATT and that it would evaluate the implementation details when such revisions are presented to the Commission.[20]

C. Addressing NYTOs' Reserved Rights in the Public Policy Process

Based on the findings in the Commission's declaratory order, the NYISO administered a stakeholder process to consider tariff revisions to implement the NYTOs' ROFR Rights in the Public Policy Process. After expending significant efforts to reach an agreement with stakeholders on implementing such a mechanism, the NYISO was unable to obtain the necessary approval from its stakeholder Management Committee to submit the revisions under Section 205 of the Federal Power Act. Accordingly, the NYISO commenced a proceeding under Section 206 of the Federal Power Act arguing that its OATT was unjust and unreasonable without a mechanism to effectuate the NYTOs' ROFR Rights and proposing revisions specific to the Public Policy Process.[21] In that proceeding, the NYISO proposed revisions to the OATT that included a mechanism to effectuate the NYTOs' ROFR Rights related to the Public Policy Process.[22] On March 11, 2022, the Commission found that the NYISO made the necessary showing that "NYISO's Order No. 1000 Process in its OATT is unjust and unreasonable absent a mechanism for the NYTOs to exercise their right to implement a federal ROFR for upgrades to their existing transmission facilities that are included in a Developer's Public Policy Transmission Project" and found that the NYISO proposed replacement rate tariff provisions to be just and reasonable.[23]

Following the Commission's acceptance of the mechanism for the Public Policy Process, a group of incumbent NYTOs engaged NYISO stakeholders to align the development and funding responsibilities and the cost recovery eligibility of certain Network Upgrade Facilities identified in the NYISO's Transmission Interconnection Procedures for a Public Policy Transmission Project with the responsibilities and eligibility of the selected project.[24] In particular, the NYTOs sought to align the development and funding responsibilities and the cost allocation and recovery provisions for Network Upgrade Facilities that satisfy the definition of "upgrade" under Section 31.6.4 of the OATT with the rules under Attachment Y and Section 6.10 of the OATT for the associated Public Policy Transmission Project. The proposed revisions

[17] *Id.* at PP 33–34.
[18] *Id.* at P 41.
[19] *Id.* at P 40.
[20] *Id.* at P 42.
[21] *See* 2021 ROFR Filing at pp 4–8.
[22] A general flow of the elements to effectuate the NYTOs' ROFR Rights in the existing Public Policy Process is included as Attachment II.
[23] March 2022 Order at PP 50, 53.
[24] *New York Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions Related to the Treatment of Network Upgrade Facilities Associated with Public Policy Transmission Projects, Docket No. ER23-1151-000 (February 21, 2023) ("2023 Designated NUF Filing") at p 4.

served as a reasonable approach that is consistent with Commission precedent for treating this category of Network Upgrade Facilities associated with a regulated transmission solution as upgrades that could be designated to the Transmission Owner in place of the then-existing approach in which the Transmission Developer would post Security and would pay the Transmission Owner for the actual costs of the Network Upgrade Facilities.[25] The tariff revisions were approved without objection in the NYISO's stakeholder committees. The NYISO filed the revisions under Section 205 of the Federal Power Act and the Commission accepted them as just and reasonable on April 5, 2023.[26]

These tariff revisions to implement the NYTOs' reserved rights and to align the development and funding responsibilities and cost allocation and recovery eligibility focused on the Public Policy Process because that planning process had been the most active in New York and had the greatest potential to identify needs in the near term. The NYISO, however, noted that "the April 2021 Declaratory Order confirmed the existence of the NYTOs' right to build, own, and recover the cost of upgrades to its facilities, including upgrades that are part of another Developer's proposal that the NYISO selects under its [CSPP]."[27]

D. Reliability Planning Process Overview

The NYISO's Reliability Planning Process evaluates the reliability of the New York State BPTF that over a ten-year planning horizon and solicits and identifies solutions to address identified reliability needs. The NYISO first performs the Reliability Needs Assessment ("RNA") that evaluates whether there are Reliability Needs[28] that arise on the BPTF. If the RNA finds Reliability Needs, then the NYISO next solicits solutions to address those needs as part of its Comprehensive Reliability Plan ("CRP"). Developers may submit market-based solutions or regulated transmission solutions for the NYISO's consideration. The NYISO will also identify a Responsible Transmission Owner, or multiple Responsible Transmission Owners, that is required to propose a regulated backstop transmission solution to the Reliability Need.[29]

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[25] *Id.* at pp 2, 4–5.

[26] *Id.*

[27] 2021 ROFR Filing at n 36.

[28] A Reliability Need is a condition identified by the NYISO as a violation or potential violation of one or more "Reliability Criteria," which includes policies, standards, criteria, guidelines, procedures, and rules promulgated by the North American Electric Reliability Corporation ("NERC"), Northeast Power Coordinating Council ("NPCC"), and the New York State Reliability Council ("NYSRC").

[29] The responsibility for a Transmission Owner that is identified as a Responsible Transmission Owner is based on the reliability agreement entered into by the Transmission Owners and the NYISO in 2010. The terms of the Reliability Agreement were, thereafter, incorporated in the *pro forma* Non-Incumbent Transmission Owner Operating Agreement to be responsible to propose a regulated backstop transmission solution if identified by the NYISO. *See generally* OATT § 31.11 Article 2.13. While the obligation is to propose a regulated transmission solution, a Responsible Transmission Owner may propose a regulated backstop solution that is a non-transmission solution (*e.g.*, generation or demand response) or containing non-transmission elements. OATT § 31.2.4.3.1; Agreement Between the New York Independent System Operator, Inc. and The New York Transmission Owners ("The NYISO/TO Reliability Agreement"), dated June 10, 2010, *available at* https://www.nyiso.com/documents/20142/1399438/Comprehensive_Planning_Process_for_Reliability_Needs_Agreement.pdf/.

Following receipt of proposed solutions, the NYISO will review the completeness of the proposals and perform a Viability and Sufficiency Assessment.[30] If the NYISO identifies deficiencies during its assessment, the NYISO works with the submitting developer to address those deficiencies.[31] At the same time, the NYISO will establish the "Trigger Date" of proposed regulated solutions.[32] Following the completion of the Viability and Sufficiency Assessment, the NYISO will post the results. The NYISO will also report whether any of the viable and sufficient proposed regulated solutions has a Trigger Date within 36 months of the date that the NYISO presents the assessment to the Electric System Planning Working Group ("ESPWG").[33]

If there is a viable and sufficient regulated solution that has a Trigger Date within 36 months of the date that the NYISO presents the Viability and Sufficiency Assessment to the ESPWG, the NYISO will move on to the evaluation of proposed regulated transmission solutions to select the more efficient or cost-effective solution.[34] The NYISO will notify the Responsible Transmission Owner, Transmission Owner, and Other Developers of the viable and sufficient regulated transmission solutions to submit the additional information required for the selection process for their proposals.[35] The NYISO will then perform the evaluation of the more efficient or cost-effective transmission solutions for purposes of selection and regional cost allocation using the metrics set forth in the tariff. The NYISO will report the selection of a transmission solution in the CRP, or any update to the CRP, as well as a viable and sufficient regulated backstop solution if different from the selected transmission project. The selected transmission solution and/or regulated backstop solution are eligible to be triggered within 36 months of the date of the presentation of the Viability and Sufficiency Assessment to the ESPWG.[36]

In determining whether to trigger a regulated solution, Section 31.2.8 of the OATT contains specific rules governing the NYISO's determination of whether a regulated solution is necessary to address a Reliability Need. The NYISO first reviews whether the proposals for market-based solutions will be sufficient and timely to address the Reliability Need.[37] The NYISO will not trigger a regulated solution if it determines that the viable and sufficient market-based solutions are timely progressing or there is no longer a Reliability Need.[38] If solutions are required, the rules then detail the hierarchy for triggering the regulated backstop solution and/or

[30] OATT § 31.2.4.3.1.

[31] OATT § 31.2.5.6.

[32] A "Trigger Date" is a unique concept for the Reliability Planning Process and is the "date by which the ISO must request implementation of a regulated backstop solution or an alternative regulated solution . . . in order to meet a Reliability Need." OATT § 31.1.

[33] OATT § 31.2.5.7.

[34] OATT § 31.2.6.

[35] OATT § 31.2.6.1. Together with the submission of the additional information requirements, the Responsible Transmission Owner, Transmission Owner, or Other Developer of a regulated transmission solution must also submit a study deposit and a demonstration that it has an executed System Impact Study Agreement under Attachment P, as applicable. OATT §§ 31.2.6.1, 31.2.6.2.

[36] OATT § 31.2.6.5.2.

[37] *See* OATT §§ 31.2.8.1, 31.2.8.3.

[38] OATT § 31.2.8.1

selected alternative regulated transmission solution.[39] The decision to trigger a regulated solution can be either made in the CRP or at any time prior to the approval of the next CRP.[40]

The tariff also details the process for the sponsoring developer (*e.g.*, a Responsible Transmission Owner, Transmission Owner, or Other Developer) to enter into a Reliability Planning Process Development Agreement for a selected alternative regulated transmission solution or triggered regulated backstop transmission solution (if different).[41] The Responsible Transmission Owner, Transmission Owner, or Other Developer of a selected regulated transmission solution or triggered regulated backstop transmission solution must complete the project in time to address the Reliability Need and, therefore, is eligible to allocate and recover under the OATT the costs of the project, including, for instance, if the project is halted.[42]

E. Short-Term Reliability Process Overview

The Short-Term Reliability Process serves as the NYISO's short-term planning process to simultaneously evaluate the reliability impacts of Generator deactivations and the reliability impacts of other changes that may affect the BPTF.[43] The Short-Term Reliability Process assesses, on a quarterly basis, the reliability impacts of Generator deactivations and a broader range of short-term reliability concerns that may arise due to adjustments in system conditions (*e.g.*, changes in load forecast, delays in entry of planned upgrades, and long-duration facility outages).

At its center, the NYISO performs a Short-Term Assessment of Reliability ("STAR") to assess the reliability impacts of Generator deactivations on both the BPTF and non-BPTF and the reliability impact of other system changes on the BPTF.[44] The Short-Term Reliability Process addresses the different types of Short-Term Reliability Process Needs that may be identified in a STAR.[45] The Short-Term Reliability Process details the process for soliciting and evaluating solutions to a Short-Term Reliability Process Need.[46] The rules closely align the competitive selection process in the Short-Term Reliability Process with the requirements in the Reliability Planning Process.[47]

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[39] *See generally*, OATT §§ 31.2.8.1.2–31.2.8.1.4. The rules governing the triggering of regulated solutions also detail the treatment of regulated non-transmission solutions, such as a regulated backstop solution or alternative regulated solution. *See* OATT §§ 31.2.8.1.2, 31.2.8.1.8.

[40] OATT § 31.2.8.1.5.

[41] OATT § 31.2.8.1.6.

[42] OATT §§ 6.10, 31.2.8.1.1, 31.2.8.1.3.

[43] In February 2015, the Commission found that the NYISO is the appropriate entity to administer Reliability Must Run services in New York under its tariffs and directed the NYISO to submit proposed tariff revisions to establish a Reliability Must Run process to govern "the retention of and compensation to generator units required for reliability." *New York Indep. Sys. Operator, Inc*., 150 FERC ¶ 61,116 at PP 3, 9–11 (2015).

[44] OATT § 38.3.5.

[45] *See generally* OATT § 38.1 (defining Short-Term Reliability Process Need as consisting of either Generator Deactivation Reliability Need or a condition identified by the NYISO in a STAR as a violation or potential violation of one or more Reliability Criteria on the BPTF).

[46] OATT § 38.4.

[47] *New York Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,082 (2020), at P 29.

Specifically, if the NYISO identifies a Short-Term Reliability Process Need that should be addressed in the Short-Term Reliability Process, the NYISO will seek proposed solutions to address the need(s).[48] Developers may submit proposed solutions that consist of market-based or regulated solutions.[49] Developers may propose a transmission, generation or demand response market-based solution to address the need.[50] Similar to the Reliability Planning Process, the Short-Term Reliability Process also identifies a "Responsible Transmission Owner" to submit a proposed regulated solution that must, to the extent practicable, completely address the need.[51] Unique to this process, however, is that a Responsible Transmission Owner is the only entity eligible to submit a regulated transmission solution to a Near-Term Reliability Need, which is a time-sensitive reliability need.[52]

Developers, including Responsible Transmission Owners, must provide the information required for each type of proposed solution. The Short-Term Reliability Process uses the information requirements from the Reliability Planning Process for regulated transmission solutions.[53] After the receipt of proposals, the NYISO will evaluate the proposed solutions, using the same process employed in the Reliability Planning Process, to determine whether each solution is viable and sufficient to address individually, or in conjunction with other solutions, the Short-Term Reliability Process Need.[54] As with the Reliability Planning Process, the Short-Term Reliability Process first looks to market-based solutions to address Short-Term Reliability Process Needs. If the NYISO identifies that there are sufficient market-based or demand response solutions to completely satisfy the need, the NYISO will conclude the Short-Term Reliability Process and monitor the development of those solutions.[55]

However, if there are insufficient market-based or demand response solutions to completely satisfy the Short-Term Reliability Process Need, the selection process is designed so that the NYISO's execution of a Reliability Must Run Agreement is a last resort. As a result, the NYISO will select a viable and sufficient transmission solution if (i) there is one or more viable and sufficient transmission solutions and (ii) none of the viable and sufficient generation solutions have a "distinctly higher net present value" than a transmission solution.[56] If the NYISO is selecting among viable and sufficient transmission solutions, the NYISO will use the metrics set forth in Section 38.10.4 of the OATT, which are adopted from the Reliability Planning Process, that consider both cost and non-cost factors in the competitive evaluation of

[48] OATT § 38.4.

[49] Proposal of a regulated transmission solution, however, is limited to entities that are qualified under Section 31.2.4.1.1.2 of the OATT and when the Short-Term Reliability Process Need is neither (a) a Near-Term Reliability Need or (b) a Generator Deactivation Reliability Needs only arising on the non-BPTF. OATT § 38.4.2.4.

[50] OATT § 38.4.2.2.

[51] OATT § 38.4.2.1.

[52] OATT § 38.3.6; *see also New York Indep. Sys. Operator, Inc.,* Proposed Tariff Revisions to Implement Short-Term Reliability Process, Docket No. ER20-1105-000 (February 27, 2020), at pp 17–21.

[53] OATT §§ 38.4.2.1, 38.4.2.4 (cross-referencing the information requirements contained in the Reliability Planning Process). The Short-Term Reliability Process also contain specific information requirements related to Generators, which are unaffected by the revisions proposed in this filing. *See generally*, OATT §§ 38.25.3, 38.25.4, 38.25.5–38.25.7.

[54] OATT § 38.6.1.

[55] OATT §§ 38.6.1, 38.6.2.

[56] OATT § 38.10.2.

transmission solutions.[57] The NYISO will prepare and discuss with stakeholders a draft report that includes the selection of a regulated transmission Short-Term Reliability Process Solution. A selected transmission solution or a Responsible Transmission Owner's transmission solution (including a conceptual permanent transmission solution) is eligible to allocate and recover the costs of the project in accordance with Sections 6.16, 38.22, and 38.23 of the OATT.

F. Economic Planning Process Overview

The Economic Planning Process consists of three separate study processes: (i) the System and Resource Outlook ("Outlook") that biennially examines transmission system congestion on the New York system;[58] (ii) the Economic Transmission Project Evaluation that evaluates a Developer's proposed Regulated Economic Transmission Project ("RETP") to address transmission system congestion and be eligible for cost allocation and recovery under the OATT;[59] and (iii) an optional Requested Economic Planning Study through which interested parties request to evaluate system conditions, such as congestion, benefits of congestion relief, or potential transmission, generation, demand response and/or energy efficiency solutions.[60] The Economic Planning Process requirements are primarily located in Sections 31.1, 31.3, and 31.5 of Attachment Y to the OATT.

The Economic Planning Process is consistent with the NYISO's philosophy that solutions to system needs should first be met by market-based solutions that respond to investment signals for projects that provide the economic relief of transmission congestion in the New York Control Area. As a result, the NYISO provides information in its studies to facilitate the development of market-based solutions of all solution types (*i.e.,* transmission, generation, demand response, energy efficiency) to address congestion. The Economic Planning Process does not mandate the construction or funding of transmission projects to address congestion.[61] Nevertheless, a Developer may propose a Regulated Economic Transmission Project to address congestion and may seek to allocate and recover the costs of its project through the OATT.[62]

Relevant to the tariff revisions proposed herein, the Economic Transmission Project Evaluation allows a Developer to propose a Regulated Economic Transmission Project to address constraints on the BPTF identified in the Economic Planning Process. Following the receipt of a proposed Regulated Economic Transmission Project, the NYISO will review the project information and discuss with stakeholders the relevant materials in developing scenarios for purposes of performing the Economic Transmission Project Evaluation.[63] The NYISO will

[57] *See generally*, OATT § 31.2.6.5.1 (detailing the metrics for evaluating the more efficient or cost-effective regulated transmission solution to satisfy a Reliability Need).

[58] OATT § 31.3.1.

[59] OATT § 31.3.2.

[60] OATT § 31.3.3.

[61] OATT § 31.5.4.1 ("Nothing in this Attachment Y mandates the implementation of any Regulated Economic Transmission Project studied in an Economic Transmission Project Evaluation.").

[62] OATT § 31.3.2.4.

[63] Economic Planning Process Manual § 3.4.3.4.

first perform a benefit/cost analysis for the Regulated Economic Transmission Project, which focuses on the present value of the net NYCA production cost savings.[64]

In order to be eligible for cost allocation and recovery of a Regulated Economic Transmission Project through the OATT, the production benefits of the proposed transmission project must exceed its costs measured over the first ten years from its proposed in-service date, the total capital cost of the transmission project must exceed $25 million, and the Developer must obtain an approval vote from a super-majority of the beneficiary Load Serving Entity(ies) that will pay for the transmission project.[65] The NYISO will identify the Load Serving Entity(ies) that benefit from the project based on their net zonal Locational Based Marginal Price ("LBMP") cost savings associated with the project.[66] The NYISO will conduct a vote of the identified Load Serving Entity(ies) that will benefit from the implementation of the project. A Developer may allocate and recover its transmission project costs through the OATT if 80 percent or more of the identified beneficiary Load Serving Entity(ies) vote in favor of the project.[67] If the project receives the necessary vote, the Developer is eligible to cost allocate and recover the costs of the Regulated Economic Transmission Project from the identified Load Serving Entity(ies), including those entities that did not vote in favor of the project's implementation.[68]

IV. Description of Proposed Revisions to the OATT

The NYISO proposes to revise its OATT to (1) establish rules in its Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process to implement the NYTOs' ROFR Rights for upgrades to their existing transmission facilities that are part of a regulated transmission solution included in the regional transmission plan for purposes of cost allocation and (2) align the development and funding responsibilities for and the cost allocation and recovery eligibility of Network Upgrade Facilities identified in the Transmission Interconnection Procedures that are related to a regulated transmission solution and meet the definition of "upgrade" under Section 31.6.4 of the OATT with those responsibilities for and eligibility of the regulated transmission solution from the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process.

The proposed rules are modeled off of the mechanism and rules to implement the NYTOs' ROFR Rights in connection with the Public Policy Process and to align the development and funding responsibilities and cost allocation and recovery eligibility for

[64] OATT § 31.5.4.3.1. For informational purposes, the NYISO will also perform further analysis of the benefits of relieving congestion using additional metrics, including Locational Based Marginal Price load costs, changes to generator payments, and Installed Capacity savings, and will consider the development of scenarios, including fuel and load forecast uncertainty, energy efficiency programs and emission costs. *Id.*

[65] OATT §§ 31.5.4.3.3, 31.5.4.3.5.

[66] OATT § 31.5.4.4.

[67] OATT § 31.5.4.6.

[68] OATT § 31.5.4.6.4.

"Designated Network Upgrade Facilities." The Commission has accepted these rules as just and reasonable.[69]

A. Proposed Revisions to Implement the NYTOs' ROFR Rights in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process

The NYISO proposes to revise its OATT to establish rules in its Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process to implement the NYTOs' ROFR Rights for upgrades to their existing transmission facilities that are part of a regulated transmission solution included in the regional transmission plan for purposes of cost allocation.

The Commission has afforded regional transmission operators ("RTOs") and independent system operators ("ISOs") flexibility in implementing permissible federal ROFRs for upgrades to existing transmission facilities in their Order No. 1000 processes.[70] As the Commission has acknowledged, there is a spectrum of approaches among the RTOs/ISOs in handling a federal ROFR for upgrades in the Order No. 1000 planning processes that it has accepted as just and reasonable.[71] Specifically, four of the RTO/ISO regions structured their planning process to effectuate the ROFR at the beginning of the process by either exempting an upgrade from the competitive designation process or not permitting a nonincumbent transmission developer from proposing as a part of its solution an upgrade.[72] On the other hand, PJM Interconnection and the NYISO (for its Public Policy Process)—both of which employ the sponsorship model—designate new transmission facilities and any upgrades to existing transmission facilities following selection of the more efficient or cost-effective transmission solution.[73]

Based on its experience in the Public Policy Process and its use of the sponsorship model, the NYISO proposes to retain a sponsoring developer's ability to propose both new transmission facilities and upgrades as part of a proposed solution in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process to incentivize both incumbent and

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[69] March 2022 Order at PP 53-60; *New York Indep. Sys. Operator, Inc.*, Delegated Order, Docket No. ER23-1151-000 (April 6, 2023).

[70] *Id.* at P 58.

[71] *Id.*

[72] *See, e.g.*, Midcontinent Independent System Operator Open Access Transmission Tariff, Attachment FF, Sections V, VIII.C (designating projects included in the MISO Transmission Expansion Plan to one or more Transmission Owners, unless the identified facility constitutes a Competitive Transmission Project, which excludes facilities that meet the definition of upgrade under Attachment FF); Southwest Power Pool, Attachment Y, Sections I and III (competitively soliciting proposals for projects from qualified RFP participants that are not subject to a right of first refusal; specifically, those transmission facilities that meet the criteria as "Competitive Upgrades"); California Independent System Operator Open Access Transmission Tariff § 24.5 (issuing a market notice soliciting proposals to finance, construct, own, operate and maintain only regional transmission facilities eligible for competitive solicitation, which are those projects that do not constitute an upgrade or a local transmission facility); ISO New England Open Access Transmission Tariff, Schedule K, Sections 4.2 and 4.3 (performing a preliminary feasibility review of proposed solutions to ensure that the project is only eligible to be constructed by the applicable transmission owner in accordance with the Transmission Owner Agreement because the proposed solution is an upgrade to existing Transmission Owner facilities).

[73] *See* PJM Operating Agreement, Schedule 6, section 1.5.8; OATT § 31.4.

nonincumbent transmission developers to submit innovative solutions and, therefore, promote the identification of more efficient or cost-effective transmission solution.[74] Specifically, the NYISO has used the mechanism to implement the NYTOs' ROFR Rights in the Public Policy Process for the two most recent Public Policy Transmission Needs identified in New York. These recent processes with the new mechanism garnered significant participation by nonincumbent transmission developers and incumbent transmission developers and did not result in disputes that delayed the progress of the evaluation or the development of the selected solution.

For the Long Island Offshore Wind Export Public Policy Transmission Need, the NYISO received 19 proposed Public Policy Transmission Projects from four separate Developers.[75] The NYISO performed all of the steps to implement the NYTOs' ROFR Rights in this process. Following the selection of the more efficient or cost-effective solution, the NYISO designated the new and upgrade elements of the selected transmission project into four separate Designated Public Policy Projects with four Designated Entities—three of which were NYTOs responsible for upgrade components of the selected transmission solution. While the NYISO received robust discussion around the characterization of the facilities,[76] the process worked as designed. The NYISO also performed the beginning steps of the designation procedure in the Public Policy Process for the more recent New York City Offshore Wind Public Policy Transmission Need. The NYISO received 28 proposed Public Policy Transmission Projects from four developers. The NYISO completed the characterization of the projects' facilities, which involved engaging in informal dispute resolution pursuant to the tariff, prior to the NYPSC cancelling the need on July 17, 2025.[77] Similar to the Long Island Offshore Wind Public Policy Transmission Need, the process steps that were performed works as they were designed.

Considering the foregoing, the NYISO modeled the proposed revisions to implement the NYTOs' ROFR Rights for upgrades to existing transmission facilities in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process on the rules in effect in the Public Policy Process but modified to address the differences among the specific processes.

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[74] The Commission granted transmission providers the flexibility to develop, in consultation with stakeholders, procedures by which the transmission planning region will identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively. *See New York Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,044 (2014), at P 39 (*citing* Order No. 1000, 136 FERC ¶ 61,051 at P 149).

[75] *New York Indep. Sys. Operator, Inc.*, Long Island Offshore Wind Export Public Policy Transmission Plan (June 13, 2023), at p 15, *available at* https://www.nyiso.com/documents/20142/38391083/Long-Island-Offshore-Wind-Export-Public-Policy-Transmission-Planning-Plan-2023-6-13.pdf/.

[76] *See generally*, *New York Indep. Sys. Operator, Inc.*, Characterization of Project Facilities (June 10, 2022), *available at* https://www.nyiso.com/documents/20142/22968753/LIPPTN-FacilityCharacterization-FinalList.pdf/; Comments on Initial Facility Characterization, *available at* www.nyiso.com/cspp > "Public Policy Documents" folder > "Long Island Offshore Wind Export PPTN" folder > "Long Island Offshore Wind Export PPTN – Comments on Initial Facility Characterization List.

[77] *New York Indep. Sys. Operator, Inc.*, Characterization of Project Facilities (October 30, 2024), *available at* https://www.nyiso.com/documents/20142/40894368/NYCPPTN-Final-Facility-Characterization-List.pdf/; Comments on Initial Facility Characterization, *available at* www.nyiso.com/cspp > "Public Policy Documents" folder > "NYC Offshore Wind PPTN" folder > "NYC PPTN_Comments_Initial Facility Characterization List"; *see also* NYPSC Case No. 22-E-0633, *In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2022*, Order Withdrawing Public Policy Transmission Need (July 17, 2025).

The proposed revisions establish a transparent, open, coordinated, and balanced process to implement the NYTOs' ROFR Rights in these processes with a focus of continuing to preserve the benefits of competitive solicitations and innovative solutions to a rapidly evolving transmission system. In particular, the reforms afford nonincumbent transmission developers the ability to propose innovative solutions that include new transmission facilities and upgrades to existing transmission facilities, while providing them with a clear understanding of the process for NYTOs to exercise their ROFR. Accordingly, the processes will continue to promote the identification of the more efficient or cost-effective solution while accounting for "the right of an incumbent transmission provider to build, own, and recover the costs for upgrades to its own transmission facilities."[78]

The structure of the proposed mechanism to implement the NYTOs' ROFR Rights continues to provide flexibility to nonincumbent transmission developers in designing and proposing solutions. While an upgrade may be designated to the NYTO owning the existing transmission facility to be upgraded, the ability to propose both new transmission facilities and upgrades to existing transmission facilities provides optionality for developers to design their projects to best advantage them in the process, even though an upgrade may be designated to the applicable NYTO. Having clear and transparent rules consistent with the requirements of Order No. 1000 allows developers to make the upfront determinations as to whether or not to include upgrades in their proposals. In addition, the existence of the mechanism to implement the NYTOs' ROFR Rights does not always equate to an NYTO exercising its right, in which case, the upgrade would be designated to the proposing nonincumbent transmission developer.

The general process steps for the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process are substantially similar to those contained in the Public Policy Process. These process steps are described in detail below and are separately illustrated in the figures included in Attachments III–V, respectively. The NYISO's proposed tariff revisions for each process generally include:

- adding or modifying defined terms under the OATT, as described in Parts IV.A.1.a, IV.A.2.a, and IV.A.3.a, respectively;

- modifying project proposal requirements, as described in Parts IV.A.1.b, IV.A.2.b, and IV.A.3.b, respectively;

- establishing the process for the NYISO, in coordination with developers and NYTOs, to evaluate and classify the components of regulated transmission solutions as either new transmission facilities or upgrades to existing transmission facilities, as described in Parts IV.A.1.c, IV.A.2.c, and IV.A.3.c, respectively;

- establishing the requirements for designating components of the applicable regulated transmission solutions to the applicable developer and/or NYTO, and for the NYTO to decide whether to decline its designation as permitted by its ROFR Rights for upgrades to

[78] Order No. 1000-A, 139 FERC ¶ 61,132 at P 226.

existing transmission facilities proposed by another developer, as described in Parts IV.A.1.d, IV.A.2.d, and IV.A.3.d, respectively; and

- modifying and/or establishing the post-designation requirements for the entities responsible for developing components of a selected, triggered, or voted on regulated transmission solution, including entering into a Development Agreement with the NYISO concerning such designated components, addressing a party's inability to complete its designated components, and modifying the cost allocation and cost recovery rules to account for the developer's and/or NYTO's eligibility for cost allocation and recovery of the costs of its designated components under the OATT, as described in Parts IV.A.1.e, IV.A.2.e, and IV.A.3.e, respectively.

Based on the foregoing and as more fully described herein, the NYISO's proposed tariff revisions are just and reasonable and not unduly discriminatory or preferential, are consistent with the reserved rights of the Transmission Owners under the NYISO's foundational agreements; are consistent with Commission precedent; and comply with Order Nos. 890 and 1000.

1. Revisions to the Reliability Planning Process

a) Defined Terms

The NYISO proposes to modify and establish new defined terms in Attachment Y of the OATT for purposes of implementing the rules to effectuate the NYTOs' ROFR Rights in the Reliability Planning Process.[79] The terminology is similar to Public Policy Process; however, it is adapted for the Reliability Planning Process.

The NYISO proposes to define "Reliability Transmission Upgrade" as "[a]ny portion(s) of a regulated transmission solution submitted to address a Reliability Need or a Short-Term Reliability Process Need that satisfies the definition of upgrade in Section 31.6.4 of Attachment Y. "[80] This term will cover the portions of either a regulated transmission solution submitted in the Reliability Planning Process or the Short-Term Reliability Process that are subject to NYTOs' ROFR Rights based on the existing definition of "upgrade" in Section 31.6.4 of the OATT.[81] The definition of upgrade is consistent with the requirements in Order No. 1000-A, as "an improvement to, addition to, or replacement of a part of an existing transmission facility and shall not refer to an entirely new transmission facility."[82]

The Reliability Planning Process distinguishes between two types of regulated transmission solutions—*i.e.*, regulated backstop transmission solutions, which are proposed by a Responsible Transmission Owner, and alternative regulated transmission solutions, which are

[79] Proposed OATT § 31.1.1.
[80] *Id.*
[81] As discussed in detail in Part IV.A.2, *infra*, the Short-Term Reliability Process relies on certain rules in the Reliability Planning Process, such as the project information requirements, the evaluation of viability and sufficiency, and the form of the Reliability Planning Process Development Agreement.
[82] Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

proposed by a Transmission Owner or Other Developer.[83] The proposed new defined terms maintain this distinction between regulated backstop transmission solutions and alternative regulated transmission solutions, as they are subject to different tariff requirements, including in determining the necessity of triggering one or more regulated solutions under Section 31.2.8 of the OATT.[84] As result, the NYISO proposes to define a "Designated Reliability Transmission Project" as "[t]he Designated Backstop Transmission Project or Designated Alternative Transmission Project that the ISO designates to a Designated Entity pursuant to Sections 31.2.7 and 31.2.7.5 of this Attachment Y."[85]

A "Designated Backstop Transmission Project" is defined as "[t]he regulated backstop transmission solution proposed by the Responsible Transmission Owner pursuant to Section 31.2.4.3.1 of this Attachment Y and the ISO/TO Reliability Agreement or an Operating Agreement that is included in the CRP report to address a Reliability Need, or a portion of such regulated backstop transmission solution, that the ISO designates to a Designated Entity pursuant to Sections 31.2.7 and 31.2.7.5 of this Attachment Y."[86]

A "Designated Alternative Transmission Project" is defined as "[t]he alternative regulated transmission solution proposed by a Transmission Owner or Other Developer and selected by the ISO to address a Reliability Need pursuant to Section 31.2.6.5.2, or a portion of such alternative regulated transmission solution, that the ISO designates to a Designated Entity pursuant to Sections 31.2.7 and 31.2.7.5 of this Attachment Y."[87]

In concert with theses definitions, as well as the new definitions associated with the Short-Term Reliability Process and Economic Planning Process, the NYISO also proposes to modify the existing definition of "Designated Entity" to include the person or entity responsible for building, owning, and recovering the costs of not only a Designated Public Policy Transmission Project but also Designated Reliability Transmission Projects, Designated Short-Term Transmission Projects, and Designated Economic Transmission Projects. As revised, the term Designated Entity will apply to both a developer and an NYTO that have been designated to be responsible for components of a regulated transmission solution in the Public Policy Process, a regulated transmission solution in the Reliability Planning Process, a regulated transmission Short-Term Reliability Process Solution, or a Regulated Economic Transmission Project. Expanding the definition of Designated Entity allows the NYISO to have consistent post-designation rules for the entities that are responsible for developing, constructing, owning, operating, and maintaining transmission facilities that are included in the regional transmission plan for purposes of cost allocation.

The NYISO also proposes to update the general descriptions of the Reliability Planning Process consistent with the modifications to the process described in this filing. For instance, the NYISO proposes to revise the definitions of "Reliability Planning Process" in Section 31.1.1 of

[83] *Compare* OATT § 31.2.4.3 (submission of regulated backstop solutions) *with* OATT § 31.2.4.7 (submission of alternative regulated solutions).

[84] OATT § 31.2.8.

[85] OATT § 31.1.1.

[86] *Id.*

[87] *Id.*

the OATT to account for the new designation process. Additionally, the proposed revisions revise the summary of the Reliability Planning Process in Section 31.1.5 of the OATT to update the process description to account for the new designation process. The NYISO also proposes revisions across Section 6.10, Section 31.2, and Section 31.5 of the OATT to conform the existing terms with the new defined terms proposed above.

b) Revisions Related to Submittal of Project Information

(1) *Revisions to Project Information Requirements*

Under the existing Reliability Planning Process, a Responsible Transmission Owner, Transmission Owner, or Other Developer proposing a regulated solution to a Reliability Need is responsible for submitting detailed information concerning its proposed project to the NYISO.[88] The required project information is submitted in two parts.

First, a Responsible Transmission Owner, Transmission Owner, or Other Developer submits the information necessary for the NYISO to consider the solution for purposes of the Viability and Sufficiency Assessment and to determine the "Trigger Date" for each solution.[89] In the first-part submission, the current tariff requires the Responsible Transmission Owner, Transmission Owner, or Other Developer to provide such things as a full description of its proposed solution, necessary lead time to complete the project, including any required outages, a detailed major milestone schedule, schedule for obtaining permits, status of any NYISO-conducted interconnection studies and interconnection agreements.[90]

Following the NYISO's completion of the Viability and Sufficiency Assessment and if the NYISO determines that at least one regulated solution has a Trigger Date within 36 months of the date that the NYISO's presents the Viability and Sufficiency Assessment to the ESPWG, the NYISO will invite all Responsible Transmission Owners, Transmission Owners, or Other Developers of viable and sufficient regulated transmission solutions to submit the second-part information for consideration in the NYISO's evaluation of the more efficient or cost-effective solution to address the Reliability Need. Such information contains, among other things, updates to the part-one information, status of any contracts, demonstration of site control, status of equipment availability and procurement, evidence of financing or ability to finance the project, capital cost estimates, and description of permitting risks.[91]

The NYISO proposes to revise the project information requirements in the OATT to: (i) identify new transmission facilities and any Reliability Transmission Upgrades that are part of a proposed project in the project description and (ii) separately identify the in-service dates for the specific project components, including any Reliability Transmission Upgrades, to properly sequence the project's development, if applicable.[92] The proposed revisions also clarify a

[88] OATT § 31.2.4.4 (requirements for regulated backstop solution), § 31.2.4.8 (requirements for alternative regulated solutions).

[89] OATT §§ 31.2.4.4.1, 31.2.4.8.1; *see also* OATT § 31.1.1 (defining "Trigger Date").

[90] OATT §§ 31.2.4.4.1, 31.2.4.8.1.

[91] OATT §§ 31.2.4.4.2, 31.2.4.8.2.

[92] Proposed OATT §§ 31.2.4.4.1, 31.2.4.8.1.

Responsible Transmission Owner's, Transmission Owner's, or Other Developer's identification of interconnection-related network upgrades that either the NYISO has identified through a NYISO-conducted interconnection study or the Responsible Transmission Owner, Transmission Owner, or Other Developer believes will be necessary and wishes to identify in its proposal.[93] Consistent with the treatment in the Public Policy Process, such interconnection-related network upgrades are a completely separate bucket of facilities from the project that is proposed to address the identified Reliability Need and are only finally identified by the NYISO through an interconnection process, such as the Transmission Interconnection Procedures.[94]

The proposed revisions are intended to assist the NYISO, in coordination with the Responsible Transmission Owner, Transmission Owner, or Other Developer, in identifying any Reliability Transmission Upgrades that are part of the project proposals and that may be subject to NYTOs' ROFR Rights. They also provide information that will support the coordination of a selected or triggered regulated transmission solution if the NYISO identifies more than one Designated Entity based on the rules proposed herein. From its experience in the Public Policy Process, the NYISO found that requiring Developers to consider at the start of the process which project components may be subject to NYTOs' ROFR Rights and to take this into account when designing their project proposals has allowed Developers to make informed decisions on the design of their proposals and provided sufficient flexibility. The NYISO found that Developers are still able to propose innovative, efficient, and cost-effective solutions. Moreover, requiring Developers to consider the effect that the NYTOs' ROFR Rights on a proposed design by submitting a list distinguishing between new facilities and upgrades helps to mitigate against the withdrawal of projects if the Developer later learns that a substantial portion of its project consists of upgrades and, therefore, is not viable for further development.

The proposed revisions also make two non-substantive modifications to the tariff to improve clarity. First, the proposed revisions added headers and renumbered Sections 31.2.4.4 and 31.2.4.8 of the OATT to further distinguish the two submissions that a regulated transmission project must submit to be considered, first, for the Viability and Sufficiency Assessment and, second, for evaluation and selection as the more efficient or cost-effective solution to address the Reliability Need. Second, the proposed revisions move the requirements for submitting capital cost estimates from the sections that detail the evaluation metrics to the part-two project information requirements.[95] These revisions are intended to aid Responsible Transmission Owners, Transmission Owners, and Other Developers by having the information requirements in a central location in the tariff.

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[93] Proposed OATT §§ 31.2.4.4.1(5), 31.2.4.8.1(5); *see also* 2023 Designated NUF Filing at p 11.

[94] The identification of potential interconnection-related network upgrades further distinguishes the project that is necessary to address the identified Reliability Need and the facilities necessary for the interconnection of the project pursuant to the NYISO's interconnection standards. The latter is subject to study through the NYISO's interconnection and transmission expansion procedures and are finalized through the applicable facilities study. A Developer's separation of the potential facility from its project allows the Developer the ability to better conceptualize the facilities that are part of the project and those facilities that are needed to reliability interconnect the project.

[95] *Compare* OATT § 31.2.6.5.1.1 *with* Proposed OATT §§ 31.4.4.2.2, 31.2.4.8.2.2.

(2) *Availability of Transmission Project Information and Treatment of Confidential Project Information*

To assist with the review of the NYISO's identification of new transmission facilities and Reliability Transmission Upgrades, as discussed in Part IV.A.1.c below, the NYISO proposes to revise Section 31.2.12 of the OATT to align and clarify the treatment of project information throughout the submission and evaluation of proposed solutions to a Reliability Need. The proposed revisions specify the project information that may be disclosed at defined points in the process and the information that the NYISO will maintain as confidential throughout the process. The confidentiality requirements are modeled on the rules already in effect in the Public Policy Process, which the Commission has previously accepted as just and reasonable,[96] that allow certain information to be made available to interested parties during the process.[97]

The proposed revisions continue the requirement in the Reliability Planning Process for the NYISO to initially maintain all proposed solutions as confidential.[98] For regulated transmission solutions, the NYISO will maintain the project information as confidential until it completes the Viability and Sufficiency Assessment and determines that one or more regulated solutions have a Trigger Date within 36 months of the NYISO's presentation of the Viability and Sufficiency Assessment to the ESPWG. After the Responsible Transmission Owner, Transmission Owner, and Other Developer of viable and sufficient regulated solutions submit their part-two information and at least 30 calendar days prior to the date that the NYISO posts the initial facility characterization list pursuant to Section 31.2.6.5.2 of the OATT, as detailed in Part IV.A.1.c below, the NYISO will make certain project information available upon the request of an interested entity.[99] The requestor, however, will be required to comply with the NYISO's requirements concerning the disclosure of Critical Energy Infrastructure Information before receiving the project information.

The available project information would include the description of the proposed transmission solution, including type, size, and geographic and electrical location (including planning and engineering specifications and drawings) and the Responsible Transmission Owner's, Transmission Owner's, and Other Developer's identification of any Reliability Transmission Upgrades included as a part of its proposed transmission solution.[100] The availability of this information will allow for the requestor's review of the facility characterizations and to better understand the NYISO's preliminary identification of new transmission facilities and Reliability Transmission Upgrades for each proposed solution.

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[96] *New York Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions Regarding Public Policy Transmission Planning Process, Docket No. ER19-528-000 (December 11, 2018), at pp 7–8; *New York Indep. Sys. Operator, Inc.*, 166 FERC ¶ 61,099 (2019), at P 20.

[97] *See generally*, OATT § 31.4.15.

[98] Proposed OATT § 31.2.12.2. The proposed revisions do not affect the rules for market-based responses to address a Reliability Need under current Section 31.2.12.4 of the OATT, with the exception of clarifying that "[t]he ISO shall not disclose any Confidential Information, as defined in Section 31.2.12.2, that the Developer of a market-based solution has labeled as Confidential Information." Proposed OATT § 31.2.12.5.

[99] Proposed OATT § 31.2.12.2.

[100] Proposed OATT § 31.2.12.3.

Similar to the confidentiality requirements in the Public Policy Process, the proposed revisions would specify what information the NYISO will maintain as Confidential Information throughout the Reliability Planning Process, unless the Developer makes the information public or otherwise consents to its disclosure. Such Confidential Information in the Reliability Planning Process includes the following non-public information that the Developer labels as "Confidential Information": (a) any part of its Developer qualification requirements pursuant to Section 31.2.4.1 of the OATT or (b) any part of its submission of the project information requirements for its market-based solution, regulated backstop solution, or alternative regulated solution that includes: (1) preliminary project cost information; (2) all details of the Developer's financing arrangements; (3) any non-public financial qualification information submitted; and (c) any contracts provided under Sections 31.2.4.4.2.3, 31.2.4.6, and 31.2.4.8.2.3 of the OATT.[101] These limited categories are consistent with the current definition of Confidential Information in the Public Policy Process.[102] Except for the above enumerated categories, other project information may be disclosed in the evaluation process as set forth in Section 31.2 of the OATT.

To assist with the NYISO's efficient administration of the process to make certain project information available following a Responsible Transmission Owner's, Transmission Owner's, or Other Developer's submission of its part-two information requirements, the revisions require the submission of both a redacted version of their project information that does not contain Confidential Information and an un-redacted version of their project information.[103] Any redactions must be consistent with the definition of Confidential Information in Section 31.2.12.2 of the OATT. The NYISO can use the existing procedures to request additional project information or data, including the Responsible Transmission Owner, Transmission Owner, or Other Developer amending the submission to conform their redacted proposals, as required.[104] If requested in accordance with proposed Section 31.2.12.2 of the OATT, the NYISO will provide the eligible information contained in the redacted version.[105] As detailed above, all requestors must comply with the NYISO's requirements for the disclosure of Critical Energy Infrastructure Information.

c) Identification of New Transmission Facilities and Reliability Transmission Upgrades

Similar to the Public Policy Process, the NYISO proposes to establish a process step that classifies the facilities contained in viable and sufficient regulated transmission solutions (*e.g.*, regulated backstop transmission solutions or alternative regulated transmission solutions) as new transmission facilities or Reliability Transmission Upgrades and makes this information available during the evaluation of proposed solutions.[106] The NYISO will review the submitted

[101] Proposed OATT § 31.2.12.1.

[102] OATT § 31.4.15.2.

[103] Proposed OATT § 31.2.5.1.3 (provided that "[i]f the Responsible Transmission Owner, Transmission Owner, or Other Developer submits Confidential Information, as defined in Section 31.2.12, as a part of its project information . . ., the Responsible Transmission Owner, Transmission Owner, or Other Developer shall submit redacted and un-redacted version of the project information").

[104] *See* OATT §§ 31.2.5.1, 31.2.6.1.

[105] Proposed OATT § 31.2.12.3.

[106] Proposed OATT § 31.2.6.5.2.

information for a regulated transmission solution, including, but not limited to, the Responsible Transmission Owner's, Transmission Owner's, or Other Developer's classification of the project components as either new transmission facilities or Reliability Transmission Upgrades. The NYISO will use the project information, including the Responsible Transmission Owner's, Transmission Owner's, and Other Developer's proposed characterizations, as a starting point in characterizing the facilities that make up the proposed project. The NYISO will apply the definition of upgrade in Section 31.6.4 of the OATT and also look to Commission precedent to identify new transmission facilities and Reliability Transmission Upgrades.[107]

At least 30 calendar days prior to the NYISO's presentation of the initial draft of the CRP to stakeholders, the NYISO will post a list of all the facilities that make up the proposed regulated backstop transmission solutions and alternative regulated transmission solutions and identify which facilities are new transmission facilities and which satisfy the definition of a Reliability Transmission Upgrade.[108] For the facilities characterized as Reliability Transmission Upgrades, the list will specify the NYTO that owns the transmission facility being modified, to the extent the information is known at the time.[109] At the same time, the NYISO will also post on its website a separate list of interconnection facilities identified in the Responsible Transmission Owner's, Transmission Owner's, and Other Developer's project information.[110] The list of interconnection facilities is for informational purposes, and the NYISO will not characterize such facilities are either new transmission facilities or Reliability Transmission Upgrades. Additionally, the NYISO will not change a Responsible Transmission Owner's, Transmission Owner's, or Other Developer's identification of an interconnection-related facility submitted in its proposed solution to be a part of the project and, therefore, eligible for classification as a new transmission facility or Reliability Transmission Upgrade.

Within 20 calendar days of the NYISO's posting of this list, any interested party may dispute the NYISO's classification of a part of a proposed solution as either a new transmission facility or Reliability Transmission Upgrade by providing the NYISO with written notice, which notice will be posted on the NYISO website.[111] The NYISO and the disputing party will attempt to resolve the dispute through the existing dispute resolution procedures in Attachment Y.[112] The NYISO will then post the final list with its determination of the classification of the proposed facilities on or before the NYISO's presentation of the draft CRP to the NYISO's Operating Committee.[113]

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[107] *See, e.g.,* MISO OATT, Att. FF Section VIII.A.2 (setting forth criteria and principles by which MISO determines whether a project constitutes an upgrade to existing transmission facilities for its Order No. 1000 planning process); *New York Indep. Sys. Operator, Inc.*, 175 FERC ¶ 61,039 (2021) at PP 43–45 (confirming that a "scenario in which a new transmission facility, that would require the retirement or decommissioning of a NYTO's existing transmission facility and that connects to the transmission system in a different configuration than the original facility, would constitute a new transmission facility, rather than an upgrade").

[108] *Id.*

[109] *Id.*

[110] *Id.*; *see also* Proposed OATT §§ 31.2.4.4, 31.2.4.8.

[111] Proposed OATT § 31.2.6.5.2.

[112] *Id.* (identifying the dispute resolution procedures set forth in Section 31.1.8.4 of the OATT).

[113] *Id.*

This proposed step is modeled off of the Public Policy Process and complies with the Order Nos. 890 and 1000 transmission planning principles as it provides transparency, openness, and an opportunity for stakeholder coordination and dispute resolution related to the NYISO's determination of which components of a proposal meet the definition of a Reliability Transmission Upgrade.[114] For the Reliability Planning Process, performing this step following the completion of the Viability and Sufficiency Assessment and during the evaluation process accommodates two important differences from the Public Policy Process. First, it addresses the possibility that the NYISO will not perform the comparative review for selection of a regulated transmission solution if the solution is not viable and sufficient or there is no viable and sufficient regulated solution that has a Trigger Date within 36 months of the NYISO's presentation of the Viability and Sufficiency Assessment to the ESPWG. Second, it reduces the potential for rework if there are potential adjustments to projects resulting from the NYISO's Viability and Sufficiency Assessment.[115] Unlike the Public Policy Process, the tariff provides the requirement or opportunity for the sponsoring Responsible Transmission Owner, Transmission Owner, or Other Developer of a proposed regulated transmission solution to a Reliability Need to address deficiencies in the proposal.[116] The NYISO's proposed timing of this step limits the redundancy that could occur if the NYISO had to perform the characterization of facilities and interested parties had to review and potentially dispute such characterizations on multiple occasions during the process.

d) Designation of Designated Reliability Transmission Projects and Designated Entities

(1) *Identifying Designated Reliability Projects and Designated Entities*

The current Reliability Planning Process requires the NYISO to compile a draft CRP near the end of the evaluation process. The draft CRP reports, among other things, the findings from the Viability and Sufficiency Assessment, the Trigger Dates of regulated solutions, the viable and sufficient regulated backstop solution and the Responsible Transmission Owner, the selected more efficient or cost-effective regulated transmission solution (if applicable), the date by which a solution must be in service to address the Reliability Need, and whether the NYISO triggers one or more of the regulated solutions.[117] The draft CRP is reviewed by NYISO stakeholders and undergoes review and final approval by the NYISO Board of Directors.[118]

The proposed revisions would revise the requirements for the CRP and for concluding the Reliability Planning Process by including a process to designate the new transmission facilities and Reliability Transmission Upgrades of the selected regulated transmission solution and the viable and sufficient regulated backstop transmission solution (if different) to the Responsible

[114] Order No. 1000, 136 FERC ¶ 61,051 at P 328.
[115] *See* OATT § 31.2.5.6.
[116] *Id.* A Responsible Transmission Owner is required to make necessary changes to its proposed regulated backstop solution, while a Transmission Owner or Other Developer has the option to remedy their proposed alternative regulated solutions to address the identified reliability deficiency. *Id.*
[117] OATT § 31.2.7.
[118] OATT §§ 31.2.7.1, 31.2.7.2

Transmission Owner, Transmission Owner, or Other Developer and/or NYTO owning a facility to be upgraded, as applicable.[119] In addition to existing requirements for the CRP, the proposed revisions would require the NYISO to also include in the draft CRP: (i) the final list of regulated transmission solutions that distinguish the new transmission facilities and Reliability Transmission Upgrades and (ii) a list of Designated Reliability Transmission Projects and the identified Designated Entities for the selected regulated transmission solution and regulated backstop transmission solution (if different). If there is both a selected regulated transmission solution and a viable and sufficient regulated transmission backstop solution, the CRP will identify Designated Reliability Transmission Projects and Designated Entities for each proposed solution, as one or both projects could be triggered.[120]

For the regulated transmission solution recommended for selection and the viable and sufficient regulated backstop transmission solution (if different), the NYISO will designate the entity that proposed the regulated transmission solution as the Designated Entity for the new transmission facility elements of the selected project, which project elements will be included in a Designated Reliability Transmission Project.[121] The NYISO will also designate the applicable NYTO(s) as the Designated Entity(ies) for those components of such regulated transmission solution that meet the definition of a Reliability Transmission Upgrade and that upgrade the NYTO's existing transmission facilities, which project elements will be included in a separate Designated Reliability Transmission Project.[122] If the project includes Reliability Transmission Upgrades that impact more than one NYTO, the NYISO will designate each affected NYTO as a Designated Entity with a corresponding Designated Reliability Transmission Project.

If the CRP is completed without the NYISO selecting the more efficient or cost-effective regulated transmission solution but the NYISO subsequently selects a regulated transmission

[119] The NYISO will group components into Designated Reliability Transmission Projects based on the entity that will be responsible for developing, constructing, financing, owning, operating, and maintaining the facility(ies). For example, if the selected regulated transmission solution and regulated backstop transmission solution (if different) does not contain any Reliability Transmission Upgrades, then there would only be one Designated Reliability Transmission Project. If a nonincumbent transmission developer proposes a regulated transmission solution that contains a new transmission facility and a Reliability Transmission Upgrade, then there would be two Designated Reliability Transmission Projects—one made up of the new transmission facility and the other being the Reliability Transmission Upgrade. However, if an incumbent transmission developer (*i.e.*, an NYTO that proposes modifications to its existing transmission facilities) proposes, as a regulated transmission solution, both new transmission facilities and upgrades only to its own existing transmission facilities, then the NYISO will group all of the facilities into a single Designated Reliability Transmission Project for which the NYTO is initially identified as the Designated Entity.

[120] Proposed OATT § 31.2.7. Separately identifying Designated Reliability Transmission Projects for the selected regulated transmission solution and the regulated backstop transmission solution when different is necessary as they are separate projects and can be independently triggered or halted. *See generally*, OATT § 31.2.8 (providing the rules for determining necessity of regulated transmission solutions).

[121] Proposed OATT § 31.2.7. The NYISO also clarifies that if more than one entity jointly proposed a regulated transmission solution, then they will collectively be the Designated Entity and jointly and severally responsible for the completion of the Designated Reliability Transmission Project consisting of new transmission facilities. *Id.*

[122] *Id*. If a Transmission Owner is the sole sponsor of a regulated transmission solution that includes new transmission facilities and Reliability Transmission Upgrades that will be designated to that Transmission Owner as the owner of the existing facilities, the NYISO will include those elements as a single Designated Reliability Transmission Project.

solution prior to the completion of the 36-month triggering period, the NYISO will prepare an updated CRP in accordance with Section 31.2.7.3 of the OATT. The proposed revisions will require the updated CRP to include the identification of the Designated Reliability Transmission Project(s) and Designated Entity(ies), subject to finalization pursuant to proposed Section 31.2.7.5 of the OATT.[123]

(2) *Identifying In-Service Dates*

Under the current rules, the CRP will indicate the date by which a solution must be in service in order to satisfy the Reliability Need.[124] Based on the NYISO's experience in administering past cycles of the Public Policy Processes, Developers may propose a solution that requires sequencing of facilities to construct the project by the required in-service date, taking into account, for example, the need for outage coordination on the existing system.[125] Because a regulated transmission solution may result in the identification of more than one Designated Reliability Transmission Project under the proposed tariff rules and may require that the project components be constructed on a particular timeframe for the solution to satisfy the Reliability Need, the NYISO proposes revisions to the rules concerning the in-service date(s) for the Designated Reliability Transmission Project(s).

As revised, the default requirement is that the required in-service date for a selected regulated transmission solution and regulated backstop transmission solution (if different) will be identified in the CRP and will apply to all of the Designated Reliability Transmission Projects that make up the selected regulated transmission solution and the viable and sufficient regulated backstop transmission solution (if different).[126] However, the CRP, or updated CRP, may also include specific dates by which one or more of the Designated Reliability Transmission Projects (or components of a Designated Reliability Transmission Project) must be in service for the overall transmission solution to meet the overall in-service date.[127] Consistent with its ability to request additional information during the evaluation and the proposed revisions to the project information requirements to include sequencing of specific components, the NYISO will request any additional information as needed to understand the project's construction sequencing for the different components, if necessary.[128] The relevant in-service date(s) will be memorialized in the Development Agreement for each Designated Reliability Transmission Project.[129]

(3) *Selection and Finalization of Designated Entities*

Under the current process, following the issuance of the draft CRP, the plan is reviewed in the NYISO's stakeholder process, voted on by the NYISO's stakeholder Operating Committee

[123] Proposed OATT § 31.2.7.3.
[124] OATT § 31.2.7.
[125] *See e.g.*, Long Island Offshore Wind Export Public Policy Transmission Plan (June 13, 2023), *available at* https://www.nyiso.com/documents/20142/38388768/Long-Island-Offshore-Wind-Export-Public-Policy-Transmission-Planning-Plan-2023-6-13.pdf/, at Part 4.5 (identifying a substation as needing to be in service in advance of the other components of the projects in order to properly sequence the construction and energization).
[126] Proposed OATT § 31.2.7.
[127] Proposed OATT § 31.2.7.
[128] Proposed OATT §§ 31.2.4.4.1, 31.2.8.1, 31.2.5.1.2.
[129] Proposed OATT § 31.7 Appendix C Articles 1, 3.3.1, 3.3.4, 3.4.

and Management Committee, and subject to review and approval by the NYISO Board of Directors.[130] If the CRP, or updated CRP, includes the selection of the more efficient or cost-effective regulated transmission solution and the identification of a viable and sufficient regulated backstop transmission solution (if different), the sponsoring Responsible Transmission Owner, Transmission Owner, or Other Developer would be responsible for developing, constructing, financing, operating, and maintaining the applicable regulated solutions.

When the CRP, or updated CRP, identifies a selected regulated transmission solution and a viable and sufficient regulated backstop transmission solution (if different), the proposed rules include an additional step in this process that will finalize the Designated Entities that will be responsible for developing, constructing, financing, operating, and maintaining the Designated Reliability Transmission Project(s) that make up the selected regulated transmission solution and regulated backstop transmission solution (if different).[131] This additional step provides the point in the process where an NYTO confirms whether it wishes to exercise the NYTOs' ROFR Rights for any Reliability Transmission Upgrades. This approach is modeled on the rules in the Public Policy Process, including the presumption that the NYTO will be responsible for an upgrade to its existing transmission facility, which requires an NYTO to reject its designation as the Designated Entity for a Designated Reliability Transmission Project.[132]

Within 60 calendar days of the approval of the CRP, or updated CRP, by the NYISO Board of Directors, an NYTO that has been identified as a Designated Entity for a Designated Reliability Transmission Project (*i.e.*, one that includes one or more Reliability Transmission Upgrades on its system) must provide notice to the NYISO if it does not intend to exercise its ROFR for one or more upgrades.[133] If the NYTO does not take any action within this period with regard to one or more Reliability Transmission Upgrades, the NYTO will be the Designated Entity concerning the Reliability Transmission Upgrade(s) and will be responsible for constructing them and placing them in service by the in-service date for its Designated Reliability Transmission Project identified in the CRP, or updated CRP.[134] If, on the other hand, the NYTO notifies the NYISO that it rejects its designation with regard to one or more Reliability Transmission Upgrades, the NYISO will designate such upgrade to the Developer that proposed the underlying regulated transmission solution, which upgrade(s) will be included in that Developer's Designated Reliability Transmission Project.[135] At the conclusion of the notification period, the NYISO will post on its website a final list of the Designated Entities and

[130] OATT §§ 31.2.7.1, 31.2.7.2.

[131] Proposed OATT § 31.2.7.5.1.

[132] While stakeholders did not raise concerns during the discussions over the proposed rules to effectuate the NYTOs' ROFR Rights in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process, certain stakeholders previously argued that the presumption should be that the NYTO will not exercise its ROFR and, instead, has to affirmatively exercise the right for the designated upgrades. *See* March 2022 Order at PP 17, 33, 60. The Commission in that proceeding rejected such arguments, finding that "it is reasonable to presume that NYTOs will exercise their federal ROFRs for upgrades in NYISO's Order No. 1000 Process." *Id.* at P 60. The proposed approach in the Reliability Planning Process, therefore, is in line with Commission precedent accepting the Public Policy Process, as well as the proposals from other RTOs/ISOs to initially designate the building of upgrades to the incumbent transmission owners. *Id*.

[133] Proposed OATT § 31.2.7.5.

[134] *Id.*

[135] *Id.*

their associated Designated Reliability Transmission Projects.[136] Designated Entities will be eligible to allocate and recover the costs of their Designated Reliability Transmission Projects under the OATT based on the determinations that the NYISO makes concerning the triggering or halting of the project in accordance with Section 31.2.8 of the OATT.[137]

e) Post-Designation Requirements

The NYISO's current Reliability Planning Process establishes the post-selection obligations for the developer of a selected regulated transmission solution or the Responsible Transmission Owner of a viable and sufficient regulated backstop transmission solution, along with the eligibility to allocate and recover the costs of such projects.[138] The NYISO proposes to revise these post-selection requirements to include additional requirements or clarifications to address the circumstances in which there may be multiple, interrelated Designated Reliability Transmission Projects that collectively constitute the selected regulated transmission solution or regulated backstop transmission solution identified in the CRP, or updated CRP. As described below, the revisions to the post-designation requirements do not significantly alter the current development requirements for a regulated transmission solution to address a Reliability Need.

(1) *Approvals and Authorizations*

Consistent with its current requirements for a selected regulated transmission solution or a viable and sufficient regulated backstop transmission solution (if different) identified in the CRP, or updated CRP, the Designated Entity will be subject to the same requirements for its Designated Reliability Transmission Project for obtaining the required project approvals and authorizations.[139] The proposed revisions replace existing terms with the defined terms proposed in Part IV.A.1.a.

(2) *Development Agreement*

The current rules in the Reliability Planning Process require a Responsible Transmission Owner, Transmission Owner, or Other Developer to enter into a Reliability Planning Process Development Agreement in the form contained in Appendix C of Section 31.7 of the OATT (hereinafter, "Reliability Development Agreement") following, for instance, the selection of regulated transmission solution or the triggering of a viable and sufficient regulated backstop transmission solution (if not selected as the more efficient or cost-effective solution).[140] The Reliability Development Agreement governs the terms by which the Responsible Transmission Owner, Transmission Owner, or Other Developer must develop and place the project in service by the Required Project In-Service Date. Such date is the date that the project must be constructed and operating to satisfy the Reliability Need.[141]

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[136] Proposed OATT § 31.2.7.6.
[137] Proposed OATT § 31.5.1.7; *see also* Part IV.A.1.e.4, *infra*.
[138] *See* OATT § 6.10; Proposed OATT §§ 31.2.8, 31.5, 31.7 Appendix C.
[139] Proposed OATT § 31.4.12.1.
[140] OATT § 31.2.8.1.6.
[141] OATT §§ 31.2.8.1.6, 31.7 Appendix C.

With the designation process to effectuate the NYTOs' ROFR Rights, the NYISO proposes to maintain the same requirements for a Designated Entity to enter into a Development Agreement, regardless of whether the entity is an incumbent or nonincumbent transmission developer or an NYTO.[142] However, the proposed revisions would clarify that each Designated Entity must enter into a separate Reliability Development Agreement for its applicable Designated Reliability Transmission Project.[143] This is consistent with the requirements in the Public Policy Process.

In addition, the NYISO proposes to modify provisions throughout the Reliability Development Agreement to require coordination among the Designated Entities of Designated Reliability Transmission Projects that make up the selected regulated transmission solution or triggered regulated backstop transmission solution (if different).[144] Such coordination is necessary for the applicable project to be developed consistent with the project proposal and to be constructed and operating by the required date to address the Reliability Need.

As the NYISO has seen through the use of similar provisions in development agreements for Designated Public Policy Projects, the coordination among the Designated Entities assists with the development and construction of their portions of the regulated transmission solution. They provide clear rules on how Designated Entities are required to handle changes by one Designated Entity that could have an impact on the design or in-service date of another portion of the solution. While the NYISO remains the party that will review proposed changes in the milestone dates and design of the project under the provisions of the Reliability Development Agreement, the requirements for coordination facilitate an open dialogue among the entities charged with developing the components of a regulated transmission solution.

The key changes to the Reliability Development Agreement are as follows:

- The NYISO proposes: (i) to modify the defined terms in the Reliability Development Agreement so that it applies to a Designated Reliability Transmission Project for which a Designated Entity is responsible and (ii) to revise the recitals and definitions in the agreement to align with the new tariff rules for Designated Reliability Transmission Projects and the potential for different in-service dates for such Designated Reliability Transmission Projects than the overall in-service date to satisfy the Reliability Need.

- The NYISO proposes to revise the milestone requirements to indicate that: (i) the NYISO will provide the Designated Entity with the required in-service date for the Designated Reliability Transmission Project, along with the required in-

[142] *See* Proposed OATT § 31.2.8.1.6.

[143] *Id*. The NYISO will tender such agreements as soon as reasonably practicable consider the project's Trigger Dates following (a) the NYISO's selection of the proposed regulated solution, (b) the NYISO's triggering of a regulated backstop transmission solution, or (c) a Responsible Transmission Owner's agreement to complete an alternative regulated transmission solution. Proposed OATT § 31.2.8.1.6. The NYISO made conforming changes to the definition of "Development Agreement" to account for Designated Reliability Transmission Projects, as well as Designated Short-Term Transmission Projects and Designated Economic Transmission Projects. Proposed OATT § 31.1.1.

[144] Proposed OATT § 31.2.8.1.6.

service date for the "Transmission Project," which is either the selected regulated transmission solution or triggered regulated backstop transmission solution (if different) and (ii) that the Critical Path Milestones and Advisory Milestones must provide for the Designated Reliability Transmission Project to be in service by the applicable dates.[145]

- The NYISO also clarifies that any milestone that requires action by another Designated Entity must be an Advisory Milestone, rather than a Critical Path Milestone.[146] This proposed modification is consistent with the Public Policy Transmission Planning Process Development Agreement and the Commission's prior requirement for milestones that required action by Connecting Transmission Owners or Affected System Operators to provide that delays of other Transmission Owners cannot result in the termination of this agreement.[147]

- The NYISO proposes to modify provisions allowing a Designated Entity to request an update to its Critical Path Milestones or to make a significant change to its project. Specifically, the proposed revisions would require that any change requested by a Designated Entity for its Designated Reliability Transmission Project be coordinated with and would not interfere with any other related Designated Entities or the grounds for the NYISO's selection of the regulated transmission solution to address the Reliability Need.[148] If a Designated Entity requests such a change, the Designated Entity must now demonstrate that the change does not impact other Designated Reliability Transmission Projects related to the same selected regulated transmission solution or triggered regulated backstop solution (if different) and provide an officer's certificate from the other Designated Entities certifying their capability to complete their projects in line with the modified dates or that any project changes will not materially impact the development of the other projects.[149] The NYISO's approval of such changes will also require its determination that the change will not materially impact the development of another Designated Reliability Transmission Project related to the same selected regulated transmission solution or triggered regulated backstop solution (if different).[150] In addition, the NYISO proposes revisions to clarify that other Designated Entities will not unreasonably withhold, condition, or delay any required input, information, or certification concerning the requested changes.[151]

[145] Proposed OATT § 31.7 Appendix C Article 1 (definition of "Transmission Project" and "Designated Project") and Article 3.3.1.

[146] Proposed OATT § 31.7 Appendix C Article 3.3.1.

[147] *See generally, New York Indep. Sys. Operator. Inc.*, 153 FERC ¶ 61,341 (2015), at P 67 (requiring milestones that are controlled by incumbent Transmission Owners to be "Advisory Milestones").

[148] Proposed OATT § 31.7 Appendix C Articles 3.3.4, 3.4.1, 3.4.2, 3.5.

[149] Proposed OATT § 31.7 Appendix C Articles 3.3.4, 3.4.

[150] Proposed OATT § 31.7 Appendix C Articles 3.3.4, 3.4.3, 3.4.2, 3.5.

[151] Proposed OATT § 31.7 Appendix C Articles 3.3.6, 3.4.

- The NYISO proposes to specify that the Designated Entity will provide updates and information upon the NYISO's request to assist with the coordination across related Designated Reliability Transmission Projects.[152]

- The NYISO proposes to revise the default provision to provide that any extensions of the cure period must also account for the impact on the Designated Entity's and other Designated Entities' ability to complete their related projects by the required in-service date(s).[153]

- The NYISO proposes to revise the termination provisions to make clear that the NYISO will not terminate the agreement on the grounds that the Designated Entity cannot complete its project by the required project in-service date if the delay is due to another Designated Entity.[154]

- In addition, the NYISO proposes to insert an additional termination provision that permits the NYISO to terminate a Development Agreement if another Designated Entity defaults on the development of its related project and the NYISO decides to address the overall need in a future planning cycle.[155] Currently, if a Responsible Transmission Owner, Transmission Owner, or Other Developer defaults on the development of its regulated transmission solution to address a Reliability Need, the NYISO may elect to address the need in a subsequent planning cycle or next Short-Term Reliability Process, among other actions.[156] As described in Part IV.A.1.e.3 below, the NYISO has modified these requirements to now apply to a Designated Entity that is unable to complete its Designated Reliability Transmission Project. Since there could be multiple Designated Reliability Transmission Projects that are part of a selected regulated transmission solution or triggered regulated backstop transmission solution (if different), termination of one or more Designated Reliability Transmission Projects could result in certain project components being unable to proceed, while other related project components are still proceeding, regardless of whether it makes sense for the remaining components to continue. As revised, the NYISO, for instance, may terminate the development of that upgrade but the Designated Entity of the terminated upgrade project would be eligible to recover its costs.[157]

- The NYISO proposes to modify the Force Majeure requirements to account for potential delays to both the in-service date for the Designated Reliability Transmission Project and, if different, the in-service date for the overall selected

[152] Proposed OATT § 31.7 Appendix C Article 3.6.
[153] Proposed OATT § 31.7 Appendix C Article 7.2.
[154] Proposed OATT § 31.7 Appendix C Article 8.1.
[155] *Id.*
[156] OATT § 31.2.10.1.3.
[157] Proposed OATT § 31.2.10.3.

regulated transmission solution or triggered regulated backstop solution (if different).[158]

- The NYISO proposes to revise the description that it is not liable for its review and approval of the Responsible Transmission Owner's, Transmission Owner's, or Other Developer's materials or the Designated Entity's agreements, documents, instruments, drawings, specifications, or designs.[159]

- Finally, the NYISO proposes to insert certain changes to align the requirements in the Development Agreement for the Designated Reliability Transmission Project with the interconnection requirements for such project, including the proposed revisions discussed in Part IV.B below and the removal of transition mechanisms that are no longer applicable to potential transmission solutions to Reliability Needs.[160]

(3) *Designated Entity's Inability to Complete a Project*

The Reliability Planning Process currently contains detailed rules for the NYISO to address a Responsible Transmission Owner's, Transmission Owner's, or Other Developer's inability to complete a regulated transmission solution identified through the CRP.[161] The NYISO may, for instance, take one or more of the following actions: (i) address the Reliability Need in the CRP for the next planning cycle, (ii) address the Reliability Need in the Short-Term Reliability Process, (iii), direct the Developer to continue with the regulated transmission solution beyond the in-service date required to address the Reliability Need, (iv) direct the Responsible Transmission Owner to continue with the regulated backstop solution if it has not yet been halted, or (v) request a Responsible Transmission Owner to complete a selected alternative regulated transmission solution.[162] The NYISO proposes revisions to supplement these rules to account for the potential for multiple Designated Reliability Transmission Projects and Designated Entities and the potential that only one of the Designated Reliability Transmission Projects are unable to be completed. The proposed revisions are modeled on the options in the Public Policy Process that were included to address multiple Designated Entities but with differences to account for the Reliability Planning Process.[163]

First, the proposed revisions add an option to address the scenario where a Designated Entity is unable to proceed with its Designated Reliability Transmission Project and that Designated Entity is an NYTO that exercised its ROFR for a Reliability Transmission Upgrade that it did not originally propose. In such case, the NYISO will have the option to offer the upgrade to the entity that originally sponsored the regulated transmission solution that included the Reliability Transmission Upgrade.[164] If the sponsoring entity elects to be responsible for the

[158] Proposed OATT § 31.7 Appendix C Article 15.5.
[159] Proposed OATT § 31.7 Appendix C Article 15.7.
[160] Proposed OATT § 31.7 Appendix C Articles 3.2, 4.1, 4.2.
[161] OATT § 31.2.10.
[162] OATT § 31.2.10.3.
[163] *Compare* OATT § 31.4.12.3. *See generally,* 2021 ROFR Filing at pp 34–35.
[164] Proposed OATT §§ 31.2.10.1.3, 31.2.10.2.

transmission facility, that entity will be become the Designated Entity and the transmission facility will be added to that entity's Designated Reliability Transmission Project.[165] The NYISO will work with the Designated Entity to include the Reliability Transmission Upgrade in its Reliability Development Agreement.[166]

Second, as described in Part IV.A.1.e.2 above, the proposed revisions address a scenario where the NYISO may terminate a Reliability Planning Process Development Agreement of a Designated Entity because (1) another Designated Entity defaulted on the development of a separate Designated Reliability Transmission Project that is a part of the overall selected or triggered regulated transmission solution and (2) the NYISO determined to address the Reliability Need through other means that do not involve completing the selected or triggered regulated transmission solution (*e.g.*, address the underlying Reliability Need in another planning cycle or the next Short-Term Reliability Process).[167] In such case, the non-defaulting Designated Entity may recover all of the necessary and reasonable costs incurred and commitments made up to the notice of termination of the Reliability Planning Process Development Agreement, including reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission.[168] This is consistent with the NYISO's planning requirements in other cases in which a Developer's project is terminated for grounds outside of its control.[169]

(4) *Cost Allocation and Cost Recovery*

The NYISO proposes targeted revisions to the cost allocation and cost recovery rules for its Reliability Planning Process to accommodate the proposed structure that the components making up a selected regulated transmission solution or triggered regulated backstop transmission solution (if different) to address a Reliability Need can be designated to more than one Designated Entity to develop, construct, finance, operate, maintain, and recover the cost.[170] The proposed revisions to the cost allocation and recovery provisions largely conform the language to use new defined terms, such as Designated Entities and Designated Reliability Transmission Project. The proposed revisions also clarify that the same cost allocation methodology shall apply to all of the Designated Reliability Transmission Projects that comprise the selected regulated transmission solution or regulated backstop transmission solution (if different), as well as any Designated Network Upgrade Facilities identified for the interconnection of a Designated Reliability Transmission Project, as further detailed in Part IV.B, below.[171] Given that the Reliability Planning Process allocates the costs based on the nature of the Reliability Need,[172] the cost allocation methodology that applies to the selected or

[165] Proposed OATT § 31.2.10.2.
[166] *Id.*
[167] Proposed OATT § 31.2.10.3.
[168] *Id.*
[169] *See, e.g.*, OATT §§ 31.5.5.3, 31.5.6.
[170] Proposed OATT §§ 31.5.1.1, 31.5.1.7, 31.5.3.1, 31.5.3.2.
[171] Proposed OATT §§ 31.5.1.7, 31.5.3.1, 31.5.3.2.
[172] OATT § 31.5.3.2 (set forth a cost allocation formula for reliability solutions for resource adequacy, BPTF thermal transmission security, BPTF voltage security, and dynamic stability).

triggered regulated transmission solution will be applied across the Designated Reliability Transmission Projects and any Designated Network Upgrade Facilities.

2. Proposed Revisions to the Short-Term Reliability Process

a) Defined Terms

Similar to the revisions to the Reliability Planning Process, the NYISO proposes to modify and establish new defined terms in Attachment FF of the OATT for purposes of its revised requirements to address the NYTOs' ROFR Rights for the Short-Term Reliability Process.[173] As discussed in Part IV.A.1.a above, the Short-Term Reliability Process will include the definition of "Reliability Transmission Upgrade" in Sections 31.1.1 and 38.1 of the OATT. This term will cover the portions of a regulated transmission solution submitted to address a Short-Term Reliability Process Need that are subject to NYTOs' ROFR Rights based on the existing definition of "upgrade" in Section 31.6.4 of the OATT.[174]

The NYISO also proposes to include a new term, "Designated Short-Term Transmission Project," to refer to "[t]he regulated transmission Short-Term Reliability Process Solution selected by the ISO to address a Short-Term Reliability Process Need, or a portion of such regulated transmission solution, that the ISO designates to a Designated Entity pursuant to Section 38.10.2.1.3 or Section 38.10.5 of Attachment FF."[175]

In concert with these definitions, as well as the new definitions associated with the Reliability Planning Process and Economic Planning Process, the NYISO also proposes to include in Section 38.1 of the OATT the definition of "Designated Entity" to include the person or entity responsible for building, owning, and recovering the costs of Designated Reliability Transmission Projects, Designated Short-Term Transmission Projects, Designated Economic Transmission Projects, and Designated Public Policy Projects.

b) Revisions Related to Project Proposals

Under the existing provisions of the Short-Term Reliability Process, a Developer or Responsible Transmission Owner proposing a regulated transmission solution to a Short-Term Reliability Process Need is responsible for submitting detailed information concerning its proposed solution to the NYISO.[176] The Short-Term Reliability Process relies on provisions of the Reliability Planning Process (*i.e.*, Sections 31.2.4.8.1, 31.2.4.8.2, and 31.2.6.5.1.1 of the OATT) to detail the project information that a Developer or Responsible Transmission Owner must submit for a regulated transmission solution.[177] Such information includes, among other

[173] Proposed OATT § 38.1. The proposed revisions also address cross references contained in Attachment Y of the OATT. *See* Proposed OATT § 31.1.1.

[174] *New York Indep. Sys. Operator. Inc.*, 178 FERC ¶ 61,179 (2022), at PP 7–8, 53.

[175] Proposed OATT § 38.1.

[176] OATT § 38.4.2.1 (requirements for a Short-Term Reliability Process Solution submitted by a Responsible Transmission Owner), § 31.4.2.4 (requirements for regulated transmission Short-Term Reliability Process Solutions submitted by a Developer other than a Responsible Transmission Owner).

[177] OATT § 38.4.2.4. The Short-Term Reliability Process, however, requires the submittal of all project information within 60 days of the NYISO's request. OATT § 38.4.1.

things, a full description of the proposed solution, the necessary lead time to complete the project, including any required outages, a detailed major milestone schedule, a schedule for obtaining permits, and the status of any NYISO-conducted interconnection studies and interconnection agreements.[178]

With the proposed changes to the information requirements in the Reliability Planning Process as discussed in Part IV.A.1.b above, the updated information requirements will also apply to a proposed regulated transmission Short-Term Reliability Process Solution. Proposed revisions in Section 38 of the OATT include updates to the tariff references for the sections that were revised in the Reliability Planning Process.[179]

The proposed revisions also add to Section 38.4.5 of the OATT the ability for interested parties to obtain certain information prior to the posting of the initial facility characterization, which is discussed in Part IV.A.2.c below. Specifically, the NYISO will make a description of a regulated transmission Short-Term Reliability Process Solution and the Developer's identification of any Reliability Transmission Upgrades available to a requestor, provided the requestor complies with the NYISO's requirements concerning the disclosure of Critical Energy Infrastructure Information.[180] As proposed for the Reliability Planning Process, providing targeted information will facilitate the stakeholders' and developers' review of the facility characterization list and satisfy the requirements of Order Nos. 890 and 1000 for a transparent and open planning process.

c) Identification of New Transmission Facilities and Reliability Transmission Upgrades

Consistent with the revisions to the Reliability Planning Process,[181] the proposed revisions to the Short-Term Reliability Process also establish a process following the completion of the Viability and Sufficiency Assessment to review and characterize the components of the viable and sufficient regulated transmission Short-Term Reliability Process Solutions. Under the proposed process step, the NYISO will review a Developer's or Responsible Transmission Owner's regulated transmission Short-Term Reliability Process Solution information, including, but not limited to, its classifications of its project components as either new transmission facilities or Reliability Transmission Upgrades.[182] The NYISO will use the Developer's or

[178] OATT §§ 31.2.4.4, 31.2.4.8, 38.4.2.1, 38.4.2.4.

[179] Proposed OATT §§ 38.4.2.1, 38.4.2.4.

[180] Proposed OATT § 38.4.5. The availability of the identified project information in Section 38.4.5 of the OATT will not apply to a Responsible Transmission Owner's conceptual permanent solution, which is used solely for the purpose of identifying the term of any Reliability Must Run Agreement based on the anticipated time frame for permanently resolving the Reliability Need. *See* OATT § 38.4.5; *see also New York Indep. Sys. Operator, Inc.*, Compliance Filing, Docket No. ER16-120-000 (September 19, 2016), at p 21.

[181] *See* Part IV.A.1.c, *supra*.

[182] Under the Short-Term Reliability Process, a Responsible Transmission Owner may be required to submit a conceptual permanent transmission solution. OATT § 38.4.2.1 (requiring a Responsible Transmission Owner to submit a conceptual permanent solution if its proposed Short-Term Reliability Process Solution is an interim solution). The NYISO will not characterize the elements of a conceptual permanent transmission solution, as such solution is submitted to inform an RMR Agreement and the Responsible Transmission Owner is not proposing to develop and place such solution into service. *See* OATT § 38.11.2.

Responsible Transmission Owner's information as a starting point in characterizing the facilities that make up the proposed transmission solution. The NYISO will apply the definition of upgrade in Section 31.6.4 of the OATT and also look to Commission precedent to identify Reliability Transmission Upgrades.

At least 45 calendar days prior to the NYISO's presentation of the initial draft Short-Term Reliability Process Report to stakeholders, the NYISO will post a list of all the facilities that make up proposed regulated transmission Short-Term Reliability Process Solutions and identify which facilities are new transmission facilities and which satisfy the definition of a Reliability Transmission Upgrade.[183] For the facilities identified as Reliability Transmission Upgrades, the list will specify the NYTO that owns the transmission facility being modified, to the extent the information is known at the time.[184] At the same time, the NYISO will also post on its website a separate list of interconnection facilities identified in the Developer's or Responsible Transmission Owner's project information.[185] The list of interconnection facilities is for informational purposes, and the NYISO will not characterize such facilities as either new transmission facilities or Reliability Transmission Upgrades. Additionally, the NYISO will not change a Developer's or Transmission Owner's identification of an interconnection-related facility submitted in its proposed solution to be a "part of the project" and, therefore, eligible to be classified as a new transmission facility or Reliability Transmission Upgrade.

Within 20 calendar days of the NYISO's posting of this list, any interested party may dispute the NYISO's classification of a part of the proposed solution as either a new transmission facility or Reliability Transmission Upgrade by providing the NYISO with written notice, which notice will be posted on the NYISO website.[186] The NYISO and the disputing party will attempt to resolve the dispute through the existing dispute resolution procedures in Attachment Y.[187] The NYISO will then post the final list with its determination of the classification of the proposed facilities on or before the NYISO's posting of the final Short-Term Reliability Process Report.[188]

d) Designation of Designated Short-Term Transmission Projects and Designated Entities

(1) *Identifying Designated Short-Term Transmission Projects and Designated Entities*

Similar to the proposed process in the Reliability Planning Process, the proposed revisions would revise the requirements for a Short-Term Reliability Process Report by requiring a process for the NYISO to designate the new transmission facilities and Reliability Transmission Upgrades of the selected regulated transmission Short-Term Reliability Process

[183] Proposed OATT § 38.10.2.1.2.
[184] *Id.*
[185] *Id.*
[186] *Id.*
[187] *Id.* (identifying the dispute resolution procedures set forth in Section 31.1.8.4 of the OATT).
[188] Proposed OATT § 31.4.6.5.1.

Solution to the Developer and/or NYTO as applicable.[189] Specifically, the proposed revisions would require the NYISO to include in the final Short-Term Reliability Process Report a list of Designated Short-Term Transmission Projects and the identified Designated Entities for the selected regulated transmission Short-Term Reliability Process Solution.[190] The NYISO will use the same criteria for designating projects to Designated Entities proposed for the Reliability Planning Process.[191] If the NYISO does not select a regulated transmission solution to address a Short-Term Reliability Process Need, then it will not include a preliminary list of Designated Short-Term Transmission Project and Designated Entities.

(2) *Selection and Finalization of Designated Entities*

Similar to the mechanism in the Public Policy Process and the proposed mechanism for the Reliability Planning Process, the proposed rules in the Short-Term Reliability Process contain an additional step following the issuance of the Short-Term Reliability Process Report that will finalize the Designated Entities that will be responsible for developing, constructing, financing, operating, and maintaining the Designated Short-Term Transmission Project(s).[192] This step serves as the point in the process for the applicable NYTO to confirm its designation as a Designated Entity for a Reliability Transmission Upgrade.

Specifically, within 30 calendar days of the posting of a list preliminarily identifying Designated Short-Term Transmission Projects and the Designated Entities, which will be contained in the final Short-Term Reliability Process Report, an NYTO that has been identified as a Designated Entity for a Designated Short-Term Transmission Project must provide notice to the NYISO if it does not intend to serve as the Designated Entity for one or more upgrades.[193]

The NYISO proposes a shorter period in the Short-Term Reliability Process for the NYTOs to provide a rejection than the proposed time in the Reliability Planning Process and Economic Planning Process.[194] A shorter period is reasonable given that the Short-Term Reliability Process is intended to address needs in the short term (*i.e.*, years 1 through 3 from the start of the study). Moreover, the NYISO anticipates that the affected NYTO(s) will be engaged in the process as the NYISO discusses the evaluation with stakeholders and, therefore, will understand the nature of the particular Reliability Transmission Upgrades.

Similar to the mechanism in the Public Policy Process and as proposed in the other processes, the NYTO will be the Designated Entity concerning the Reliability Transmission Upgrade(s) if the NYTO does not take any action within this period with regard to one or more Reliability Transmission Upgrade. As such, the NYTO will be responsible for constructing them and placing them in service to address the identified Short-Term Reliability Process Need.[195] If,

[189] Proposed OATT §§ 38.10.2.1.3, 38.10.5.

[190] Proposed OATT §§ 38.10.2.1.3, 38.10.5.

[191] *See* Proposed OATT § 38.10.5 (referencing the criteria contained in proposed Section 31.2.7 of the OATT); *see also* Part IV.A.1.d.1, *supra*.

[192] *Compare* Proposed OATT § 31.2.7.5.1 *with* Proposed OATT § 38.10.6.

[193] Proposed OATT § 38.10.6.

[194] *Compare* Proposed OATT §§ 31.2.7.5, 31.3.2.4.3 (providing 60 calendar days for the applicable NYTOs to confirm their exercise of their ROFR Rights in the Reliability Planning Process and Economic Planning Process).

[195] Proposed OATT § 38.10.6.

on the other hand, the NYTO notifies the NYISO that it rejects its designation with regard to one or more Reliability Transmission Upgrade, the NYISO will designate such upgrade to the Developer or Responsible Transmission Owner that proposed the selected regulated transmission Short-Term Reliability Process Solution, which upgrade(s) will be included in such entity's Designated Short-Term Transmission Project.[196] At the conclusion of the notification period, the NYISO will post on its website a final list of the Designated Entities and their associated Designated Short-Term Transmission Projects.[197] All Designated Entities will be eligible to allocate and recover the costs of their Designated Short-Term Transmission Projects under Section 6.16 and Attachment FF consistent with the existing rules in the Short-Term Reliability Process.[198]

e) Post-Designation Requirements

(1) *Approvals and Authorizations*

Consistent with the current requirements in the Short-Term Reliability Process for a selected regulated transmission Short-Term Reliability Process Solution, each Designated Entity will be subject to the same requirements to obtain the required project approvals and authorizations for its Designated Short-Term Transmission Project.[199] The revisions to Section 38.12.2 of the OATT replace existing terminology with the proposed defined terms. As a result, a Designated Entity will be responsible for obtaining necessary approvals and authorizations for its Designated Short-Term Transmission Project that is, or a part of, the selected regulated transmission Short-Term Reliability Process Solution, as well as be eligible to recover costs if a necessary approval or authorization is denied.[200]

(2) *Development Agreement*

The Short-Term Reliability Process requires the Developer or Responsible Transmission Owner of a selected regulated transmission Short-Term Reliability Process Solution to enter into a Development Agreement.[201] The proposed revisions would continue this requirement for a Designated Entity but address situations where there is more than one Designated Entity and Designated Short-Term Transmission Solution. Specifically, the NYISO will be required to tender a draft Development Agreement, with appendices, to the Designated Entity or Designated Entities following the selection of a regulated transmission Short-Term Reliability Process Solution and the expiration of the 30 calendar days for an NYTO to reject its designation for a Reliability Transmission Upgrade.[202]

Consistent with the existing provisions of Attachment FF, the draft Development Agreement shall be in the form of the Reliability Development Agreement contained in

[196] *Id.*
[197] Proposed OATT § 38.10.5.
[198] Proposed OATT §§ 38.22, 38.23; *see also* Part IV.A.2.e.4, *infra*.
[199] OATT § 38.12.2.
[200] Proposed OATT § 38.12.2.
[201] Proposed OATT § 38.12.3.
[202] *Id.*

Appendix C of Section 31.7 of the OATT but with amendments by the NYISO to reflect the Short-Term Reliability Process.[203] Therefore, the proposed modifications, as discussed in Part IV.A.1.e.2 above, will be included, if applicable, in a Development Agreement for a Designated Short-Term Transmission Project. Moreover, the NYISO will tender a separate Development Agreement for each Designated Entity of a Designated Short-Term Transmission Project.[204]

Similar to the Public Policy Process and the proposed rules in the Reliability Planning Process, the proposed revisions to the Short-Term Reliability Process also include requirements for the Designated Entities of Designated Short-Term Transmission Projects to coordinate, among other things, the milestones for the development of each project.[205]

(3) *Designated Entity's Inability to Complete a Project*

As with the Reliability Planning Process, the existing Short-Term Reliability Process contains detailed rules for addressing the inability to complete a selected regulated transmission Short-Term Reliability Process Solution.[206] Specifically, the NYISO may, for instance, (i) address the Short-Term Reliability Process Need in the next Short-Term Reliability Process; (ii) address the Short-Term Reliability Process Need as an immediate reliability need pursuant to Section 38.3.4 of the OATT; (iii) direct the Developer to continue with the Short-Term Reliability Process Solution beyond the in-service date required to address the Short-Term Reliability Process Need; or (iv) request the Responsible Transmission Owner to complete the selected project if it is an alternative regulated Short-Term Reliability Process Solution.[207] The proposed revisions first conform the terminology to be consistent with the proposed defined terms related to the designations of solutions and to supplement these rules to account for the potential for multiple Designated Short-Term Transmission Projects and Designated Entities.[208]

Consistent with the rules in the Public Policy Process and the proposed rules in the Reliability Planning Process, the NYISO also proposes to add an option in the event that the Designated Entity that is unable to proceed with its Designated Short-Term Transmission Project is an NYTO that exercised its ROFR for a Reliability Transmission Upgrade that it did not originally propose.[209] In such case, the NYISO will have the option to offer the Reliability Transmission Upgrade to the Developer or Responsible Transmission Owner that sponsored the regulated transmission Short-Term Reliability Process Solution that included the Reliability Transmission Upgrade.[210] If the sponsoring Developer or Responsible Transmission Owner elects to take on the upgrade, it will be added to that its Designated Short-Term Transmission Project.[211] The Reliability Transmission Upgrade will be included in the entity's development

[203] *Id.*
[204] *Id.*
[205] *Id.; see* Part IV.A.1.e, *supra*.
[206] OATT § 38.12.4; *compare* OATT § 31.2.10.
[207] OATT § 38.12.4.3.
[208] *See generally*, 2021 ROFR Filing at pp 34–35.
[209] *Compare* OATT §§ 31.4.12.3.1.2, 31.4.12.3.1.4; *see* Part IV.A.1.e.3.
[210] Proposed OATT §§ 38.12.4.1, 38.12.4.5.
[211] Proposed OATT § 38.12.4.5.

agreement and the costs of which will be eligible to be allocated and recovered through the OATT.[212]

Additionally, the proposed revisions recognize the possibility that one of the Designated Short-Term Transmission Projects could default on the development of its Designated Short-Term Transmission Project that could result in another Designated Short-Term Transmission Projects no longer being necessary.[213] The proposed revisions would allow the NYISO to terminate the Development Agreement for a Designated Entity's Designated Short-Term Transmission Project because (i) another Designated Entity defaulted on the development of related Designated Short-Term Transmission Project and (ii) the NYISO determined to address the Short-Term Reliability Process Need through other means.[214] As noted above, in such case, the non-defaulting Designated Entity may recover all of the necessary and reasonable costs incurred and commitments made up to the notice of termination of its Development Agreement, including reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission.[215] This is consistent with the NYISO's planning requirements in other cases in which a developer's project is terminated for grounds outside of its control.[216]

(4) *Cost Allocation and Cost Recovery*

The NYISO proposes to revise the cost allocation and recovery rules for its Short-Term Reliability Process to accommodate the proposed structure that may result in the identification of more than one Designated Short-Term Transmission Project that may be assigned different Designated Entities to develop, construct, finance, operate, and maintain.[217] The majority of the revisions conform the current provisions of the tariff with the use of new defined terms, such as Designated Entities and Designated Short-Term Transmission Project, while maintaining the existing rules for cost allocation and cost recovery.[218] The proposed revisions also clarify that the same cost allocation methodology shall apply to all of the Designated Short-Term Transmission Projects that comprise the selected regulated transmission Short-Term Reliability Process Solution, as well as any Designated Network Upgrade Facilities identified for the interconnection of a Designated Short-Term Transmission Project, as proposed and discussed in Part IV.B, below.[219]

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[212] *Id.*

[213] Proposed OATT § 38.12.4.6.

[214] *Id.*

[215] *Id.*

[216] *See, e.g.*, OATT §§ 31.5.5.3, 31.5.6.3.2.

[217] Proposed OATT §§ 6.16, 38.22, 38.23.

[218] For instance, the revisions to Sections 6.16, 38.22, and 38.23 of the OATT align the use of defined terms of "Designated Entity" and "Designated Short-Term Transmission Project." Specific to Sections 6.16, 38.22, and 38.23 of the OATT, the proposed revisions maintain a Responsible Transmission Owner's eligibility to allocate and recovery the costs of its regulated transmission Short-Term Reliability Process solution that (a) is selected through the Short-Term Reliability Process, which will be a Designated Short-Term Reliability Project, or (b) is proposed but not selected pursuant to Section 38.10 (including a conceptual transmission solution for the purpose of developing the term of a Reliability Must Run Agreement).

[219] Proposed OATT §§ 38.22, 38.23.

3. Proposed Revisions to the Economic Planning Process

a) Defined Terms

The NYISO proposes to modify and establish new defined terms in Attachment Y of the OATT to implement a mechanism to effectuate the NYTOs' ROFR Rights for upgrades to existing transmission facilities for the Economic Planning Process.[220] Similar to the Public Policy Process and as proposed for the reliability processes, the NYISO proposes to define "Economic Transmission Upgrade" as "[a]ny portion(s) of a Regulated Economic Transmission Project that satisfies the definition of upgrade in Section 31.6.4 of Attachment Y." This term will cover the portions of a Regulated Economic Transmission Project that are subject to NYTOs' ROFR Rights based on the existing definition of "upgrade" in Section 31.6.4 of the OATT.

The NYISO also proposes to add a definition of "Designated Economic Transmission Project" that would be defined as "[t]he Regulated Economic Transmission Project, or a portion of such Regulated Economic Transmission Project, that is approved by the identified beneficiaries in accordance with Section 31.5.4.6 of Attachment Y to the OATT and that the ISO designates to a Designated Entity pursuant to Section 31.3.2.4 of this Attachment Y."[221]

The NYISO proposes to amend the definition of the Economic Planning Process to recognize that if a Regulated Economic Transmission Project is approved by the Load Serving Entity(ies) that are identified to economically benefit from the implementation of the project, the NYISO will designate a Designated Entity or Designated Entities to be responsible for the development of the associated Designated Economic Transmission Project(s).[222] Similarly, the NYISO proposes to modify the definition of "Regulated Economic Transmission Project ("RETP")" to provide for the designation of the project or components of the project to Designated Entities.[223]

The proposed revisions also update the general descriptions of the Economic Planning Process consistent with the modifications to the process described in this filing. For instance, the NYISO proposes to revise the definition of "Economic Planning Process" in Section 31.1.1 of the OATT to account for the new designation process. Additionally, the proposed revisions revise the summary of the Economic Planning Process in Section 31.1.5 of the OATT to update the process description. The NYISO also proposes revisions across Sections 6.10, 31.3, and 31.5 of the OATT to conform the existing terms with the new defined terms proposed above.

b) Revisions Related to Project Proposals

Under the existing provisions of the OATT and ISO Procedures, a Developer that seeks to offer a Regulated Economic Transmission Project for consideration must submit a "Project

[220] Proposed OATT § 31.1.1.
[221] *Id.*
[222] Proposed OATT § 31.1.
[223] *Id.*

Conceptual Package."[224] The Project Conceptual Package requires submission of project information as required by Section 31.3.2.3.1 of the OATT and as further detailed in the Economic Planning Process Manual.[225] This includes, for example, a full description of the proposed solution, the necessary lead time to complete the project, including any required outages, a detailed major milestone schedule, a schedule for obtaining permits, the status of any NYISO-conducted interconnection studies and interconnection agreements, a demonstration of Site Control or schedule for obtaining such control, evidence of financing or ability to finance the project, a detailed capital cost estimates, and a description of permitting or other risks facing the project.[226] In addition, a Developer of a Regulated Economic Transmission Project must also provide a risk profile that, among other things, addresses (i) the accuracy of the project cost estimate, (ii) any proposed sharing of cost overruns between the Developers and the Load Service Entities benefiting from the project, and (iii) any conditions for canceling the project by the Developer.[227]

The proposed revisions would add to the project information requirements in the OATT that a Developer must: (i) identify new transmission facilities and any Economic Transmission Upgrades that are part of its proposed project in the project description, (ii) identify any interconnection-related network upgrades that either the NYISO has identified through a NYISO-conducted interconnection study or the Developer believes will be necessary to reliability interconnect the project and voluntarily identifies with its proposal for informational purposes, and (iii) separately identify the in-service dates for the specific project components, including any Economic Transmission Upgrades, to properly sequence the project's development, if applicable.[228] Similar to the Public Policy Process and the other proposed mechanisms in the reliability processes, the identification of interconnection-related facilities are a separate bucket of facilities from the proposed Regulated Economic Transmission Project and only finally identified by the NYISO through an interconnection process, such as the Transmission Interconnection Procedures. These proposed revisions will assist the NYISO, in coordination with the Developers and NYTOs, in identifying any Economic Transmission Upgrades that are part of the project proposals and are subject to NYTOs' ROFR Rights.

The proposed revisions also contain additional provisions not addressed in the Reliability Planning Process or the Short-Term Reliability Process as they relate to a Developer's voluntary proposal to share in the cost of overruns of a proposed Regulated Economic Transmission Project with the Load Serving Entity(ies) identified as economically benefitting from the implementation of the project.[229] Specifically, the proposed revisions address the scenario where the Developer prepares its proposal with the belief that a transmission facility should be characterized as "new" but the NYISO later determines that it meets the definition of Economic Transmission Upgrade. In a new Section 31.3.2.3.7 of the OATT, the NYISO proposes language

[224] OATT § 31.3.2.3. The Economic Planning Process Manual details the submission of a Developer's Project Conceptual Package. *See* NYISO Economic Planning Process Manual, *available at* https://www.nyiso.com/documents/20142/2924447/epp_mnl.pdf, at pp 11–14.

[225] *Id.*

[226] OATT § 31.3.2.3.

[227] Economic Planning Process Manual at p 13.

[228] *Id.*

[229] *Id.*

to address this situation and allow a Developer to update its capital cost estimate and description of permitting or other risks prior to a vote by the identified Load Service Entity(ies).[230]

c) Identification of New Transmission Facilities and Economic Transmission Upgrades

In the Economic Planning Process, the NYISO evaluates a single proposed Regulated Economic Transmission Project in an Economic Transmission Project Evaluation.[231] If the evaluation finds that the benefit of the proposed project exceeds its costs measured over the first ten years starting with the in service of the project and the total capital cost of the project exceeds $25 million, then the Developer has the option to seek acceptance of the project by the Load Service Entity(ies) that are identified to economically benefit from the implementation of the project pursuant to methodology contained in Section 31.5.4.4 of the OATT.[232] If the Developer notifies the NYISO that it wants to seek acceptance for purposes of inclusion in the regional transmission plan for purposes of cost allocation, the NYISO will post the results of the benefit/cost analysis component to the stakeholders and begin the review and approval process by the applicable Load Serving Entity(ies).[233]

Given the structure of the Economic Planning Process, the NYISO proposes to include the process step to characterize the transmission facilities following the Developer's notification to the NYISO to proceed with the process of seeking acceptance of the project by the applicable Load Serving Entity(ies). Implementing the process to characterize and designate components of the Regulated Economic Transmission Project at this point in time, reduces unnecessary process if, for example, the Regulated Economic Transmission Project is not eligible for consideration. Additionally, the Economic Planning Process is performed on a per Regulated Economic Transmission Project basis and, therefore, the review and designation process will be focused on a single project, thereby limiting the amount of time necessary to characterize the various components making up the project as compared to multiple solutions in, for example, the Public Policy Process.

Following the receipt of a Developer's notice to proceed for its project to be reviewed by Load Serving Entities for acceptance of its project, the NYISO will prepare a list that characterizes the facilities of a Developer's Regulated Economic Transmission Project as either new transmission facilities or "Economic Transmission Upgrades."[234] The NYISO will use the Developers' information, including the Developer's proposed characterizations, as a starting

[230] Proposed OATT § 31.3.2.3.7. *Compare* OATT § 31.4.5.1.8.5 (providing an opportunity for a Developer that submitted a voluntary Cost Cap for a Public Policy Transmission Project to provide a revised Cost Cap if a facility identified by the Developer as an upgrade and, therefore, a part of its Cost Cap is not identified by the NYISO as a Public Policy Transmission Upgrade). Additionally, proposed Section 31.5.4.3.3 of the OATT acknowledges the possibility that there may be an update to the Developer's cost estimate of an Economic Transmission Upgrade that may result if the Developer's characterization differs from the NYISO identification of Economic Transmission Upgrades.

[231] *See* Economic Planning Process Manual at pp 14–15. If there are multiple Regulated Economic Transmission Project proposals, the NYISO will process them in the order that they are received. *Id.* at p 15.

[232] OATT §§ 31.5.4.3, 31.5.4.4.

[233] Economic Planning Process Manual at p 16.

[234] Proposed OATT § 31.2.3.4.1.

point in characterizing the facilities that make up the proposed project. As described for the mechanism in the Public Policy Process and the proposed mechanisms in the reliability processes, the NYISO will begin with the definition of upgrade in Section 31.6.4 of the OATT and also look to Commission precedent to identify Economic Transmission Upgrades.

Within 60 calendar days of a Developer's written request seeking acceptance of the Regulated Economic Transmission Project, the NYISO will post a preliminary list of facilities that make up the proposed Regulated Economic Transmission Project and identify which facilities are new transmission facilities and which satisfy the definition of an Economic Transmission Upgrade.[235] For the facilities characterized as Economic Transmission Upgrades, the list will specify the NYTO that owns the transmission facility being modified, to the extent the information is known at the time.[236] At the same time and consistent with the other planning processes, the NYISO will also post on its website a separate list of interconnection facilities identified in the Developer's project information.[237] The list of interconnection facilities is for informational purposes, and the NYISO will not characterize such facilities as either new transmission facilities or Economic Transmission Upgrades. Additionally, the NYISO will not change a Developer's identification of an interconnection-related facility submitted in its proposed solution to be a part of the project and, therefore, eligible for classification as a new facility or Economic Transmission Upgrade.

Within 20 calendar days of the NYISO's posting of this list, any interested party may dispute the NYISO's classification of a part of a proposed solution as either a new transmission facility or Economic Transmission Upgrade by providing the NYISO with written notice, which notice will be posted on the NYISO website.[238] The NYISO and the disputing party will attempt to resolve the dispute through the existing dispute resolution procedures in Attachment Y.[239] The NYISO will then post on its website the final list with its characterization of the proposed facilities making up the Regulated Economic Transmission Project no later than 60 calendar days prior to submission of the results of the ISO's benefit/cost analysis and beneficiary determination to the ESPWG and Transmission Planning Advisory Subcommittee ("TPAS") and identified Load Serving Entity(ies).[240]

Finalizing the list of facilities prior to a vote allows the identified Load Serving Entity(ies) to understand the potential designation of the Regulated Economic Transmission Project to among the Developer and applicable NYTOs. This knowledge can help inform their understanding and assessment of the Developer's cost estimates and assessment of the risk for the implementation of the project. Providing this level of information and transparency satisfies the requirements of Order Nos. 890 and 1000.[241]

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[235] Proposed OATT § 31.3.2.4.1.
[236] *Id.*
[237] *Id.*
[238] *Id.*
[239] *Id.* (identifying the dispute resolution procedures set forth in Section 31.1.8.4 of the OATT).
[240] Proposed OATT § 31.3.2.4.2.
[241] Order No. 1000, 136 FERC ¶ 61,051 at P 328.

d) Identification of Designated Economic Transmission Projects and Designated Entities

(1) *Identifying Designated Economic Transmission Projects and Designated Entities*

The current Economic Planning Process requires a Developer to obtain the vote of the Load Serving Entity(ies) that are identified as economically benefiting from the implementation of a Regulated Economic Transmission Project before being eligible for cost allocation and recovery under the OATT. Following the NYISO Board of Director's review and approval of the benefit/cost analysis and beneficiary determination, the NYISO will post the analysis and determination and the process would move on to a vote of the identified beneficiaries.[242] The proposed revisions account for this process by implementing the step to identify the Designated Economic Transmission Projects and Designated Entities prior to forwarding the benefit/cost analysis and beneficiary determination for information to the stakeholders, Board of Directors, and the identified beneficiaries.[243]

Specifically, no later than 60 calendar days prior to forwarding the benefit/cost analysis and beneficiary determination to the ESPWG and TPAS and to the identified beneficiaries, the NYISO will post on its website a list that preliminarily identifies the Designated Entity that is responsible for each Designated Economic Transmission Project.[244] Consistent with the NYTOs' ROFR Rights and the Public Policy Process, the NYISO will designate the Developer that proposed the Regulated Economic Transmission Project as the Designated Entity for the new transmission facility elements, which project elements will be included in a Designated Economic Transmission Project.[245] The NYISO will designate the applicable NYTO as the Designated Entity for those components of the Regulated Economic Transmission Project that meet the definition of an Economic Transmission Upgrade and that upgrade the NYTO's existing transmission facilities, which project elements will be included in a separate Designated Economic Transmission Project.[246] If the project includes an Economic Transmission Upgrade that impacts more than one NYTO based on ownership, the NYISO will designate each NYTO as a Designated Entity with a corresponding Designated Economic Transmission Project.

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[242] OATT §§ 31.5.4.5.2, 31.5.4.6. Notably, the Regulated Economic Transmission Project must have met the necessary milestone in the interconnection procedures—*e.g.*, completed System Impact Study—prior to the NYISO conducting a vote of the identified Load Serving Entity(ies). OATT § 31.5.4.6.1.

[243] Proposed OATT § 31.3.2.4.2.

[244] *Id.*

[245] *Id.; see* footnote 119, *supra.* The NYISO also clarifies that if more than one qualified entity jointly proposed a Regulated Economic Transmission Project, then they will collectively be the Designated Entity and jointly and severally responsible for the completion of the Designated Economic Transmission Project consisting of new transmission facilities. Proposed OATT § 31.3.2.4.2.

[246] *Id.* If a Transmission Owner is the sole sponsor of a Regulated Economic Transmission Project that includes new transmission facilities and Economic Transmission Upgrades that will be designated to that Transmission Owner as the owner of the existing facilities, the NYISO will include those elements as a single Designated Economic Transmission Project.

(2) *Identifying In-Service Dates*

When a Developer submits a Regulated Economic Transmission Project, the proposal must include a major milestone schedule. The proposed revisions to effectuate the NYTOs' ROFR Rights include an enhancement to include an in-service date, as well as "the identification of any in-service dates for specific components (such as an Economic Transmission Upgrade) to properly sequence the project to meet the overall in-service date."[247] The approach aligns with the Public Policy Process, as well as the proposed approaches for the Reliability Planning Process and Short-Term Reliability Process. This proposed revision addresses the potential that the proposed transmission project requires sequencing of facilities to be constructed by the proposed project in-service date. The in-service date proposed by the Developer of the Regulated Economic Transmission Project and any sequencing dates for portions of the projects will be used by the NYISO for inclusion in a Development Agreement following the approval of the project by the Load Serving Entity(ies) that are economically benefiting from its implementation.[248]

(3) *Selection and Finalization of Designated Entities*

The proposed revisions include an additional process step in the Economic Planning Process to finalize the Designated Entities that will be responsible for developing, constructing, financing, operating, and maintaining the Designated Economic Transmission Project(s) that make up the approved Regulated Economic Transmission Project.[249] This step establishes a point in the process where an NYTO confirms whether it is exercising its ROFR Right for one or more Economic Transmission Upgrade. This approach is substantially similar to the rules in the Public Policy Process and the rules proposed for the reliability processes, including the presumption that the NYTO will be responsible for the Economic Transmission Upgrades, unless it timely rejects this determination.[250]

Within 60 calendar days following the report of a vote of the identified beneficiaries approving a Regulated Economic Transmission Project in accordance with Section 31.5.4.6 of the OATT, an NYTO that has been identified as a Designated Entity for a Designated Economic Transmission Project must provide notice to the NYISO if it does not intend to exercise its ROFR for one or more upgrades.[251] If the NYTO does not take any action within this period with regard to one or more Economic Transmission Upgrades, the NYTO will be the Designated Entity concerning the upgrade(s) and will be responsible for constructing them and placing them in service by the in-service date for its Designated Economic Transmission Project.[252] If, on the other hand, the NYTO notifies the NYISO that it rejects its designation with regard to one or more Economic Transmission Upgrades, the NYISO will designate such upgrade to the

[247] Proposed OATT § 31.3.2.3.1.
[248] Proposed OATT § 31.3.2.6.2.
[249] Proposed OATT § 31.2.7.5.1.
[250] The Commission previously accepted this structure where there is a presumption that a NYTO will exercise its ROFR Right in the Public Policy Process, and the NYISO submits that this structure in the Economic Planning Process is likewise just and reasonable. *See* footnote 132, *supra*.
[251] Proposed OATT § 31.3.2.4.3
[252] *Id.*

Developer that proposed the underlying Regulated Economic Transmission Project, which upgrade(s) will be included in the Developer's Designated Economic Transmission Project.[253] At the conclusion of the notification period, the NYISO will post on its website a final list of the Designated Entities and their associated Designated Economic Transmission Projects.[254] All Designated Entities will be eligible to allocate and recover the costs of their Designated Economic Transmission Projects under the OATT.[255]

e) Post-Designation Requirements

The current provisions of the OATT do not explicitly address the obligations of the Developer to implement a Regulated Economic Transmission Project following a vote of the identified Load Serving Entity(ies) approving the implementation of the project. The proposed revisions in this filing create the potential that more than one entity will be designated to complete the project.[256] As a result, rules detailing the obligations and coordination of the various entities responsible for the project are necessary to ensure the orderly development of an approved Regulated Economic Transmission Project.

(1) *Approvals and Authorizations*

The proposed revisions add a new Section 31.3.2.6.1 to the OATT that details a Designated Entity's responsibility following the approval of a Regulated Economic Transmission Project.[257] Specifically, following the NYISO's posting of the approved solutions and the list of the Designated Entities and Designated Economic Transmission Projects,[258] each Designated Entity should submit its Designated Economic Transmission Project to the appropriate governmental agency or authority to begin the siting process, unless the authorization has already been obtained.[259] The proposed provision also details that the Designated Entities responsible for components of an approved Regulated Economic Transmission Project must coordinate on the development and implement of their respective projects by the in-service date contained in the Developer's submittal.[260]

This provision is modeled off of a similar provision in the Public Policy Process and consistent with the proposed provisions in the reliability processes.[261] Consistent with the similar provisions in the NYISO's other planning processes, the proposed revisions to the Economic Planning Process also establishes the ability of a Designated Entity to recover "all of the necessary and reasonable costs incurred and commitments made" in the event that a federal,

[253] *Id.*
[254] Proposed OATT § 31.3.2.5.
[255] *See generally*, OATT § 31.5.4.4; *see also* Proposed OATT § 31.5.4.6.6.
[256] The number of Economic Transmission Upgrades contained in a proposed Regulated Economic Transmission Project will be based on the design of the project. Given the geographic composition of the New York Control Area, it is likely that Developers will choose to include some form of an upgrade to existing transmission facilities to benefit the efficiency and cost of its proposed project.
[257] Proposed OATT § 31.3.2.6.1.
[258] Proposed OATT § 31.3.2.5.
[259] Proposed OATT § 31.3.2.6.1.
[260] *Id.*
[261] *Compare* OATT §§ 31.2.8.1, 31.4.12.1.

state or local agency either rejects or later withdraws a necessary authorization to site, construct and operate the project.[262]

(2) *Development Agreement*

The proposed revisions to the OATT also add a new Section 31.3.2.6.2 to require Designated Entities to enter into a development agreement with the NYISO for the orderly development of their Designated Economic Transmission Projects. Currently, the OATT neither contains a requirement for a Developer of a Regulated Economic Transmission Project to enter into such an agreement nor a *pro forma* development agreement, similar to those contained for the Reliability Planning Process or Public Policy Process, for an approved Regulated Economic Transmission Project. To facilitate the proposed mechanism to effectuate the NYTOs' ROFR Rights, including the need for additional coordination among the entities responsible for the Regulated Economic Transmission Project, the NYISO proposes to require Designated Entities to enter into a development agreement in the form contained in new Appendix E of Section 31.7 of the OATT, as described below.[263]

Proposed Section 31.3.2.6.2 of the OATT sets forth the process by which the NYISO and the Designated Entity will negotiate and enter into a Development Agreement. The proposed process is consistent with the NYISO's process for entering into a Development Agreement for a selected or triggered transmission solution in the Reliability Planning Process or a selected Public Policy Transmission Project in the Public Policy Process.[264] The NYISO has used this process in executing multiple Development Agreements for selected Public Policy Transmission Projects since 2018.[265] Specifically, the process provides for the NYISO to tender to the Designated Entity a draft Development Agreement following the posting of the approved Regulated Economic Transmission Project and Designated Entities pursuant to Section 31.3.2.5 of the OATT and requires the parties to execute the agreement within three months unless otherwise agreed by the parties. The process also establishes the method by which the NYISO will file a non-conforming or unexecuted agreement with the Commission.[266] Upon the execution or filing of an unexecuted version of the agreement, the NYISO and Designated Entity

[262] Proposed OATT § 31.3.2.6.1.

[263] While Section 31.5.4.1 of the OATT provides that "[n]othing in this Attachment Y mandates the implementation of any Regulated Economic Transmission Project," the proposed revision to this section clarifies that the Designated Entity(ies) for an approved Regulated Economic Transmission Project will enter into a Development Agreement.

[264] *Compare* OATT §§ 31.2.8.1.6, 31.4.12.2.

[265] *See, e.g.*, *New York Indep. Sys. Operator, Inc.*, Filing of an Executed Development Agreement Among the New York Independent System Operator, Inc. and New York Power Authority and New York Transco LLC; Request for Waiver of the 60-Day Notice Period, Docket No. ER24-2165-000 (May 31, 2024); *New York Indep. Sys. Operator, Inc.*, Filing of an Executed Development Agreement Among the New York Independent System Operator, Inc. and Long Island Lighting Company d/b/a LIPA; Request for Waiver of the 60-Day Notice Period, Docket No. ER24-2820-000 (August 21, 2024). The process also is similar to the process used for executing interconnection agreements, which process served as the basis when the NYISO originally proposed it for the Reliability Planning Process and Public Policy Process. *See New York Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions Regarding Public Policy Process, Docket No. ER16-966-000 (February 18, 2016), at p 8.

[266] Proposed OATT § 31.3.2.6.2.

will perform their respective obligations under the agreement that are not in dispute.[267]

The NYISO proposes to include a *pro forma* Economic Planning Process Development Agreement (hereinafter, "Economic Development Agreement") to govern the development and implementation of Designated Economic Transmission Projects. The Economic Development Agreement is modeled on and substantially similar to the *pro forma* Public Policy Process Development Agreement contained in Appendix D of Section 31.7 of the OATT. As a result, the Economic Development Agreement contains provisions addressing the coordination among the Designated Entities of Designated Economic Transmission Projects that make up an approved Regulated Economic Transmission Project in order for the project to be developed consistent with the proposal voted on by the identified Load Service Entity(ies) and to enter service by the date identified in the proposal. The differences between the *pro forma* agreements reflect the different terms, purposes, and procedures of the Economic Planning Process and Public Policy Process. These differences are illustrated in a blackline version of the two agreements included as Attachment IX to this letter and generally include the following:

(a) Economic Planning Process Scope and Terminology

The Economic Development Agreement will apply to a Designated Entity of a Designated Economic Transmission Project that is, or is a part of, an approved Regulated Economic Transmission Project. Unlike the Public Policy Process, the Economic Planning Process is based on a Developer's transmission project that addresses an existing and/or projected system condition, which project be approved by a supermajority of the Load Serving Entity or Load Serving Entities that economically benefit from the project. The Economic Development Agreement, therefore, replaces terminology related to the Public Policy Process with the terminology set forth in Sections 31.1, 31.3, and 31.5 of the OATT that is specific to the Economic Planning Process. Such terms include, for example, Economic Planning Process, Economic Planning Process Manual, Regulated Economic Transmission Project, Designated Economic Transmission Project, and Identified Project Beneficiaries.[268]

(b) Required Project In-Service Date Requirements

The NYISO proposes to structure the Economic Development Agreement to include a Required Transmission Project In-Service Date that will be the date contained in the Regulated Economic Transmission Project information that was submitted to and considered by the identified beneficiaries.[269] In cases where certain components of a Regulated Economic Transmission Project must be sequenced, the Economic Development Agreement also contains a

[267] *Id.*

[268] Proposed OATT § 31.7, Appendix E Article 1.

[269] *Id.* (defining "Required Transmission Project In-Service Date" as "the in-service date or dates by which the Transmission Project, including all Designated Network Upgrade Facilities identified for the Transmission Project (if applicable), must be constructed and operating, which date shall be the date identified by the Developer of the Transmission Project and listed in the project information considered by the Identified Beneficiaries in voting to approve the Transmission Project").

defined term, "Required Designated Project In-Service Date," that is specific to the Designated Economic Transmission Project that is the subject of the agreement to distinguish if there is an earlier date by which that a component of the project must be in service.

Given that the in-service date of a Regulated Economic Transmission Project is not intended to address a reliability violation, the NYISO proposes to afford a certain level of flexibility to amend either the Required Transmission Project In-Service Date or the Designated Project In-Service Date under specific circumstances. Specifically, Article 3.4 of the Economic Development Agreement details the process for seeking an extension to the Required Transmission Project In-Service Date or the Designated Project In-Service Date, if different. Similar to the Public Policy Transmission Planning Process Development Agreement that requires the NYPSC to issue an order modifying its prescribed date when it identified the in-service date for the Public Policy Transmission Need, the NYISO proposes that before a Designated Entity can modify an in-service date, such change must be presented to and voted on by the Load Serving Entities that constitute the "Identified Project Beneficiaries." This condition is necessary and reasonable given that the benefits associated with a Regulated Economic Transmission Project are sensitive to when the facility enters service. The Identified Project Beneficiaries' consideration on whether to continue the implementation of a Regulated Economic Transmission Project is, therefore, necessary before extending an in-service date.[270] To facilitate this requirement in the Economic Development Agreement, the NYISO also included language in Section 31.5.4.6 of the OATT that provides for a vote for the continued implementation of a Regulated Economic Transmission Project if a Designated Entity were to seek a modification to the Required Transmission Project In-Service Date or Required Designated Project In-Service Date.

To request a change of an in-service date, the Designated Entity must inform the NYISO of its proposed change; request the NYISO to conduct a vote of the Identified Project Beneficiaries to approve the continued implementation of the project with the modified date(s), and the reasons for the modification; submit a revised Development Schedule that provides for the project to be in-service by the modified Required Transmission Project In-Service Date and Required Designated Project In-Service Date; and demonstrate that the Designated Entity has made reasonable progress against its project milestones and is capable of completing the project in accordance with the modified schedule.[271] The NYISO also proposes that the Designated Entity demonstrate that the proposed modified in-service date will not result in a significant adverse impact to the reliability of the New York State Transmission System.[272]

Further, consistent with the Public Policy Transmission Planning Process Development Agreement and to coordinate among multiple Designated Entities, Article 3.4.1 requires the Designated Entity seeking a modification to an in-service date to submit an officer's certificate from other Designated Entities responsible for developing Designated Economic Transmission

[270] If a Designated Entity satisfies the conditions set forth in Article 3.4, including reviewing a supermajority vote in favor of continuing the implementation of the Regulated Economic Transmission Project, then the agreement provides that the parties shall amend the agreement to incorporate the revised required project in-service dates and updated milestone schedule. *See* proposed OATT § 31.7, Appendix E Article 3.4.2.

[271] Proposed OATT § 31.7, Appendix E Article 3.4.1.

[272] *Id.*

Projects (as well as Designated Network Upgrade Facilities related to the Transmission Project) certifying their capability to complete their projects. This coordination among the Designated Entities mitigates against changes by one Designated Entity adversely impacting the design or timing of another Designated Entity's project for the Regulated Economic Transmission Project.[273]

(c) Significant Modifications

The proposed Economic Development Agreement also contains provisions to address modifications to a Designated Economic Transmission Project sought by the Designated Entity. Similar to the structure of the Development Agreements for the Reliability Planning Process and Public Policy Process, the Designated Entity must comply with Article 3.5 if a proposed modification to the project meets the definition of "Significant Modification."[274] The definition contains criteria, and if the modification satisfies one of them, it is considered to be a Significant Modification for purposes of the agreement.[275] While the criteria closely track those contained in the *pro forma* Development Agreements for both the Public Policy Process and the Reliability Planning Process, certain language has been modified to align with the structure of the Economic Planning Process. In particular, the revised language accounts for the impacts of the modification to the benefit/cost ratio of the Regulated Economic Transmission Project, which the identified Load Serving Entity(ies) considered in approving the project.

In addition, Article 3.5 of the Economic Development Agreement addresses the process for considering a Significant Modification. First, a Designated Entity, at its option, may request the NYISO to review whether a modification to the Designated Project would constitute a Significant Modification. Second, if the Designated Entity is requesting a Significant Modification, the Designated Entity must request review of the Significant Modification through a process that is consistent with the requirements in the Public Policy Transmission Planning Process Development Agreement.[276] Finally, similar to the requirements for a change in the in-service date as discussed above, a threshold requirement for a Designated Entity to proceed with a Significant Modification is a vote of the identified Load Serving Entity(ies) pursuant to Section 31.5.4.6 of the OATT. A supermajority of the identified Load Serving Entity(ies) must approve the continued implementation of the project with the Significant Modification to the Regulated Economic Transmission Project.[277] To achieve this, proposed Article 3.5.2 provides the necessary information that a Designated Entity must submit for a Significant Modification, including an officer's certificate from the other Designated Entities that are responsible for other Designated Economic Transmission Projects (or Designated Network Upgrade Facilities) related to the same Regulated Economic Transmission Project.

[273] As the NYISO discussed in proposing the changes to the Public Policy Process, "the requirements for coordination remove unnecessary delay in the NYISO serving as the intermediary when reviewing a change in the schedule or design." 2021 ROFR Filing at p 30.

[274] Proposed OATT § 31.7, Appendix E Article 1.

[275] *Id.*

[276] *Compare* proposed OATT § 31.7 Appendix E Article 3.5, *with* OATT § 31.7 Appendix D Article 3.5.

[277] Proposed OATT § 31.7 Appendix E Article 3.5.1.

(d) Other Differences in the Economic Development Agreement

A notable difference in the Economic Development Agreement is that it does not include the Cost Cap provisions[278] and the related requirements in Appendix D of the development agreement for a Public Policy Transmission Project. Both were added to the Public Policy Process to implement Cost Cap provisions in the Public Policy Process.[279] These provisions and appendix are specific to the Public Policy Process and, therefore, were not included in the proposed Economic Development Agreement.

(3) *Designated Entity's Inability to Complete a Project*

The NYISO proposes to establish a new Section 31.5.4.7 to the OATT to address the consequences if: (i) the Designated Entity of a Designated Economic Transmission Project does not timely execute a Development Agreement or request that it be filed unexecuted or (ii) an effective Economic Development Agreement is terminated under the terms of the agreement. In such cases, the NYISO may take actions that are set forth in proposed Section 31.5.4.7 of the OATT that are reasonably necessary and report such action to the identified beneficiaries that voted on the Regulated Economic Transmission Project. For instance, if the Designated Entity that is unable to proceed with its Designated Economic Transmission Project is an NYTO that exercised its ROFR for an Economic Transmission Upgrade that it did not originally propose, the NYISO would offer the Developer that originally submitted the Regulated Economic Transmission Project the ability to become the Designated Entity for the Designated Economic Transmission Project.[280] If the original Developer elects to take on the upgrades, it will be added to that entity's Designated Economic Transmission Project.[281] This approach is consistent with the rule in the Public Policy Process that addresses a similar scenario for a Designated Public Policy Project.[282]

The second remedial action that the NYISO may take if the Designated Entity that sponsored the Regulated Economic Transmission Project is unable to complete the project is to halt the Regulated Economic Transmission Project.[283] The NYISO would notify any other Designated Entity responsible for a Designated Economic Transmission Project that is a part of the Regulated Economic Transmission Project to halt further development of their projects. The NYISO would also notify the Load Serving Entity(ies) that participated in the vote that approved the Regulated Economic Transmission Project. Such an approach is consistent with the structure of the Economic Planning Process. However, for a Regulated Economic Transmission Project, the Developer, as the sponsoring entity, is proposing to address a specific condition on the system. In the event of a default by that particular entity and given the unique nature of how the project is tied to the specifics of that condition (*e.g.*, cost and in-service), this approach would

[278] *See generally,* OATT § 31.7 Appendix D Article 15.3 & Appendix D.

[279] *New York Indep. Sys. Operator. Inc.*, Proposed Tariff Revisions Regarding Cost Containment in the Public Policy Transmission Planning Process, Docket No. ER20-617-000 (December 17, 2019), at pp 21–25.

[280] Proposed OATT § 31.5.4.7.1.

[281] *Id.*; Proposed OATT § 31.5.4.7.2.

[282] *See* 2021 ROFR Filing at pp 34–35.

[283] Proposed OATT §§ 31.5.4.7.1, 31.5.4.7.3.

allow a Developer to submit a new Regulated Economic Transmission Project with new cost estimates and a new proposal, as opposed to mandating that the project must be continued by a new entity that did not originally propose the project. Going through a subsequent Regulated Economic Transmission Evaluation will allow the Load Serving Entity(ies) that are identified as benefitting from the implementation of the new Regulated Economic Transmission Project a full opportunity to review the updated proposal and/or new Developer. A Designated Economic Transmission Project that is halted due to the inability to complete another Designated Economic Transmission Project related to the same Reliability Economic Transmission Project will be eligible to allocate the costs of a halted solution in accordance with Section 31.5.4, except as otherwise determined by the Commission, which costs can be recovered by the Designated Entity under the OATT.[284]

(4) *Cost Allocation and Cost Recovery*

The NYISO proposes to revise the cost allocation and recovery rules for its Economic Planning Process to address the potential that there may be multiple Designated Economic Transmission Projects for an approved Regulated Economic Transmission Project that may be assigned to different Designated Entities.[285] Each Designated Entity will be eligible to have its Regulated Economic Transmission Project cost allocated and recovered through the OATT. While the majority of the revisions conform the current provisions of the tariff with the use of new defined terms, such as "Designated Entity" and "Designated Economic Transmission Project," the revisions also clarify that the same cost allocation methodology shall apply to all of the Designated Economic Transmission Projects that make up the Regulated Economic Transmission Project, as well as any Designated Network Upgrade Facilities identified for the interconnection of a Designated Economic Transmission Project, as further detailed in Part IV.B, below.[286]

Additionally, the current Economic Planning Process provides the ability for the Developer of a Regulated Economic Transmission Project to propose that the Load Serving Entity(ies) share in any cost overruns from implementing the project.[287] Specifically, the Developer would include in its risk profile any "[r]equired cost overruns sharing, if any, between the Developer and the [Load Serving Entities] benefiting from the project."[288] Similar to the requirement in the Public Policy Process,[289] the proposed revisions clarify in Section 31.5.4.4.5.3 of the OATT that a Transmission Owner exercising its ROFR Rights for an upgrade to its existing transmission facility that it did not propose as a part of a Regulated Economic Transmission Project shall not be responsible to bear the cost of any overrun for its Designated Economic Transmission Project.[290]

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[284] Proposed OATT § 31.5.4.7.2.

[285] Proposed OATT §§ 6.10, 31.5.1.1, 31.5.1.7, 31.5.3.1, 31.5.3.2.

[286] Proposed OATT §§ 31.5.4.2.2, 31.5.4.2.4.

[287] OATT § 31.5.4.4.5.3; Economic Planning Process Manual § 3.4.3.3 (detailing information that would be included as a part of a risk profile), § 3.4.4 (detailing the procedures for project cost overruns).

[288] Economic Planning Process Manual at p 13.

[289] March 2022 Order at PP 54–56.

[290] Proposed OATT § 31.5.4.4.6.

This approach is just and reasonable as the Commission affirmed that the Order No. 1000 reforms "do[] not remove or limit any right an incumbent Transmission Owner may have to build, own or recover costs for upgrades to the transmission facilities owned by an incumbent."[291] Moreover, in its March 2022 Order, the Commission noted that "making a Developer's proposed cost containment measure binding on the NYTO would raise complex implementation issues because the Developer's cost containment proposal may or may not represent a reasonable expectation of the NYTO's upgrade costs."[292] Similar issues would arise in the Economic Planning Process if an NYTO was limited to exercising its ROFR Right to an upgrade only if accepted the proposal to share in project cost overruns. However, the proposed clarification to Section 31.5.4.4.5.3 of the OATT acknowledges the possibility that an NYTO could voluntarily agree to share in the cost of any overruns as a result of implementing its Designated Economic Transmission Project.[293]

4. Designated Entity's Responsibility to Complete the Interconnection-Related Studies under the Transmission Interconnection Procedures

The OATT requires the developer of a regulated transmission solution to also complete the necessary interconnection-related studies for the project to reliably interconnect to the New York State Transmission System.[294] Most regulated transmission solutions are subject to the Transmission Interconnection Procedures in Attachment P to the OATT.[295]

To provide for the comparable treatment of both incumbent and nonincumbent transmission developers and to ensure an efficient process, the NYISO proposed revisions to the Transmission Interconnection Procedures in 2021 when it filed a mechanism to effectuate the NYTOs' ROFR Rights in the Public Policy Process. Specifically, the revisions included an explicit procedure by which an NYTO, when serving as the Designated Entity of a Designated Public Policy Project, will be able to complete the necessary interconnection studies for its portion of the project without requiring the Designated Entity to start the Transmission Interconnection Procedures from the beginning, which could result in significant delays.[296]

The Transmission Interconnection Procedures, therefore, provide that an NYTO, as a Designated Entity, can make a one-time decision to either (a) join an ongoing Transmission Interconnection Application with the agreement of the original "Transmission Developer" to further study the Designated Public Policy Projects together or (b) submit a separate Transmission Interconnection Application for its Designated Public Policy Project.[297] If the NYTO joins an ongoing Transmission Interconnection Application, the NYTO would as a condition of joining be jointly and severally responsible with the original Transmission

[291] Order No. 1000, 136 FERC ¶ 61,051 at P 319.

[292] March 2022 Order at P 55.

[293] Proposed OATT § 31.5.4.4.6; *see also* March 2022 Order at P 55 ("We also note that nothing in NYISO's proposal prevents a NYTO from voluntarily agreeing to cost containment measures for upgrades to its existing facilities.").

[294] *See generally*, OATT § 3.7 and Attachments P and HH (establishing the procedures for different types of transmission projects to be studied for the proposed interconnection to the New York State Transmission System).

[295] *See* OATT § 22.3 (defining the Transmission Projects subject to Attachment P).

[296] *See* 2021 ROFR Filing at pp 33–34.

[297] Proposed OATT § 22.4.1.

Developer for the study costs of the Transmission Interconnection Application.[298] Any apportionment of the costs would be between the original Transmission Developer and the NYTO, as a Designated Entity.

Alternatively, if the NYTO submits a new and separate Transmission Interconnection Application for just its Designated Public Policy Project, such application will typically be clustered with the ongoing Transmission Interconnection Application submitted by the original Transmission Developer.[299] The tariff contains a provision that allows moving the components of the new Transmission Interconnection Application from the existing application without negatively impacting the progression of the original Transmission Developer's application through the study process.[300] The proposed revisions also provide that the new Transmission Developer (*i.e.*, the NYTO serving as a Designated Entity) may move directly to the Facilities Study if (i) the System Impact Study for the original Transmission Interconnection Application was completed and the new application contains components from that original application and (ii) there have been no material modifications to the Transmission Project, including the Designated Public Policy Project, since the System Impact Study was performed.[301]

With the proposed addition of mechanisms to effectuate the NYTOs' ROFR Rights in the Reliability Planning Process, the Short-Term Reliability Process, and the Economic Planning Process, the NYISO proposes conforming revisions to the Transmission Interconnection Procedures to expand the rules detailed above. In particular, NYTOs that are designated a Designated Reliability Transmission Project, Designated Short-Term Transmission Project, or Designated Economic Transmission Project can also avail themselves of the options to submit a new Transmission Interconnection Application or join the original Transmission Application.[302] The revisions largely adjust the references and terminology to also include regulated transmission projects resulting from the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process. The NYISO submits that such expansion is just and reasonable as it provides for the comparable treatment of the nonincumbent transmission developers and incumbent Transmission Owners across the NYISO's transmission planning processes while balancing the need to not unnecessarily delays in the development and implementation of the overall projects.

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[298] *Id.*

[299] *See* 2021 ROFR Filing at pp 33–34.

[300] Proposed OATT § 22.4.1; *see also* proposed OATT § 22.5.4.2 (expressly excepting from being a material modification, a modification "to remove components of a Transmission Project that were designated to a Designated Entity, as defined in Attachment Y to the ISO OATT, other than the Transmission Developer and for which the Designated Entity submitted a separate Transmission Interconnection Application").

[301] OATT §§ 22.4.2, 22.4.2.4, 22.5.4.2.

[302] Proposed OATT §§ 22.4.2, 22.4.2.4, 22.5.4.2.

B. Revisions to Align the Responsibilities for and Cost Allocation and Recovery Eligibility of Certain Network Upgrade Facilities with those of a Designated Reliability Transmission Project, Designated Economic Transmission Project, or Designated Short-Term Transmission Project

The NYISO also proposes to expand the applicability of the existing rules in the NYISO's Transmission Interconnection Procedures that assign responsibility among the Transmission Developer and applicable Transmission Owner (*i.e.*, either the Connecting Transmission Owner or Affected Transmission Owner) to construct, finance, own, operate, maintain, and recover the costs of a subset of Network Upgrade Facilities identified in the interconnection procedures that are related to a selected Public Policy Transmission Project. The proposed revisions would apply the existing rule set to Network Upgrade Facilities that (i) are identified in the Facilities Study for a selected regulated transmission solution or triggered regulated backstop transmission solution (if different) to address a Reliability Need, a selected regulated transmission Short-Term Reliability Process Solution, or an approved Regulated Economic Transmission Project and (ii) meet the definition of "upgrade" under Section 31.6.4 of the OATT.

The proposed revisions align the development and funding requirements and cost allocation and recovery eligibility for eligible Network Upgrade Facilities with the rules for the associated regulated transmission solution in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process. Aligning these provisions for Network Upgrade Facilities meeting the above criteria with the existing manner for the selected, triggered, or approved regulated transmission solution provides a clear process and is a reasonable approach that is consistent with the process that Commission approved for selected Public Policy Transmission Projects in its Docket No. ER23-1151-000.

1. Existing Rules for Designated Network Upgrade Facilities in the Transmission Interconnection Procedures

The Transmission Interconnection Procedures evaluate whether a Transmission Project can reliably interconnect to the New York State Transmission System.[303] Attachment P mandates two studies for each Transmission Project—a System Impact Study and a Facilities Study. These studies evaluate whether a Transmission Project can reliably interconnect to the New York State Transmission System pursuant to the NYISO Transmission Interconnection Standard.[304] If the proposed Transmission Project does not satisfy the NYISO Transmission Interconnection Standard, the NYISO identifies Network Upgrade Facilities.[305] When the Network Upgrade Facilities are for a Public Policy Transmission Project selected by the NYISO

[303] OATT § 22.2.1.

[304] OATT § 22.6.4. The NYISO Transmission Interconnection Standard requires a proposed Transmission Project to interconnect in a manner that is "consistent with Applicable Reliability Standards and will not degrade interface transfer capability by more than 25 MW." *Id.*

[305] OATT § 22.1 ("Network Upgrade Facilities shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with good utility practice and Applicable Reliability Requirements, to make the modifications or additions to the New York State Transmission System that are required for the proposed Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard.").

as the more efficient or cost-effective solution to a need, the NYISO will also evaluate and identify the Network Upgrade Facilities that meet the definition of "upgrade" under Section 31.6.4 of the OATT, consistent with Commission precedent, and identify them in the Facilities Study report or update any previous identification of such Network Upgrade Facilities if the Facilities Study report is revised.[306]

The NYISO then shares the draft Facilities Study with the Transmission Developer, the Connecting Transmission Owner(s), and Affected System(s) (as applicable) for review and comment.[307] The parties may comment on the Facilities Study report, as well as the NYISO's classification of the Network Upgrade Facilities in the report as new or upgrades.[308] The NYISO will consider the parties' comments and finalize the Facilities Study report, which will contain the final characterizations of the identified Network Upgrade Facilities. Any disputes over the characterization of Network Upgrade Facilities will be handled through the procedures set forth in Section 22.13.5 of the OATT.

Within 30 calendar days of the NYISO's finalization and distribution of the Facilities Study report, the Connecting Transmission Owner(s) and Affected Transmission Owner(s), as applicable, must notify the NYISO if it declines the responsibility to construct and fund and the eligibility to allocate and recover the costs of one or more eligible Network Upgrade Facilities in the same manner as the process for addressing upgrade components of the selected Public Policy Transmission Project through the OATT. If the applicable Transmission Owner provides timely notice declining such responsibility and eligibility, the Transmission Owner will be responsible for constructing, owning, maintaining, and operating the Network Upgrade Facilities, while the Transmission Developer must post Security and reimburse the Transmission Owner the actual costs of the facility(ies).[309] The Transmission Developer and applicable Connecting Transmission Owner or Affected Transmission Owner will address the terms concerning the construction and payment for these Network Upgrade Facilities in a Transmission Project Interconnection Agreement or an engineering, procurement, and construction agreement, as applicable.[310]

If the applicable Transmission Owner does not provide notice declining the responsibility, the Network Upgrade Facilities will be defined as "Designated Network Upgrade

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[306] OATT § 22.9.6.

[307] *Id.;* OATT § 22.9.5.

[308] OATT §§ 22.9.5, 22.9.6.

[309] Similar to a Connecting Transmission Owner's or Affected Transmission Owner's declination, the tariff also contemplates the possibility that the responsibility to fund may revert to the Transmission Developer if the Transmission Owner defaults in the development of Designated Network Upgrade Facilities and the Development Agreement is terminated. *See* OATT §§ 22.9.6, 22.11.1; *see also* 2023 Designated NUF Filing at p 3 ("The Transmission Interconnection Procedures presume that the Connecting Transmission Owner or Affected Transmission Owner, as applicable, will be the entity to construct, own, operate, and maintain the Network Upgrade Facilities related to its respective system.").

[310] For example, in the case of Connecting Transmission Owner or Affected Transmission Owner declining Designated Network Upgrade Facilities, "[t]he Connecting Transmission Owner or Affected Transmission Owner may mutually agree with the Transmission Developer for the Transmission Developer to build and/or own any of the Network Upgrade Facilities for which the Connecting Transmission Owner or Affected Transmission Owner declined to build, own, and fund." OATT § 22.9.6.

Facilities."[311] The applicable Transmission Owner will be responsible for constructing, funding, owning, and maintaining the Designated Network Upgrade Facilities.[312] Accordingly, the Transmission Owner will be required to comply with the requirements as a Designated Entity in building, owning, and recovering the costs of the Designated Network Upgrade Facilities, including, but not limited to, entering into or amending a Public Policy Transmission Planning Process Development Agreement. The applicable Transmission Owner will also be eligible to seek cost recovery under Attachment Y and Schedule 10 of the OATT in the same manner as the associated Public Policy Transmission Project.[313] In accordance with those cost recovery provisions, the Transmission Owner must submit a rate filing consistent with Rate Schedule 10 to the Commission, which will determine the actual recovery of costs for, among other things, the Designated Network Upgrade Facilities.[314] Additionally, for facilities not eligible to be designated to the applicable Transmission Owner or that the applicable Transmission Owner declines its designation under Section 22.9.6 of the OATT, the Transmission Owner will be responsible for constructing, owning, maintaining, and operating the Network Upgrade Facilities, while the Transmission Developer must post Security and reimburse the Transmission Owner the actual costs of the facility.[315]

2. Revisions to Expand the Eligibility of Designated Network Upgrade Facilities to Include Upgrades Identified for a Designated Reliability Transmission Project, Designated Economic Transmission Project, or Designated Short-Term Transmission Project

With the proposed addition of mechanisms to effectuate the NYTOs' ROFR Rights in the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process, the NYISO proposes to expand the existing rules in the NYISO's Transmission Interconnection Procedures that identify Network Upgrade Facilities eligible for the applicable Transmission Owner to construct, fund, own, operate, and maintain, as well as recover its costs, consistent with the approach for the associated regulated transmission solution. Such proposed expansion would, therefore, make Network Upgrade Facilities that meet the definition of upgrade under Section 31.6.4 of the OATT and that are identified for a Designated Reliability Transmission Project, Designated Short-Term Transmission Project, or Designated Economic Transmission Project eligible to be designated to the applicable Connecting Transmission Owner or Affected Transmission Owner under Section 22.9.6 of the OATT. The process for identifying the eligible Network Upgrade Facilities and designating them to the applicable Transmission Owner would

[311] "Designated Network Upgrade Facilities" is a defined term in Attachments P and Y for those Network Upgrade Facilities "identified through the Transmission Interconnection Procedures for a Public Policy Transmission Project selected as the more efficient or cost-effective solution to a Public Policy Transmission Need under Attachment Y to the ISO OATT; that meet the definition of upgrade under Section 31.6.4 of Attachment Y to the ISO OATT; and that are designated to the Connecting Transmission Owner or Affected Transmission Owner pursuant to Section 22.9.6 of this Attachment P." OATT §§ 22.1, 31.1.1.

[312] A Transmission Developer is not required to post Security for Designated Network Upgrade Facilities. The rationale is that "[t]he risks associated with requiring Security are reduced given that the Transmission Owner accepts responsibility to fund the facilities and that the Transmission Owner is eligible to file for cost recovery under the OATT." 2023 Designated NUF Filing at p 8.

[313] OATT §§ 6.10, 31.4.8.3.3, 31.5.6.

[314] OATT §§ 6.10, 31.4.8.3.3, 31.5.6.

[315] OATT §§ 22.9.6, 22.11.1.

use the same process already in place for Public Policy Transmission Projects and for which the Commission previously accepted as just and reasonable.[316]

To accomplish the expansion, the proposed revisions add references to the Reliability Planning Process, Short-Term Reliability Process, and Economic Planning Process to require the NYISO to identify and designate Network Upgrade Facilities associated with selected, triggered, or approved regulated transmission solutions from those processes. The revisions also use the defined terms of Designated Reliability Transmission Projects, Designated Short-Term Transmission Project, and Designated Economic Transmission Project that are proposed as a part of the mechanisms to effectuate the NYTOs' ROFR Rights discussed in Part IV.A above.[317] The revisions also add references to Attachment FF and Rate Schedule 16 for the alignment of the cost allocation and recovery mechanisms for Designated Network Upgrade Facilities related to a Designated Short-Term Transmission Project.[318]

In addition to the revisions in Attachment P, the NYISO also proposes revisions to the Reliability Development Agreement (together with the revisions as identified in Part IV.A.1.e.2 above) and the proposed Economic Development Agreement (together with the revisions identified in Part IV.A.3.e.2 above) to incorporate and conform provisions of the development agreements to apply to a Transmission Owner that is responsible for developing and constructing Designated Network Upgrade Facilities.[319] For instance, the proposed revisions modify the defined terms, recitals, and definitions in the Development Agreement so that it applies to Designated Network Upgrade Facilities, as applicable. The "Designated Project" will be defined to include a Designated Reliability Transmission Project or Designated Economic Transmission Project in the applicable agreement as well as Designated Network Upgrade Facilities designated pursuant to Section 22.9.6 of Attachment P to the OATT, if applicable.[320] The proposed revisions also align the completion of the Designated Network Upgrade Facilities with the in-service dates set forth in the Development Agreement for the Designated Reliability Transmission Project and the Designated Short-Term Transmission Project or Designated Economic Transmission Project.

The proposed provisions in the *pro forma* Development Agreements also address defaults related to Designated Network Upgrade Facilities.[321] For instance, Article 8.3 of both

[316] *New York Indep. Sys. Operator, Inc.*, Delegated Order, Docket No. ER23-1151-000 (April 6, 2023).
[317] Proposed OATT §§ 22.1, 22.9.6, 22.11.1, 22.11.2, 22.11.3.
[318] Proposed OATT § 22.9.6.
[319] *See generally*, Proposed OATT § 31.7 Appendices C and E.
[320] Proposed OATT § 31.7 Appendix C Article 1 (defining "Designated Project" as "the Designated Reliability Transmission Project that the Designated Entity has been designated to develop and place into service pursuant to Section 31.2.7 of Attachment Y and the Designated Network Upgrade Facilities that the Designated Entity has been designated to develop and place into service pursuant Section 22.9.6 of Attachment P to the ISO OATT, as described in the Project Description set forth in Appendix A to this Agreement"); Proposed OATT § 31.7 Appendix E Article 1 (defining "Designated Project" as "the Designated Economic Transmission Project that the Designated Entity has been designated to develop and place into service pursuant to Section 31.3.2.4 of Attachment Y and the Designated Network Upgrade Facilities that the Designated Entity has been designated to develop and place into service pursuant Section 22.9.6 of Attachment P to the ISO OATT, as described in the Project Description set forth in Appendix A to this Agreement").
[321] Proposed OATT § 31.7 Appendices C and E Articles 7.2, 8.1, 8.3.

development agreements will specify the treatment of Designated Network Upgrade Facilities in the event that the Designated Entity defaults and the development agreement is terminated. If the default by the Designated Entity is unrelated to the development of the Designated Network Upgrade Facilities, then the development agreement allows the assignment of the Designated Reliability Transmission Project or Designated Economic Transmission Project to another entity, while requesting the Designated Entity to continue with the development of the Designated Network Upgrade Facilities. However, if a default of the Development Agreement relates to Designated Network Upgrade Facilities or the inability to develop Designated Network Upgrade Facilities (other than obtaining the necessary permits for its project), the Network Upgrade Facilities will then be subject to the procedures in the Transmission Interconnection Procedures.[322] In such a case, the Transmission Owner would no longer be eligible to fund or cost allocate or recover through Attachments Y and FF. Instead, the Transmission Developer that submitted the Transmission Interconnection Application must post Security with and pay the actual costs for the Network Upgrade Facilities to the Connecting Transmission Owner.[323]

As discussed in Part IV.A above, the NYISO is proposing revisions to the OATT that permit a Transmission Owner that becomes the Designated Entity with respect to either a Reliability Transmission Upgrade or an Economic Transmission Upgrade to allocate costs under Attachments Y or FF consistent with the selected, triggered, or approved regulated transmission solution and to use Rate Schedules 10 or 16 of the OATT. For the purposes of the revisions related to Designated Network Upgrade Facilities, the NYISO also proposes to revise Attachments Y and FF and Rate Schedules 10 and 16 of the OATT to similarly allow a Connecting Transmission Owner or Affected Transmission Owner, when designated under Section 22.9.6 of the OATT, to use the same cost allocation and recovery mechanisms for the Designated Network Upgrade Facilities as the selected, triggered, or approved regulated transmission solution.[324] The proposed revisions are consistent with the existing rules accepted by the Commission for Designated Network Upgrade Facilities identified for a selected Public Policy Transmission Project.[325]

Designated Entities eligible to recover the costs of Designated Network Upgrade Facilities are responsible for satisfying the requirements to obtain cost recovery through the OATT. Consistent with the proposed cost recovery eligibility for Designated Reliability Transmission Projects, Designated Short-Term Transmission Projects, and Designated Economic Transmission Projects, actual project cost recovery, as well as issues related to cost recovery, for Designated Network Upgrade Facilities will be submitted to and decided by the Commission.

C. Miscellaneous Tariff Changes

The NYISO proposes to make additional clarifications and clean-up revisions to the OATT in connection with including a mechanism to account for and implement the NYTOs' ROFR Rights and the alignment of the responsibilities for and eligibility to allocate and recover

[322] *See* Proposed OATT § 22.9.6.
[323] OATT § 22.11.1.1.
[324] Proposed OATT §§ 6.10, 6.16, 31.5.1.1, 31.5.1.7, 31.5.5.1, 31.5.5.3, 38.22, 38.23.
[325] *New York Indep. Sys. Operator, Inc.*, Delegated Order, Docket No. ER23-1151-000 (April 6, 2023).

the costs of certain Network Upgrade Facilities identified for a selected, triggered, or approved regulated transmission solution. The NYISO also proposes other updates, enhancements, and non-substantive, ministerial changes in the portions of the tariff that are affected by other revisions proposed herein.

Tariff Section(s)	**Description of Proposed Revision(s) and Justification**
OATT § 31.1	Amended the definition of "Other Developer" by using the defined the term "Regulated Economic Transmission Project," which aligns with the planning requirements of the Economic Planning Process.
OATT § 31.1.7.6	Added NextEra Energy Transmission New York, Inc. and LS Power Grid New York Corporation I to the list of "Transmission Owners."[326]
OATT § 31.2.4.8.3	Replaced "proponent of" with "An Other Developer or Transmission Owner sponsoring" and "developer" with "Other Developer or Transmission" to align the use of terminology in the Reliability Planning Process.
OATT § 31.2.5.1.1	Removed "In response to a solicitation for a solution to a Reliability Need identified after the 2014-2015 planning cycle," which was included to address the transition to the new rules; however, such language is no longer applicable.
OATT § 31.2.5.1.1	Inserted the word "regulated" to clarify that the requirement is applicable to regulated transmission solutions opposed to a transmission solution submitted on a market basis.
OATT § 31.2.7	Removed the word "report" from "CRP report" in multiple places to conform the references to the CRP, which the CRP is the document that the NYISO produces biennially.
OATT 31.2.8.1.7	Removed the sentence, "The Connecting Transmission Owner(s) and Affected System Operator(s) that are identified in Attachment P of the ISO OATT in connection with the selected alternative regulated transmission solution shall act in good faith in timely performing their obligations that are required for the Developer to satisfy its obligations under the Development Agreement," to

[326] *See New York Indep. Sys. Operator, Inc.*, Filing of an Executed Operating Agreement Between the New York Independent System Operator, Inc. and LS Power Grid New York Corporation I; Request for Waiver of the 60-Day Notice Period, Docket No. ER21-2104-000 (June 9, 2021) (filing of executed Operating Agreement); *New York Indep. Sys. Operator, Inc.*, Filing of an Executed Operating Agreement Between the New York Independent System Operator, Inc. and NextEra Energy Transmission New York, Inc.; Request for Waiver of the 60-Day Notice Period, Docket No. ER21-2105-000 (June 9, 2021) (same).

	reduce the potential for confusion regarding the Connecting Transmission Owner's or Affected Transmission Owner's obligations under Attachment P of the ISO OATT and any Transmission Project Interconnection Agreement or engineering, procurement, and construction agreement(s), as applicable, as well as the proposed obligations as a Designated Entity for Designated Network Upgrade Facilities, including, for example, the obligations under a Reliability Development Agreement.
OATT §§ 31.5.4.3, 31.5.4.4	Aligned the references to the date that a Regulated Economic Transmission Project enters service from "commercial operation date" to "in-service date" based on the terms used in the Transmission Interconnection Procedures under Attachment P to the OATT.
OATT § 31.7 Appendices C and D Articles 1, 7.1, and 15.3	Replaced "Commission" with "FERC" in the Reliability Planning Process Development Agreement and Public Policy Transmission Planning Process Development Agreement to be consistent with the defined terms within those agreements.
OATT § 31.7 Appendices C and D Articles 3.1 and 3.3	Changing the tense of certain verbs from a future tense to a past tense for actions that would have occurred prior to the execution of the development agreement.
OATT § 31.7 Appendices C and D Article 2.3	Replaced "executes" with "has executed either the ISO/TO Agreement or" to account for the possibility that an incumbent Transmission Owner will serve as the Designated Entity and, therefore, will not be executing an operating agreement. The revision does not affect Article 2.3 and will reduce requests for non-conforming modifications from NYTOs that executed the ISO/TO Agreement.
OATT § 31.7 Appendix C Article 3.4 and Appendix D Article 3.5	Clarifying that modifications to Network Upgrade Facilities will need to be addressed through the applicable interconnection process.
OATT § 31.7 Appendices C and D, Article 4.1	Removed the clause, "*provided, however*, if a Developer began the interconnection process in Attachment X of the OATT or the transmission expansion process in Sections 3.7 or 4.5 of the OATT for the Transmission Project prior to the effective date of the Transmission Interconnection Procedures, the Designated Entity shall satisfy the requirements of the Transmission Interconnection Procedures in accordance with the transition rules in Section 22.3.3 of Attachment P of the OATT." This language was to address the transition that certain projects may have encountered following the

	implementation of the Transmission Interconnection Procedures in the 2016.
OATT §§ 31.2.8.3, 31.7 Appendices C and D 38.15.2	Added "Article VIII" to capture recent changes to the New York State Public Service Law related to the siting permits for major electric transmission facilities.[327]

V. Requested Effective Date

The NYISO respectfully requests that the proposed tariff revisions become effective date on November 3, 2025 (*i.e.*, the day following the end of the statutory 60-day notice period).

VI. Stakeholder Approval

The NYISO coordinated the proposed revisions with stakeholders since the beginning of 2025 through five working group meetings. The Operating Committee and the Business Issues Committee approved the revisions to the OATT with no opposition. The Management Committee approved the revisions on June 30, 2025 with no opposition and five abstentions. On July 15, 2025, the NYISO Board of Directors approved the filing of the proposed revisions pursuant to Section 205 of the Federal Power Act.

VII. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, and each participant on its stakeholder committees. The NYISO will send an electronic copy of this filing to the New York State Public Service Commission and the New Jersey Board of Public Utilities. The NYISO will also post a complete copy of this filing on its website at www.nyiso.com.

[327] *See* New York State Public Service Law § 141 (2024).

VIII. Conclusion

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission issue an order accepting the tariff revisions proposed in this filing with an effective date of November 3, 2025.

Respectfully submitted,

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