

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Competitive Transmission)	
Developers)	
)	
COMPLAINANT)	
)	
v.)	Docket No. EL16-84-000
)	
New York Independent System Operator, Inc.)	
)	
RESPONDENT)	

ANSWER OF NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully submits this answer to the June 10, 2016 complaint filed by Boundless Energy NE, LLC (“Boundless”), CityGreen Transmission, Inc., and Miller Bros. (collectively, “Complainants”) in the above-captioned proceeding (“Complaint”).² Complainants allege that the NYISO violated its Open Access Transmission Tariff (“OATT”) when it issued a solicitation for projects to address the “AC Transmission Public Policy Transmission Needs” (“AC Transmission Needs”) identified by the New York Public Service Commission (“NYPSC”), because the solicitation included certain project specifications identified by the NYPSC.³ Complainants request that the Commission

¹ 18 C.F.R. § 385.213.

² *Competitive Transmission Developers v. New York Independent System Operator, Inc.*, Complaint Requesting Fast Track Processing of Competitive Transmission Developers, Docket No. EL16-84-000 (June 10, 2016) (“Complaint”).

³ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachment Y of the NYISO OATT, and if not defined therein, in the NYISO OATT and the NYISO Market Administration and Control Area Services Tariff.

direct the NYISO to re-issue a project solicitation that does not include these project specifications.

The Complaint should be dismissed as procedurally infirm or otherwise denied as meritless. The NYISO OATT clearly sets forth the respective responsibilities of the NYISO and the NYPSC in the NYISO's Public Policy Transmission Planning Process ("Public Policy Process"). Pursuant to this Commission-approved process, the NYPSC determines the Public Policy Transmission Needs for which the NYISO must solicit and evaluate solutions. The NYPSC may also prescribe various criteria and types of analyses that the NYISO must consider in its evaluation of proposed solutions.

Complainants' dispute is, in reality, not with any action taken by the NYISO, but rather with the scope of the AC Transmission Needs identified by the NYPSC. As required by the OATT, disputes concerning the identification of the Public Policy Transmission Need by the NYPSC are subject to judicial review in the courts of the State of New York. Indeed, Boundless has initiated two proceedings in the New York state courts under Article 78 of New York's Civil Practice Law and Rules ("Article 78")⁴ challenging the NYPSC's orders and raising the same argument that underlies the Complaint. The Commission should reject Complainants' attempt to duplicate and re-frame as a NYISO "tariff violation" the same claims and arguments now pending in Boundless' state court litigation against the NYPSC. At bottom, Boundless is asking the Commission in this proceeding to revise or modify New York State's public policy pronouncement.

The NYISO acted entirely in accordance with its OATT when it issued a solicitation for projects to address the AC Transmission Needs that included the specification of the needs and

⁴ An Article 78 proceeding is the mechanism in New York by which a party may challenge action by state bodies, such as the NYPSC, or state officers. *See* New York Civil Practice Law and Rules, Article 78.

related criteria identified by the NYPSC. Complainants do not, and cannot, identify any provision of the OATT that would permit the NYISO to ignore or revise a Public Policy Requirement or Public Policy Transmission Need identified by the NYPSC.

Complainants take issue with the role defined for the NYPSC in the Public Policy Process approved by the Commission. The NYPSC is responsible for identifying Public Policy Requirements and Public Policy Transmission Needs, identifying technical criteria and types of analyses for the NYISO to take into account in evaluating projects, and confirming whether the NYISO should proceed to select a transmission solution following the NYISO's evaluation of the viability and sufficiency of proposed transmission and non-transmission solutions. Complainants also misunderstand or mischaracterize the NYISO's obligation to solicit projects in response to the Public Policy Transmission Needs as they are identified by the NYPSC and misconstrue as simply ministerial the NYISO's responsibility to independently evaluate the viability and sufficiency of the proposed solutions to address the identified needs.

The AC Transmission Needs identified by the NYPSC are appropriate and consistent with the tariff framework of the NYISO's Public Policy Process. The NYPSC has not selected a particular project in identifying the AC Transmission Needs or otherwise usurped the NYISO's transmission planning responsibilities. Although Complainants were never precluded from doing so, they have elected not to participate in the Public Policy Process. Nonetheless, the NYISO received multiple proposed solutions, with various configurations and characteristics, from both incumbent and non-incumbent Developers to address the AC Transmission Needs. The NYISO is now independently evaluating the viability and sufficiency of the proposed solutions to determine their ability to satisfy the AC Transmission Needs. Should the NYPSC, in accordance with the NYISO OATT, ultimately determine that it wishes to move forward with a

transmission solution, the NYISO will independently select the more efficient or cost-effective transmission solution using the full range of cost and non-cost metrics set forth in the OATT.

I. BACKGROUND

On August 1, 2014, the NYISO began its first Public Policy Process by requesting that interested parties submit proposed transmission needs driven by Public Policy Requirements.⁵ The NYISO provided to the NYPSC the proposed transmission needs that it received from eight parties.⁶ On November 12, 2014, the NYPSC initiated a proceeding in accordance with the New York State Administrative Procedure Act (“SAPA”) to review the proposed needs.⁷

On December 17, 2015, the NYPSC issued an order that adopted as Public Policy Requirements numerous public policies that would be advanced by the construction and operation of new transmission facilities located in two transmission corridors in New York State that cross the Upstate New York/Southeast New York (“UPNY/SENY”) interface and the

⁵ The NYISO’s August 1, 2014, solicitation letter is *available at*: http://www.nyiso.com/public/webdocs/markets_operations/services/planning/Planning_Studies/Public_Policy_Documents/Public_Policy_Notices/AC_Transmission_PPTN_Solution_Solicitation_2016-02-29.aspx.

⁶ NYPSC Case No. 14-E-0454, In the Matter of New York Independent System Operator, Inc.’s Proposed Public Policy Transmission Needs for Consideration, *NYISO Submittal of Proposed Public Policy Transmission Needs for Consideration by the New York State Public Service Commission* (October 3, 2014).

⁷ The November 12, 2014 SAPA notice concerned the NYPSC’s review of all proposed transmission needs submitted by the NYISO on October 3, 2014. The NYPSC subsequently issued a SAPA notice in the New York State Register on October 7, 2015 concerning the submission of comments on the specific transmission need concerning relieving congestion between upstate and downstate New York.

Central East interface.⁸ Based on these Public Policy Requirements, the NYISO identified the AC Transmission Needs, which needs are divided into two segments.⁹

Segment A of the AC Transmission Needs consists of construction and operation of a portfolio of 345 kV transmission projects to reconfigure and upgrade transmission facilities from the Edic or Marcy substations to the New Scotland substation with a tie-in to the Rotterdam substation, to provide a minimum of 350 MW of additional transfer capability across the Central East interface. Segment B of the AC Transmission Needs consists of new 345 kV transmission from a new Knickerbocker substation to the Pleasant Valley substation, with upgrades at the Greenbush substation, upgrades to the Rock Tavern substation, and the construction of a new double circuit 138 kV line from the Shoemaker to Sugarloaf substations, to provide a minimum of 900 MW of additional transfer capability across the UPNY/SENY interface.

The NYPSC also identified certain criteria and analyses to be applied by the NYISO in evaluating proposed solutions to the AC Transmission Needs - *e.g.*, avoid opening new rights-of-way, avoid a new crossing of the Hudson River, etc.¹⁰ In response to Boundless' request for rehearing, the NYPSC upheld its determination in an order dated February 23, 2016.¹¹

⁸ NYPSC Case No. 12-T-0502, *et al.* - Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, *Order Finding Transmission Needs Driven by Public Policy Requirements* (December 17, 2015) at pp 66-68 ("December Order").

⁹ The NYPSC has separately identified a second Public Policy Transmission Need concerning relieving congestion in Western New York that is not at issue in this proceeding. NYPSC Case No. 14-E-0454 - In the Matter of New York Independent System Operator, Inc.'s Proposed Public Policy Transmission Needs for Consideration, *Order Addressing Public Policy Requirements for Transmission Planning Process* (July 20, 2015).

¹⁰ December Order at Appendices B and C.

¹¹ NYPSC Case No. 12-T-0502, *et al.* - Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, *Order Denying Rehearing* (February 23, 2016).

On February 9, 2016, the NYISO issued a solicitation for proposed Public Policy Transmission Projects and Other Public Policy Projects to address the AC Transmission Needs.¹² The NYISO included in its solicitation the description of the AC Transmission Needs provided by the NYPSC in its order, along with the criteria and analyses identified by the NYPSC.

Following the NYPSC's February order on rehearing, Boundless challenged the NYPSC's orders in two Article 78 proceedings that were commenced on March 21, 2016 - the first is pending in the Supreme Court, Albany County¹³ and the second is pending in the Appellate Division, Third Department.¹⁴ In these state proceedings, Boundless has, among other things, alleged that:

The [NYPSC] failed to act in conformity with federal law by not complying with the NYISO OATT provision governing transmission planning based upon public policy requirements when it adopted a particularized Public Policy Requirement in its December 17, 2015 Order and not a rule of general applicability.¹⁵

Boundless similarly alleged that the NYPSC “acted contrary to the laws of [New York] and federal law by not complying with SAPA when it adopted a particularized Public Policy Requirement [in its order] and not a rule of general applicability.”¹⁶ Complainants subsequently filed the Complaint with the Commission on June 10, 2016 alleging that the NYISO violated its OATT when it included in its solicitation the description of the AC Transmission Needs

¹² OATT Section 31.4.3.

¹³ *Matter of Boundless Energy NE, LLC v. Public Service Commission of the State of New York, et al.*, New York State Supreme Court, Albany County, Index No. 1200-16 (commenced Mar. 21, 2016) (“Albany Cty Proceeding”).

¹⁴ *Matter of Boundless Energy NE, LLC v. Public Service Commission of the State of New York, et al.*, New York State Supreme Court, Appellate Division, Third Department, Index No. 522738 (commenced Mar. 21, 2016) (“Appellate Proceeding”).

¹⁵ Albany Cty Proceeding at P 76; Appellate Proceeding at P 76.

¹⁶ Albany Cty Proceeding at P 75; Appellate Proceeding at P 75.

provided by the NYPSC in its order, along with the criteria and types of analyses identified by the NYPSC.

The Complaint should be denied for the reasons described below.

II. ANSWER

A. The Commission Should Dismiss the Complaint Against the NYISO Because Complainants' Actual Dispute Is with the NYPSC's Determination of Public Policy Transmission Needs Which Boundless Has Challenged in Two Pending New York State Court Proceedings.

As described in Parts II.B and II.C below, the NYISO has fully and faithfully executed its responsibilities to administer its Public Policy Process as set forth in the OATT. Complainants' real dispute is with the NYPSC's determination of the AC Transmission Needs. Given that the NYISO has acted in the manner required by its OATT, and that Boundless has challenged the NYPSC's determination in two pending New York State proceedings, the Commission should dismiss this complaint against the NYISO.

Complainants state on page 20 of their Complaint that "the NYPSC's AC Transmission Process and its recommendations are not at issue in this Complaint" and state further "the NYPSC can run its proceedings in any manner in which it sees fit, consistent with New York state laws and regulations." Rather, "this Complaint is limited to the actions of the NYISO."¹⁷ This assertion is plainly disingenuous. While styled as a Complaint against the NYISO, Complainants' underlying grievance is not with NYISO, but with the scope of the NYPSC's order identifying the AC Transmission Needs.

In developing the Public Policy Process, the NYISO and its stakeholders understood that an entity might wish to challenge a Public Policy Transmission Need identified by the NYPSC. The OATT, therefore, establishes explicit rules by which a party must challenge the NYPSC's

¹⁷ Complaint at P 20.

identification of a Public Policy Transmission Need. Specifically, any such dispute “shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.”¹⁸ Boundless has challenged the NYPSC’s order in two Article 78 proceedings in the state courts of New York, alleging in part that the NYPSC failed to act in conformity with state and federal law (*i.e.*, the NYISO OATT) when it adopted a “particularized Public Policy Requirement . . . and not a rule of general applicability.”¹⁹ Notwithstanding the ongoing state proceedings or the OATT’s explicit requirements for challenging a Public Policy Transmission Need, Complainants have brought this Section 206 Complaint by re-framing and making essentially the same allegations against the NYISO as they make in state court against the NYPSC. That is, that the NYISO’s solicitation for project solutions pursuant to the NYPSC’s particularized determinations somehow violates the OATT. The Commission should reject Complainants’ attempt to evade the OATT requirement that disputes concerning the NYPSC’s determination of a Public Policy Transmission Need must be addressed in a New York Article 78 proceeding.

The OATT also provides the mechanism by which a party disputing a Public Policy Transmission Need may seek to halt the Public Policy Process pending the completion of an appeal under Article 78.²⁰ The complaining party must obtain a stay of the NYPSC’s orders under applicable state procedural rules. Were a stay of the NYPSC orders to be granted, Section 31.4.3.1 of the OATT would suspend the solicitation and evaluation process conducted by the NYISO during the pendency of the Article 78 appeal. Complainants have not sought, much less

¹⁸ OATT Section 31.4.2.2.

¹⁹ Albany Cty Proceeding at PP 75-76; Appellate Proceeding at PP 75-76.

²⁰ OATT Section 31.4.3.1 (“Any proposed transmission needs that are under appeal pursuant to Section 31.4.2.2 or Section 31.4.2.3(vi) may be addressed with proposed solutions, if required, except where the NYPSC order has been stayed pending the resolution of that appeal.”).

obtained, such a stay of the NYPSC's orders. Rather, they are attempting an end-run around the OATT requirements for addressing challenges to a Public Policy Transmission Need to seek relief from the Commission that they have not sought, and likely could not obtain, in New York state court. Absent such a stay, the NYISO is required to carry out its tariff process to solicit and evaluate solutions to the Public Policy Transmission Need, which the NYISO is doing, as described below.

The Commission should reject Complainants' attempt to duplicate its state court challenge to the NYPSC's orders under the guise of a Section 206 complaint against the NYISO, which is the wrong party for such a challenge and which has acted entirely in accordance with the OATT.

B. The NYISO Is Administering Its Public Policy Process in Accordance with the OATT.

The NYISO acted in accordance with the Commission-approved Public Policy Process requirements in the OATT when it solicited solutions to the AC Transmission Needs that reflected the NYPSC's description of the needs and related criteria. Complainants erroneously state that "[a]s approved by the Commission, the NYISO Public Policy Transmission Planning Process carves out a role for the NYPSC *solely* with respect to the first step: identification of the Public Policy Transmission Needs driven by Public Policy Requirements....."²¹ Complainants either misunderstand or mischaracterize the NYPSC's role in the Commission-approved Public Policy Process.

The NYISO's Public Policy Process requirements are set forth in Section 31.4 of its OATT. These requirements clearly define and delineate the respective responsibilities of the NYISO and the NYPSC throughout the Public Policy Process. Pursuant to this process, the

²¹ Complaint at 15 (emphasis added).

NYPSC is responsible for identifying transmission needs driven by Public Policy Requirements for which the NYISO must solicit and evaluate proposed solutions.²² The NYPSC may develop a Public Policy Requirement by referring to existing federal, state, or local laws that drive the need for transmission, or by adopting a rule or regulation after public notice and comment under the New York State Administrative Procedure Act.²³ In identifying the transmission needs driven by Public Policy Requirements, the NYPSC may also provide: “(i) additional criteria for the evaluation of transmission solutions and non-transmission projects, (ii) the required timeframe, if any, for completion of the proposed solution, and (iii) the type of analysis that it will request from the NYISO.”²⁴

The NYPSC may request that certain Transmission Owners or Other Developers submit a proposed project into the Public Policy Process to address the need.²⁵ Following the NYISO’s evaluation of the viability and sufficiency of proposed transmission and non-transmission solutions to address the identified need, the NYPSC will review the NYISO’s assessment of the viable and sufficient solutions and determine whether a transmission need still exists. If the

²² OATT Section 31.4.2.1. The NYPSC performs its review in accordance with the New York State Administrative Procedure Act, which provides for review and comments by interested parties on the proposed transmission needs, including a need identified by the NYPSC, and on any proposed evaluation criteria or analyses identified by the NYPSC. The NYPSC adopted procedures consistent with OATT Section 31.4.2.1 to implement the NYISO’s tariff requirements. *See* NYPSC Case No. 14-E-0068 - Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, *Policy Statement on Transmission Planning for Public Policy Purposes* (August 15, 2014).

²³ OATT Section 31.1.1 (definition of “Public Policy Requirement”).

²⁴ OATT Section 31.4.2.1.

²⁵ OATT Section 31.4.3.2. In the December Order, the NYPSC did request that certain Transmission Owners or Other Developers propose a Public Policy Transmission Project in response to the NYISO’s solicitation to address the identified need. This does not, however, preclude any other Developer from proposing a Public Policy Transmission Project or Other Public Policy Project in response to a NYISO solicitation (and many have chosen to do so, as noted below), and the NYISO does not evaluate projects differently based on whether or not the NYPSC requested they propose a project.

NYPSC concludes that the need still exists, the NYISO must select the more efficient or cost-effective transmission solution from among the viable and sufficient solutions.²⁶

The Commission approved the NYPSC's role in the Public Policy Process as consistent with Order No. 1000.²⁷ In Order No. 1000, the Commission "strongly encourage[d] states to participate actively not only in transmission planning processes in general, but specifically in the identification of transmission needs driven by Public Policy Requirements."²⁸ The Commission has further indicated that "a state entity or regional state committee can consult, collaborate, inform, and even recommend a transmission project for selection in the regional transmission plan for purposes of cost allocation," so long as the NYISO is ultimately the party that selects the more efficient or cost-effective transmission project for purposes of cost allocation under the OATT.²⁹

The NYISO is required to solicit Public Policy Transmission Projects and Other Public Policy Projects to address the Public Policy Transmission Need identified by the NYPSC.³⁰ The NYISO also must apply the criteria identified by the NYPSC when it evaluates the sufficiency of each proposed solution.³¹ In evaluating solutions for purposes of selecting the more efficient or

²⁶ OATT Section 31.4.6.7.

²⁷ See *New York Independent System Operator, Inc., Order on Compliance Filing*, 143 FERC ¶ 61,059 at PP 137, 141-144 (2013) (accepting role of NYPSC in adoption of Public Policy Requirement and in identification of transmission needs driven by Public Policy Requirements); see also *New York Independent System Operator, Inc., Order on Rehearing and Compliance*, 148 FERC ¶ 61,044 at P 124 (2014) ("We find that the Filing Parties' proposal regarding the identification of Public Policy Transmission Needs that NYISO should evaluate and request specific proposed solutions to address, as well as the proposed process for selecting the more efficient or cost-effective transmission solution to satisfy an identified Public Policy Transmission Need in the regional transmission plan for purposes of cost allocation comply with the requirements of Order No. 1000.").

²⁸ Order No. 1000 at P 688.

²⁹ *New York Independent System Operator, Inc., Order on Compliance Filing*, 143 FERC ¶ 61,059 at P 79 (2013).

³⁰ OATT Section 31.4.3.

³¹ OATT Section 31.4.6.4.

cost-effective transmission solution, the NYISO must apply, in addition to the metrics detailed in OATT Section 31.4.8.1, the additional types of analyses identified by the NYPSC.³²

Complainants argue erroneously that the NYISO had a choice “to either abide by its Tariff and solicit for any project solution or to seek bids on the very particular and specific project identified by the NYPSC” and “chose the latter.”³³ This is not the case. The NYISO, acted in the manner required by its OATT. The NYISO structured its solicitation for proposed solutions as it did because it is required to (i) solicit solutions for the need identified by the NYPSC,³⁴ (ii) to use the criteria identified by the NYPSC in evaluating whether proposed solutions are sufficient to satisfy the need,³⁵ and (iii) to apply the types of analyses identified by the NYPSC as part of the NYISO’s selection of the more efficient or cost-effective transmission solution.³⁶ Complainants do not, and cannot, identify any provision of the OATT that permits the NYISO to ignore or revise a Public Policy Requirement, the resulting Public Policy Transmission Need, or the related evaluation criteria and types of analyses identified by the NYPSC.

Complainants argue that the NYISO’s solicitation of solutions to the AC Transmission Needs “renders meaningless” the NYISO’s evaluation of the viability and sufficiency of each proposed solution “because the solicitation itself prevents any solution other than the specific

³² OATT Section 31.4.8.1.8.

³³ Complaint at p 21.

³⁴ OATT Section 31.4.3.

³⁵ OATT Section 31.4.6.4 (“The ISO will evaluate each solution to measure the degree to which the proposed solution independently satisfies the Public Policy Transmission Need, including the evaluation criteria provided by the NYPSC. If the ISO determines that the proposed solution is not sufficient, the ISO shall reject the proposed solution from further consideration during that planning cycle.”).

³⁶ OATT Section 31.4.8.1.8 (“The ISO shall apply any criteria specified by the Public Policy Requirement or provided by the NYPSC and perform the analyses requested by the NYPSC, to the extent compliance with such criteria and analyses are feasible.”).

transmission projects identified by the NYPSC....”³⁷ This is simply incorrect. The NYISO has not ceded its responsibilities for evaluating and selecting projects to the NYPSC. It is conducting an independent evaluation of each proposed solution to determine whether each is viable and sufficient to satisfy the AC Transmission Needs and the related evaluation criteria. This independent assessment is a fundamental step in determining whether a proposed solution can proceed through the Public Policy Process.

C. The AC Transmission Needs Are Consistent with the Framework of the Public Policy Process Established in the OATT.

As described below and supported by the affidavit of Zachary G. Smith, Director - Transmission Planning for the NYISO included as Attachment 2 (“Smith Affidavit”), the Public Policy Transmission Need identified by the NYPSC is appropriate and consistent with the framework for the NYISO-administered Public Policy Process. The NYPSC has not selected a particular project in identifying the AC Transmission Needs or otherwise usurped the NYISO’s transmission planning responsibilities.

The NYISO’s Public Policy Process may address a broad spectrum of Public Policy Transmission Needs, depending on the Public Policy Requirements identified by the NYPSC. In this case, the NYPSC initiated an AC Transmission Upgrade proceeding in November 2012 in response to the New York Energy Highway Blueprint issued by the New York Governor’s Energy Highway Task Force. The NYPSC was specifically charged with investigating upgrades to transmission to increase transfer capacity through New York’s historically congested transmission corridor that includes the Central East and UPNY/SENY interfaces. As part of that proceeding, the NYPSC examined other public policy considerations and siting concerns that must be taken into account for the successful development of transmission in New York. These

³⁷ Complaint at p 20.

included concerns raised by environmental groups and local communities regarding the visual and environmental impacts of the potential transmission upgrades. Accordingly, the NYPSC order required that transmission projects should remain to the maximum extent practicable in existing rights of way, and should not cross the Hudson River.³⁸

Following Order No. 1000, the NYISO began its first Public Policy Process and the NYPSC reviewed whether the issues examined in the AC Transmission Upgrade proceeding constitute a Public Policy Transmission Need. The NYPSC appropriately considered siting and other public policy considerations. The NYPSC is ultimately responsible for siting transmission facilities in New York. It would be unreasonable for the NYPSC to blindly ignore the knowledge it gained in the AC Transmission Upgrade proceeding and to adopt a Public Policy Transmission Need that could lead the NYISO to select a transmission solution that contains significant or insurmountable obstacles to siting.³⁹

The Commission has accepted the NYPSC's critical role in the Public Policy Process of identifying transmission needs.⁴⁰ However, contrary to Complainants' assertions, the NYISO will ultimately select the more efficient or cost-effective solution.

As described in the Smith Affidavit, the NYPSC has not selected a particular project in its identification of the AC Transmission Needs.⁴¹ The needs may be addressed by projects of various characteristics and configurations. The NYPSC's Segment A and Segment B descriptions provide a general framework for transmission projects to meet the AC Transmission

³⁸ See December Order at Appendix B.

³⁹ To grant an application for a certificate of environmental compatibility and public need for a major utility transmission facility, the NYPSC must determine a number of factors including that the facility represents the minimum adverse environmental impacts. See New York Public Service Law Article VII Section 126.

⁴⁰ See footnote 27 above.

⁴¹ Smith Affidavit at PP 11-12.

Needs, but do not specify exact physical or electric designs. The NYISO's metrics for evaluating the more efficient or cost-effective Public Policy Transmission Project, as set forth in OATT Section 31.4.8.1, provide opportunities to distinguish among projects by qualitatively assessing expandability, operability, and performance in conjunction with more quantitative metrics such as cost, megawatt transfer capability, production cost savings, and emission savings.⁴² There are numerous potential physical designs, such as alternative transmission structures, that would meet the AC Transmission Needs and provide varying levels of expandability.⁴³ There are also numerous potential electrical designs that would provide varying levels of operability and performance, such as more efficient conductors, controllable devices, and series compensation.⁴⁴

In fact, the NYISO has received a total of sixteen proposed solutions to address one or both segments of the AC Transmission Needs - fifteen Public Policy Transmission Projects and one Other Public Policy Project (*i.e.*, a portfolio of distributed generation)⁴⁵ from six incumbent and non-incumbent Developers.⁴⁶ Of these six Developers, the NYPSC had requested that three submit proposed projects into the Public Policy Process based on the AC Transmission Upgrade

⁴² Smith Affidavit at P 12. For example, for the expandability metric, the NYISO will consider the impact of the proposed project on future construction and consider the extent to which any subsequent expansion will continue to use this proposed project within the context of system expansion. Smith Affidavit at P 12.

⁴³ Smith Affidavit at P 12.

⁴⁴ Smith Affidavit at P 12.

⁴⁵ As part of the Public Policy Process, the NYPSC re-evaluates the transmission need after the NYISO's viability and sufficiency assessment of the proposed solutions. The NYPSC can determine at that point that there is no longer a transmission need because the need can be addressed by a viable and sufficient, non-transmission solution. *See* OATT Section 31.4.6.7.

⁴⁶ Smith Affidavit at P 15. A description of the proposed solutions to the AC Transmission Needs is set forth on slide 10 of the NYISO's Public Policy Transmission Planning Process Update presentation reviewed with its stakeholders at the June 7, 2016 Electric System Planning Working Group and *available at*:

http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_espwg/meeting_materials/2016-06-07/PPTPP_Update.pdf.

proceeding. Three additional Developers also have proposed solutions. The proposed solutions include single circuit and double circuit proposals as well as numerous variations of system configuration, including reconfiguration of existing facilities.⁴⁷

Notwithstanding the analysis performed by the NYPSC regarding potential transmission solutions in the AC Transmission Upgrade proceeding, the NYISO is separately and independently evaluating the viability and sufficiency of all of the proposed solutions that it has received.⁴⁸ The NYISO will then independently evaluate the viable and sufficient transmission solutions and select the more efficient or cost-effective one(s) to address the AC Transmission Needs for purposes of cost allocation under the OATT.⁴⁹ Contrary to Complainants' assertions, the NYISO's evaluation will not be limited to identifying the lowest cost alternative. Rather, the NYISO will use the full range of the cost and non-cost metrics set forth in the OATT.⁵⁰

Complainants, along with any other interested parties, had the opportunity to propose a solution to address the AC Transmission Needs. Complainants elected not to do so. The NYPSC is not required to identify Public Policy Transmission Needs that align with a particular Developer's proposed approach for developing transmission or that ignore the real world environmental and siting implications associated with developing transmission facilities. The NYPSC's failure to define the need in the manner preferred by Complainants does not point to a deficiency in the AC Transmission Needs or the NYISO's Public Policy Process.

⁴⁷ Smith Affidavit at P 15.

⁴⁸ Smith Affidavit at P 17.

⁴⁹ Complainants attempt to analogize the Commissions' recent determination that the NYPSC cannot select the transmission alternative to a reliability-must-run agreement to the NYPSC's identification of a detailed Public Policy Transmission Need. Complaint at pp 18-19. This analogy fails for the simple reason that the NYISO, not the NYPSC, will be administering its detailed evaluation process to select among the proposed transmission solutions to the AC Transmission Needs.

⁵⁰ Smith Affidavit at P 17; *see also* OATT Section 31.4.8.1.

Finally, in response to Complainants' concern that the NYISO would be relying on the NYPSC's assumptions and studies in evaluating proposed solutions,⁵¹ the NYISO will not use the NYPSC's studies in performing its evaluation. Rather, the NYISO will use its own base cases, modeling, and studies that it has independently developed in accordance with OATT Section 31.4 and the NYISO Public Policy Transmission Planning Process Manual. These include the NYISO's independent modeling and analysis of transmission power flows, resource adequacy, and system production costs using a variety of software tools with internal staff and independent consultants. The NYISO will use certain assumptions contained in the studies performed by the New York State Department of Public Service Staff that the NYISO itself supplied to them during the course of the state proceedings.⁵²

III. COMMUNICATIONS

Communications regarding this pleading should be addressed to:⁵³

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⁵¹ Complaint at p 31.

⁵² Smith Affidavit at P. 18.

⁵³ The NYISO respectfully requests waiver of the Commission's regulations (18 C.F.R. §385.203(b)(3) (2014) to the extent necessary to permit service on counsel for the NYISO in both Richmond and Washington, D.C.

* -- Persons designated for service.

IV. COMPLIANCE WITH RULES 213(c)(2) and (c)(4)

Attachment 1 to this Answer addresses the formal requirements of Commission Rules 213(c)(2) and (c)(4).

V. SUPPORTING ATTACHMENTS

The NYISO attaches the following documents in support of this answer:

- Attachment 1- Compliance with Commission Rules 213(c)(2) and (c)(4)
- Attachment 2 - Affidavit of Zachary G. Smith

VI. CONCLUSION

WHEREFORE, the New York Independent System Operator, Inc. respectfully requests that the Commission dismiss as procedurally infirm or otherwise deny the Complaint as meritless for the reasons described above.

Respectfully submitted,

/s/ Carl F. Patka

Carl F. Patka, Assistant General Counsel
New York Independent System Operator, Inc.

June 30, 2016

cc: Michael Bardee
Anna Cochrane
Kurt Longo
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Attachment I

Compliance with Commission Rule 213(c)(2) and (c)(4)

A. Specific Admissions and Denials of Material Allegations

In accordance with Commission Rule 213(c)(2)(i), the New York Independent System Operator, Inc. (“NYISO”) addresses in its answer the material allegations raised by Boundless Energy NE, LLC, CityGreen Transmission, Inc., and Miller Bros. (collectively, “Complainants”) in their June 10, 2016 complaint (“Complaint”). In addition to its statements in its answer, the NYISO admits or denies, to the extent practicable and to best of its knowledge and belief at this time, the material factual allegations in the Complaint as specified below. To the extent that any fact or allegation in the Complaint is not specifically admitted in its answer or below, it is denied. Except as specifically stated in the answer or below, the NYISO does not admit any facts in the form or manner stated in the Complaint. Denials of allegations made in the text of the Complaint should be understood as encompassing all related allegations in, and regarding the attachments accompanying the Complaint.

1. Denials

- The NYISO denies all allegations that it has improperly implemented or violated its Open Access Transmission Tariff (“OATT”) when it issued a solicitation for proposed solutions to address the AC Transmission Needs adopted by the New York Public Service Commission (“NYPSC”), which solicitation included the NYPSC’s description of the needs and evaluation criteria. (Complaint at 2, 3, 14, 16-30)
- The NYISO denies all allegations that it has surrendered or abdicated its transmission planning responsibilities to the NYPSC. (Complaint at 2, 3, 14, 15-22) The NYISO further denies that it has created a two-prong competitive process at both the NYPSC and NYISO. (Complaint at 29-30)
- The NYISO denies all allegations that its solicitation for proposed solutions in line with the AC Transmission Needs has transformed its Public Policy Transmission Planning Process from a solution-based process into a bid-based process. (Complaint at 3, 9, 13, 14, 22-30)
- The NYISO denies that the OATT prohibits it from issuing a solicitation that includes specifications and criteria identified by the NYPSC. (Complaint at 2, 14)
- The NYISO denies that its OATT requires the NYISO to identify a “generalized” transmission need that is separate from the actual AC Transmission Needs identified by the NYPSC. (Complaint at 2, 9)
- The NYISO denies that it is required to determine that the full scope of the AC Transmission Needs is “to reduce congestion in the Central East and Upstate New York/Southeast New York (UPNY/SUNY) corridors” or some other amended version of the need actually identified by the NYPSC. (Complaint at 16, 21)

- The NYISO denies that it has failed to seek transmission solutions or has prohibited any interested party from submitting transmission solutions to the identified transmission needs. The NYISO further denies that it has abdicated its responsibility to evaluate the viability and sufficiency of all proposed solutions to the identified transmission need. (Complaint at 2, 3, 14, 16, 19, 20, 35)
- The NYISO denies that it chose not to abide by its OATT. (Complaint at 21)
- The NYISO denies that it “substitutes its own analysis and planning responsibilities for the analysis and planning performed at the direction of the NYPSC in the AC Proceedings.” (Complaint at 22)
- The NYISO denies that its solicitation “would limit the NYISO’s role to simply evaluating bids to develop the NYPSC’s preferred project solutions.” (Complaint at 22)
- The NYISO denies that its solicitation “renders meaningless” its evaluation of the viability and sufficiency of proposed solutions and denies that a viability and sufficiency evaluation is not necessary for projects proposed in line with the specifications included in the solicitation. (Complaint at 20)
- The NYISO denies that it is not using its independent system modeling and base assumptions in evaluating proposed solutions. (Complaint at 14)
- The NYISO denies that the NYISO’s solicitation transforms its role with respect to the Public Policy Process “into simply a ministerial one to select the lowest cost project bid to develop the NYPSC projects.” (Complaint at 3, 16)
- The NYISO denies that it is required to select “the *most* efficient *and* cost effective solution.” (emphasis added) (Complaint at 3)
- The NYISO denies that its solicitation forecloses the NYISO’s opportunity to consider an Interregional Transmission Project if one were proposed. (Complaint at 17)
- The NYISO denies that it has precluded Developers from proposing HVDC projects or from having those projects evaluated for their viability and sufficiency to satisfy the identified needs. (Complaint at 17, 27)
- The NYISO denies that the NYPSC’s role in identifying the AC Transmission Needs is analogous in any way to the role proposed for the NYPSC in the NYISO’s reliability-must-run proceeding for the selection of transmission solutions that was not accepted by the Commission. (Complaint at 18-19)
- The NYISO denies that the NYPSC “selected” projects for purposes of the Public Policy Process or used modeling that differed from the assumptions the NYISO typically uses, as the NYISO: (i) provided modeling assumptions, data, and recommendations to the NYPSC and New York State Department of Public Service Staff, and (ii) the NYISO has

and will use its own independent data and modeling in conducting its viability and sufficiency evaluation and performing its selection process. (Complaint at 28)

- The NYISO denies that it informed Boundless at its stakeholder Electric System Planning Working Group meeting that it would hold its solicitation process in abeyance if Boundless appealed the NYPSC's orders. (Tompkins Affidavit at P 14)
- The NYISO denies that Boundless has to date sought or obtained a stay of the NYPSC's orders in New York State courts. (Tompkins Affidavit at P 15)

2. Admissions

- The NYISO admits that it is the entity responsible for providing non-discriminatory open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State in accordance with its tariffs. (Complaint at 6)
- The NYISO admits that it is responsible pursuant to its OATT for the transmission planning and administration of competitive solicitations for new transmission solutions to identified needs at issue in the Complaint. (Complaint at 6)
- The NYISO admits that its Public Policy Transmission Planning Process established in the OATT consists of multiple steps that include: (i) the NYPSC's identification of Public Policy Transmission Needs, (ii) the NYISO's request for Public Policy Transmission Projects and Other Public Policy Projects to address the Public Policy Transmission Needs identified by the NYPSC, (iii) the NYISO's evaluation of the viability and sufficiency of each proposed solution to address the Public Policy Transmission Needs, and (iv) the NYISO's selection of the more efficient or cost-effective transmission solution to address the Public Policy Transmission Needs for purposes of cost allocation under the NYISO OATT. (Complaint at 3, 8, 9, 15, 16-17, 20, 24) The NYISO further admits that it will issue a Public Policy Transmission Planning Report, which will trigger stakeholder and market monitoring review of the recommended solution to a Public Policy Transmission Need and lead to Board action. (Complaint at 32)
- The NYISO admits that the definition of a Public Policy Transmission Need is "A transmission need identified by the NYPSC that is driven by a Public Policy Requirement pursuant to Sections 31.4.2.1 through 31.4.2.3." (Complaint at 15)
- The NYISO admits that the NYPSC is responsible under the OATT for identifying the transmission needs driven by Public Policy Requirements, which needs the NYPSC can identify on its own initiative or based on needs submitted to the NYISO, and provided to the NYPSC, from stakeholders or interested parties. (Complaint at 8, 15)
- The NYISO admits that its OATT permits the NYPSC to specify additional evaluation criteria and the type of analyses that the NYISO should run when it considers which

project solutions are the more efficient or cost effective transmission solution.
(Complaint at 27-28)

- The NYISO admits that it issued its first Public Policy Transmission Planning Process competitive solicitation on November 1, 2015 for solutions to address a Public Policy Transmission Need identified by the NYPSC to alleviate congestion in Western New York. (Complaint at p 9)
- The NYISO admits that it has received multiple proposed solutions for incumbent and non-incumbent developers to address the Western New York Public Policy Transmission Need. (Complaint at 10)
- The NYISO admits that it issued its second Public Policy Transmission Planning Process competitive solicitation on February 29, 2016 for proposed solutions to address the AC Transmission Needs. (Complaint at 10)
- The NYISO admits that this solicitation was issued in response to the NYPSC's December 17, 2015, order identifying the AC Transmission Needs. (Complaint at 10)
- The NYISO admits that it included in its solicitation for proposed solutions to the AC Transmission Needs the NYPSC's description of the AC Transmission Needs and the evaluation criteria and types of analyses identified by the NYPSC. (Complaint at 16)
- The NYISO admits that it has discussed its Public Policy Transmission Planning Process and the Public Policy Transmission Needs identified by the NYPSC in several meetings of its Electric System Planning Working Group and other NYISO stakeholder committees. (Complaint at 12) The NYISO further admits that it discussed its Public Policy Transmission Planning Process in a presentation prepared for the New England States Committee on Electricity Competitive Transmission Forum held on October 26, 2015. (Complaint at 12.)
- The NYISO admits that proposed solutions to the AC Transmission Needs were submitted on or before April 29, 2016. (Complaint at 32)
- The NYISO admits that it has begun its viability and sufficiency evaluation process concerning the proposed solutions to the AC Transmission Needs. (Complaint at 32)
- The NYISO admits that it is using its normal study process, including base case assumptions and modeling, when evaluating proposed project solutions to the AC Transmission Needs and is not relying on similar studies performed at the direction of the NYPSC or New York State Department of Public Service Staff. The NYISO admits that it is using certain assumptions contained in studies performed by the New York State Department of Public Service Staff that the NYISO itself supplied to the Department of Public Service Staff during the course of the state proceedings that led to the NYPSC's AC Transmission Needs order. (Complaint at 31)

- The NYISO admits that it is required under its OATT to proceed with its Public Policy Process unless a party has obtained a stay of the NYPSC's orders identifying the Public Policy Transmission Needs, and Complainants have not sought or obtained a stay. (Complaint at 35)

B. Defenses

In accordance with Commission Rule 213(c)(2)(ii), the NYISO sets forth the following defenses:

- Complainants have violated the OATT by attempting to make an end-run around the explicit OATT requirements for challenging a Public Policy Transmission Need identified by the NYPSC through an Article 78 proceeding in the courts of the State of New York.
- Complainants have failed to meet their burden of proof under Sections 206 and 306 of the Federal Power Act and Commission Rule 206.
- Complainants have failed to show that the NYISO violated its OATT when it solicited solutions to address the AC Transmission Needs that included the NYPSC's description of the need and its evaluation criteria and types of analyses the NYPSC requested the NYISO to conduct.
- Complainants have failed to show that the NYISO has ceded its transmission planning responsibilities to the NYPSC.
- Complainants have failed to show that the NYISO has converted its Public Policy Transmission Planning Process from a solution-based process into a bid-based process or will be evaluating proposed solutions solely to identify the lowest cost bid.

C. Proposed Resolution Process

Commission Rule 213(c)(4) states that an answer "is required to describe the formal or consensus process it proposes for resolving the complaint." In compliance with that requirement, the NYISO requests that the Complaint be dismissed as procedurally infirm or otherwise denied on the merits based solely on the pleadings in this proceeding.

Attachment II

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Competitive Transmission
Developers**

COMPLAINANT

v.

New York Independent System Operator, Inc.

RESPONDENT

Docket No. EL16-84-000

AFFIDAVIT OF ZACHARY G. SMITH

Mr. Zachary G. Smith declares:

1. I have personal knowledge of the facts and opinions stated herein.

A. Purpose of this Affidavit

2. The purpose of this Affidavit is to describe the manner in which the AC Transmission Needs that were identified by the New York State Public Service Commission (NYPSC), as defined below, are consistent with the framework of the NYISO's Public Policy Transmission Planning Process (Public Policy Process) established in its Open Access Transmission Tariff (OATT) and do not supplant the NYISO's performance of its transmission planning responsibilities.

B. Qualifications

3. I serve as Director - Transmission Planning for the New York Independent System Operator, Inc. ("NYISO"). My business address is 10 Krey Boulevard, Rensselaer, New York 12144.

4. I received my Bachelor of Science and Masters of Science in Electrical Engineering from Michigan Technological University. I joined the Transmission Planning department at the NYISO as an Engineer in 2004. In March 2009 I was promoted to Manager of Transmission Studies and to Director of Transmission Planning in July 2013. I serve as Chair of the Northeast Power Coordinating Council (NPCC) Task Force on Coordination of Planning and as Chair of the ISO/RTO Council Planning Committee. I am a member of the Eastern Interconnection Planning Collaborative (EIPC) Technical Committee and the Northeast Joint Interregional Planning Committee.

5. My current responsibilities at the NYISO include oversight and implementation of numerous transmission planning processes and initiatives for the New York State transmission system, including public policy transmission planning, interregional planning, and reliability compliance studies for the North American Electric Reliability

Corporation (NERC), NPCC, and New York State Reliability Council (NYSRC). As part of my responsibility, I oversee the administration of the Public Policy Process.

C. AC Transmission Needs Are Consistent with Framework of NYISO's Public Policy Process

6. On August 1, 2014, the NYISO initiated its first Public Policy Process by soliciting proposed transmission needs that stakeholders or interested parties believe are driven by Public Policy Requirements. On October 3, 2014, the NYISO filed with the NYPSC for their consideration the proposed transmission needs the NYISO received from eight entities. I led a team of engineers at the NYISO that conducted independent power flow analysis of potential transmission solutions across key interfaces on the New York State Bulk Power Transmission Facilities that was provided to New York State Department of Public Service Staff to assist the NYPSC in identifying constraints and potential options for relieving them.
7. The NYPSC issued an order on December 17, 2015 (NYPSC Order) that identified numerous public policies that together constitute Public Policy Requirements driving transmission needs associated with the Central East and Upstate New York/Southeast New York (UPNY/SENY) sections of the New York State Transmission System (AC Transmission Needs).
8. Segment A of the AC Transmission Needs consists of construction and operation of a portfolio of 345 kV transmission projects to reconfigure and upgrade transmission facilities from the Edic or Marcy substations to the New Scotland substation with a tie-in to the Rotterdam substation, to provide a minimum of 350 MW of additional transfer capability across the Central East interface. Segment B of the AC Transmission Needs consists of new 345 kV transmission from a new Knickerbocker substation to the Pleasant Valley substation, with upgrades at the Greenbush substation, upgrades to the Rock Tavern substation, and the construction of a new double circuit 138 kV line from the Shoemaker to Sugarloaf substations, to provide a minimum of 900 MW of additional transfer capability across the UPNY/SENY interface.
9. The NYPSC also identified certain criteria and analyses that the NYISO must apply in its evaluation of proposed solutions (*e.g.*, avoid opening new rights-of-way, avoid a new crossing of the Hudson River).
10. As required by OATT Sections 31.4.3 and 31.4.3.1, the NYISO issued a solicitation on February 29, 2016 requesting interested parties to submit within sixty days proposed Public Policy Transmission Projects and Other Public Policy Projects to address the AC Transmission Needs. Based upon the AC Transmission Needs and related criteria, the NYISO independently created power flow cases for Developers to use in developing their proposed solutions to the identified AC Transmission Needs and evaluation criteria.
11. The NYPSC did not select a particular project in identifying the AC Transmission Needs. The NYPSC's descriptions of Segment A and Segment B provide a general framework

for transmission projects to meet the AC Transmission Needs, but the exact types of physical or electric designs have not been specified.

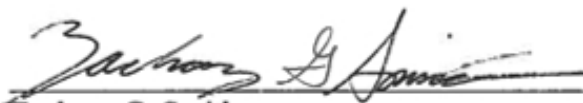
12. The NYISO's metrics for evaluating more efficient or cost-effective regulated Public Policy Transmission Projects to satisfy Public Policy Transmission Needs, set forth in OATT Section 31.4.8.1, provide the opportunity to distinguish among projects by qualitatively assessing expandability, operability, and performance in conjunction with more quantitative metrics such as cost, megawatt transfer capability, production cost savings, and emission savings. For example, for the expandability metric, the NYISO will consider the impact of the proposed project on future construction and consider the extent to which any subsequent expansion will continue to use this proposed project within the context of system expansion. There are numerous potential designs, such as alternative transmission structure configurations, that would meet the AC Transmission Needs and provide varying levels of expandability. There are also numerous potential electrical designs that would provide varying levels of operability and performance, such as more efficient conductors, and the inclusion of controllable devices and series compensation.
13. The NYISO's solicitation for proposed solutions did not limit in any way any party from proposing a Public Policy Transmission Project or Other Public Policy Project to address the AC Transmission Needs; provided that for a Public Policy Transmission Project, the Developer must have either satisfied the requirements for a qualified transmission Developer under the OATT or have sought to become qualified simultaneously with its project submission.
14. While the NYPSC requested that certain incumbent and non-incumbent Developers that participated in its AC Transmission Upgrade proceeding submit their projects into the NYISO's Public Policy Process, the NYISO does not evaluate those projects any differently than any other project submitted in the NYISO's process.
15. The NYISO has received a total of sixteen proposed solutions to address one or both segments of the AC Transmission Needs - fifteen Public Policy Transmission Projects and one Other Public Policy Project (*i.e.*, a portfolio of distributed generation) from a total of six incumbent and non-incumbent Developers. Of these six Developers, the NYPSC had requested that three submit projects into the Public Policy Process, whereas three had not participated in that NYPSC's AC Transmission Upgrade proceeding. The proposed solutions include single circuit and double circuit proposals as well as numerous variations of system configuration, including reconfiguration of existing facilities.
16. In contrast to Complainants' assertions, the NYISO will select the solution to the AC Transmission Needs among the multiple, competitive solutions submitted by the six Developers.
17. The NYISO is separately and independently evaluating the viability and sufficiency of all of the proposed solutions that it has received in response to its solicitation. Among the

viable and sufficient transmission solutions, the NYISO will also independently evaluate and select the more efficient or cost-effective Public Policy Transmission Project to address the AC Transmission Needs in accordance with its OATT. The NYISO's evaluation will not be limited to identifying the lowest cost alternative. The NYISO will evaluate all viable and sufficient transmission solutions using all of the metrics set forth in OATT Section 31.4.8.1 to determine the more efficient or cost-effective transmission solution.

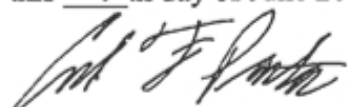
18. In performing its evaluation of proposed solutions, the NYISO will not be adopting the NYPSC's studies in performing its evaluation. Rather, as it has throughout its participation in the NYPSC's proceedings and in conducting its own planning processes, the NYISO will be using its own base cases, modeling and studies that it has independently developed in accordance with the requirements in OATT Section 31.4 and the NYISO Public Policy Transmission Planning Process Manual. These include the NYISO's independent modeling and analysis of transmission power flows, resource adequacy, and system production costs using a panoply of software tools, with internal staff and independent consultants. The NYISO will use certain assumptions contained in the studies performed by the New York State Department of Public Staff that the NYISO itself supplied to the Department of Public Service Staff during the course of the state proceedings that led to the NYPSC's AC Transmission Needs order.
19. This concludes my affidavit.

ATTESTATION

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


Zachary G. Smith

Subscribed and sworn to before me
this 29 th day of June 2016


Notary Public

My commission expires: February 12, 2018

CARL F. PATKA
Notary Public - State of New York
No. 4962209
Qualified in Albany County
My Commission Expires Feb. 12, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 30th day of June 2016.

/s/ Joy A. Zimmerlin

Joy A. Zimmerlin
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