UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

American Wind Energy Association	**)**	**Docket No. RM15-21-000**

MOTION TO INTERVENE AND COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"),[1] the New York Independent System Operator, Inc. ("NYISO") moves to intervene and submit comments in the above-captioned proceeding. The NYISO's comments concern the June 19, 2015, petition by the American Wind Energy Association ("AWEA") requesting that the Commission commence a rulemaking proceeding to revise provisions of its *pro forma* Large Generator Interconnection Procedures ("*Pro Forma* GIP") and *pro forma* Large Generator Interconnection Agreement ("*Pro Forma* GIA").[2]

The NYISO agrees with AWEA's goal of ensuring that interconnection processes are efficient, cost-effective, transparent and provide for the provision of timely and accurate information. The NYISO administers its interconnection process set forth in Attachments S, X, and Z of the NYISO's Open Access Transmission Tariff ("OATT") in a manner consistent with these goals. The NYISO is always looking to implement improvements to this process, as needed, driven largely by stakeholder input. These collaborative efforts have, over the years, led to significant improvements to the NYISO's interconnection process that carefully tailor the

[1] 18 C.F.R. §§ 385.212 and 385.213 (2015).

[2] *American Wind Energy Association*, Petition for Rulemaking of the American Wind Energy Association to Revise Generator Interconnection Rules and Procedures, Docket No. RM15-21-000 (June 19, 2015) ("AWEA Petition").

process to circumstances unique to New York, with some changes only recently going into effect. The NYISO will continue to work with its stakeholders to identify further opportunities to improve its interconnection process for the benefit of all Developers and ultimately consumers, including giving full consideration as to whether any of AWEA's proposals may have merit for New York.

The NYISO, along with the other Independent System Operators ("ISOs") and Regional Transmission Organizations ("RTOs"), have adopted, and the Commission has accepted, significant variations from the *Pro Forma* GIP and *Pro Forma* GIA that reflect the specific circumstances of their respective regions. Any further changes to interconnection processes are more likely to be successful if they are developed by the individual regions in which they are relevant and through applicable stakeholder processes. As described in these comments, the NYISO strongly urges the Commission to refrain from initiating AWEA's requested nationwide rulemaking or otherwise adopting its proposed uniform, one-size-fits-all revisions as part of this proceeding. As noted in these comments and comments submitted by the ISO/RTO Council ("IRC"),[3] the Commission should encourage AWEA to address its stated concerns through the individual regions' stakeholder processes. In addition, the NYISO's comments address AWEA's specific proposals as they relate to the NYISO's interconnection procedures, many of which are inapplicable to the New York-specific procedures.

[3] The NYISO is a member of the IRC and supports the regional, stakeholder-driven approach proposed by the IRC in its comments in response to AWEA's Petition. The NYISO also supports the comments it filed jointly in this proceeding with the California Independent System Operator Corporation ("CAISO"), the Midcontinent Independent System Operator, Inc. ("MISO"), and PJM Interconnection, L.L.C. ("PJM") requesting, to the extent the Commission determines a need to implement selected broader reforms, that the Commission consider alternative suggestions for improving the interconnection process.

I. MOTION TO INTERVENE

The NYISO is the independent, not-for-profit corporation responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. The NYISO administers the interconnection process for the New York State Transmission System and Distribution System pursuant to its Commission-approved OATT.[4] In this proceeding, AWEA requests that the Commission initiate a nationwide rulemaking proceeding to revise interconnection procedures applicable across all regions, including those administered by the NYISO pursuant to its OATT. The NYISO, therefore, has a unique interest in this proceeding that cannot be adequately represented by any other entity and requests that the Commission permit it to intervene with all the rights of a party.

II. BACKGROUND

A. The NYISO's Standard Large Facility Interconnection Procedures

The NYISO's Standard Large Facility Interconnection Procedures contained in Attachment X of the OATT ("NYISO LFIP") establish the requirements by which the NYISO, in coordination with the relevant Connecting Transmission Owner,[5] administers the proposed interconnection of a Large Facility greater than 20 MW to the New York State Transmission

[4] Terms with initial capitalization that are not otherwise defined herein shall have the meaning set forth in Attachments S and X of the NYISO's Open Access Transmission Tariff ("OATT"), or, if not defined therein, in Section 1 of the OATT or Section 2 of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff").

[5] The term "Transmission Provider" as defined in the *Pro Forma* GIP encompasses both the NYISO and the New York Transmission Owners. The NYISO's Large Facility Interconnection Procedures, with its Commission-approved variations from the *Pro Forma* GIP, assigns the responsibilities of "Transmission Providers" to the NYISO, as the system operator, and the New York Transmission Owners, as the owners of the impacted transmission and distribution facilities in New York.

System or Distribution System. The NYISO LFIP were developed with extensive stakeholder involvement in response to the Commission's Order No. 2003.[6]

In Order No. 2003, the Commission acknowledged the differing characteristics of each region and provided ISO/RTOs with the flexibility to seek independent entity variations from the final rule "to customize its interconnection procedures and agreements to fit regional needs."[7] Accordingly, while generally following the *Pro Forma* GIP, the NYISO LFIP include numerous independent entity variations accepted by the Commission over the years that are specifically tailored to the unique circumstances in New York.

In particular, the NYISO's interconnection process includes significant Commission-approved variations from the *Pro Forma* GIP and differs from other ISO/RTOs' procedures concerning the treatment of proposed projects in the interconnection queue, the scope of interconnection studies, and the process for allocating the cost of System Upgrade Facilities and System Deliverability Upgrades.[8] Several of the most significant variations are highlighted below.

1. The NYISO's Unique Interconnection Queue Provides for Parallel, Rather than Sequential, Project Evaluation

The NYISO's interconnection queue approach differs significantly from the "hard" interconnection queue approach used in other ISO/RTO regions. Once a Developer has

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

[7] Order No. 2003 at P 827.

[8] AWEA refers to "Interconnection Customers" in its Petition. In these comments, the NYISO uses the term "Developer," which is the term used in Attachments X and S of the OATT to refer to a project developer for a Large Facility. In addition, AWEA refers to "network upgrades" in its Petition. In these comments, the NYISO uses the following terms defined in Attachments S and X of the OATT: "System Upgrade Facilities," which refer to the upgrades required to reliably interconnect a Large Facility, and "System Deliverability Upgrades," which refer to the upgrades required to make a Large Facility deliverable.

submitted a valid Interconnection Request for its project and the project has been included in the NYISO's interconnection queue, the Developer's advancement through the NYISO's interconnection process, including the identification of required facilities and related costs to reliably interconnect its project, is largely driven by its own project development and not the progress, or lack thereof, of other projects with higher Queue Positions. While the NYISO takes Queue Position into account in determining the order of performing interconnection studies,[9] it is only one of the factors taken into account. To the extent practicable, the NYISO evaluates Interconnection Requests in parallel, not sequentially.

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

In addition, as described below, a project may only advance to be studied with a cluster of other projects in the final Class Year Study when it has met certain eligibility requirements, the satisfaction of which are independent of its Queue Position. That is, a project with a lower Queue Position that has satisfied the required eligibility requirements may advance into the Class

[9] *See* OATT, Attachment X Section 30.4.1.

Year Study prior to a project with a higher Queue Position that has not progressed sufficiently to satisfy the eligibility requirements.

2. The NYISO's Unique Interconnection Study Process

The NYISO LFIP call for three successive interconnection studies of each proposed project, which provide for increasingly detailed analysis. First is the Interconnection Feasibility Study ("Feasibility Study"), which is a high-level, single-project evaluation of the configuration and local system impacts. It includes thermal, voltage and short circuit analyses that indicate potential overloads the project may cause. The Feasibility Study identifies and provides good-faith non-binding cost estimates for the System Upgrade Facilities and Connecting Transmission Owner's Attachment Facilities that are needed solely as a result of the project.

The second study is the Interconnection System Reliability Impact Study ("SRIS"), a detailed single-project study that evaluates the project's impact on transfer capability and system reliability. The SRIS consists of short circuit, stability and power flow analyses. The SRIS identifies the facilities required for the project to reliably interconnect under the NYISO's Minimum Interconnection Standard - *i.e.*, the identification of potential impediments to the facility providing Energy Resource Interconnection Service ("ERIS").[10] The SRIS report includes not only a detailed description of such required facilities and equipment, but also includes a good faith cost estimate and estimated construction schedule.[11]

[10] ERIS is the basic interconnection service that enables a Developer, subject to other requirements in the NYISO's tariffs, to provide Energy and Ancillary Services in the NYISO-administered markets. For purposes of ERIS, the NYISO evaluates whether a project can reliably interconnect its facility to the New York State Transmission System or Distribution System under the NYISO's Minimum Interconnection Standard and identifies and allocates the costs of the Connecting Transmission Owner's Attachment Facilities and any System Upgrade Facilities required for the project.

[11] A typical SRIS cost estimate might include something like the following:

3-Breaker Ring Substation

- Equipment (cables, breakers, conduits, 8.25% tax) $X
- Protection and Communication Equipment $X
- Labor (engineering, management, construction) $X.

Among the unique variations in the NYISO's SRIS is the Developer's ability to opt for an additional preliminary evaluation of its proposed facility under the NYISO's Deliverability Interconnection Standard. This was added to the NYISO's LFIP in 2013 in an effort to provide Developers with additional information earlier in the process. This option provides the Developer with a preliminary indication of potential deliverability issues, reveals the possibility that System Deliverability Upgrades may be required for the Developer to obtain Capacity Resource Interconnection Service ("CRIS"), and provides a preliminary cost estimate for potential System Deliverability Upgrades.[12]

The final study in the interconnection process is the Class Year Study, which is a construct unique to the NYISO, the continued use of which has been supported by its stakeholders.[13] The Class Year Study is a detailed study that collectively evaluates a group of projects that have reached specific developmental milestones - a "Class Year" of projects - to determine the combined impact of such projects. The Class Year Study identifies the facilities needed to reliably interconnect all the projects in a Class Year. There is no queue prioritization of projects in the Class Year. Through this unique clustered study, the NYISO is able to equitably allocate upgrade costs and generate detailed cost estimates that provide reasonable accuracy on upgrade costs.

Each Class Year Study allocates the cost of System Upgrade Facilities and System Deliverability Upgrades identified in the study among the projects in the Class Year in

[12] A project seeking to be eligible to participate in the NYISO-administered Installed Capacity market must obtain in addition to ERIS a second level of interconnection service - CRIS. For purposes of CRIS, the NYISO evaluates whether a project is deliverable under the NYISO's Deliverability Interconnection Standard and identifies and allocates the costs of any System Deliverability Upgrades required to make the project deliverable.

[13] In discussions with stakeholders regarding suggested revisions to the Class Year Study process in 2012, stakeholders indicated a desire to retain the Class Year Study structure with its detailed cost estimates and other study outputs.

accordance with the cost allocation methodologies set forth in Attachment S to the OATT.[14] A Developer participating in the Class Year may elect to proceed with the interconnection of its projects by accepting the cost allocation for the project and providing security to cover its costs.[15] If one or more Developers decline to accept their cost allocation, the NYISO will update the Class Year study results without their projects, and the remaining Developers will again have an opportunity to elect whether to accept their respective updated cost amounts. The NYISO will continue this decisional process until all remaining Developers have accepted their cost allocations and provided the required security, at which point the Class Year Study results are final.

Once a Class Year Study is finalized, each Developer in the Class Year that has accepted its cost allocation and provided the required security is then only responsible for interconnection costs in excess of the secured amount in limited circumstances that are clearly specified in the NYISO OATT.[16] A Developer is responsible for actual costs in excess of estimated costs only if the excess results from factors not within the control of the Connecting Transmission Owner, such as changes the Developer makes to the design of its project. If the excess is due to factors that are within the control of the Connecting Transmission Owner, such as interconnection facility construction management practices, then that excess cost is borne by the Connecting Transmission Owner and not the Developer.

[14] In that respect, the NYISO's Class Year Study is analogous to the *pro forma* Interconnection Facilities Study; however the mechanics of the Class Year Study are unique to the NYISO.

[15] A Developer whose project is being evaluated for both ERIS and CRIS can elect not to accept its cost allocation for System Deliverability Upgrades and to proceed only with ERIS. In such case, the Developer must still accept its cost allocation and provide security for the System Upgrade Facilities required to reliably interconnect its project.

[16] OATT, Attachment S Section 25.8.6.

B. Ongoing Improvements to the NYISO LFIP

Since Order No. 2003, the NYISO has implemented, with stakeholder input, significant revisions to update and enhance the interconnection requirements in Attachments S and X of the OATT,[17] and has also made numerous process improvements to address issues identified by the NYISO, Developers and other stakeholders that are specific to the Commission-approved rules for New York described above.

When identifying and prioritizing potential tariff changes and process improvements, the NYISO actively engages its stakeholders. The NYISO conducts an ongoing, formalized interconnection queue improvement process in the Transmission Planning Advisory Subcommittee ("TPAS") of its stakeholder Operating Committee. Developers and other parties to interconnection studies are encouraged to participate in the TPAS meeting, particularly if they raise concerns to NYISO staff regarding interconnection procedures or if they have suggested improvements to the process. Neither AWEA nor its individual members have been active participants in NYISO stakeholder discussions of potential interconnection process improvements. Moreover, they have not raised in NYISO stakeholder discussions the concerns identified in the Petition.

Through its engagement with stakeholders, the NYISO is able to identify the key areas of concern expressed by many Developers and to develop targeted solutions that function effectively in the NYISO's process. These solutions have to find an appropriate balance of the - at times conflicting - goals of flexibility, finality and speed. Among the more significant modifications made to the NYISO's interconnection procedures as part of these ongoing efforts to improve the interconnection processes are the following:

[17] Among NYISO's queue improvement efforts have also been a number of improvements to the Small Generator Interconnection Procedures set forth in Attachment Z of the OATT.

- Modifications to base case assumptions for Feasibility Studies, SRISs and System Impact Studies to improve technical quality of the studies and to improve efficiency;[18]

- Modifications to Class Year Study entry and re-entry rules to provide flexibility to Developers while at the same time tightening the overall process to address "queue squatting" by projects not making reasonable progress toward commercial operation;[19]

- Addition of a non-refundable application fee and revised study deposits to discourage premature or speculative projects from entering the queue and to align the deposit amount with actual study costs;[20]

- Modifications of the Class Year Study requirements to reduce the number of Small Generating Facilities that are required to proceed through the Class Year Study, limiting the Class Year Study requirement to only those Small Generating Facilities that require more systemic System Upgrade Facilities;[21]

- Modifications to the allocation of Class Year Study costs to ensure that the study cost allocation is appropriate and equitable.[22]

In 2012, the NYISO and its stakeholders worked collaboratively to develop a significant set of scheduling and administrative improvements to the Class Year Study process. These improvements had the following primary objectives: (1) to avoid overlapping Class Year Studies and tighten expectations for completing major Class Year Study milestones; (2) to provide a mechanism for projects, within the Class Year Study, to drop out of the Class Year Study, remain in the Class Year Study for ERIS-only, or reduce their CRIS request and thereby have the option to accept only their deliverable MWs; (3) to allow for an earlier evaluation of

[18] *See New York Independent System Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER10-290-000 (Jan. 6, 2010); *New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket No. ER10-290-000 (Feb. 22, 2010).

[19] *See id.*

[20] *See id.*

[21] *See New York Independent System Operator, Inc.*, Order on Tariff Revisions, 135 FERC ¶ 61,014 (2011). With these modifications, Small Generating Facilities that require only Local System Upgrade Facilities and that are not requesting CRIS need only complete a Small Generator Facilities Study.

[22] *See New York Independent System Operator, Inc.*, Order on Tariff Revisions, 135 FERC ¶ 51,014 (2011) (April 8, 2011); *New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket No. ER11-2842-001 (July 6, 2011).

deliverability and identification of System Deliverability Upgrades - before the Class Year Study; (4) to streamline the cost allocation decision process; (5) to allow more flexibility in satisfying Headroom[23] payment obligations; and (6) to allow security for System Upgrade Facilities to be reduced after discrete portions of the System Upgrade Facilities are completed.[24] These modifications have only recently gone into effect.

Most recently, the NYISO made further improvements to its processes to accommodate project modifications that result in only a *de minimis* increase in the energy capability of existing facilities.[25] This improvement was initiated in response to stakeholder concerns that any increase in output triggered the requirement that an existing facility submit a new Interconnection Request, regardless of how minimal the increase might be. By revising the tariff to permit limited increases in energy capability of existing facilities without requiring a new Interconnection Request, this enhancement eliminated unnecessary interconnection studies and their related costs. It thereby added efficiencies to the NYISO's interconnection process and provided added flexibility to existing facilities interconnected to the New York State Transmission System. Among the Developers who benefit from this added flexibility are wind generators who often change their turbine design or manufacturer, and as a result, may end up increasing their facility's overall size by a small amount.

The series of above-referenced tariff revisions maintained the basic structure of the NYISO's interconnection process desired by stakeholders while at the same time recognizing the need to enhance flexibility for Developers. Under certain circumstances, this approach may

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[23] The NYISO's Headroom provisions are discussed in greater detail in Section III (B)(4), *infra*.

[24] *See New York Independent System Operator, Inc.*, 142 FERC ¶ 61,113 (2013); *see also, New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket Nos. ER13-588-001 and ER13-588-002 (April 1, 2013).

[25] *See New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket No. ER14-627-000 (Jan. 23, 2014).

lengthen study time, but is the balance carefully struck by the NYISO in concert with the stakeholders that actively participate in the NYISO's interconnection process.

The NYISO has also made use of existing flexibility in its interconnections procedures to improve the overall process. For example, the NYISO tailors the scopes of interconnection studies of specific projects, consistent with the general scope requirements in the tariff (*i.e.*, Sections 30.6.2, 30.7.3 and 30.8.2 of Attachment X of the OATT), to include evaluations of issues relevant to the specific project and to exclude evaluation of issues not considered relevant to the project. This is done with the review and input of the Developer and Connecting Transmission Owner (and, for the SRIS and Class Year Study, Affected System Operators and stakeholders through the NYISO's committee process). The NYISO continuously considers and implements scope improvements based on input from the parties and stakeholders consistent with the general tariff requirements.

III. COMMENTS

For the reasons described below, the NYISO strongly urges the Commission to refrain from initiating AWEA's requested rulemaking or otherwise adopting its proposed revisions in this proceeding. Instead, the Commission should encourage AWEA to address any concerns relevant to each region's interconnection process through participation in the individual region's stakeholder process.

A. AWEA's Stated Concerns Do Not Apply Uniformly Across All Regions and Should Be Addressed Through the Relevant Regions' Stakeholder Processes

The Commission should refrain from initiating the rulemaking requested in AWEA's Petition to enact uniform, one-size-fits-all revisions to the interconnection procedures across all regions. The Commission has acknowledged that each region has unique characteristics and has

accepted numerous regional variations to the *Pro Forma* GIP that are specific to each region's needs.[26] As described above, the NYISO's interconnection process contains procedures that are distinct from the *Pro Forma* GIP and other ISO/RTOs' procedures, and the NYISO and its stakeholders have spent significant time and resources over the last decade in refining and enhancing these procedures in light of circumstances and concerns specific to New York. These procedures do not exist in a vacuum, but rather are intertwined with the NYISO's market and planning requirements and reflect unique market rules (*e.g.,* the absence of physical transmission rights), regional and state reliability requirements, state siting requirements, and a particular resource mix and transmission topography. The procedures cannot be revised without potentially creating adverse impacts in diverse areas.

AWEA provides no support for its allegations that the NYISO LFIP or other regions' interconnection procedures are unjust and unreasonable. AWEA does not even include in its Petition any specific concerns regarding the NYISO's interconnection procedures. In fact, the sole mention of the NYISO in its Petition is a positive reference to the NYISO's interconnection study base case inclusion rules.[27] AWEA instead relies on the anecdotal experience of its members outside of New York to attempt to justify wholesale changes to interconnection procedures nationwide.

The Commission should not permit AWEA to perform an end-run around each region's stakeholder process to push its own wish list of changes without having to account for the differences in each region and the interests of other stakeholders and interested parties in the

[26] *See* Order No. 2003 at P 827 (acknowledging the differing characteristics of each region and providing ISO/RTOs with the flexibility to seek independent entity variations from the final rule "to customize its interconnection procedures and agreements to fit regional needs"); *see also* Interconnection Queuing Practices, Order on Technical Conference, 122 FERC ¶ 61,252 (March 20, 2008) ("Queue Management Order") at P 8.

[27] AWEA Petition at p 26 n 44.

appropriate stakeholder processes.[28] AWEA has generally not been active in the NYISO's stakeholder process and has not raised the concerns identified in its Petition in the NYISO's stakeholder process.

Even in those instances in which the Commission has identified the need for interconnection process improvements across regions, the Commission has generally left it up to the individual ISO/RTOs to address the issue with their stakeholders within the context of their region.[29] For example, in its order regarding Interconnection Queuing Practices in Docket No. AD08-2-000, the Commission identified concerns that Interconnection Requests for Large Generating Facilities were not being efficiently processed due to surges in the volume of new generation, including an unprecedented demand in some regions for renewable generation.[30] In its Order the Commission stated:

> While the Commission could take action to impose solutions, and may need to do so if the RTOs and ISOs do not act themselves, we agree that we should allow each region the opportunity to propose its own solution. Although there are some common issues affecting all the regions, there are also significant differences in the nature and scope of the problem from region to region; there may, therefore, be no one right answer for how to improve queue management. Further, any

[28] *See, e.g., ISO New England Inc.*, 130 FERC ¶ 61,145, at P 34 (2010) ("we encourage parties to participate in the stakeholder process if they seek to change the market rules..."); *ISO New England Inc.*, 125 FERC ¶ 61,154 at P 39 (2008) (directing that unresolved issues be addressed through the stakeholder process); *ISO New England,* 128 FERC ¶ 61,266 at P 55 (2009) (declining to grant a party's specific request for relief because the Commission "will not ... circumvent that stakeholder process"); *New York Independent System Operator, Inc., New York Transmission Owners*, 126 FERC ¶ 61,046, at PP 53-54 (2009) (directing that a proposal be "presented to and discussed among … stakeholders and filed as a section 205 proposal, not unilaterally presented to the Commission"); *New England Power Pool*, 107 FERC ¶ 61,135 at PP 20, 24 (2004) (declining to accept changes proposed for the first time in a FERC proceeding by an entity that participated in the stakeholder process because the "suggested revisions have not been vetted through the stakeholder process and could impact various participants")

[29] *See e.g., Interconnection for Wind Energy*, Order No. 661, FERC Stats. & Regs. ¶ 31,186 (2005) ("Order No. 661), *order on reh'g*, Order No. 661-A, FERC Stats. & Regs. ¶ 31,198 ("Order No. 661-A"). In Order 661, the Commission responded to concerns regarding the interconnection of wind generation not by replacing regionallytailored interconnection procedures; rather, the Commission supplemented the existing procedures with a windrelated addendum. Notably, as with Order No. 2003, the Commission permitted independent entity variations under Order No. 661 as well. *See* Order No. 661-A at PP 41-46.

[30] Queue Management Order at P 3.

> solution involves a balancing of interests. Therefore, we urge the RTOs and ISOs to work with their stakeholders to develop consensus proposals.[31]

This resulted in a successful process that allowed individual regions, including the NYISO, to tailor solutions to the needs of each region.

B. Many of AWEA's Concerns Do Not Apply to the NYISO Region

Many of AWEA's stated interconnection challenges concern interconnection procedures that are not relevant under the NYISO's existing interconnection process. As demonstrated by the specific examples discussed below, many of AWEA's concerns are either already addressed in New York or completely inapplicable. This underscores the need for AWEA to raise its concerns in the stakeholder processes of the respective regions in which it is experiencing the particular issues that prompted its Petition. Many other Developers have been active participants in the development of beneficial improvements to the NYISO's interconnection procedures as described herein through their participation in the stakeholder process.

1. Re-Studies

AWEA seeks to impose on all ISO/RTOs the requirement that re-studies be performed on an annual basis for all applicable projects in a particular area.[32] However, the NYISO's interconnection process functions differently than those in other ISO/RTOs and does not use the re-studies described by AWEA that modify the upgrades required for projects based on changes to higher-queued projects or system conditions. As described above, the NYISO will study a cluster of projects in its Class Year Study that have - regardless of their queue position - each satisfied certain eligibility requirements. The Class Year Study will determine the facilities, and related costs, to interconnect all projects in the Class Year. If one or more Developers decline to

[31] Queue Management Order at P 8.

[32] AWEA Petition at pp 22-25.

accept their respective costs, the NYISO will remove their projects from the Class Year Study and update the facility and cost information for the remaining Developers. Only when all remaining Developers accept their costs and provide the required security will the Class Year Study be final. This update process is performed in accordance with tight, tariff-prescribed timeframes.[33] At that point, a Developer is only responsible for project costs in excess of its secured amount under limited circumstances set forth in Attachment S of the OATT.

The NYISO's unique Class Year Study result update process effectively replaces the need for a "re-study" process. It is superior to what AWEA is recommending, as it does not require performing a whole study anew, is completed in a short period of time at the end of the Class Year Study process, and considers the group of remaining participants in the Class Year at the same time - which generally serves to decrease the cost responsibility for required upgrades for any one Developer.

2. Contingent Facilities

AWEA expresses concerns related to the identification of contingent facilities - facilities contingent on a higher-queued project Developer completing certain upgrades.[34] AWEA's concerns regarding contingent facilities are not relevant to the NYISO's process. As described above, the NYISO studies a cluster of projects in its Class Year Study. The results of this study are only final when all Developers remaining in the Class Year have accepted their allocation of the costs required for the System Upgrade Facilities necessary to reliably interconnect the remaining projects and have provided security in the amount of their allocation. In the event one

[33] The Developer must indicate whether it will accept its respective costs within thirty days of the initial determination and within seven days of subsequent determinations. NYISO OATT, Attachment S Section 25.8.2. The NYISO must update the facility and cost information within fourteen calendar days. NYISO OATT, Attachment S Section 25.8.3.

[34] AWEA Petition at pp 25-28.

of these Developers then fails to proceed with its project, it forfeits its security to the extent necessary to defer its portion of the cost of the upgrades required to reliably interconnect the remaining projects in the Class Year. In addition, in developing its base case to study the reliable interconnection of projects in future Class Years, the NYISO only includes facilities that are either already interconnected or projects that have provided the security required to cover the costs of necessary upgrades. These existing requirements already address AWEA's broader concerns regarding cost containment and cost certainty for Developers.

3. Connecting Transmission Owner Involvement in Interconnection Process

In response to AWEA's request for increased Transmission Owner involvement prior to the Facilities Study stage of the interconnection process,[35] the NYISO notes that the New York Transmission Owners are heavily involved in the performance of, and provide significant technical and cost input, throughout the NYISO's interconnection process, starting with the Feasibility Study. The NYISO communicates and coordinates closely with the relevant Connecting Transmission Owner in connection with each project's Interconnection Request and its progress through the interconnection queue. Among other things, the Connecting Transmission Owner works with the NYISO and the Developer to develop the scope of interconnection studies, performs certain study responsibilities, reviews and comments on one-line diagrams, provides breaker-level diagrams for the Point of Interconnection, coordinates site reviews, reviews and confirms contingency lists, reviews the base cases prepared by the NYISO (or its consultant), and reviews the draft study results. The NYISO continually works with the New York Transmission Owners, as with its other stakeholders, to refine and improve their role within the interconnection process.

[35] AWEA Petition at pp 29-31.

4. Mechanisms to Address Unused Capacity

AWEA argues that a Developer requires additional flexibility to manage its unused capacity - *i.e.,* MWs of generating capacity that are specified in the Interconnection Request, evaluated in the interconnection studies, and specified in the Interconnection Agreement, but not used by the Developer. Specifically, AWEA requests that if a Developer does not ultimately use all of the capacity under an Interconnection Agreement, that it be entitled to split its Interconnection Agreement into more than one agreement.[36] This has not been an issue in New York, and Developers have the capability to manage their ERIS and CRIS rights through the NYISO's existing procedures. A Developer will occasionally bring a project online in New York that is smaller than the project described in the Interconnection Agreement. In those cases, the parties to the agreement have simply amended the agreement to reflect the downsizing.

AWEA's proposal attempts to shift the costs associated with a Developer's decision to modify its project after upgrades are constructed to other entities.[37] The NYISO already has a "Headroom" mechanism in Attachment S of the NYISO OATT for a Developer to recover the costs of certain upgrades that other Developers use. Under the Headroom requirements, if a Developer pays for upgrades that create capacity on the electric system in excess of that needed for the Developer's project, then the Developer may be reimbursed by a subsequent Developer for their use of the excess capacity of the upgrades.[38] The NYISO's Headroom requirements

[36] AWEA Petition at pp 44-47.

[37] AWEA Petition at pp 44-47, 56-58.

[38] Such Headroom can be created by a Developer that elects to construct System Upgrade Facilities that are larger or more extensive than the minimum facilities required to reliably interconnect its proposed project ("Elective System Upgrade Facilities"). *See* NYISO OATT Attachment S, Sections 25.6.1.4.1 and 25.7.12.7 (establishing similar Headroom requirements for System Deliverability Upgrades). The Developer can construct Elective System Upgrade Facilities as long as they are reasonably related to the interconnection of the proposed project. Headroom can also result simply from the fact that commercially available facilities may be somewhat larger than what is required for a particular project. If a Developer of a later project uses the Headroom created and paid for by the

were developed through an extensive stakeholder process and have operated successfully for a number of years. These existing rules appear to address the very issue raised by AWEA. AWEA's concern therefore does not appear to be one that needs to be addressed through revisions to the NYISO's interconnection procedures.

5. Self-Funding of Network Upgrades

AWEA also seeks reforms that would remove from Transmission Owners the discretion regarding whether to agree to "self-fund" network upgrades (upgrades for which the Transmission Owner provides 100% of the up-front funds required to construct network upgrades).[39] The NYISO's interconnection process does not provide for the Transmission Owner to self-fund network upgrades as described by AWEA. Therefore, the Transmission Owner decision to agree or not agree to self-fund upgrades is not relevant to the NYISO.

6. Provision of Additional Injection Capacity

AWEA additionally seeks reforms that would permit a Developer to fund upgrades intended to provide further injection capacity.[40] The NYISO OATT already provides two mechanisms for Developers to fund upgrades to provide further injection capacity: (1) Developers can fund Elective System Upgrade Facilities during the interconnection process;[41] and (2) transmission service customers can fund transmission system expansion projects.[42]

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earlier Developer, the later Developer must pay the original Developer for this Headroom in accordance with specific Headroom reimbursement rules. *See* NYISO OATT Attachment S, Sections 25.8.7 and 25.7.12.6 (establishing similar Headroom requirements for System Deliverability Upgrades).

[39] AWEA Petition at pp 50-52.

[40] AWEA Petition at pp 52-56.

[41] *See* footnote 39.

[42] *See, e.g.,* OATT Section 3.7.

C. AWEA's Proposed Revisions Would Replace a Carefully-Tailored Process that Balances Flexibility, Finality, and Speed with a Rigid Process that Adversely Impacts Developers

Many of AWEA's proposed revisions would establish a more rigid, standardized interconnection process that would upset the careful balancing of interests in the NYISO's current process agreed upon by NYISO stakeholders and accepted by the Commission. AWEA seeks more stringent Transmission Provider deadlines and earlier cost certainty, while simultaneously requesting that Transmission Providers provide the Developers with more detailed information and greater flexibility. These requests are inconsistent. The Petition does not account for the balance that must always be struck among the differing and often conflicting goals of flexibility, finality, and speed.

The necessary balance among flexibility, finality and speed is always carefully weighed when proposals are made within the NYISO's stakeholder process. In weighing the competing factors, NYISO stakeholders have generally rejected proposed revisions to the interconnection process that provide for front-loaded analysis or more stringent requirements, electing instead for Developers to have greater flexibility throughout the NYISO's interconnection process. If the NYISO were required to adopt AWEA's proposed revisions, the NYISO would have to bypass the general intent of its stakeholders by limiting the flexibility currently provided to Developers under the existing interconnection procedures, so that the NYISO could meet earlier, more stringent requirements. Accordingly, the Commission should reject the following revisions proposed by AWEA.

1. Removal of Reasonable Efforts Standard

The Commission should reject AWEA's request: (i) to remove the "Reasonable Efforts" standard by which Transmission Providers perform interconnection studies, and (ii) to require

that studies be completed by a fixed, standardized date.[43] The NYISO must evaluate a multitude of projects that make use of a wide variety of technologies, seek to interconnect at different points on the electric system possessing widely different system characteristics, and often introduce unique complexities not previously addressed in earlier interconnection studies. In addition, the performance of interconnection studies requires the active participation and input of multiple parties, including the provision of extensive information and technical data by Developers. In the NYISO's experience, the responsiveness of the Developer and the accuracy of the information it submits are directly related to the NYISO's ability to timely perform interconnection studies.[44] The NYISO must also coordinate with all affected systems, which for certain projects include multiple Transmission Owners and Affected System Operators from other Control Areas.

Given these factors, the NYISO requires flexibility in performing the interconnection studies to evaluate the unique complexities of each project. If the Commission were to remove the flexibility from this process, other process changes would likely be required to ensure that the rigid, fixed timelines could be met. These changes would likely adversely impact Developers by reducing the flexibility currently afforded to Developers under the NYISO's process, such as the ability to make a variety of changes to their projects while they are being studied and without impacting their queue position.

[43] AWEA Petition at pp 15-18.

[44] Developers often provide inaccurate information that requires significant back and forth to verify and also modify their project specifications and location during the process, all of which can considerably add to the time required to complete a study. The NYISO's experience is counter to AWEA's allegations that Developers have little impact on the interconnection study process. To the contrary, Developer's refusal to provide timely information and/or the provision of inaccurate or conflicting information can considerably delay the performance of studies that require accurate inputs before the study can begin.

2. "Final" Study Results

The Commission should reject AWEA's request to require a Transmission Provider in each of the interconnection studies performed for a project to provide accurate "final" study results.[45] AWEA's proposal oversimplifies the interconnection process and does not address the many reasonable reasons for changes to the required facilities, and their related costs, that arise throughout the interconnection study process and during the design and construction of a project. Further, AWEA's proposal appears directed at cost allocation requirements applicable to other regions, and not to the NYISO's process.

As described above, the NYISO's Class Year Study provides the "final" identification of upgrades and the costs related to these upgrades for each Developer in combination with the projects of other Developers in the same study. The NYISO's determinations regarding the required facilities in these studies is highly dependent on information provided by the Developer, the accuracy of such information, and the analysis that the NYISO and Connecting Transmission Owners have performed in the preceding Feasibility Study and SRIS.[46] It would be imprudent to deem the results of the initial two studies as "final" in any way, as more detailed analysis built upon the results of those studies is performed in the Class Year Study. Developers often propose changes to their project based on the results of the initial studies, and other projects included in the Class Year may drive changes to the facilities required to interconnect the projects in a given Class Year. As described above, once the NYISO's Class Year Study is final, a Developer that has accepted its cost allocation and provided security to cover its cost responsibility is not responsible for costs above its secured amount, except under certain limited circumstances set

[45] AWEA Petition at pp 18-22.

[46] The Developer has an opportunity to review and comment on the accuracy of the results of each of these studies. The analyses performed under the NYISO's three interconnection studies are incremental, and not interchangeable.

forth in Attachment S of the NYISO OATT.[47] Thus, the NYISO's current process already provides the Developer with the finality and cost certainty that AWEA requests in its Petition.

3. Guarantee of Accuracy of Study Results

The Commission should reject AWEA's request to require the Transmission Provider to guarantee the accuracy of information that is derived from information submitted by the Developer and other parties over which the Transmission Provider does not have control.[48] AWEA's request is inconsistent with Commission precedent upheld by the United States Circuit Court of Appeals for the Seventh Circuit, in which the Commission and Court refused to re-assign the upgrade cost for which a Developer was responsible under an RTO's tariff to other parties due to an error in the study results.[49]

Interconnection studies evaluate a Developer's project using a snap shot of system conditions that are subject to change for an abundance of reasons, including the Developer's further development of its project and the detailed design and engineering work required to construct the interconnection and upgrade facilities. It is unreasonable to require the NYISO to guarantee the results of interconnection studies when it does not, and cannot, control changes to the Developer's project and system conditions over time that impact both the facilities required to reliably interconnect the Developer's project and the related costs. Notwithstanding these limitations, the NYISO OATT limits Developer's responsibility for costs in excess of the estimated amount identified in the Class Year Study using cost causation principles as described above.

[47] OATT, Attachment S Section 25.8.6.

[48] AWEA Petition at pp 20-22.

[49] *See Pioneer Trail Wind Farm, LLC, et al. v. FERC*, Docket Nos. 13-2326, 14-3023 (7th Cir. Aug. 19, 2015).

In addition, AWEA's Petition fails to appropriately recognize the extent to which inaccurate information from the Developer and its consultant can impact the accuracy of study results. AWEA erroneously asserts that "the scope of information that the Interconnection Customer provides is minimal."[50] In fact, the NYISO relies heavily on the information submitted by the Developer, including information from its consultants and major equipment suppliers, in its study of the proposed project. If the NYISO were required to guarantee the accuracy of its study results, the NYISO would require the staff and consultant resources needed to review and confirm the accuracy of all of the project information submitted by the Developer and its consultants. The application of such resources to each interconnection study would significantly expand the time, required resources, and cost of the NYISO's interconnection process, in direct contradiction to AWEA's stated goals in its Petition.

4. CAISO Study Process Approach

The Commission should reject AWEA's request that the Commission impose upon all ISO/RTOs the CAISO's practice of collapsing certain of the interconnection studies into a two-phase process.[51] As an initial matter, the Commission should reject AWEA's request to mandate a significant restructuring of the remaining ISO/RTOs' study processes, whether or not the CAISO approach fits within their long-established interconnection process or is supported by stakeholders in their regions. Moreover, the NYISO's Class Year Study process already has components similar or superior to the CAISO phased approach that were developed and implemented with the support of NYISO stakeholders. Notably, the NYISO's clustered Class Year Study process involves only one comprehensive phase and requires no second phase within

[50] AWEA Petition at p 20.

[51] AWEA Petition at pp 30-31.

which to update project costs. As AWEA touts with respect to the CAISO phased approach, the NYISO's Class Year approach has similarly been in place for years and has worked well to support the development of new generation.

As AWEA recognizes, "the CAISO phased process may not be the sole means of providing facility study-type cost information earlier in the process, it could be adopted if no other method is shown to be superior."[52] The NYISO contends that its process is superior to the CAISO's process for purposes of New York and was developed with NYISO's stakeholders, taking into account the unique regional aspects of the NYISO's markets and interconnection issues. Accordingly, the Commission need not and should not impose the CAISO approach - which may well be the best approach for CAISO - upon all other ISO/RTOs.

5. Study Process Assumptions and Information

The Commission should reject AWEA's request that the Commission direct Transmission Providers to provide additional study assumptions and information or to expand the scope of information provided under interconnection studies.[53] The NYISO already provides or makes available a significant amount of information by which a Developer can determine whether, and where, to propose to interconnect a project in New York. Before a Developer even submits an Interconnection Request, it can request the standard base cases currently being used by the NYISO for Feasibility Studies and SRISs. The Developer can use these base cases for their own purposes to consider and evaluate design alternatives or refinements for their project and/or its proposed interconnection.

[52] AWEA Petition at p. 31.

[53] AWEA Petition at pp. 33-44.

Once a part of the interconnection queue, before a study even begins, the NYISO details the specific scope and assumptions (including dispatch assumptions) to be used for each interconnection study. These details are provided in the interconnection study forms, study agreements, and appendices to the study agreements. The NYISO works with the Developer and the relevant Connecting Transmission Owner in developing the study scopes and assumptions prior to the commencement of each interconnection study.[54] The Developer is encouraged to review and provide input on study results. Finally, stakeholder review and approval is required for the SRIS for each project and for each Class Year Study.

In addition to the specific studies and information provided as part of its interconnection procedures, the NYISO also makes available a significant amount of system information on its public website. As it relates to specific concerns raised by AWEA in its Petition, the NYISO posts aggregate statewide wind curtailment information every month,[55] quarterly and annual congestion data,[56] and additional data specific to wind development.[57] For example, the

[54] Shift factors, also requested by AWEA, are not as informative in the NYISO as they might be in other regions and therefore provide little if any value to Developers in their siting determinations. Shift factors generally only pertain to power flow and thermal analyses, which are more applicable to interconnections in ISOs or RTOs that offer physical transmission rights. Shift factors are not applicable to short circuit or system protection issues, and are not applicable to voltage or stability issues except to the extent that voltage and stability limitations may sometimes be expressed in terms of power flow limits (*e.g.*, voltage or stability-constrained transfer limits). Since the System Upgrade Facilities identified by NYISO for ERIS most often address the physical interconnection, system protection and/or short circuit matters, and only occasionally address power flow limitations, shift factors are not as relevant to NYISO interconnection issues.

[55] *See* NYISO Operations Metrics Report. An example of a recent report is available at: http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2015-08-26/Agenda%2003_Operations_Report.pdf.

[56] Such information is available at: http://www.nyiso.com/public/markets_operations/services/planning/documents/index.jsp. In addition, the NYISO performs the Congestion Assessment and Resource Integration Study ("CARIS") on a biennial basis, which analyzes and reports on historical and forecasted congestion for the New York Control Area. *See, e.g.,* the 2013 CARIS Report, available at: http://www.nyiso.com/public/webdocs/markets_operations/services/planning/Planning_Studies/Economic_Planning_Studies_(CARIS)/CARIS_Final_Reports/2013_CARIS_Final_Report.pdf.

[57] The report is available at: http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_miwg/meeting_materials/2010-06-18/Wind_Generation_Study_Report_Final_Draft_6_22_10_CLEAN.doc.

NYISO's 2010 Wind Study provided at varying levels of wind penetration a detailed analysis of constraints, estimates of bottled wind, and required transmission upgrades. Through the NYISO's public website, custom reports can be generated that identify real-time limiting constraints on a five-minute basis for historic operating days. Such reports provide the five-minute time-stamp, the limiting facility, the specific limiting contingency and the constraint cost.[58] This information represents a small sample of the significant amount of information made available by the NYISO to project Developers and other interested parties in New York in its role as a neutral and objective source of information regarding the New York State Power System.

The primary purpose of the NYISO's interconnection process is to provide each Developer with a non-discriminatory path for interconnecting its project in a manner that does not create adverse reliability impacts on the electric system. The Commission should not convert the NYISO's interconnection studies into operations or congestion studies nor should the NYISO's role in the interconnection study be as a consultant to the Developer for its economic decision as to whether and where to propose a project. Moreover, the expansion of the scope of interconnection studies in this manner will significantly expand the time, required resources, and cost of the NYISO's interconnection process, in direct contradiction to AWEA's stated goals in its Petition.

[58] These reports are available publicly on the NYISO's website at http://www.nyiso.com/public/markets_operations/market_data/custom_report/index.jsp?report=limiting_constraints.

D. AWEA's Proposed Revisions Regarding Study and Interconnection Costs Do Not Account for the Variety and Complexity of Projects Evaluated in the Interconnection Process and Would Result in Market Participants Subsidizing Developers

The Commission should reject AWEA's proposed revisions concerning study costs and interconnection costs. AWEA's proposed revisions do not account for the wide variety and complexity of projects studied under the NYISO's interconnection process. In addition, if the revisions were adopted, NYISO Market Participants, and ultimately, ratepayers would be required to subsidize Developers for the costs incurred on the Developers' behalf to interconnect their projects.

1. Standardized and Capped Study Costs

The Commission should reject AWEA's request that Transmission Providers: (i) be required to list standard study costs with accuracy margins serving as a cap, and (ii) not be permitted to recover costs above this cap absent the costs being demonstrated as extraordinary and beyond the control of the Transmission Provider.[59] The effort and related cost required for the NYISO to study a project depends greatly on the nature of the project and its proposed interconnection. The Commission recognized this in Order No. 2003, finding that "the costs of performing Interconnection Studies may vary by Interconnection Customer because each interconnection is unique."[60] Given the wide variety and complexity of projects and the flexibility Developers have in changing the information and assumptions of their projects, it would be unreasonable to require the NYISO to set a standardized study cost. The shift in the NYISO's study cost methodology within the Class Year Study process over time has been from

[59] AWEA Petition at PP 31-33.

[60] Order No. 2003 at P 220.

uniform amounts to a project specific, cost causation approach.[61] The NYISO's stakeholders have supported this movement to cost causation and therefore appear to disagree with AWEA. Furthermore, the NYISO does provide estimated study costs to the Developer before the commencement of each of the interconnection studies.

In addition, it is unreasonable to limit the NYISO from recovering its actual study costs absent a finding that the costs are extraordinary and beyond its control. The NYISO would need to recover such costs from its Market Participants and, ultimately, ratepayers. AWEA has not provided any support for why NYISO Market Participants should subsidize the cost of studying Developers' proposed projects.[62] In addition, by capping study costs and providing for Market Participants to subsidize study costs, AWEA's proposal removes incentives for the Developer to follow sound practices when choosing reasonable points of interconnection, carefully designing their projects, and timely providing accurate and adequate data for interconnection studies.

2. Capped Interconnection Facility and Network Upgrade Costs

The Commission should also reject AWEA's request that Transmission Providers be required to cap the costs of interconnection facilities and network upgrades and to limit Developer's cost responsibility to the capped amount absent the existence of extraordinary circumstances.[63] As described above, Attachment S of the NYISO OATT establishes an explicit Commission-approved process that was developed by the NYISO and its stakeholders to allocate the responsibility for the costs of facilities that are above the estimated cost amount determined

[61] *See New York Independent System Operator, Inc.*, Letter Order on Tariff Revisions, Docket No. ER10-290-000 (Jan. 6, 2010); *New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket No. ER10-290-000 (Feb. 22, 2010); *see also*, *See New York Independent System Operator, Inc.*, Order on Tariff Revisions, 135 FERC ¶ 51,014 (2011) (April 8, 2011); *New York Independent System Operator, Inc.*, Letter Order on Compliance Filing, Docket No. ER11-2842-001 (July 6, 2011).

[62] In addition, AWEA's reference to Transmission Providers potentially providing preferences to affiliates is not relevant to ISO/RTOs.

in the Class Year Study. Pursuant to that process, to proceed to interconnect its project, a Developer must accept, and provide security for, the estimated cost of facilities required to reliably interconnect its project. The Developer is not responsible for cost above the accepted and secured amount, except in the limited circumstances described in Attachment S.

In determining which party would be responsible for costs above the estimated amount, the NYISO and its stakeholders used cost causation principles to allocate such cost responsibility among the Developer and Connecting Transmission Owners. The Commission should not re-open this careful balance painstakingly developed by the NYISO and its stakeholders. If Developer's costs were capped at the estimated cost amount, the NYISO would need to recover the excess costs from its Market Participants, and ultimately, ratepayers, regardless of whether the additional cost is due to factors within the Developer's control.

E. AWEA's Request to Impose Liquidated Damages on Transmission Providers Is Inconsistent with Commission Precedent and Inappropriate

The Commission should reject AWEA's request to require that Transmission Providers be required to pay liquidated damages to a Developer if the Transmission Provider does not provide study results by the date listed in the interconnection procedures or if there are changes to the facilities or related costs after the completion of the study.[64] As discussed in detail in the comments submitted by the IRC, the Commission correctly determined in Order No. 2003 that liquidated damages should not apply to a Transmission Provider's performance of interconnection studies and should not revisit its determination.[65]

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[63] AWEA Petition at pp 47-50.

[64] AWEA Petition at pp 58-67.

[65] Order No. 2003 at PP 898-899. The Commission accepted the exclusion of the NYISO from being subject to liquidated damages under its Large Facility Interconnection Agreement, noting that "as an independent entity, it has no financial incentive to unduly discriminate against the Developer." New York Independent System Operator, Inc., and New York Transmission Owners, 108 FERC ¶ 61,159 (2004) at P 79.

Also, as discussed in the IRC comments, AWEA's request for the imposition of liquidated damages is tied to the establishment of a more rigid, standardized process that would restrict the existing flexibility ISO/RTOs have in administering their interconnection processes. This includes limiting the significant flexibility currently provided to Developers under the NYISO's procedures which have been tailored over the years to provide even more flexibility for Developers.

Moreover, as described above, AWEA's request for "final" cost estimates are already addressed under the NYISO's unique Class Year Study process, which applies cost causation principles in fairly allocating among the Developer, the Connecting Transmission Owner, and Load Serving Entities any increases in costs above the estimate amount accepted by the Developer. The application of liquidated damages to the NYISO for changes in the Developer's "final" cost amount could, therefore, inflict costs on the NYISO's Market Participants for increases in project costs that are the results of actions by the Developer.

F. If Commission Determines a Rulemaking Is Appropriate, It Should Consider Input from All Interested Parties and Should Permit Independent Entity Variations If It Adopts Modifications to *Pro Forma* GIP and *Pro Forma* GIA

For the reasons described above, the NYISO finds that a national rulemaking is unnecessary and that AWEA's stated concerns should be addressed in each region's stakeholder process. If, however, the Commission determines that it is appropriate to initiate a rulemaking proceeding, the Commission should not limit the rulemaking to AWEA's one-sided proposals. Rather, in such case, the NYISO encourages the Commission to solicit and consider the input of all interested parties regarding what interconnection-related matters require additional Commission guidance, including the ISO/RTOs based on their significant role and extensive expertise in the process. The NYISO is separately submitting, along with other ISO/RTOs, a

description of certain interconnection issues identified by those ISO/RTOs based on their experience that may benefit from further Commission guidance.

Finally, as demonstrated in the above comments, the NYISO has a distinct interconnection process that has been carefully tailored with the input of its stakeholders to the specific circumstances in New York, has significant variations from the processes of other ISO/RTOs, and for which many of AWEA's stated concerns and proposed modifications do not apply. If the Commission were to determine a rulemaking is appropriate in this proceeding and to adopt modifications to the *Pro Forma* GIP and *Pro Forma* GIA, the Commission should permit each ISO/RTO to seek independent entity variations from these modifications to customize the revised interconnection procedures and agreements to fit regional needs consistent with Commission precedent.[66] At a minimum, each ISO/RTO should have the opportunity to demonstrate that its procedures and agreements are consistent with or superior to any modifications to the *Pro Forma* GIP and *Pro Forma* GIA for purposes of its region.

V. COMMUNICATIONS

Communications regarding this filing should be directed to:

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[66] *See* Order No. 2003 at PP 26, 827 (providing for ISO/RTO independent entity variations from *Pro Forma* GIP and *Pro Forma* GIA); *see also* Order No. 661, Interconnection for Wind Energy, 111 FERC ¶ 61,353 (2005) at P 109 (providing for independent entity variation from wind related revisions to interconnection requirements); *Order on Rehearing and Clarification*, Order 661-A, 113 FERC ¶ 61,254 (2005) at P 33 (permitting variation from low voltage ride-through requirement on only an interconnection-wide basis to ensure consistency with reliability standards).

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VI. CONCLUSION

WHEREFORE, the NYISO respectfully requests that the Commission consider these comments, refrain from initiating AWEA's proposed rulemaking, and reject AWEA's proposed revisions to the *Pro Forma* GIP and *Pro Forma* GIA.

Respectfully submitted,

/s/ Sara B. Keegan
Counsel for the New York Independent System Operator, Inc.

September 8, 2015

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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 8th day of September, 2015.

/s/ Mohsana Akter

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