

February 18, 2016

By Electronic Delivery

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

**Re: *New York Independent System Operator, Inc.*, Proposed Tariff Revisions
Regarding Public Policy Transmission Planning Process;
Docket No. ER16-____-000**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ the New York Independent System Operator, Inc. (“NYISO”) hereby submits proposed revisions to the Public Policy Transmission Planning Process (“Public Policy Process”) portion of its Comprehensive System Planning Process (“CSPP”).² The NYISO’s proposed revisions to the tariff requirements of the Public Policy Process set forth in Attachment Y of the NYISO Open Access Transmission Tariff (“OATT”) will clarify and enhance the process.³

The NYISO initially submitted revisions and clarifications to its Public Policy Process, which were approved by its stakeholders without objection, in a June 29, 2015, filing.⁴ On December 23, 2015, the Commission rejected the proposed tariff revisions in their entirety based on a determination that one component of the proposed revisions that reflected the application of the NYISO’s existing interconnection and transmission expansion requirements to competitive transmission projects unduly discriminated between incumbent Transmission Owners and non-incumbent Developers (“December Order”).⁵ The Commission did not address the substance of

¹ 16 U.S.C. § 824d.

² 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.

³ Unless otherwise indicated, the tariff references in this filing letter are to Attachment Y of the NYISO OATT.

⁴ *New York Independent System Operator, Inc.*, Proposed Tariff Revisions Regarding Public Policy Transmission Planning Process, Docket No. ER15-2059-000 (June 29, 2015) (“June 2015 Filing”).

⁵ *New York Independent System Operator, Inc.*, Order Rejecting Tariff Revisions, 153 FERC ¶ 61,340 at P 12 (December 23, 2015) (“December Order”).

the NYISO's numerous other proposed tariff revisions that were unrelated to the interconnection and transmission expansion rules and did not create any potential for undue discrimination between incumbent and non-incumbent Developers. The NYISO has requested rehearing of the Commission's determination to reject the tariff revisions that were not related to the NYISO's interconnection and transmission expansion requirements.⁶ Given the importance of these tariff revisions in the current planning cycle, the NYISO also hereby re-files its proposed tariff revisions under Section 205 of the Federal Power Act without the references to the NYISO's interconnection and transmission expansion requirements that were rejected by the Commission in the December Order. The proposed tariff revisions provide for comparable treatment of incumbent and non-incumbent Developers and raise no concerns regarding undue discrimination. They have again been approved by the NYISO's stakeholders without objection and by the NYISO's Board of Directors.

As described in Part V of this letter, the NYISO respectfully requests a waiver of the Commission's prior notice requirements to make these tariff revisions effective as of February 19, 2016, which is the day following the date of filing. The NYISO requires these tariff revisions to implement certain aspects of its ongoing Public Policy Process in the current planning cycle for purposes of evaluating transmission projects to address two, separate Public Policy Transmission Needs identified by the New York Public Service Commission ("NYPSC"). Making these tariff changes effective the day after the date of this filing will not prejudice any stakeholder because NYISO stakeholders and other interested parties have been on notice since at least June 2015 of these proposed tariff changes and have approved them twice without objection.

I. List of Documents Submitted

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

- ☐ A clean version of the proposed revisions to the OATT (Attachment I);⁷
- ☐ A blacklined version of the proposed revisions to the OATT (Attachment II);
- ☐ A table describing the deadlines in Attachment Y of the OATT that the NYISO could extend under proposed Section 31.1.8.7 of the OATT (Attachment III); and

⁶ *New York Independent System Operator, Inc.*, Request for Rehearing of New York Independent System Operator, Inc., Docket No. ER15-2059-002 (January 27, 2016) ("January 2016 Request for Rehearing").

⁷ See *New York Independent System Operator, Inc.*, Compliance Filing to Remove Rejected Language from, and Insert Missing Language into, its Open Access Transmission Tariff, Docket No. ER13-1942-002 (February 9, 2016). The NYISO's filing removed the rejected tariff language from OATT Attachment Y and, in this filing, the NYISO uses those tariff sections as the base tariff for re-filing these clean-up changes.

- ☐ The Study Agreement for Evaluation of Public Policy Transmission Projects (Attachment IV).

II. Copies of Correspondence

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III. Background

On January 1, 2014, the NYISO commenced the 2014-2015 planning cycle for its CSPP in accordance with the tariff requirements set forth in Attachment Y of the OATT, as amended to meet the requirements of Order No. 1000.⁹ The NYISO initiated the Public Policy Process portion of the CSPP on August 1, 2014, by soliciting from interested parties proposed transmission needs driven by Public Policy Requirements.¹⁰ Following its receipt of such submissions, the NYISO provided the proposed transmission needs to the NYPSC on October 3, 2014. The NYPSC is responsible under the NYISO OATT for evaluating the proposed transmission needs and identifying whether there are any Public Policy Transmission Needs for

⁸ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2014) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, VA.

⁹ The Commission accepted a January 1, 2014, effective date for the Order No. 1000-related revisions to Attachment Y of the NYISO OATT to provide for their implementation in the current 2014-2015 planning cycle. *See New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 148 FERC ¶ 61,044 (2014) (“July 2014 Order”) at P 37.

¹⁰ *See* OATT Attachment Y Section 31.4.2.

which the NYISO will solicit and evaluate solutions under the Public Policy Process in the current planning cycle.¹¹

On July 20, 2015, the NYPSC issued an order adopting the relief of transmission congestion in Western New York as a Public Policy Transmission Need.¹² In response, the NYISO has solicited and received proposed solutions to address this need, which the NYISO will evaluate in accordance with its Public Policy Process requirements. The NYPSC subsequently issued an order on December 17, 2015, adopting as a second Public Policy Transmission Need for the current planning cycle the need for new 345 kV transmission facilities to provide additional transmission capacity to move power from upstate to downstate New York.¹³ The NYISO will solicit proposed solutions to this second need during the first quarter of 2016.

In light of its experience thus far in implementing the new Order No. 1000-related requirements, the NYISO reviewed in early 2015 the tariff requirements for the Public Policy Process and identified clarifications and enhancements, as described in Part IV of this letter, necessary to implement certain elements of its process. The NYISO reviewed the proposed tariff revisions with its stakeholders, which, with requested modifications, approved the tariff amendments at NYISO governance committee meetings without objection. The NYISO Board of Directors approved the changes on June 15, 2015 and directed the changes to be filed with the Commission under Section 205 of the Federal Power Act.

The NYISO submitted the proposed revisions and clarifications to its Public Policy Process in a June 29, 2015 filing. The Commission issued a deficiency letter in response to the June 29, 2015, filing, requesting further information that primarily concerned the NYISO's inclusion of certain process milestones that reflected its application of its existing interconnection and transmission expansion requirements to competitive transmission projects.¹⁴ The NYISO responded to the deficiency letter on October 27, 2015 ("Deficiency Letter Response").¹⁵ On December 23, 2015, the Commission rejected the proposed tariff revisions in

¹¹ See OATT Attachment Y Section 31.4.2.1.

¹² See 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).

¹³ See NYPSC Case 12-T-0502, *et al.*, Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, *et al.*, *Order Finding Transmission Needs Driven by Public Policy Requirements* (December 17, 2015).

¹⁴ See Letter Requesting New York Independent System Operator, Inc to File Additional Information to Address Deficiencies within 60 Days regarding Proposed Tariff Revisions regarding Public Policy Transmission Planning Process under ER15-2059 (August 28, 2015) ("Deficiency Letter").

¹⁵ See *New York Independent System Operator*, Response to Deficiency Letter; Request for a Revised Effective Date; and Resubmission of Proposed Tariff Revisions, Docket No. ER15-2059-000 (October 27, 2015) ("Deficiency Letter Response").

their entirety based on a determination that the proposed revisions that reflected the application of the NYISO's interconnection and transmission expansion requirements to competitive transmission projects unduly discriminated between incumbent Transmission Owners and nonincumbent Developers.¹⁶ The Commission did not address the substance of the NYISO's numerous other proposed tariff revisions related to the Public Policy Process that were unrelated to the interconnection and transmission expansion rules and did not create any potential for undue discrimination between incumbent and non-incumbent Developers.¹⁷

The NYISO proposed the tariff revisions and clarifications, as reviewed and accepted by its stakeholders, for purposes of implementing the next steps of its Public Policy Process. As described above, the NYISO will begin implementing certain elements of this process in the coming months in light of the NYPSC's recent determination of two, separate Public Policy Transmission Needs. These transmission needs represent the most significant expansion of New York's high-voltage transmission system in twenty-five years in line with the intent of the Commission's Order No. 1000. Therefore, the NYISO is re-filing the proposed tariff revisions described in Part IV below, to be effective the day after the date of this filing, to clarify and enhance the Public Policy Process, without the previous references to the existing interconnection and transmission expansion related tariff revisions that were rejected by the Commission in the December Order. Specifically, the NYISO has not included with this filing the following interconnection-related revisions previously proposed in its June 29, 2015 filing:

- ☐ Section 31.4.4.3.1: Requirement to submit a valid Interconnection Request or Study Request when submitting project proposal;
- ☐ Sections 31.4.5.1.5 and 31.4.5.2.5: Requirement for Developer to notify NYISO upon completion of an interconnection or transmission expansion study;
- ☐ Section 31.4.6.6: Requirement to demonstrate execution of an interconnection study agreement;
- ☐ Section 31.4.8: Requirement for NYISO to give due consideration of the status and results of interconnection studies in making its selection of more efficient or cost-effective transmission solution; and

¹⁶ December Order at P 12.

¹⁷ The NYISO separately filed a request for rehearing in Docket No. ER15-2059-002 asserting that the Commission failed to engage in reasoned decision-making when it rejected, without providing any reasoned explanation, the numerous tariff revisions proposed in its June 2015 Filing that are unrelated to the interconnection requirements that the Commission expressly rejected. *See* January 2015 Request for Rehearing. If the Commission grants rehearing and accepts the NYISO's proposed tariff revisions in that proceeding in conjunction with or before acting on this Section 205 filing, the NYISO will re-file the affected tariff sections without the rejected interconnection changes, with the December 26, 2015 effective date requested in the proceeding in Docket No. ER15-2059. *See New York Independent System Operator, Inc.*, Response to Deficiency Letter; Request for a Revised Effective Date; and Resubmission of Proposed Tariff Revisions, Docket No. ER15-2059-000 (October 27, 2015).

- Section 31.4.15.1: Requirement that NYISO may disclose confidential information regarding a project that must be disclosed in accordance with the interconnection or transmission expansion requirements.

The proposed tariff revisions, without these interconnection-related requirements, were approved again by the NYISO's stakeholder Management Committee without objection on January 27, 2016, and approved again by the NYISO Board of Directors on February 8, 2016. In its description of the proposed tariff revisions in Part IV below, the NYISO has incorporated the relevant information submitted in its Deficiency Response Letter that concern the proposed, noninterconnection related tariff revisions.¹⁸

The interconnection-related requirements for transmission projects are being addressed in a separate docket - Docket No. ER13-102-007 - in the manner directed by the Commission.¹⁹ As part of this separate proceeding, the NYISO is considering potential interconnection-related milestones and requirements similar to those indicated above to align the new interconnection requirements with its CSPP. The NYISO will submit these tariff revisions in the compliance filing due on March 22, 2016, in Docket No. ER13-102-007.²⁰

IV. Description of Proposed Tariff Revisions

A. Cost Allocation and Cost Recovery Requirements

1. Rejection or Withdrawal of Necessary Authorizations

Under the Public Policy Process, the Developer of a transmission project selected by the NYISO as the more efficient or cost-effective transmission solution to a Public Policy Transmission Need is eligible to recover certain costs if its project cannot proceed because it does not receive necessary authorizations from federal, state, or local agencies or has the authorizations withdrawn.²¹ The NYISO OATT does not currently specify the manner in which the NYISO would allocate these costs. The NYISO proposes to revise Section 31.5.5.3 to clarify that the NYISO will allocate these costs to all Load Serving Entities using the default load ratio

¹⁸ While the Commission's August 29, 2015, Deficiency Letter primarily raised questions concerning the NYISO's interconnection and transmission expansion requirements, the Commission's questions 1 and 6 concerned other proposed tariff revisions that the NYISO has resubmitted in this filing. The NYISO has incorporated its previous responses to questions 1 and 6 into this filing.

¹⁹ The NYISO is addressing the application of its interconnection requirements to transmission projects in its Order No. 1000 regional compliance proceeding in Docket No. ER13-102-007, as directed by the Commission in its December 23, 2015, order in that proceeding. *See New York Independent System Operator, Inc.*, Order Conditionally Accepting Tariff Revisions and Requiring Further Compliance, 153 FERC ¶ 61,341 at PP 67-76 (2015) ("December Order No. 1000 Compliance Order").

²⁰ *New York Independent System Operator, Inc.*, Notice of Extension of Time, ER13-102-007 (January 14, 2016).

²¹ OATT, Att. Y, Section 31.5.6.5.2 (previously 31.5.6.5).

share methodology of the Public Policy Process as set forth in Section 31.5.5.4.3, except as otherwise determined by the Commission.²² This revision ensures that there is a cost allocation methodology in place in the event the NYISO must allocate these costs - the same load ratio share methodology accepted by the Commission as the default methodology for the Public Policy Process.²³ The revision also provides parties with the opportunity to use an alternative methodology if accepted by the Commission. In addition, the NYISO proposes to revise Section 31.5.6.5.2 to clarify that the Developer may begin to recover these costs as determined by the Commission.²⁴

The NYISO proposes to make two further revisions regarding a Developer's need to obtain required federal, state, and local authorizations. First, the NYISO proposes to insert a new Section 31.4.12.1 that sets forth that the Developer of a selected project: (i) must seek to obtain necessary authorizations to site, construct, and operate the project to the extent such authorizations have not already been requested or obtained, and (ii) may recover certain costs if the requested authorization is rejected or such authorization is withdrawn. These provisions incorporate requirements on project permitting and cost recovery that are parallel to those in the reliability planning process and described in part in the Public Policy Process cost recovery provisions in Section 31.5.6.5.²⁵ Second, the NYISO proposes to clarify that the Developer will become eligible for certain cost recovery if the appropriate agency "rejects," rather than "does not approve," the authorization.²⁶ The use of "rejects" in place of "does not approve" establishes a clearer threshold for when the Developer may become eligible to recover certain costs.

2. Consolidation of Cost Recovery Requirements

The cost recovery requirements for the Public Policy Process are spread throughout Sections 31.5.5.3, 31.5.6, and 31.5.6.5 of Attachment Y. For purposes of clarity and to avoid the potential for discrepancies inadvertently arising between the related tariff provisions, the NYISO proposes to consolidate the cost recovery requirements for the Public Policy Process in Section 31.5.6.5.²⁷

²² The NYISO proposes to insert the same requirements in new Section 31.4.12.1.

²³ See *New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 151 FERC ¶ 61,040 (2015) at P 121 (accepting timeline for applying cost allocation methodology for Public Policy Process); July 2014 Order at PP 330-340 (accepting load ratio share as default cost allocation methodology for Public Policy Process and directing filing parties to provide timeline for applying cost allocation methodology).

²⁴ As described in Section 31.5.6.5, the Developer will make a filing at the Commission under Section 205 of the Federal Power Act for approval of its costs for its cost recovery.

²⁵ OATT, Att. Y, Sections 31.2.8.1.2, 31.2.8.1.3, 31.2.8.1.4, 31.5.6.5.2 (previously 31.5.6.5).

²⁶ OATT, Att. Y, Sections 31.4.12.1 (new), 31.5.5.3, 31.5.6.5.2 (previously 31.5.6.5).

²⁷ The NYISO has also clarified in Section 31.5.6.5.3 (previously 31.5.6.5) in what circumstances the NYISO would make a filing on behalf of the New York Power Authority.

B. Post-Selection Requirements

The current tariff requirements for the Public Policy Process do not establish the Developer's responsibilities to proceed with its project following the selection of its transmission project as the more efficient or cost-effective transmission solution, nor do they set forth the consequences if the Developer does not or is unable to proceed with its project. The NYISO proposes to insert a new Section 31.4.12 that sets forth these requirements.

1. Development Agreement

The NYISO proposes to require in new Section 31.4.12.2 that the Developer of a transmission project selected by the NYISO in the Public Policy Process enter into a development agreement with the NYISO. The agreement would provide for the project to be timely developed and constructed in a manner consistent with the project proposal selected by the NYISO Board of Directors. As recently directed by the Commission, the NYISO will be submitting to the Commission for its acceptance as part of a compliance filing on March 22, 2016, the *pro forma* development agreement for the Public Policy Process in its Order No. 1000 regional proceeding in Docket No. ER13-102-007.²⁸ The NYISO proposes to include at this time a placeholder as Appendix D in Section 31.7 of Attachment Y of the OATT for the *pro forma* development agreement for the Public Policy Process.

The NYISO also proposes to set forth in Section 31.4.12.2 the process by which the NYISO and the Developer will negotiate and enter into the development agreement. The proposed process is consistent with the NYISO's process for negotiating and entering into a Large Generator Interconnection Agreement with a Developer and Connecting Transmission Owner in Section 30.11 of Attachment X of the OATT and the process for negotiating and entering into the reliability version of the development agreement in Section 31.2.8.1.6 of Attachment Y of the OATT.²⁹ The process provides for the NYISO to tender to the Developer a draft development agreement following the selection of the transmission project, and requires the parties to execute the agreement within three months unless otherwise agreed by the parties. The process also establishes the method by which the NYISO will file a non-conforming or unexecuted agreement with the Commission. Upon the execution or filing of an unexecuted version of the agreement, the NYISO and Developer will perform their respective obligations under the agreement that are not in dispute.

2. Inability to Complete Selected Project

The NYISO proposes to establish in new Section 31.4.12.3 the consequences if: (i) the Developer of the selected project does not timely execute the development agreement or does not request that it be filed unexecuted, or (ii) an effective development agreement is terminated under the terms of the agreement. In such cases, the NYISO will submit a report to the NYPSC

²⁸ December Order No. 1000 Compliance Order at P 19.

²⁹ OATT, Att. Y, Section 31.2.8.1.6.

and/or the Commission as appropriate and may take such actions as are reasonably necessary, following consultation with the NYPSC, to provide that the Public Policy Transmission Need is satisfied.³⁰ Such action could include the NYISO revoking its selection of the transmission project and the eligibility of the Developer to recover its costs for the project under the NYISO tariffs. Notwithstanding this requirement, the Developer will remain eligible to recover certain project costs to the extent expressly provided in the OATT: (i) if the project was directed to participate in the Public Policy Process by the NYPSC or the Long Island Power Authority (“LIPA”), or (ii) if, as described above, a governmental agency rejects, or withdraws, required authorizations.³¹ The OATT does not otherwise provide for cost recovery for a Developer whose project is not completed. In such circumstances, the Developer will only be eligible for cost recovery if, and to the extent, allowed by the Commission. In light of the Commission’s December 23, 2015, Order in Docket No. ER13-102-007, the NYISO may propose further revisions to these requirements when filing the *pro forma* development agreement for the Public Policy Process.

3. Other Requirements

As described above, the NYISO has inserted a new Section 31.4.12.1 to address the Developer’s requirement to obtain necessary authorizations to site, construct, and operate its project. In addition, the NYISO proposes to insert a new Section 31.4.12.4 to clarify that the Developer of a selected project must execute the *Agreement Between the New York Independent System Operator and Transmission Owners* or a comparable operating agreement prior to energizing the project. The NYISO will be submitting to the Commission for its acceptance a comparable operating agreement in response to the Commission’s directive in Docket No. ER13-102-007.³²

C. Developer’s Election to Proceed

The NYISO’s evaluation of solutions to a Public Policy Transmission Need is performed in two stages. In the initial stage, the NYISO evaluates proposed solutions to determine whether each is viable and sufficient to satisfy the identified need. The NYISO will then evaluate the viable and sufficient transmission solutions for purposes of selecting the more efficient or cost-effective transmission solution to the need. The NYISO proposes to insert a process step in new Section 31.4.6.6 that requires the Developer of a viable and sufficient transmission project to indicate its intent to be evaluated for possible selection by the NYISO Board of Directors.³³ For its project to be considered in the selection process, the Developer must consent to the NYISO

³⁰ The NYISO will, upon terminating the agreement, file a notice of termination with the Commission if the development agreement had been filed with and accepted by the Commission. OATT, Att. Y, Section 31.4.12.3.1.1 (new).

³¹ See OATT, Att. Y, Sections 31.4.3.2, 31.4.12.1 (new).

³² December Order No. 1000 Compliance Order at P 20.

³³ The NYISO proposes conforming revisions to Section 31.4.8 to specify that only Developers that have elected to proceed under Section 31.4.6.6 are eligible for possible selection by the NYISO.

disclosing details previously designated as confidential regarding the proposed project that may be made public as part of the NYISO's transparent selection process. As described in Part IV.G below, the tariff provides that certain other information, such as contract information and preliminary cost estimates, will remain confidential.

D. Flexibility for Deadlines

The NYISO proposes revisions in Sections 31.1.8.6 and 31.1.8.7 to establish flexibility in the NYISO's ability to implement the CSPP.³⁴ The purpose of the provisions is to prevent the NYISO from having to disqualify or otherwise disadvantage a meritorious project in its process based on minor, acceptable delays or to impose an unnecessary burden on the Commission to address minor delays through multiple tariff waiver requests.

Section 31.1.8.6 establishes that the NYISO will use reasonable efforts to meet all deadlines in Attachment Y.³⁵ In the event the NYISO is unable to meet a deadline, it may extend the deadline if the extension will not result in a reliability violation, provided that the NYISO must inform interested parties, explain the reasons for missing the deadline, and provide an estimated time to complete the action.

Section 31.1.8.7 establishes that the NYISO may also extend other parties' deadlines set forth in Attachment Y for a reasonable period of time, so long as the extension is applied equally to all parties that must meet the deadline and will not result in a reliability violation. The term "other party" as used in this provision means any party other than the NYISO that is subject to a deadline in Attachment Y of the OATT, including all incumbent Transmission Owners and non-incumbent transmission Developers.³⁶ Attachment III of this letter includes a table that sets forth the deadlines in Attachment Y applicable to parties other than the NYISO to which this provision would apply.

³⁴ In its Deficiency Letter, the Commission asked the following questions in Question 1 regarding proposed Section 31.1.8.7: *(a) Please list each deadline to which this provision would apply. For each applicable deadline, cite the Attachment Y provision that governs the deadline; (b) Please explain how the extension of each deadline would be applied equally to all parties that are required to meet the deadline and how these parties would be notified of the extension; (c) Please explain to whom "another party" refers and explain which types of development agreements are subject to this provision. Please indicate whether NYISO intends to provide extensions for deadlines set forth in a development agreement entered into pursuant to Attachment Y.* The NYISO has incorporated its response from the Deficiency Letter Response into this Part IV.D.

³⁵ The Commission has previously accepted the NYISO's use of "reasonable efforts" to satisfy certain deadlines in its tariffs. *See, e.g.,* OATT, Att. Z, Section 32.4.1 (requiring NYISO to use reasonable efforts in satisfying deadlines in its Small Generator Interconnection Procedures); OATT, Att. X, Section 30.6.3 (requiring NYISO to use reasonable efforts in completing Interconnection Feasibility Study within 45 days).

³⁶ The deadlines applicable to the NYISO in Attachment Y are addressed in proposed Section 31.1.8.6, which provides for the NYISO to use Reasonable Efforts to satisfy deadlines applicable to the NYISO.

If the NYISO were to extend a deadline in Attachment Y pursuant to Section 31.1.8.7, the extension would apply equally to all similarly situated parties that are subject to that deadline, including all Developers, whether incumbent Transmission Owners or new entrant transmission developers. For example, Section 31.4.4.3.1 of Attachment Y requires that the Developer of a proposed Public Policy Transmission Project or Other Public Policy Project submit its project information within sixty days of the NYISO's request for solutions. If, for a given planning cycle, the NYISO were to extend this sixty-day deadline by fifteen days to provide for additional time for Developers to submit their project information, all Developers proposing a project would have the additional fifteen days to submit their information.

Following the NYISO's current practice for providing notices to all interested parties in its transmission planning processes, the NYISO would provide written notification of the deadline extension to all Developers, all stakeholders, and interested parties: (i) by submitting an e-mail to each Developer, and (ii) by posting notices to its Transmission Planning Advisory Subcommittee and Electric System Planning Working Groups lists and to its tie list, which covers all Market Participants and all interested parties that have signed up to receive NYISO notifications.

The deadline extension requirements in Sections 31.1.8.6 and 31.1.8.7 do not apply to any deadlines set forth in a development agreement entered into under Attachment Y, including the Development Agreement for the reliability planning process located in Appendix C of Section 31.7 of Attachment Y or the similar development agreement for the Public Policy Process that the NYISO will be proposing in Docket No. ER13-102-007. The proposed Section 31.1.8.7 explicitly precludes the NYISO from extending a deadline in these development agreements (*i.e.*, "With the exception of the deadlines set forth in a development agreement entered into pursuant to this Attachment Y....."). The NYISO inserted this language at stakeholders' behest to confirm that the NYISO would not be amending the terms of a development agreement that is executed by the NYISO and the Developer through this provision. Rather, the extension of deadlines contained in a development agreement is subject to the terms of the development agreement itself.

Finally, the proposed revisions do not alter the NYISO's existing requirement to conduct the Public Policy Process on a two-year cycle and to notify stakeholders and provide an explanation and estimated completion date if additional time beyond the two-year period is required.³⁷

E. Continuation of Public Policy Process in the Event of a Dispute

The NYISO proposes to revise Section 31.4.3.1 to clarify that it will proceed with its Public Policy Process in the event of a dispute regarding a Public Policy Transmission Need identified by the NYPSC, except where the NYPSC's order identifying the need has been stayed pending the resolution of an appeal. This revision will avoid unnecessary delays in

³⁷ OATT, Attachment Y, Section 31.4.1.

implementing the Public Policy Process with the aim of completing the process within a twoyear period and timely addressing Public Policy Transmission Needs identified in accordance with federal, state, and local Public Policy Requirements.

F. Base Case for Public Policy Process

The NYISO proposes to revise Section 31.4.6.1 to clarify the scope of the base case that the NYISO will use to study proposed solutions to a Public Policy Transmission Need. Specifically, the NYISO proposes to use “(i) the most recent base case from the reliability planning process, (ii) updates in accordance with ISO Procedures, and (iii) compensatory MWs as needed to resolve the Reliability Needs over the ten-year Study Period.” The revision will enable the NYISO to perform the Public Policy Process using the most recent information available.

G. Confidentiality Requirements

The NYISO proposes to revise Section 31.4.15 to further clarify what project information the NYISO may disclose or must maintain as confidential throughout the Public Policy Process. The revisions to the confidentiality requirements: (i) specify the basic project information that will not be considered confidential information and may be disclosed by the NYISO at any time, (ii) provide that the NYISO may disclose certain confidential information if, as described above, the Developer of a viable and sufficient transmission project elects for its project to proceed to be evaluated in the selection stage of the Public Policy Process, and (iii) specify what information the NYISO will maintain as confidential, notwithstanding a Developer’s election for its project to proceed to the selection stage - namely contract information, preliminary cost estimates, and non-public financial qualification information.

H. Project Information and Developer Qualification Information Submission Requirements

The NYISO proposes to revise Section 31.4.4.3 to clarify the requirements for Developer’s submission of project information and Developer qualification information. Specifically, the NYISO proposes to divide the requirements into separate subsections that more clearly delineate the requirements applicable to the Developer’s separate provision of project information and developer qualification information. In addition, the NYISO proposes to clarify in the new Section 31.4.4.3.1 that it may request additional information if a Developer’s submission of its project information is incomplete or if the NYISO determines at any time that additional information is required. The NYISO also proposes to relocate to this Section 31.4.4.3.1 the existing requirement that the NYISO will not consider a project further if the Developer fails to provide the requested data.³⁸ Further, the NYISO proposes to make clear that a Developer will have fifteen days to provide any project information or Developer qualification information requested under this Section 31.4.4.3. Finally, the NYISO proposes to expressly

³⁸ This requirement has been relocated from Section 31.4.5.1 of Attachment Y.

provide in Section 31.4.4.3.3 that, if a Developer's submission is incomplete, the NYISO may request additional Developer qualification information and that, subsequent to receipt of such information, the NYISO will notify the Developer of its qualification status.

The NYISO also proposes to insert a new Section 31.4.5.2 that sets forth the project information that the Developer of a non-transmission or a partial transmission (or "hybrid") project must submit for the NYISO's evaluation of the viability and sufficiency of the proposed solution. Currently, Section 31.4.5 only specifies the project information that the Developer of a transmission project must submit. The NYISO's proposed project information requirements for non-transmission or hybrid projects are generally consistent with the requirements for transmission projects in Section 31.4.5.1, as modified to account for the different attributes of the projects and the fact that the projects will not be evaluated for purposes of selection. For example, the NYISO has inserted "as applicable" for project information concerning Site Control, as certain non-transmission projects, such as demand response, would not have to demonstrate Site Control. Similarly, the project information requirements for a non-transmission or hybrid project do not require that the Developer submit capital cost estimates for the project, as the NYISO will not be evaluating such projects for purposes of selection, but only for their viability and sufficiency to satisfy the identified need.

Finally, the NYISO proposes to revise Section 31.4.6.3 to clarify that the NYISO will consider all of the project information and Developer qualification information submitted by the Developer when determining whether its project is viable and sufficient.

I. Required Timeframe for Satisfying Public Policy Transmission Need

The NYISO proposes to remove references in Section 31.4 to satisfying a Public Policy Transmission Need "by the need date."³⁹ The "need date" tariff language was included in Section 31.4 as part of tariff language that was initially developed for the NYISO's reliability planning process, where an identified Reliability Need must be satisfied by a certain date to maintain system reliability in New York State. The same timing concerns may not apply to a Public Policy Transmission Need. As revised, Section 31.4 establishes that the NYPSC may include with a Public Policy Transmission Need the required timeframe, if any, for the completion of a project to satisfy the need.⁴⁰ The NYISO will then take this timeframe into account, along with any other additional evaluation criteria identified by the NYPSC, when evaluating the proposed solutions.⁴¹

³⁹ OATT, Att. Y, Sections 31.4.6.2, 31.4.6.5.

⁴⁰ OATT, Att. Y, Section 31.4.2.1.

⁴¹ OATT, Att. Y Section 31.4.6.3.

J. Study Agreement for Selection Process⁴²

Section 31.4.4.4 of Attachment Y of the NYISO OATT establishes that the NYISO will recover from a Developer the actual costs incurred by the NYISO in its evaluation of the Developer's proposed transmission project for purposes of the NYISO's selection of the more efficient or cost-effective transmission solution to satisfy a Public Policy Transmission Need. The requirements apply equally whether the Developer is an incumbent Transmission Owner or a non-incumbent transmission Developer. The Developer of a proposed Public Policy Transmission Project is required to pay a \$10,000 non-refundable application fee and provide a \$100,000 study deposit in connection with this evaluation when it submits its proposed project.

The NYISO developed a "Study Agreement for Evaluation of Public Policy Transmission Projects" ("Agreement") as a mechanism for implementing the requirements of Section 31.4.4.4 and recovering its actual study costs from Developers. The Agreement is consistent with the agreements used by the NYISO in connection with its performance of interconnection studies. The Agreement was reviewed by NYISO stakeholders and revisions were made to the Agreement to incorporate stakeholder input. The final version of the Agreement was included as an appendix to the NYISO's Public Policy Transmission Planning Process Manual.⁴³ The *pro forma* Agreement is included as Attachment IV to this letter for the Commission's reference.

As part of its proposed enhancements to the tariff provisions for the Public Policy Process, the NYISO proposes to expressly set forth in Section 31.4.4.4 that the Developer will enter into this Agreement. The terms of the Agreement are consistent with the underlying tariff language in the Public Policy Process. Key terms of the Agreement include:

- ☐ The Developer elects, and the NYISO will cause to be performed, an evaluation of the Developer's proposed transmission project for purposes of the NYISO's selection of the more efficient or cost-effective transmission solution to satisfy the identified Public Policy Transmission Need.⁴⁴
- ☐ Upon executing the Agreement, the Developer will provide the NYISO with its required project information and its \$100,000 study deposit.⁴⁵

⁴² In its Deficiency Letter, the Commission asked the following questions in Question 6 regarding proposed Section 31.4.4.4: *Please explain the purpose of and the provisions that would be included in the required study agreement.* The NYISO has incorporated its response from the Deficiency Letter Response into this Part IV.J.

⁴³ NYISO Public Policy Transmission Planning Manual (July 2015), *available at*: http://www.nyiso.com/public/webdocs/markets_operations/documents/Manuals_and_Guides/Manuals/Planning/M-36_Public%20Policy%20Manual_v1_0_Final.pdf.

⁴⁴ Agreement § 2.0.

⁴⁵ Agreement §§ 3.0, 4.0.

- The NYISO will not commence its evaluation of Developer's transmission project until the Developer has submitted its study deposit and satisfied the required milestones in the Public Policy Process.⁴⁶
- The NYISO will invoice, and Developer will pay, the NYISO's actual costs in performing its evaluation in accordance with the requirements in Section 31.4.4.4.⁴⁷
- The NYISO will use the project information provided by the Developer, additional information requested by the NYISO from the Developer, and analysis from the NYISO's independent consultants in evaluating the transmission project in accordance with the selection metrics set forth in the NYISO OATT.⁴⁸
- As part of its evaluation, the NYISO will provide the Developer with a summary of its findings and will meet with the Developer to discuss its findings and address any questions.⁴⁹ The final study results will be included in the NYISO's Public Policy Transmission Planning Process Report.⁵⁰
- The Agreement will terminate upon the completion of the NYISO's evaluation of the transmission project, which will be the later of: (i) the date on which the NYISO Board of Directors' approval of the Public Policy Transmission Planning Report is final, and (ii) the date on which the NYPSC issues an Article VII certification for a regulated transmission solution to satisfy the Public Policy Transmission Need.⁵¹ The Developer or NYISO may also end the evaluation and terminate the Agreement upon: (i) the Developer's withdrawal of its project, (ii) the NYISO's rejection of the project from further consideration under the relevant tariff provisions, or (iii) any changes by the NYPSC to the Public Policy Transmission Need that eliminates the need for the transmission project.⁵²

K. Defined Terms

The NYISO proposes to create two new defined terms in Section 31.1.1 of Attachment Y to standardize the terminology currently used throughout Attachment Y to describe transmission projects and non-transmission or hybrid projects participating in the Public Policy Process. Specifically, the NYISO proposes to insert the following two new defined terms:

⁴⁶ Agreement §§ 2.0, 4.0.

⁴⁷ Agreement § 4.0.

⁴⁸ Agreement § 5.0.

⁴⁹ Agreement § 7.0.

⁵⁰ Agreement § 7.0.

⁵¹ Agreement § 8.5.

⁵² Agreement § 8.5.

Public Policy Transmission Project: A transmission project or a portfolio of transmission projects proposed by Developer(s) to satisfy an identified Public Policy Transmission Need and for which the Developer(s) seek to be selected by the ISO for purposes of allocating and recovering the project’s costs under the ISO OATT.

Other Public Policy Project: A non-transmission project or a portfolio of transmission and non-transmission projects proposed by a Developer to satisfy an identified Public Policy Transmission Need.

The NYISO proposes to make conforming changes throughout Attachment Y to incorporate these new terms.

L. Additional Proposed Revisions

The NYISO proposes to make the following additional clean-ups and clarifications:

Tariff Section(s)	Reason for Modification
Section 31.1.1	Revised definition of “Other Developer”: (i) to replace “parties or entities” with the term “Developer,” which is already defined to include “a person or entity” and (ii) to clarify that an “Other Developer” is not a “Transmission Owner.”
Sections 31.1.5, 31.4.1, 31.4.2, 31.4.3.1, 31.4.8.1, 31.4.8.2, 31.4.11, 31.4.11.2	Clarified, using words such as “each” and “any”, that there may be more than one Public Policy Transmission Need in a planning cycle for which the NYISO will solicit and evaluate solutions.
Sections 31.1.5, 31.4.1, 31.4.2	Clarified that the NYISO evaluates proposed solutions, but does not formally evaluate or identify Public Policy Transmission Needs, which is the role of the NYPSC.
Section 31.1.7	Inserted “d/b/a National Grid” after Niagara Mohawk Power Corporation in list of New York Transmission Owners.
Section 31.1.8.1	Removed reference to the Comprehensive System Planning Process Manual, which no longer exists.
Section 31.4.2.1	Replaced “develop” with “maintain” as the NYPSC has now developed its procedures for identifying Public Policy Transmission Needs.
Section 31.4.2.3(ii)	Revised to clarify that the Long Island Power Authority will explain whether a Public Policy Requirement “does or does not” drive the need for transmission within the Long Island Transmission District.
Sections 31.4.2.3(iii) and (v)	Revised to clarify that the NYISO evaluates solutions to identified needs and other non-substantive clean-ups to improve readability.
Section 31.4.3.1	Revised to include cross-reference to project information submission requirements.
Sections 31.4.3.1, 31.4.8, 31.5.5.4, 31.5.6, and	Replaced “Transmission Owner or Other Developer” with Developer, which term covers both a Transmission Owner and an

31.5.6.5	Other Developer.
Section 31.4.3.2	Revised Section 31.4.3.2 to remove reference to the New York Department of Public Service (“NYDPS”), as the NYPSC will be the entity identifying Public Policy Transmission Needs.
Sections 31.4.3.3 (previous), 31.4.4.4, 31.4.6.7, and 31.4.9 (new)	Relocated previous Section 31.4.3.3 to Section 31.4.9, which location is consistent with the NYISO’s performance of the provision’s requirements in the selection stage of the Public Policy Process. Revised cross-references in Sections 31.4.4.4 and 31.4.6.7 to account for this component of the NYISO’s evaluation and selection process.
Sections 31.4.4.2 (previous), 31.4.5	Deleted Section 31.4.4.2 and introductory language in Section 31.4.5, as they duplicate existing requirements.
Section 31.4.8.2	Revised to clarify that a Developer of a project that was not selected by the NYISO may be eligible to recover certain project costs if provided for in Section 31.4.3.2 when the NYPSC or Long Island Power Authority directs the Developer to participate in the Public Policy Process, or as otherwise determined by the Commission.
Section 31.4.8.2	Replaced “project proponent” with the defined term “Developer.”
Section 31.4.11	Revised to indicate that the information provided in the Public Policy Transmission Planning Report is subject to the confidentiality requirements in Section 31.4.15.
Section 31.5.1.2	Inserted “Other Public Policy Projects” in the list of projects for which the cost allocation methodologies in Attachment Y do not apply.
Section 31.5.1.6	Revised to clarify that this provision describes state law based cost recovery options for all non-transmission projects, not simply non-transmission reliability projects.
Section 31.5.5.3	Revised to clarify language indicating that the Developer of a selected project will be eligible for cost allocation under the methodology set forth in Section 31.5.5.4, with the exception, described above, for projects for which authorizations are rejected or withdrawn.
General	The NYISO also proposes non-substantive clarifications and ministerial modifications to Attachment Y of the NYISO OATT. For example, the NYISO propose to revise Section 31.1.5 to replace “Public Policy Requirements Planning Process” with the correct defined term “Public Policy Transmission Planning Process.”

V. Proposed Effective Date

The NYISO requests waiver of the prior notice requirements⁵³ in order that its proposed tariff revisions may become effective on February 19, 2016, which is the day after the date of this filing. There is good cause for this request.⁵⁴ As noted above, the NYISO is in the middle of administering its initial Public Planning Process to evaluate solutions for two separate Public Policy Transmission Needs identified by the NYPSC. The NYISO requires the clarification and enhancements proposed in this filing for the full implementation of the next stages in its Public Policy Process to address these needs.

Potentially affected Developers and other interested parties have been on notice that the NYISO intended to make these proposed tariff revisions since the NYISO proposed and developed these tariff revisions with stakeholder input in early 2015. Notably, the proposed tariff revisions were initially approved without objection in April 2015 in the stakeholder Operating Committee, Business Issues Committee, and Management Committee meetings. In the April 29, 2015, Management Committee meeting that initially approved the revisions, the NYISO indicated its intention that the tariff revisions be implemented within 60 days of filing, so that they could be in place for use in the Public Policy Process for the current planning cycle.⁵⁵ It has now been over nine months since stakeholders initially approved the tariff revisions. The NYISO Management Committee approved the revised tariff sections, excluding the previously proposed interconnection-related revisions, on January 27, 2016 - again without objection. Consequently, the NYISO respectfully submits that no stakeholder would be prejudiced if the Commission were to shorten the usual notice period and allow the tariff changes to become effective the date after the date of this filing.⁵⁶

VI. Requisite Stakeholder Approval

The tariff revisions proposed in this filing were initially discussed with stakeholders in numerous working group meetings, at the April 15, 2015, Business Issues Committee meeting, at the April 16, 2015, Operating Committee meeting, and at the April 29, 2015, Management Committee meeting. The tariff revisions were initially approved by the Management Committee unanimously, with abstentions. The NYISO Board of Directors also approved the proposed tariff revisions on June 16, 2015 for filing with the Commission, pursuant to Section 205 of the

⁵³ 18 C.F.R. §§ 35.3 and 35.11.

⁵⁴ See *Central Hudson Gas and Electric Corp.*, 60 FERC ¶ 61,106 at 61,338-339 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

⁵⁵ See NYISO Management Committee Meeting Minutes, April 29, 2015, *available at*: http://www.nyiso.com/public/webdocs/markets_operations/committees/mc/meeting_materials/2015-04-29/Final%20MC%20Minutes_04292015.pdf.

⁵⁶ See, e.g., *New York Independent System Operator, Inc.*, 135 FERC 61,014 (2011) at P 11 (waiving 60 day prior notice requirement for good cause, noting that interested parties were aware of the proposed tariff revisions months in advance and the earlier effective date was required to enable the revisions to be implemented for timely application).

Federal Power Act. Subsequent to the December Order, the NYISO reviewed the revised tariff revisions, excluding the interconnection-related revisions, with stakeholders at the January 21, 2016, Electric System Planning Working Group meeting. The Management Committee approved the revised tariff revisions on January 27, 2016, and the NYISO Board of Directors approved on February 8, 2016 the revised tariff revisions for filing with the Commission pursuant to Section 205 of the Federal Power Act.

VII. Service List

This filing will be posted on the NYISO's website at www.nyiso.com. In addition, the NYISO will e-mail an electronic link to this filing to each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities.

VIII. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the proposed tariff changes identified in this filing with an effective date of February 19, 2016, one day after the date of this filing.

Respectfully submitted,

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