

193 FERC ¶ 61,031  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: David Rosner, Chairman;  
Lindsay S. See and Judy W. Chang.

New York Independent System Operator, Inc.

Docket Nos. ER24-1915-002  
ER24-1915-003

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING, AND SETTING  
ASIDE PRIOR ORDER, IN PART, AND ON COMPLIANCE

(Issued October 16, 2025)

1. On April 17, 2025, the Commission issued an order<sup>1</sup> on the New York Independent System Operator, Inc.’s (NYISO) compliance filing submitted in response to Order Nos. 2023 and 2023-A.<sup>2</sup>
2. On May 16, 2025 and May 19, 2025, NYISO and New York Transmission Owners (NYTO)<sup>3</sup> respectively (together, Rehearing Parties) filed timely requests for rehearing of the April Compliance Order. Pursuant to *Allegheny Defense Project v. FERC*,<sup>4</sup> the rehearing requests filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 313(a) of the Federal Power Act (FPA),<sup>5</sup> we are modifying the discussion in the April Compliance Order, and setting aside the order, in part, as discussed below.<sup>6</sup>

---

<sup>1</sup> *N.Y. Indep. Sys. Operator, Inc.*, 191 FERC ¶ 61,049 (2025) (April Compliance Order).

<sup>2</sup> *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054, *order on reh’g*, 185 FERC ¶ 61,063 (2023), *order on reh’g*, Order No. 2023-A, 186 FERC ¶ 61,199, *errata notice*, 188 FERC ¶ 61,134 (2024).

<sup>3</sup> NYTOs include: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Power Authority; New York Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

<sup>4</sup> 964 F.3d 1 (D.C. Cir. 2020) (en banc).

<sup>5</sup> 16 U.S.C. § 824l(a) (“Until the record in a proceeding shall have been filed in a

3. On June 16, 2025, NYISO submitted proposed revisions (Second Compliance Filing) to its Open Access Transmission Tariff (OATT) in compliance with the requirements of Order Nos. 2023 and 2023-A and the April Compliance Order.<sup>7</sup> As discussed below, we find that NYISO's Second Compliance Filing partially complies with the requirements of Order Nos. 2023 and 2023-A and with the Commission's directives in the April Compliance Order. Accordingly, we accept NYISO's Second Compliance Filing in part, effective as of the date of this order, as requested, and direct NYISO to submit a further compliance filing within 60 days of the date of this order.

### **I. Background**

4. Order Nos. 2023 and 2023-A amended the Commission's *pro forma* Large Generator Interconnection Procedures (LGIP), *pro forma* Large Generator Interconnection Agreement (LGIA), *pro forma* Small Generator Interconnection Procedures (SGIP), and *pro forma* Small Generator Interconnection Agreement (SGIA).<sup>8</sup> Order No. 2023 requires all public utility transmission providers to adopt revised *pro forma* LGIPs, *pro forma* LGIAs, *pro forma* SGIPs, and *pro forma* SGIA. These revisions ensure that interconnection customers are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner, and will prevent undue discrimination.<sup>9</sup> In Order No. 2023, the Commission adopted a comprehensive package of reforms in three general categories: (1) reforms to implement a first-ready, first-served cluster study process; (2) reforms to increase the speed of interconnection queue processing; and (3) reforms to incorporate technological advancements into the interconnection process.

---

court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.”).

<sup>6</sup> *Allegheny Defense Project*, 964 F.3d at 16-17.

<sup>7</sup> See *infra* Appendix (listing eTariff records).

<sup>8</sup> The *pro forma* LGIP and *pro forma* LGIA establish the terms and conditions under which public utilities that own, control, or operate facilities for transmitting energy in interstate commerce must provide interconnection service to generating facilities larger than 20 MW. The *pro forma* SGIP and *pro forma* SGIA establish the terms and conditions under which public utilities that own, control, or operate facilities for transmitting energy in interstate commerce must provide interconnection service to generating facilities no larger than 20 MW. Order No. 2023, 184 FERC ¶ 61,054 at P 2.

<sup>9</sup> *Id.* P 1.

5. On May 1, 2024, as amended on May 8, 2024, NYISO submitted proposed revisions to its OATT to comply with the requirements of Order No. 2023 (First Compliance Filing). In the April Compliance Order, the Commission found that NYISO's First Compliance Filing partially complied with the requirements of Order No. 2023. Accordingly, the Commission accepted NYISO's Initial Compliance Filing in part, effective May 2, 2025, and directed NYISO to submit a further compliance filing within 60 days of the issuance of the April Compliance Order. Specifically, the Commission directed further revisions to NYISO's OATT with respect to the following issues: cluster study process, allocation of cluster study costs, allocation of cluster network upgrade costs, elimination of reasonable efforts, affected system study process and modeling requirements, co-located generating facilities, revisions to the modification process to require consideration of generating facility additions, incorporating the enumerated alternative transmission technologies, and NYISO's Expedited Deliverability Study.<sup>10</sup>

## II. Filings

### A. Rehearing

6. Rehearing Parties seek rehearing of five Commission determinations in the April Compliance Order.<sup>11</sup> Specifically, Rehearing Parties request rehearing of the Commission's determinations denying NYISO's independent entity variations to (1) assess study delay penalties only after completion of Phase 2 of NYISO's study process;<sup>12</sup> (2) address the impacts of the parallel performance of its cluster study process and affected system studies;<sup>13</sup> (3) establish a 300-day affected system study process;<sup>14</sup>

---

<sup>10</sup> April Compliance Order, 191 FERC ¶ 61,049 at PP 106, 118, 119, 125-127, 248, 284, 285, 301, 302, 324, 370, 372, 387. NYISO refers to Expedited Deliverability Study as a mechanism by which a facility can seek to obtain Capacity Resource Interconnection Service (CRIS) outside of the NYISO's cluster study process if the study determines that System Deliverability Upgrades are not required for the deliverability of its project. *See id.* P 386; N.Y. Indep. Sys. Operator, Inc., NYISO Tariffs, NYISO OATT, attach. HH, § 40.19 (Expedited Deliverability Study Procedures) (0.0.0) (NYISO OATT).

<sup>11</sup> NYISO and NYTOs (except New York Power Authority) have challenged the elimination of the reasonable efforts standard and the imposition of study delay penalties in requests for clarification and rehearing of Order No. 2023 and have subsequently appealed Order Nos. 2023 and 2023-A to the U.S. Court of Appeals for the District of Columbia Circuit in *Adv. Energy United v. FERC*, No. 23-1282 (D.C. Cir. filed Apr. 16, 2025). NYISO Rehearing Request at 8 n.29; NYTOs Rehearing Request at 6 n.13.

<sup>12</sup> NYISO Rehearing Request at 2, 8-13, 15; NYTOs Rehearing Request at 2-11.

(4) prohibit interconnection customers from requiring delayed study work to be outsourced to third-party consultants;<sup>15</sup> and (5) revise Expedited Deliverability Study provisions to conform with the new cluster study process and timeframes.<sup>16</sup>

### **B. Compliance Filing**

7. NYISO states that it proposes revisions in this Second Compliance Filing to address the directives in the April Compliance Order, while providing additional justifications and clarifications for its requested independent entity variations as permitted by the April Compliance Order.<sup>17</sup> NYISO states that the proposed revisions are expressly required by the April Compliance Order's directives, are necessary to implement or clarify the existing language to accommodate those directives, or are non-substantive organizational or clarifying adjustments.

8. NYISO requests that the proposed revisions submitted in this compliance filing become effective on the date the Commission accepts the respective revisions.<sup>18</sup>

### **III. Notice of Second Compliance Filing and Responsive Pleadings**

9. Notice of NYISO's Second Compliance Filing was published in the *Federal Register*, 90 Fed. Reg. 26278 (June 20, 2025), with comments, interventions, and protests due on or before July 7, 2025. NYTOs filed supportive comments.

### **IV. Discussion**

#### **A. Rehearing**

10. This order addresses only the requests for rehearing regarding study delay penalties and the Expedited Deliverability Study revisions. The remaining rehearing requests relate to matters for which the April Compliance Order explicitly provided NYISO with an opportunity to further justify its proposal under the independent entity

---

<sup>13</sup> NYISO Rehearing Request at 2, 13-15; NYTOs Rehearing Request at 3-4, 15-19.

<sup>14</sup> NYTOs Rehearing Request at 3-4, 15-19.

<sup>15</sup> *Id.* at 2-4, 11-15.

<sup>16</sup> NYISO Rehearing Request at 2, 4-8, 15.

<sup>17</sup> Second Compliance Filing, Transmittal Letter at 2.

<sup>18</sup> *Id.* at 32.

variation standard, and thus are not ripe for rehearing and will not be addressed in this order.<sup>19</sup>

**1. Elimination of Reasonable Efforts**

**a. Order Nos. 2023 and 2023-A**

11. In Order No. 2023, the Commission revised the *pro forma* LGIP to eliminate the reasonable efforts standard for conducting cluster studies, cluster restudies, facilities studies, and affected system studies by the tariff-specified deadlines, and in its place, implemented a study delay penalty structure comprised of daily penalty amounts that increase after the tariff-specified deadline for each study, combined with safeguards for transmission providers, including the ability to appeal such penalties to the Commission.<sup>20</sup> In other words, in place of the reasonable efforts standard, the Commission specified standards of performance in the form of deadlines, accompanied by a penalty, creating a self-implementing performance incentive that also effectively adjusts what transmission providers can charge for interconnection studies that fail to meet those standards.<sup>21</sup> Order No. 2023 also required that study delay penalties be distributed to interconnection customers in the relevant study on a pro rata per interconnection request basis to offset their study costs.<sup>22</sup>

12. The Commission also addressed specific issues faced by not-for-profit RTOs/ISOs. Unlike non-RTO/ISO transmission providers, RTOs/ISOs may recover the costs of study delay penalties by submitting an FPA section 205 filing to propose a default structure for recovering delay penalties and/or to recover the costs of any specific study delay penalties.<sup>23</sup> The Commission explained that allowing RTOs/ISOs to recover penalty costs is warranted because RTOs/ISOs are differently situated than non-RTO transmission providers in terms of their ability to bear penalty costs, as RTOs/ISOs are

---

<sup>19</sup> See 18 C.F.R. § 385.713(b) (2025) (permitting requests for rehearing “of any final decision or other final order in a proceeding”); *ISO New Eng. Inc.*, 173 FERC ¶ 61,205, at P 13 (2020) (“A final order is one that imposes an obligation, denies a right, or fixes some legal relationship as a consummation of the administrative process.”).

<sup>20</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 962, 972; see also *pro forma* LGIP §§ 2.2, 3.5.4, 7.4, 8.3; *pro forma* LGIP, app. 3, attach. A.

<sup>21</sup> Order No. 2023-A, 186 FERC ¶ 61,199 at P 289.

<sup>22</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 963, 990-991.

<sup>23</sup> *Id.* P 994.

non-profit entities and do not have shareholders.<sup>24</sup> The Commission acknowledged that, in instances where there is no identifiable transmission-owning member that is formally responsible for leading the interconnection study, the penalty will be incurred by the RTO/ISO itself.<sup>25</sup> To collect necessary funds, RTOs/ISOs may either (1) propose a default structure for recovering penalty costs or (2) file to recover the costs of individual penalty costs.<sup>26</sup> Finally, the Commission provided that, if an RTO/ISO is unable to obtain majority stakeholder approval for FPA section 205 filings, to the extent the RTO/ISO is concerned that the lack of a mechanism for the transmission provider to recover the costs of delay penalties renders its tariff unjust and unreasonable, the RTO/ISO has the opportunity to file an FPA section 206 complaint.<sup>27</sup>

13. The Commission explained the purpose of the study delay penalty structure was to “reasonably incentivize[] transmission providers to ensure timely processing of interconnection requests” in concert with reforms “to appropriately incentivize interconnection customers to help reduce interconnection delays that may result from their conduct.”<sup>28</sup> The amount of the penalty was intended to be enough to “incentivize transmission provider actions that will reduce the incidence of study delays,” such as “hiring additional personnel or investing in new software.”<sup>29</sup>

14. The Commission also explained the relationship between the requirement for study delay penalties for transmission providers and study deposits and withdrawal penalties for interconnection customers.<sup>30</sup> The study delay penalty structure adopts progressively higher penalty amounts for delayed cluster restudies and facilities studies, reflecting the progressively greater harm to interconnection customers of delayed studies at those later stages – at which they will have made greater investments in advancing their projects toward commercial development through steps such as obtaining site control, securing permits, and contracting for equipment. The Commission further

---

<sup>24</sup> Order No. 2023-A, 186 FERC ¶ 61,199 at P 402.

<sup>25</sup> *Id.* P 405.

<sup>26</sup> *Id.* PP 405-406.

<sup>27</sup> *Id.* P 464.

<sup>28</sup> *Id.* PP 308, 319; Order No. 2023, 184 FERC ¶ 61,054 at P 966.

<sup>29</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 975, 1007.

<sup>30</sup> *Id.* P 977.

explained that this was especially true given the new site control requirements, commercial readiness deposits, and withdrawal penalties adopted in Order No. 2023, which also become increasingly stringent as the study progresses and require that interconnection customers have greater capital at risk at each stage to affirm their commitment to reaching commercial operation. Consequently, the Commission explained that it was “appropriate that transmission providers face study delay penalties structured in a similar manner [to those imposed on interconnection customers] to provide adequate incentives to complete interconnection studies on time.”<sup>31</sup> In Order No. 2023-A, the Commission added that “delayed interconnection studies impose costs on interconnection customers” and the implementation of study delay penalties “regulates what a transmission provider can charge for an interconnection study, accounting for study timeliness, as a matter of ensuring just and reasonable rates.”<sup>32</sup>

**b. April Compliance Order**

15. In the April Compliance Order, the Commission granted NYISO’s requested independent entity variation to adopt a 460-day, single, two-phase cluster study, with a decision period to enter each study phase, in place of the cluster study, cluster restudy, and individual facilities study structure adopted in Order No. 2023, but denied NYISO’s requested independent entity variation to adopt a study delay penalty structure that subjects NYISO and relevant transmission owners to penalties only at the end of its study process.<sup>33</sup>

16. The Commission explained that, similar to the *pro forma* LGIP, NYISO’s proposed cluster includes distinct study phases and deadlines under which each phase of study must be completed.<sup>34</sup> For that reason, the Commission found that NYISO’s 460-day cluster study process without interim study delay penalties was not consistent with Order No. 2023’s requirements to impose study delay penalties at each distinct study phase.<sup>35</sup> The Commission found that NYISO’s proposal did not provide a sufficient incentive for NYISO and relevant transmission owners to complete

---

<sup>31</sup> *Id.*

<sup>32</sup> Order No. 2023-A, 186 FERC ¶ 61,199 at P 306.

<sup>33</sup> April Compliance Order, 191 FERC ¶ 61,049 at PP 104, 248.

<sup>34</sup> *Id.* P 248.

<sup>35</sup> *Id.* P 248 (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 966, 974-978).

Phase 1 studies in a timely manner, as related to Order No. 2023's requirements for study delay penalties, compared to the *pro forma* LGIP study delay penalty structure.

17. The Commission additionally determined that the end of the 190-day Phase 1 study was an appropriate point for NYISO and relevant NYISO transmission owners to face potential study delay penalties because, at that point, interconnection customers face commercial readiness deposits and increased withdrawal penalties.<sup>36</sup> The Commission reasoned that this expectation was reflected in Order No. 2023's adoption of progressively higher penalty amounts for delayed studies through the interconnection study process to reflect the progressively greater harm that delays cause to interconnection customers as they are subject to more stringent requirements and greater capital risk throughout the process, such as commercial readiness deposits and withdrawal penalties. The Commission found it appropriate that transmission providers face study delay penalties structured in a similar manner.

18. Finally, the Commission determined that NYISO had not sufficiently justified how its proposed cluster study process was unique such that it is appropriate to require interconnection customers to pay commercial readiness deposits and be subject to withdrawal penalties between Phase 1 and Phase 2 but not to apply study delay penalties to NYISO and relevant transmission owners between those phases.<sup>37</sup> The Commission consequently directed NYISO to submit a further compliance filing that applied study delay penalties to NYISO and the relevant transmission owners at each distinct phase of its cluster study process.

**c. Requests for Rehearing**

19. Rehearing Parties argue that the Commission erred in rejecting NYISO's requested independent entity variation to adopt a study delay penalty structure that subjects NYISO and relevant transmission owners to penalties only at the end of its proposed 460-day, two-phase cluster study process, but not at the end of Phase 1 of the process.<sup>38</sup>

20. NYISO challenges the Commission's finding that NYISO's 460-day cluster study process without interim study delay penalties was inconsistent with Order No. 2023's requirements to impose study delay penalties at each distinct phase because, the Commission argued, similar to the *pro forma* LGIP, NYISO's cluster study process

---

<sup>36</sup> *Id.* P 249 (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 976-977).

<sup>37</sup> *Id.* P 248.

<sup>38</sup> NYISO Rehearing Request at 2, 8-13, 15; NYTOs Rehearing Request at 2-11.

includes distinct study phases and deadlines under which each phase of the study must be completed.<sup>39</sup> NYISO contends that the Commission disregarded multiple substantial differences between the *pro forma* LGIP and NYISO's study process and focused only on an immaterial difference: the fact that the NYISO cluster study and the *pro forma* LGIP both have multiple parts. According to NYISO, the dissimilarities between NYISO's cluster study process and the *pro forma* LGIP greatly outweigh the similarities.

21. Specifically, NYISO asserts that while the *pro forma* cluster study process comprises three distinct studies that are not overlapping or intertwined, NYISO's single cluster study, in its entirety, includes the work that is conducted under all three of the *pro forma* LGIP studies through closely interrelated phases that produce a single, consolidated study.<sup>40</sup> NYISO further contends that, unlike the studies in the *pro forma* LGIP, NYISO's Phase 1 study results are not complete at the Phase 1 study "deadline," but are instead updated during the Phase 2 study to account for withdrawn projects. NYISO asserts that, because "Order No. 2023 is clear that penalties apply when studies are not completed *in their entirety* on time,"<sup>41</sup> it is not reasoned decision-making to depart from that principle and require application of a penalty after the interim Phase 1 study deadline. NYISO argues that it is unduly discriminatory to subject NYISO to a penalty for delays in completing the Phase 1 study because other transmission providers are not subject to penalties for missing interim study deadlines.<sup>42</sup>

22. Rehearing Parties contend that the Commission did not consider arguments that penalizing "interim" Phase 1 study delays would create an inefficient process that interferes with the timely completion of the entire cluster study, contrary to the objectives of Order No. 2023 to expedite the interconnection process.<sup>43</sup> NYTOs explain that, within each cluster, the study processes are fluid, with work being performed in collaboration between NYTOs and NYISO in parallel on Phases 1 and 2 so that the NYTOs and NYISO can complete the study work with more efficiency and less overall time for both phases.<sup>44</sup> NYTOs further state that such parallel work helps to

---

<sup>39</sup> NYISO Rehearing Request at 9-10.

<sup>40</sup> *Id.* at 10.

<sup>41</sup> *Id.* (emphasis in original) (citing NYISO Motion to Reject Second Answer of Clean Energy Associations at 5 n.14 (quoting the *pro forma* LGIP at 3.8(1): "Transmission Provider shall be subject to a penalty if it fails to complete a Cluster Study, Cluster Restudy, Interconnection Facilities Study, or Affected Systems Study by the applicable deadline set forth in this LGIP.")).

<sup>42</sup> *Id.* at 11.

<sup>43</sup> *Id.* at 13; NYTOs Rehearing Request at 6.

expedite the overall process, even if it results in some delays in completing the Phase 1 study, and argues that diverting resources to identifying the sources of delay during that process would impede the integrated work across both phases, impeding overall efficiency in completing the cluster study process as quickly as possible. NYTOs state that, under those circumstances, it is just and reasonable to apply study delay penalties at the conclusion of the Phase 2 study.

23. Rehearing Parties challenge the Commission’s finding that NYISO’s proposal does not provide a sufficient incentive for NYISO and relevant transmission owners to complete Phase 1 studies in a timely manner, as related to Order No. 2023’s requirements for study delay penalties, compared to the *pro forma* LGIP study delay penalty structure.<sup>45</sup> NYTOs argue that the Commission did not adequately explain why it determined that imposing penalties after completing both phases of the study process was insufficient incentive to perform study work, and disregarded record evidence that such incentives did exist.<sup>46</sup> Rehearing Parties assert that, contrary to the Commission’s stated rationale, a penalty applied after the Phase 2 study creates an incentive to complete the Phase 1 study on time because any delay in the Phase 1 study increases the risk of delays in the timely completion of the entire cluster study because the overall duration allotted for the entire cluster study is not automatically extended by Phase 1 study delays.<sup>47</sup> NYISO argues that a slight delay in the imposition of a financial penalty does not meaningfully reduce the incentive to avoid the penalty in the first place.<sup>48</sup> NYTOs state that the Commission did not explain why penalties applied after the Phase 2 study, when the entire cluster study process is complete, “would eliminate the incentive to timely perform studies in either phase.”<sup>49</sup>

24. NYISO additionally argues that the Commission overlooked the role that NYISO’s not-for-profit status plays in incentivizing the completion of the entire cluster study on time.<sup>50</sup> NYISO contends that it is particularly vulnerable to study delay

---

<sup>44</sup> NYTOs Rehearing Request at 8.

<sup>45</sup> *Id.* at 5-6; NYISO Rehearing Request at 10.

<sup>46</sup> NYTOs Rehearing Request at 5.

<sup>47</sup> *Id.* at 6-7; NYISO Rehearing Request at 10.

<sup>48</sup> NYISO Rehearing Request at 10.

<sup>49</sup> NYTOs Rehearing Request at 6.

<sup>50</sup> NYISO Rehearing Request at 10-11.

penalties because it is a not-for-profit entity without retained earnings and will “face significant financial risks if it is not granted authorization, at the Commission’s sole discretion, to recover study delay penalty costs.”<sup>51</sup> NYISO additionally argues that “the threat of potentially unrecoverable financial penalties has such severe consequences for not-for-profit entities . . . that the requirement to impose the penalties at the conclusion of the Cluster Study in no way diminishes their impact.”<sup>52</sup> Consequently, NYISO asserts that exposure to any kind of financial penalty for failing to complete the cluster study as a whole is thus an even more powerful incentive for NYISO than it is for other transmission providers. According to NYISO, “it is not reasoned decision-making for the Commission to ignore well-understood facts [such as the practical impact of NYISO’s non-profit status] when deciding that imposing penalties only for final study deadlines would somehow be an insufficient incentive in the NYISO case.”<sup>53</sup>

25. Rehearing Parties challenge the Commission’s implied reasoning that NYISO must be subject to Phase 1 study delay penalties to ensure symmetrical treatment with interconnection customers, which face commercial readiness deposits and increased withdrawal penalties at the end of the Phase 1 study.<sup>54</sup> Rehearing Parties argue that parity in the imposition and timing of penalties between transmission providers and interconnection customers is not required by the independent entity variation standard.<sup>55</sup>

26. NYISO asserts that, even if parity were a valid component of the independent entity variation standard, the Commission did not apply it in a reasonable manner, because commercial readiness deposits and increased withdrawal penalties are not functionally equivalent to study delay penalties.<sup>56</sup> Similarly, NYTOs argue that requiring parity to the application of penalties for delayed studies is arbitrary and capricious because it ignores that interconnection customers are not similarly situated to transmission providers for the purpose of conducting studies: penalties assessed to interconnection customers are intended to prevent speculative interconnection requests from entering and remaining in the interconnection queue, whereas penalties assessed to transmission providers are intended to ensure processing of the interconnection queue.<sup>57</sup>

---

<sup>51</sup> *Id.* at 10.

<sup>52</sup> *Id.* at 10-11.

<sup>53</sup> *Id.* at 11.

<sup>54</sup> *Id.* at 12; NYTOs Rehearing Request at 7-8.

<sup>55</sup> NYISO Rehearing Request at 12; NYTOs Rehearing Request at 9.

<sup>56</sup> NYISO Rehearing Request at 12.

NYISO asserts that it is reasonable for developers that choose to proceed beyond the Phase 1 study to bear additional requirements because their voluntary decision requires NYISO and the transmission owners to take on additional commitments and tasks, but the burdens NYISO will face if it is subject to penalties for missing an interim Phase 1 study deadline are far greater.<sup>58</sup> NYISO asserts that “the magnitude of potential financial impacts on developers, which can ordinarily bear penalty costs, and the NYISO, which faces potentially existential risks, are not reasonably comparable,” and it is not reasoned decision-making to treat them as if they are.<sup>59</sup>

27. NYTOs additionally assert that the Commission’s logic for requiring parity “grossly oversimplifies New York’s study process and is a *non sequitur*” because the structure of the fluid, collaborative New York process offers benefits to interconnection customers (e.g., greater certainty, drastically reduced likelihood of restudies, completion of study work over a shorter period), which would be interrupted by the process of allocating delay responsibility prior to the conclusion of the Phase 2 study.<sup>60</sup> NYTOs argue that, because no harm accrues to interconnection customers where the entire cluster study is timely completed after the Phase 2 study despite a delay in the Phase 1 study, application of penalties for a delay in the Phase 1 study is unwarranted.<sup>61</sup> Specifically, NYTOs argue that, if an interconnection customer intends to proceed with project development, a delay in the initial Phase 1 of the full cluster study process does not materially affect the viability or timing of that investment decision.

**d. Commission Determination**

28. We are unpersuaded by arguments on rehearing that the Commission erred in rejecting NYISO’s requested independent entity variation to adopt a study delay penalty structure that subjects NYISO and relevant transmission owners to penalties only at the end of its proposed 460-day, two-phase cluster study process, but not at the end of the Phase 1 study. We find that NYISO’s cluster study process is not so materially different from the *pro forma* LGIP that it contains no study phases to which the study delay penalty structure (i.e., higher penalty amounts for each delayed study phase) could reasonably attach. Additionally, we continue to find that, without the application of a penalty after Phase 1, NYISO’s cluster study process does not provide a sufficient

---

<sup>57</sup> NYTOs Rehearing Request at 8-9.

<sup>58</sup> NYISO Rehearing Request at 12.

<sup>59</sup> *Id.*

<sup>60</sup> NYTOs Rehearing Request at 7-8.

<sup>61</sup> *Id.* at 9-10.

incentive for NYISO and relevant transmission owners to complete the Phase 1 study phase in a timely manner as compared to the incentive created by the *pro forma* LGIP study delay penalty structure.

29. We disagree with NYISO's assertion that "Order No. 2023 is clear that penalties apply when studies are not completed *in their entirety* on time."<sup>62</sup> NYISO supports this assertion by citing to *pro forma* LGIP section 3.8(1) language: "Transmission Provider shall be subject to a penalty if it fails to complete a Cluster Study, Cluster Restudy, Interconnection Facilities Study, or Affected Systems Study by the applicable deadline set forth in this LGIP." However, because NYISO has been granted an independent entity variation to adopt a study structure different from the study structure reflected in *pro forma* LGIP section 3.8(1), that *pro forma* language does not create a requirement that a penalty may only be applied at the end of NYISO's single, two-phase cluster study. While Order No. 2023 does not expressly address scenarios in which transmission providers propose a cluster study process with "interim" phases, it does clearly articulate the requirement for a penalty structure that imposes higher penalty amounts for each delayed study.<sup>63</sup> Because NYISO argues that its Phase 1 study is only an "interim" study deadline to which a delay penalty may not attach, it proposes to exempt its study process from the Order No. 2023 progressive study penalty structure in its entirety. While we acknowledge that all work related to the Phase 1 study may not cease at the conclusion of the phase, the record reflects that the conclusion of the Phase 1 study is a distinct decision point and transition period in the overall study process. Without any other such distinctive phases, we continue to find that the Phase 1 study is an appropriate place to establish a study delay penalty structure that resembles the structure required by Order No. 2023.

30. We additionally disagree with Rehearing Parties' arguments that, without a Phase 1 study delay penalty, NYISO's study process contains sufficient incentives to complete the Phase 1 study in a timely manner. The Commission explained in Order No. 2023 that the structure of daily penalties that increase after each missed study deadline, including the dollar amount of those penalties, was intended to create a large enough total penalty to incentivize transmission providers to take actions to ensure timely study completion, such as hiring additional personnel or investing in new software.<sup>64</sup> We find unpersuasive Rehearing Parties' arguments that the Phase 2 study delay penalty alone creates a sufficient incentive to complete the Phase 1 study on time because a delay in the Phase 1 study makes a delay in the Phase 2 study more likely. Removing interim penalties

---

<sup>62</sup> NYISO Rehearing Request at 10 (emphasis in original).

<sup>63</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 973-978.

<sup>64</sup> *Id.* PP 975, 1007.

reduces the overall penalty faced by the transmission provider for delays, which reduces the incentive for the transmission provider to take actions that will reduce the incidence of study delays, contrary to the stated intent of the study delay penalty structure. Consequently, we find that, as applied to NYISO's study process, the purpose of the study delay penalty structure may not be accomplished without the application of a Phase 1 study penalty. We are also unpersuaded by NYISO's argument that its not-for-profit status serves as a sufficient incentive to avoid delays. The Commission already considered this argument in Order No. 2023 and found that applying study delay penalties to RTOs/ISOs is appropriate and consistent with Commission precedent.<sup>65</sup>

31. We also disagree with arguments that the Commission unreasonably subjected NYISO to Phase 1 study delay penalties to ensure symmetrical treatment with interconnection customers. While we agree that parity is not a requirement of the independent entity variation standard, the concept of parity is built into the Order No. 2023 study delay penalty structure. In Order No. 2023, the Commission explained that the study delay penalty structure adopts progressively higher penalty amounts for delayed cluster restudies and facilities studies to reflect the progressively greater harm to interconnection customers from delayed studies at those later stages, at which time they will have made greater investments in advancing their projects toward commercial development through steps such as obtaining site control, securing permits, and contracting for equipment.<sup>66</sup> The Commission further explained that this was especially true given the new site control requirements, commercial readiness deposits, and withdrawal penalties adopted in Order No. 2023. The Commission found that it was appropriate that transmission providers face study delay penalties in a similar manner to provide adequate incentives to complete interconnection studies on time. Interconnection customers in NYISO face the progressively higher risk of harm that the Commission pointed to in Order No. 2023 to justify the progressive study delay penalty structure.<sup>67</sup> Specifically, interconnection customers in NYISO face commercial readiness deposits and increased withdrawal penalties at the end of the Phase 1 study.<sup>68</sup> Accordingly, we

---

<sup>65</sup> *Id.* P 1001 (citing Order No. 890, 1180 FERC ¶ 61,119 at P 1357 (“[W]e believe that all entities administering the tariff should operate under the same rules, reporting obligations, and reporting metrics . . . . Non-profit transmission providers have other sources of money to pay penalties beyond the revenue they collect for sales of transmission service.”)).

<sup>66</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 977.

<sup>67</sup> *See* April Compliance Order, 191 FERC ¶ 61,049 at P 248.

<sup>68</sup> NYISO OATT, attach. HH, § 40.10 (Phase 1 Study Process, Development of System Models, & Phase 2 Entry Decision Period) (0.0.0), §§ 40.10.8.3, 40.10.9.2.

continue to find that the end of the Phase 1 study is an appropriate point for NYISO and relevant NYISO transmission owners to be subject to study delay penalties.

**2. Expedited Deliverability Study**

**a. April Compliance Order**

32. In its First Compliance Filing, NYISO requested five independent entity variations for revisions to its existing Expedited Deliverability Study rules to align that study process with the new cluster study process requirements.<sup>69</sup> NYISO explained that its Expedited Deliverability Study is a mechanism by which a facility can seek to obtain CRIS outside of NYISO's Class Year Study if the expedited study determines that system deliverability upgrades are not required for the deliverability of the project. Three of the categories of proposed revisions pertained to performance of the Expedited Deliverability Study in relation to the new cluster study process, while the other two categories of revisions pertained to aspects of the Expedited Deliverability Study that were unrelated to implementing the new cluster study process.

33. In the April Compliance Order, the Commission rejected all of NYISO's proposed revisions to the Expedited Deliverability Study as outside the scope of the proceeding because Order Nos. 2023 and 2023-A did not require such revisions.<sup>70</sup> The Commission directed NYISO to submit a compliance filing that removes the proposed revisions and noted that NYISO may submit the modifications in a future FPA section 205 filing.

**b. Requests for Rehearing**

34. NYISO argues that the Commission erred in rejecting three categories of revisions to align the Expedited Deliverability Study to the new cluster study process requirements: (1) provisions concerning analog timeframes for the Expedited Deliverability Study's interaction with the new cluster study process; (2) provisions clarifying in the Expedited Deliverability Study rules that a project cannot participate in both a cluster study and Expedited Deliverability Study at the same time;<sup>71</sup> and (3) explicit references that the Expedited Deliverability Study is performed in accordance with the rules for the Cluster Study Deliverability Study. NYISO argues that these revisions are required to enable NYISO to continue to be able to perform the Expedited Deliverability Studies in light of the new cluster study process steps and timeframes.<sup>72</sup> NYISO states that failure by

---

<sup>69</sup> First Compliance Filing, Transmittal Letter at 92.

<sup>70</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 387.

<sup>71</sup> This is consistent with NYISO's OATT requirements for its Class Year Deliverability Study (now Cluster Study Deliverability Study).

the Commission to accept these revisions will cause significant disruption to NYISO's ability to perform these expedited studies as a result of the related Order No. 2023 modifications. NYISO contends that in providing only conclusory statements in rejecting the proposed revisions, the Commission failed to substantially engage with NYISO's arguments or adequately explain its reasons for rejecting them, inconsistent with the Commission's statutory obligation to engage in reasoned decision-making. NYISO requests that the Commission grant rehearing and accept NYISO's three proposed revisions that are required to align the Expedited Deliverability Study rules with NYISO's new interconnection procedures that were adopted in response to Order No. 2023.

**c. Commission Determination**

35. We modify the April Compliance Order and set aside the Commission's rejection of the three categories of revisions to align the existing Expedited Deliverability Study to the new cluster study process requirements, specifically: (1) provisions concerning analog timeframes for the Expedited Deliverability Study's interaction with the new cluster study process; (2) provisions clarifying in the Expedited Deliverability Study rules that a project cannot participate in both a cluster study and Expedited Deliverability Study at the same time; and (3) explicit references that the Expedited Deliverability Study is performed in accordance with the rules for the Cluster Study Deliverability Study. Order No. 2023 did not find that NYISO's preexisting Commission-approved Expedited Deliverability Study was unjust and unreasonable, and was not intended to interfere with NYISO's ability to continue performing this study. We thus find that NYISO's requested revisions, while not required by Order No. 2023, are just and reasonable because they will allow NYISO to implement the cluster study requirements established in Order No. 2023 without disrupting NYISO's ability to continue performing its existing Expedited Deliverability Study, which was not changed by the rule. Accordingly, we modify the April Compliance Order and set aside (1) the Commission's rejection of these proposed tariff revisions and (2) the directive that NYISO submit a compliance filing to remove these proposed revisions from its OATT.

**B. Second Compliance Filing**

36. As discussed below, we find that NYISO's Second Compliance Filing partially complies with the requirements of Order Nos. 2023 and 2023-A. Accordingly, we accept NYISO's Second Compliance Filing in part, effective the date of this order, as requested, and direct NYISO to submit a further compliance filing within 60 days of the date of this order.

---

<sup>72</sup> NYISO Rehearing Request at 4-8.

## 1. Proposed Variations

37. As discussed further below, NYISO has proposed certain variations from the Commission's requirements in Order Nos. 2023 and 2023-A. The Commission explained in Order No. 2023 that such variations would be reviewed under the same standard allowed by Order Nos. 2003, 2006, and 845.<sup>73</sup> In Order No. 2003, when adopting the *pro forma* LGIP and *pro forma* LGIA, the Commission permitted Regional Transmission Organizations/Independent System Operators (RTO/ISO) to seek "independent entity variations" for pricing and non-pricing provisions, and stated that RTOs/ISOs "shall have greater flexibility to customize [their] interconnection procedures and agreement to fit regional needs."<sup>74</sup> The Commission stated that this approach recognizes that an RTO/ISO is less likely to act in an unduly discriminatory manner than a transmission provider that is a market participant.<sup>75</sup> The Commission has granted independent entity variations from interconnection-related rulemakings where the RTO/ISO demonstrates that the proposed variation: (1) is just and reasonable and not unduly discriminatory or preferential; and (2) accomplishes the purposes of the order.<sup>76</sup> It is not a sufficient justification to state that a variation conforms to current RTO/ISO practices or to the RTO's/ISO's tariff definitions and terminology.<sup>77</sup> Even if the transmission provider is an

---

<sup>73</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1764 (citing *Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 104 FERC ¶ 61,103, at P 826 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *Standardization of Small Generator Interconnection Agreements & Procs.*, Order No. 2006, 111 FERC ¶ 61,220, at PP 447, 549, *order on reh'g*, Order No. 2006-A, 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 116 FERC ¶ 61,046 (2006); *see Reform of Generator Interconnection Procs. & Agreements*, Order No. 845, 163 FERC ¶ 61,043, at P 556 (2018), *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019)).

<sup>74</sup> Order No. 2003, 104 FERC ¶ 61,103 at P 826.

<sup>75</sup> *Id.* P 827.

<sup>76</sup> *See, e.g., ISO New Eng. Inc.*, 164 FERC ¶ 61,222, at P 9 (2018) (citing Order No. 2003, 104 FERC ¶ 61,103 at PP 26, 827; *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,247, at P 20 (2016); *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070, at P 44 (2012)).

<sup>77</sup> *See Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,112, at P 11 (2020); *Sw. Power Pool, Inc.*, 170 FERC ¶ 61,042, at P 14 (2020); *ISO New Eng. Inc.*, 170 FERC

RTO/ISO, it must still justify its variations in light of the Commission's *pro forma* LGIP and/or *pro forma* LGIA and/or *pro forma* SGIP and/or *pro forma* SGIA.<sup>78</sup> We evaluate NYISO's proposed variations from the requirements of Order Nos. 2023 and 2023-A accordingly.

## 2. Cluster Study Process

38. In Order No. 2023, the Commission revised the *pro forma* LGIP and *pro forma* LGIA to require transmission providers to study interconnection requests in clusters. The Commission modified *pro forma* LGIP sections 7.4 (Cluster Study Procedures) and 7.5 (Cluster Study Restudies) to provide that the transmission provider shall complete the cluster study and cluster restudy within 150 calendar days, respectively.<sup>79</sup>

39. As relevant here, Order Nos. 2023 and 2023-A did not require any revisions to *pro forma* LGIP section 13.4 (Third Parties Conducting Studies).

### a. April Compliance Order

40. In its First Compliance Filing, NYISO proposed to delete language in 13.4 of the *pro forma* LGIP stating that, under certain conditions, interconnection customers may require that NYISO use third-party consultants reasonably acceptable to the interconnection customer and NYISO to perform study work under the direction of NYISO.<sup>80</sup>

41. In the April Compliance Order, the Commission denied NYISO's requested independent entity variation.<sup>81</sup> The Commission found that NYISO did not explain why a third-party consultant could not perform its study within the tariff-prescribed study timeframes. The Commission also found that, because the consultant must be reasonably acceptable to the transmission provider, NYISO is able to ensure that any third-party consultant meets the deadlines required in NYISO's tariff. The Commission also stated that *pro forma* LGIP section 3.9(3) provides NYISO the right to appeal any penalty

---

¶ 61,209, at P 14 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,221, at P 18 (2019); *PJM Interconnection, L.L.C.*, 169 FERC ¶ 61,226, at P 15 (2019).

<sup>78</sup> See *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025, at P 16 (2004).

<sup>79</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 317; see also *pro forma* LGIP §§ 7.4, 7.5.

<sup>80</sup> First Compliance Filing, Transmittal Letter at 31.

<sup>81</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 106.

imposed for missing a study deadline. The Commission therefore found that NYISO's proposal to not allow interconnection customers to compel it to use third-party consultants does not accomplish the purposes of the cluster study to increase efficiency and provide greater certainty to interconnection customers regarding the timing of studies.<sup>82</sup> The Commission directed NYISO to submit a further compliance filing that adopts the provisions in *pro forma* LGIP section 13.4 to specify that interconnection customers may require that NYISO use third-party consultants reasonably acceptable to the interconnection customer and NYISO, or further justifies its proposal under the independent entity variation standard.

**b. Second Compliance Filing**

42. NYISO provides further justification in support of its requested independent entity variation to remove the *pro forma* LGIP section 13.4 requirement from NYISO's interconnection procedures.<sup>83</sup> NYISO argues that section 13.4 states that an interconnection customer may require the transmission provider to use a third-party consultant reasonably acceptable to the interconnection customer and transmission

provider to perform an interconnection study upon the occurrence of one of the following conditions:

(i) at the time of the signing of an Interconnection Study Agreement there is disagreement as to the estimated time to complete an Interconnection Study, (ii) Interconnection Customer receives notice pursuant to Sections 6.3, 7.4 or 8.3 that Transmission Provider will not complete an Interconnection Study within the applicable timeframe for such Interconnection Study, or (iii) Interconnection Customer receives neither the Interconnection Study nor a notice under Sections 6.3, 7.4 or 8.3 within the applicable timeframe for such Interconnection Study....<sup>84</sup>

43. NYISO argues that *pro forma* LGIP section 13.4 further states that "in all cases, use of a third party consultant shall be ... limited to situations where Transmission Provider determines that doing so will help maintain or accelerate the study process for Interconnection Customer's pending Interconnection Request and not interfere with

---

<sup>82</sup> *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at P 177).

<sup>83</sup> Second Compliance Filing, Transmittal Letter at 6.

<sup>84</sup> *Id.* at 7 (quoting *pro forma* LGIP § 13.4).

Transmission Provider's progress on Interconnection Studies for other pending Interconnection Requests."<sup>85</sup>

44. NYISO contends that the third-party consultant requirements, which are based on the Commission's *pro forma* LGIP study structure, are incompatible with the substantially different structure and requirements of NYISO's revised interconnection procedures.<sup>86</sup> NYISO asserts that incorporating these requirements into NYISO's cluster study process would create process inefficiencies that will interfere with NYISO's and transmission owners' ability to complete the Phase 1 study and Phase 2 study for the entire cluster and conflict with the Commission's stated intent for the third-party consultant requirement "to increase efficiency and provide greater certainty to interconnection customers regarding the timing of studies."<sup>87</sup>

45. NYISO states that, because the study timeframes for NYISO's Phase 1 study and Phase 2 study are established in NYISO's OATT and are not subject to negotiation as part of the cluster study agreement, the first *pro forma* LGIP trigger for the use of a third-party consultant – disagreement during the execution of the study agreement as to the estimated time to complete the study – is not applicable to NYISO's process.<sup>88</sup> Regarding the second and third *pro forma* LGIP triggers, NYISO argues that requiring NYISO or the transmission owner, in the middle of performing the Phase 1 study or Phase 2 study, to incorporate a third-party consultant into the process when a delay is identified will further delay ongoing studies and adversely impact all interconnection customers in the cluster because that cluster of projects cannot proceed to the next study phase until all of the study work for that cluster has been performed.<sup>89</sup> NYISO states that, among other things, NYISO or the transmission owner would have to reassign resources from finalizing the study work and completing the study phase to instead review third-party contractors, negotiate terms and agreements, negotiate established study completion dates and study review deadlines, and coordinate the study work being performed by them. NYISO asserts that this time would be more efficiently spent by NYISO or the transmission owner completing the impacted study work, particularly because at the stage in the process in which a delay may be identified, the impacted study or studies will likely be near completion.

---

<sup>85</sup> *Id.* (quoting *pro forma* LGIP § 13.4).

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* (quoting April Compliance Order, 191 FERC ¶ 61,049 at P 106 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 177)).

<sup>88</sup> *Id.* at 7-8.

<sup>89</sup> *Id.* at 8.

46. NYISO further argues that parts of NYISO's and the transmission owners' study work cannot be reasonably broken up into discrete components for an interconnection customer's third-party consultant to step in to perform, particularly in the middle of an ongoing study.<sup>90</sup> NYISO contends that NYISO or the transmission owner would then require additional time to reconcile these potentially conflicting study results and to confirm that the identified upgrades are the "least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements" as required by its OATT.<sup>91</sup> NYISO also explains that the assessment and the determination of the Phase 2 study non-local upgrades impacting the full cluster of projects cannot reasonably be assigned to a particular project and its consultant or to multiple projects, each with its own consultant, nor can an interconnection customer expedite its path through the cluster study process or jump ahead of other projects.

47. Lastly, NYISO notes that it does not oppose using contractors as a general matter to assist in expediting the performance of its interconnection procedures but contends that NYISO is better able to incorporate contractors efficiently into its process itself prior to the applicable stages of the process.<sup>92</sup>

**c. NYTOs' Comments**

48. NYTOs filed comments in support of NYISO's further justification.<sup>93</sup> NYTOs agree with NYISO that interjecting consultants selected by interconnection customers cannot be done without causing extensive delays in the interconnection process.<sup>94</sup> NYTOs assert that requiring the use of third-party consultants would divert resources from completing the studies to vetting, oversight, and reconciliation tasks associated with the introduction of additional consultants, which will compromise the ability of NYISO and NYTOs to complete study work within the prescribed timeline. According to NYTOs, many projects in New York are geographically or electrically close and have

---

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 9 (quoting NYISO OATT, attach. HH, § 40.1 (Definitions) (0.0.0), System Upgrade Facilities).

<sup>92</sup> *Id.* at 9-10.

<sup>93</sup> NYTOs Comments at 2.

<sup>94</sup> *Id.* at 3, 10. NYTOs also prematurely requested rehearing of this issue. See NYTOs Rehearing Request at 11-15.

interactive effects, so delegating responsibility to different outside parties would lead to inconsistencies in studies that would take more time to reconcile and would create coordination difficulties and disputes.<sup>95</sup>

49. NYTOs assert there are about 240 projects in the transition cluster for which Phase 1 study work is well under way, and introducing potentially many third-party consultants would result in significant delays and would render the expedited timeline for completing future Phase 1 and Phase 2 studies unattainable.<sup>96</sup> NYTOs argue that, based on extensive experience in NYISO interconnection studies, it is not reasonable to expect consultants retained by interconnection customers to work seamlessly within an already bifurcated and coordinated study process that requires significant interactions among NYISO, transmission owners, and affected systems.<sup>97</sup>

50. NYTOs assert that outsourcing study work to third-party consultants selected by individual interconnection customers would also generate additional tasks for the same staff responsible for processing the interconnection requests that were not contemplated in the 190-day timeline for Phase 1 study and the 270-day timeline for Phase 2 study that the Commission approved.<sup>98</sup> NYTOs argue that the *pro forma* LGIP provisions also assume that study work can be broken down into discrete tasks that can be effectively managed and executed by an outside entity, which is not the case in NYISO. NYTOs also assert that they would not be able to rely on third-party consultants' estimates without a detailed review, effectively duplicating work. Lastly, NYTOs express concerns about sharing sensitive information with consultants selected by interconnection customers where cybersecurity protections may be lacking.<sup>99</sup>

**d. Commission Determination**

51. We accept NYISO's proposed cluster study process revisions, including the requested independent entity variations, because we find that the proposal is just, reasonable, and not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A.

---

<sup>95</sup> NYTOs Comments at 3 (citing NYTOs Comments, attach. (Affidavit of Carol Muessigbrodt) (Muessigbrodt Aff.)).

<sup>96</sup> *Id.* at 11.

<sup>97</sup> *Id.* (citing Muessigbrodt Aff.).

<sup>98</sup> *Id.* at 12.

<sup>99</sup> *Id.* at 15-16.

52. We find that NYISO has sufficiently justified its requested independent entity variation to remove the *pro forma* LGIP section 13.4 requirement from NYISO's interconnection procedures. We agree with NYISO's explanation that incorporating the requirement to use a third-party consultant into NYISO's unique single, two-phased cluster study process would create inefficiencies and cause study delays, which conflicts with the purposes of the cluster study as stated in Order No. 2023 "to increase efficiency and provide greater certainty to interconnection customers regarding the timing of studies."<sup>100</sup> We further find that NYISO's proposed independent entity variation accomplishes the purposes of Order No. 2003 to balance the interests of the interconnection customer to obtain the results of any necessary interconnection studies as soon as possible, and the responsibility of the transmission provider to efficiently and effectively manage its transmission system.<sup>101</sup>

### 3. Allocation of Cluster Study Costs

53. In Order No. 2023, the Commission revised section 13.3 (Obligation for Study Costs) of the *pro forma* LGIP to allow each transmission provider to propose its own ratio for allocating the shared costs of cluster studies, provided that between 10% and 50% of study costs must be allocated on a per capita basis, with the remainder (between 50% and 90%) allocated pro rata by MW.<sup>102</sup>

#### a. April Compliance Order

54. In the April Compliance Order, the Commission found that NYISO's proposed revisions partially comply with the cluster study cost allocation requirements of Order Nos. 2023 and 2023-A.<sup>103</sup> The Commission found that NYISO's proposed independent entity variation to detail the method for allocating the costs of the Expedited Deliverability Study, fast track process supplemental review, and facility modification request study are outside the scope of the proceeding, as Order Nos. 2023 and 2023-A did not require such revisions.<sup>104</sup> Accordingly, the Commission directed NYISO to submit a compliance filing to remove these proposed revisions, without prejudice to NYISO proposing this additional language in a future FPA section 205 filing.

---

<sup>100</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 177.

<sup>101</sup> Order No 2003, 104 FERC ¶ 61,103 at P 285.

<sup>102</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 416; *see also pro forma* LGIP § 13.3.

<sup>103</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 118.

<sup>104</sup> *Id.* P 119.

**b. Second Compliance Filing**

55. NYISO states that it proposes to remove the provisions for the study cost allocation methodologies for the Expedited Deliverability Study, the fast track supplemental review, and the facility modification request study.<sup>105</sup>

**c. NYTOs' Comments**

56. NYTOs filed comments in support of NYISO's tariff changes.<sup>106</sup>

**d. Commission Determination**

57. We find that NYISO's proposed revisions to remove the provisions for the study cost allocation methodologies of the Expedited Deliverability Study, fast track process supplemental review, and facility modification request study comply with the directive of the April Compliance Order.

**4. Allocation of Cluster Study Network Upgrade Costs**

58. In Order No. 2023, the Commission added *pro forma* LGIP section 4.2.1 (Cost Allocation for Interconnection Facilities and Network Upgrades) to require a transmission provider to: (1) allocate the costs of network upgrades located at substations equally among each generating facility interconnecting to the same substation (i.e., on a per capita basis); and (2) direct the transmission provider on compliance to provide tariff provisions that describe, for each type of system network upgrade that a transmission provider would identify in the cluster study process, how the costs of each system network upgrade type will be allocated among the interconnection customers within the cluster.<sup>107</sup> The Commission also required transmission providers to allocate the costs of interconnection facilities (i.e., both the interconnection customer's interconnection facilities and transmission provider's interconnection facilities) on a per capita basis. The Commission further provided that interconnection customers may agree to share interconnection facilities, that the per capita cost allocation will apply

---

<sup>105</sup> Second Compliance Filing, Transmittal Letter at 10; NYISO OATT, attach. HH, § 40.6 (Queue Position/ Modification/ Withdrawal/ Withdrawal Penalties) (1.0.0), § 40.6.3.2; *id.* § 40.23 (Fast Track Process) (1.0.0), § 40.23.4.3; *id.*, § 40.24 (Miscellaneous) (1.0.0), §§ 40.24.3.2.2, 40.24.3.2.4, 40.24.3.2.5.

<sup>106</sup> NYTOs Comments at 2.

<sup>107</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 453, 461; *see pro forma* LGIP § 4.2.1.

only where interconnection customers agree to share interconnection facilities, and that interconnection customers may choose a different cost sharing arrangement upon mutual agreement.<sup>108</sup>

59. In Order No. 2023-A, the Commission clarified that cost allocation for substation network upgrades is based on the number of interconnection facilities connecting to the substation at the point of interconnection. The transmission provider must first allocate the costs of substation network upgrades on a per capita basis for each interconnection facility connecting to the substation and then allocate those costs on a per capita basis between each generating facility using the interconnection facility. In conjunction, the Commission revised *pro forma* LGIP section 4.2.1.1.a to clarify that substation network upgrade costs shall be allocated first to interconnection facilities interconnecting to the substation at the same voltage level, and then per capita to each generating facility sharing the interconnection facility.<sup>109</sup>

**a. April Compliance Order**

60. In the April Compliance Order, the Commission found that NYISO's filing did not address whether its existing process allocates substation network upgrade costs in a manner consistent with Order Nos. 2023 and 2023-A, as it was not clear how NYISO factors in voltage levels or multiple interconnection customers sharing an interconnection facility to reach the NYISO substation.<sup>110</sup>

61. The Commission also found that it is not clear under the existing language in NYISO's tariff that, where interconnection customers agree to share interconnection facilities, the costs would be allocated on a per capita basis unless the parties agree to a different cost sharing arrangement as required by Order No. 2023.<sup>111</sup> The Commission directed NYISO to submit a compliance filing that does one of the following regarding the allocation of substation network upgrades costs and the ability of interconnection customers to share interconnection facilities: (1) proposes tariff language to fully implement the cluster network upgrade cost allocation requirements of Order Nos. 2023 and 2023-A; (2) clarifies how its existing tariff language already

---

<sup>108</sup> *Id.* P 454.

<sup>109</sup> Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *see pro forma* LGIP § 4.2.1.1.a.

<sup>110</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 125 (citing Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *pro forma* LGIP § 4.2.1.1.a).

<sup>111</sup> *Id.* P 126.

meets these requirements; or (3) justifies its existing tariff language under the independent entity variation standard.<sup>112</sup>

**b. Second Compliance Filing**

62. NYISO states that it proposes to adopt the *pro forma* LGIP requirements concerning: (1) the allocation of the costs of substation network upgrades, which are known as Local System Upgrade Facilities in NYISO's OATT; and (2) the allocation of the costs of shared interconnection, which are consistent with NYISO's existing practice for allocating these costs.<sup>113</sup>

63. For clarification, NYISO proposes to revise section 40.12.2.1 of Attachment HH to the OATT to incorporate the *pro forma* LGIP requirements, as revised to accommodate NYISO-specific defined terms.<sup>114</sup> Specifically, NYISO proposes to insert new section 40.12.2.1.1 to establish, consistent with section 4.2.1(1)(a) of the *pro forma* LGIP, that NYISO will: (1) first allocate Local System Upgrade Facilities, including all switching stations, to interconnection facilities interconnecting to the substation at the same voltage level; and (2) then allocate the costs per capita to each facility sharing the interconnection facility.<sup>115</sup> NYISO also proposes to insert new section 40.12.2.1.2 to establish, consistent with section 4.2.1(2) of the *pro forma* LGIP, that: (1) the costs of any needed Connecting Transmission Owner's Attachment Facilities and Distribution Upgrades identified in the cluster study process will be directly assigned to the interconnection customer(s) using such facilities; and (2) where interconnection customers in the same cluster study agree to share such facilities, the costs shall be allocated based on the number of facilities sharing use of the facilities on a per capita basis unless the parties mutually agree to a different cost sharing arrangement.

**c. NYTOs' Comments**

64. NYTOs filed comments in support of NYISO's tariff changes.<sup>116</sup>

---

<sup>112</sup> *Id.* P 127.

<sup>113</sup> Second Compliance Filing, Transmittal Letter at 11.

<sup>114</sup> NYISO OATT, attach. HH, § 40.12 (Cluster Baseline Assessment & Cluster Project Assessment) (1.0.0), §§ 40.12.2.1.1, 40.12.2.1.2.

<sup>115</sup> Second Compliance Filing, Transmittal Letter at 11.

<sup>116</sup> NYTOs Comments at 2.

**d. Commission Determination**

65. We accept NYISO's proposed revisions concerning the allocation of network upgrade costs, including the independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that NYISO's proposal complies with the directive in the April Compliance Order to adopt the *pro forma* LGIP requirements concerning (1) the allocation of the costs of substation network upgrades, which are known as Local System Upgrade Facilities in NYISO's OATT and (2) the allocation of the costs of shared interconnection. We find that NYISO's proposal, including the requested independent entity variations to accommodate NYISO-specific defined terms, accomplishes the purpose of the allocation of cluster study network upgrades requirements in Order No. 2023 and 2023-A, which specify that substation network upgrade costs shall be allocated first to interconnection facilities interconnecting to the substation at the same voltage level, and then per capita to each generating facility sharing the interconnection facility,<sup>117</sup> and that interconnection customers may agree to share interconnection facilities and the costs of such will be allocated on a per capita basis unless interconnection customers mutually agree to a different cost sharing arrangement.<sup>118</sup>

**5. Elimination of Reasonable Efforts**

66. In Order No. 2023, the Commission revised sections 2.2 (Comparability), 3.5.4, 7.4, 8.3 (Interconnection Facilities Study Procedures), and Attachment A to Appendix 3 (formerly Appendix 4) of the *pro forma* LGIP to eliminate the reasonable efforts standard for conducting cluster studies, cluster restudies, facilities studies, and affected system studies by the tariff-specified deadlines.<sup>119</sup> The Commission added new section 3.9 (Penalties for Failure to Meet Study Deadlines) to the *pro forma* LGIP to implement a structure of study delay penalties.<sup>120</sup> Specifically, as also discussed above, delays of cluster studies beyond the tariff-specified deadline will incur a penalty of \$1,000 per business day; delays of cluster restudies beyond the tariff-specified deadline will incur a penalty of \$2,000 per business day; delays of affected system studies beyond the tariff-

---

<sup>117</sup> Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *see also pro forma* LGIP § 4.2.1.1.a.

<sup>118</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 454; *see also pro forma* LGIP § 4.2.1.2.

<sup>119</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 962; *see also pro forma* LGIP §§ 2.2, 3.5.4, 7.4, 8.3; *see also pro forma* LGIP, app. 3, attach. A.

<sup>120</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 962; *see also pro forma* LGIP § 3.9.

specified deadline will incur a penalty of \$2,000 per business day; and delays of facilities studies beyond the tariff-specified deadline will incur a penalty of \$2,500 per business day. The Commission explained that, among other things, these penalty amounts are intended to incentivize transmission providers to meet study deadlines and that the structure of increasing penalties reflects the progressively greater harm caused by delayed studies at later interconnection stages.<sup>121</sup>

67. The Commission also specified that the study delay penalty regime contains the following safeguards for transmission providers: (1) no study delay penalties will be assessed until the third cluster study cycle (including any transitional cluster study cycle, but not transitional serial studies) after the Commission-approved effective date of the transmission provider's filing in compliance with Order No. 2023; (2) there will be a 10-business day grace period, such that no study delay penalties will be assessed for a study that is delayed by 10 business days or fewer; (3) deadlines may be extended for a particular study by 30 business days by mutual agreement of the transmission provider and all interconnection customers with interconnection requests in the relevant study; (4) study delay penalties will be capped at 100% of the initial study deposits received for all of the interconnection requests in the relevant study; and (5) transmission providers will have the ability to appeal any study delay penalties to the Commission, with the Commission determining whether good cause exists to grant the relief requested on appeal.<sup>122</sup>

**a. April Compliance Order**

68. In the April Compliance Order, the Commission found that a 460-day cluster study process without interim study delay penalties is not consistent with Order No. 2023's requirements to impose study delay penalties at each distinct study phase.<sup>123</sup> The Commission found that NYISO's proposal did not provide a sufficient incentive for NYISO and relevant transmission owners to complete Phase 1 studies in a timely manner, as related to Order No. 2023's requirements for study delay penalties, compared to the *pro forma* LGIP study delay penalty structure. The Commission noted that Order No. 2023 adopted progressively higher penalty amounts for delayed studies through the interconnection study process to reflect the progressively greater harm that delays cause to interconnection customers as they are subject to more stringent requirements and greater capital risk throughout the process, such as commercial readiness deposits and

---

<sup>121</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 974-978.

<sup>122</sup> *Id.* P 972.

<sup>123</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 248 (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 966, 974-978).

withdrawal penalties, and found it appropriate that transmission providers face study delay penalties structured in a similar manner.<sup>124</sup>

69. The Commission also noted that the end of the Phase 1 study would be an appropriate point for NYISO and relevant transmission owners to face potential study delay penalties because interconnection customers face commercial readiness deposits and increased withdrawal penalties at this point.<sup>125</sup> The Commission found that NYISO did not sufficiently justify how its proposed cluster study process is unique such that it is appropriate to require interconnection customers to pay commercial readiness deposits and be subject to withdrawal penalties between the Phase 1 and Phase 2 studies but not to apply study delay penalties to NYISO and relevant transmission owners between those phases. The Commission directed NYISO to submit a further compliance filing that applies study delay penalties to NYISO and the relevant transmission owners at each distinct study phase of its cluster study process.

**b. Second Compliance Filing**

70. NYISO proposes tariff revisions to comply with the Commission's directive in the April Compliance Order.<sup>126</sup> NYISO requests an independent entity variation from the *pro forma* LGIP penalty requirements to establish separate study delay processes for the Phase 1 study and Phase 2 study components of the cluster study.<sup>127</sup> NYISO explains that it proposes a penalty approach in which NYISO and/or applicable transmission owners would be subject to a study delay penalty if either the Phase 1 study process or the Phase 2 study process is not completed within its tariff-prescribed schedule duration and does not fall within a grace period or stakeholder-approved extension.<sup>128</sup>

71. Under NYISO's proposal, a penalty in the amount of \$2,000 per business day would apply if: (1) NYISO's presentation of the Phase 1 cost estimate summary report for the cluster to its operating committee at the conclusion of the Phase 1 study process is delayed; or (2) NYISO's presentation of the draft cluster study report for the cluster to its

---

<sup>124</sup> *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 976-977).

<sup>125</sup> *Id.* (citing Order No. 2023, 184 FERC ¶ 61,054 at PP 977).

<sup>126</sup> Second Compliance Filing, Transmittal at 12; NYISO OATT, attach. HH, § 40.9 (Cluster Study Overview/NYISO Minimum Interconnection Standard/ NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (1.0.0), §§ 40.9.2.1, 40.9.2.2, 40.9.3.1, 40.9.3.2.

<sup>127</sup> Second Compliance Filing, Transmittal Letter at 12.

<sup>128</sup> *Id.* (citing NYISO OATT, attach. HH, § 40.9 (1.0.0), § 40.9.3.2.2).

operating committee at the conclusion of the Phase 2 study process is delayed.<sup>129</sup> NYISO states the penalties would only be applicable for delays that go beyond the grace period or the stakeholder-approved extension and would also be subject to the appeals process accepted in the April Compliance Order.

72. Further, NYISO proposes that the total amount of any penalties assessed across a given cluster study be capped at 100% of the initial study deposits received for all of the interconnection requests and CRIS-Only requests in the cluster for that cluster study.<sup>130</sup> NYISO states the study deposit that interconnection customers provide during the application window concerns the entire cluster study, and the NYISO OATT does not break the deposit amount into individual Phase 1 study and Phase 2 study components.

73. NYISO also proposes the following additional changes related to its study delay penalty process accepted in the April Compliance Order to implement the revised approach. First, NYISO proposes to apply the same process for administering the allocation of study delay penalties among NYISO and transmission owners for any penalties assessed for Phase 1 study and Phase 2 study process delays, and proposes to conduct this penalty allocation process when applicable after the end of the Phase 1 study process for any penalties resulting from that study component and after the end of the cluster study for any penalties resulting from the Phase 2 study component.<sup>131</sup> Therefore, NYISO proposes conforming revisions to include timeframes tied to the conclusion of both the Phase 1 study process and the Phase 2 study process for performing the penalty allocation process, for informing the Commission of any study delays, for appealing to the Commission any study penalties, and for making any penalty payments.

74. Second, NYISO proposes to retain the Commission-accepted requirement that only those interconnection customers that have accepted their project cost allocation determined in the cluster study and posted the required security would be eligible to receive any distributions for study delay penalties.<sup>132</sup> Specifically, NYISO proposes that, to be eligible to receive a Phase 1 study delay penalty payment, the interconnection customer must have satisfied the requirements in the Phase 2 entry decision period to enter the Phase 2 study process.

---

<sup>129</sup> *Id.* at 13.

<sup>130</sup> NYISO OATT, attach. HH, § 40.9 (Cluster Study Overview/NYISO Minimum Interconnection Standard/NYISO Deliverability Interconnection Standard/Cluster Study Cost Allocation Rules Overview) (1.0.0)), § 40.9.3.2.6.

<sup>131</sup> Second Compliance Filing, Transmittal Letter at 13-14.

<sup>132</sup> *Id.* at 14 (citing April Compliance Order, 191 FERC ¶ 61,049 at P 250).

75. Third, NYISO proposes to make conforming changes to the Commission-accepted penalty allocation requirement to account for separate Phase 1 study and Phase 2 study penalties.<sup>133</sup> NYISO proposes that for a Phase 1 study penalty, an interconnection customer participating in the Phase 1 study that satisfied the requirements to enter the Phase 2 study would receive a portion of the \$2,000 per business day penalty on a pro rata basis based on its portion of study costs for that Phase 1 study. Similarly, for a Phase 2 study penalty, an interconnection customer participating in the Phase 2 study that has accepted its project cost allocation and posted security at the conclusion of the cluster study would receive a portion of the \$2,000 per business day penalty on a pro rata basis based on its portion of study costs for the Phase 2 study process.

76. Lastly, NYISO proposes limited, conforming changes to the study delay penalty requirements for affected system studies that are needed to align the language with the updates to the penalty requirements for the Phase 1 and Phase 2 studies.<sup>134</sup>

**c. NYTOs' Comments**

77. NYTOs filed comments in support of NYISO's proposed study delay penalty structure subject to their stated reservation of rights.<sup>135</sup> NYTOs state that, subject to the outcome of the pending appeals from Order No. 2023 and requests for rehearing of the April Compliance Order, NYTOs urge the Commission to accept NYISO's Second Compliance Filing as compliant with the April Compliance Order and to grant the independent entity variations requested by NYISO to adapt the Phase 1 study penalty provisions to NYISO's interconnection process as previously accepted by the Commission.<sup>136</sup>

**d. Commission Determination**

78. We accept NYISO's proposed study delay penalty revisions, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We grant NYISO's independent entity variation from

---

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 15.

<sup>135</sup> NYTOs Comments at 16.

<sup>136</sup> *Id.* at 18. NYTOs note that they reserve their rights regarding their: (1) pending challenge of Order No. 2023's penalty regime to the U.S. Court of Appeals; (2) penalty delay rehearing request for the April Compliance Order; and (3) rights to contest penalties under the processes of Order No. 2023 and the NYISO OATT.

the *pro forma* LGIP penalty requirements to establish separate study delay processes for the Phase 1 study and Phase 2 study components of the cluster study, in the amount of \$2,000 per business day. We find that NYISO's proposal complies with the directive in the April Compliance Order to apply study delay penalties to NYISO and the relevant transmission owners at each distinct study phase of its cluster study process.<sup>137</sup>

79. We also accept NYISO's additional revisions that it contends are needed to implement the revised approach. This includes NYISO's revisions to enable NYISO to conduct the penalty allocation process at the end of the Phase 1 study and Phase 2 study, clarifications on eligibility to receive payments from Phase 1 study delay penalties, and conforming changes to the study delay penalty requirements for affected systems studies. We find that NYISO's requested independent entity variations accomplish the purposes of the study delay penalty in Order Nos. 2023 and 2023-A to impose study delay penalties at each distinct study phase and incentivize NYISO and the relevant transmission owners to meet study deadlines.<sup>138</sup>

## 6. Affected Systems Study Process and Modeling Requirements

80. In Order No. 2023, the Commission adopted an affected system study process and added several related definitions to the *pro forma* LGIP.<sup>139</sup>

81. The Commission also adopted several requirements to establish an affected system process under *pro forma* LGIP section 9 (Affected System Study), which pursuant to *pro forma* LGIP section 9.1 (Applicability), applies to the transmission provider when it is acting as the affected system transmission provider (i.e., when the transmission provider is studying the impacts on its own transmission system of proposed interconnections to other transmission providers' transmission systems).<sup>140</sup>

82. The Commission adopted section 9.3 (Affected System Queue Position) of the *pro forma* LGIP.<sup>141</sup> Under section 9.3, the interconnection requests of affected system interconnection customers that have executed an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than

---

<sup>137</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 248.

<sup>138</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 966, 974-978.

<sup>139</sup> *Id.* PP 1110, 1112; *see also pro forma* LGIP § 1.

<sup>140</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1113; *see also pro forma* LGIP § 9.1.

<sup>141</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1138; *see also pro forma* LGIP § 9.3.

those interconnection customers that have already received their cluster study results. All affected system interconnection requests studied within the same affected system cluster will be equally queued.

83. The Commission next adopted section 9.6 (Scope of Affected System Study) of the *pro forma* LGIP, which requires the affected system study to consider the base case, as well as all higher-queued generating facilities on the affected system transmission provider's transmission system, and to consist of a power flow, stability, and short circuit analysis.<sup>142</sup> Section 9.6 also requires the affected system study to provide a list of affected system network upgrades that are required because of the affected system interconnection customer's proposed interconnection, a non-binding good faith estimate of cost responsibility, and a non-binding good faith estimated time to construct. The affected system study may consist of a system impact study, a facilities study, or some combination thereof.

84. The Commission next adopted section 9.7 (Affected System Study Procedures) of the *pro forma* LGIP, which requires clustering of affected system interconnection requests for study purposes where multiple interconnection requests that are part of a single cluster in the host system's cluster study process cause the need for an affected system study.<sup>143</sup> Section 9.7 also requires the affected system transmission provider to complete the affected system study and provide the affected system interconnection customer with affected system study results within 150 calendar days after receipt of the affected system study agreement. Section 9.7 also requires the affected system transmission provider to provide the affected system study report to the host transmission provider at the same time it provides the report to the affected system interconnection customer. The affected system transmission provider must notify the affected system interconnection customer that an affected system study will be late.<sup>144</sup> Lastly, *pro forma* LGIP section 9.7 requires affected system transmission providers to study all affected system interconnection requests using Energy Resource Interconnection Service (ERIS) modeling standards.<sup>145</sup>

**a. April Compliance Order**

85. In the April Compliance Order, the Commission denied NYISO's requested independent entity variation to omit the *pro forma* LGIP provision stating that an affected

---

<sup>142</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1160; *see also pro forma* LGIP § 9.6.

<sup>143</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1133; *see also pro forma* LGIP § 9.7.

<sup>144</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1135.

<sup>145</sup> *Id.* P 1276.

system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results.<sup>146</sup> The Commission found that NYISO's proposal was not consistent with Order No. 2023 and had not been justified by NYISO. Specifically, the Commission found that the requested independent entity variation failed to provide affected system interconnection customers with certainty around study assumptions and cost allocation. The Commission therefore directed NYISO to adopt the Order No. 2023 requirement that an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results, or to justify its proposal under the independent entity variation standard.

86. The Commission also denied NYISO's proposed independent entity variation to adopt a 300-day affected system study timeline.<sup>147</sup> The Commission found that, while section 9.7 of the *pro forma* LGIP, which sets out the 150-calendar day timeline, does not address a division between a system impact study and facilities study, section 9.6 specifically contemplates that an affected system study may consist of a system impact study, a facilities study, or some combination thereof. As such, NYISO's concern that it needs greater than 150 days to include these components was already addressed by the Commission. The Commission also found that NYISO failed to explain its need for 180 days to conduct interconnection facilities studies for projects that do not interconnect with NYISO and that NYISO's proposal does not accomplish the purpose of Order Nos. 2023 and 2023-A to complete timely affected system studies. The Commission directed NYISO to adopt the Order No. 2023 requirement that an affected system study timeline not exceed 150 calendar days or further justify its proposed 300-calendar day timeline for such studies.

**b. Second Compliance Filing**

87. NYISO provides further justification for its proposed coordination of its cluster study process and affected system studies.<sup>148</sup> NYISO states that its cluster study process structure and requirements are substantially different from the Commission's *pro forma* rules and argues that, if NYISO were required to adopt the Commission's *pro forma* approach, which grants priority to interconnection customers and affected system

---

<sup>146</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 284.

<sup>147</sup> *Id.* P 285.

<sup>148</sup> Second Compliance Filing, Transmittal Letter at 15; NYISO OATT, attach. HH, § 40.8 (Affected Systems) (1.0.0).

interconnection customers based on their queue position, NYISO's cluster study and affected system studies could regularly be subject to substantial restudy work and delays.

88. NYISO proposes to establish that, as part of an affected system study, it will update and refine the description of any affected system network upgrades and identify any additional affected system network upgrades based on changes in the base case since the study commenced.<sup>149</sup> NYISO argues that this is necessary because the affected system interconnection customers would not yet have satisfied the requirements for any identified affected system network upgrades to be considered firm and included in the base cases of subsequent interconnection studies. NYISO states that, once the affected system interconnection customer has accepted its cost allocation for any identified affected system network upgrades and posted the required security, its secured upgrades will be considered firm in the base cases for subsequent interconnection studies, and its upgrades and related cost estimates will be set.

89. NYISO explains that, pursuant to the *pro forma* LGIP requirements, an affected system interconnection customer that executes a study agreement will be considered higher-queued than any cluster in the host transmission region that has not yet received its cluster study report, and lower-queued than any cluster that has already received its cluster study report, and that NYISO's process does not include stand-alone clustered system impact studies, clustered re-studies, and facilities studies.<sup>150</sup> Instead, NYISO states that its cluster study constitutes the single, consolidated interconnection study that incorporates elements of both a system impact and facilities study, and the cluster study report is the final report for this entire interconnection study process.<sup>151</sup> Thus, NYISO argues that if it were required to apply the *pro forma* approach, the affected system interconnection customer would in nearly all cases execute a study agreement before the completion of the NYISO's single cluster study and would have priority over the cluster study projects, no matter how late in the cluster study process that the affected system interconnection customer executed its study agreement. NYISO also argues that this outcome would be inconsistent with the application of the *pro forma* rules, which only provide the affected system interconnection customer with queue priority based on its execution of its study agreement prior to the completion of an early study in the *pro forma* interconnection process.

90. NYISO states that the *pro forma* rules establish that the transmission provider will include in the base cases for its interconnection studies a pending higher-queued interconnection request and any network upgrades associated with that interconnection

---

<sup>149</sup> Second Compliance Filing, Transmittal Letter at 16.

<sup>150</sup> *Id.* at 16-17.

<sup>151</sup> *Id.* at 17.

request, but that a fundamental, long-standing component of NYISO's "first-ready, first served" interconnection process is that NYISO does not include a project and any associated upgrades in the base case of an interconnection study simply based on its queue position.<sup>152</sup> Rather, NYISO states that it will only include a project in the base case of an interconnection study if the project has accepted the cost allocation for any upgrades determined for that project in its interconnection study and has posted the related security to the associated transmission owner on which system the upgrades will be located.<sup>153</sup> NYISO contends that the project and its upgrades are then considered firm and part of the system relied upon for future interconnection studies. NYISO explains that, if the project later withdraws, its security is then subject to forfeiture so that the transmission owner can construct any of its upgrades being relied upon by future projects. NYISO states that this approach eliminates the need for NYISO or the transmission owner to conduct time intensive restudies to reevaluate the impact of withdrawn or modified projects and the identification of upgrades and to reallocate costs of any upgrades and provides interconnection customers with certainty concerning their required upgrades and estimated costs, which should not be disrupted based on an affected system interconnection customer's election to execute a study agreement.

91. NYISO states that, once NYISO completes the base cases for the cluster study process and NYISO or the transmission owners commence study work, opening and rebuilding these cases to add affected system interconnection customers and affected system network upgrades would require restudies or rework for analysis already underway and that, as required by Order No. 2023, both NYISO and transmission owners are required to perform their respective elements of the Phase 1 study and Phase 2 study within tightly-prescribed timeframes established in the OATT.<sup>154</sup> NYISO states that, if NYISO or the transmission owner is unable to complete these components within these timeframes, they will be subject to study delay penalties and, even if the Commission were to excuse such study penalties on NYISO and the transmission owner resulting from such delays, interconnection customers participating in the cluster study would be harmed. NYISO states that, depending on the timeframe for the parallel affected system studies and cluster study, NYISO could be required to add a restudy process to account for the impacts of the affected system study, which would fundamentally alter NYISO's longstanding approach in which once an interconnection customer has accepted its cost

---

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at 18.

<sup>154</sup> *Id.*

allocation and posted security for its identified upgrades, its cost allocation is not subject to change absent certain limited, tariff-prescribed circumstances.<sup>155</sup>

92. NYISO also provides further justification in support of its proposed 300-calendar day timeline to perform the affected system study.<sup>156</sup> NYISO reiterates that it relied on its past experience and NYISO's unique process to determine that it will reasonably require up to 300 calendar days to perform an affected system study.<sup>157</sup> NYISO states that an affected system interconnection customer will know within 120 calendar days, based on the system impact component, whether its project will have an impact in New York that requires affected system network upgrades and will have an initial identification of the required upgrades. NYISO states that the additional 180 calendar days provide the affected system interconnection customer with the cost estimates and a design and construction schedule for any upgrades. NYISO states that the additional, more detailed information provided in the final 180 calendar days is necessary because the affected system interconnection customer will be required, as with a cluster study project, to elect at the end of the study whether to accept its cost allocation for such upgrades and to post the related security to the transmission owner whose facilities are impacted by the upgrade.<sup>158</sup>

93. NYISO argues that the *pro forma* LGIP's 150-calendar day timeline does not include a breakdown of these study elements or indicate how the transmission provider should perform both study elements within this period.<sup>159</sup> NYISO states that this 150-day period for the performance of both study elements differs from the timeframes established by the *pro forma* LGIP for the stand-alone system impact and facilities studies with the *pro forma* LGIP providing 150 calendar days to perform a system impact study and, as applicable, 90 or 180 days for a facilities study.<sup>160</sup>

---

<sup>155</sup> *Id.* at 19.

<sup>156</sup> *Id.* at 19-22.

<sup>157</sup> *Id.* NYISO's Senior Manager of Interconnection Projects also attested that the 150-calendar day timeline does not align with the timeframe NYISO requires to conduct such studies at the level required for the study results to function in its unique process. *Id.*, attach. II (Affidavit of Thinh T. Nguyen) ¶ 8 (Nguyen Aff.).

<sup>158</sup> *Id.*, Transmittal Letter at 20.

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* at 20-21.

94. NYISO states that its 120-calendar day period to conduct the system impact study portion of the affected systems study is consistent with the duration that NYISO and transmission owners require to perform the same type of analysis in its cluster study.<sup>161</sup> NYISO estimates that the 180-calendar day period to complete the facilities study-related elements of the affected system study period is consistent with the duration that NYISO and transmission owners require to perform the same type of analysis in the cluster study.

95. Responding to the Commission's determination that NYISO failed to explain its need for 180 days to conduct interconnection facilities studies for projects that do not interconnect with NYISO, NYISO states that the fact that a project is external does not impact the scope of NYISO's required evaluation of the impacts of the project on the reliability of its system or the upgrades required to address those impacts.<sup>162</sup> Additionally, NYISO states that its evaluation of external projects is consistent with its evaluation in the cluster study process of the impact on a New York transmission owner's system of a project connecting to a separate New York transmission owner's system.

96. Finally, NYISO states that its proposed timeline is required to ensure that the cost estimate for any affected system network upgrades is sufficiently developed for the important role it plays in NYISO's process.<sup>163</sup> NYISO avers that, if it were required to shorten the affected system study timeline or to limit the study to only the system impact component, it will not be able to provide the same level of information to affected system interconnection customers as interconnection customers in its cluster study process, which could cause uncertainty and necessitate restudies or other process changes that could adversely impact affected system interconnection customers. NYISO states that the additional time required for such re-studies would eliminate any benefits gained from shortening the affected system study timeline and has the potential to result in an even longer process than a single 300-calendar day study.<sup>164</sup>

**c. NYTOs' Comments**

97. NYTOs filed comments in support of NYISO's further justification on affected system study queue priority.<sup>165</sup> NYTOs contend that modifying the NYISO affected system study practice to require the higher queuing of affected system studies would be

---

<sup>161</sup> *Id.* at 21 (citing Nguyen Aff.).

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *Id.* (citing Nguyen Aff.).

<sup>165</sup> NYTOs Comments at 19.

unworkable under the new interconnection process the Commission accepted and disrupt NYISO's well-functioning cluster study analysis framework by potentially altering the base case used in the studies after they have begun. NYTOs argue that, in the context of New York's study processes, it is not reasonable to give each affected system interconnection customer blanket priority over projects in an ongoing cluster simply because that customer has signed a study agreement.

98. NYTOs claim that, because the ongoing cluster study would be subject to the outcome of the affected system study and whether the affected system interconnection customer ultimately posts security for upgrades it is assigned, prioritizing the affected system interconnection customer could undermine study timelines, as well as the level of certainty the NYISO process provides to interconnection customers.<sup>166</sup> NYTOs explain that, under the *pro forma* terms, an affected system interconnection customer only needs to sign a NYISO study agreement to have priority and that, if this occurs on day 544 of the 545-day period after interconnection requests are due, the NYTOs and NYISO would have completed all of the work noted above for all projects in the then current cluster, and all projects in the cluster study would have completed their work and posted fees, deposits and security to be able to remain in the cluster.<sup>167</sup>

99. NYTOs state that, under the Commission-accepted NYISO process, NYISO does not commence the next cluster until the previous cluster achieves final cost allocation and posts security for upgrades and that, under the *pro forma* queue priority, in cases where the affected system project is cancelled, projects that completed the cluster study process would have experienced uncertainty regarding whether they will be subject to restudy and potentially different upgrade responsibility as a result of a pending affected system study that commenced after the cluster study.<sup>168</sup> NYTOs claim that this process makes investment decisions more challenging, and that the timeframes and program design that the Commission accepted would not work with such a major disruption in the study process.

100. NYTOs state that the NYISO interconnection process depends on having interconnection customers post security for their full allocable shares of system upgrade facilities costs in the post-Phase 2 cost allocation iterative rounds, which allows NYISO to engage in the next cluster study with a definitive base case and without restudy risk for the just completed cluster or the next cluster.<sup>169</sup> NYTOs contend that, if an

---

<sup>166</sup> *Id.* at 20.

<sup>167</sup> *Id.* at 22.

<sup>168</sup> *Id.* at 23.

<sup>169</sup> *Id.*

interconnection customer withdraws, the NYTOs will have funds to construct any associated upgrades, and that this feature eliminates the need to update base cases and perform restudies every time an earlier studied project drops out.

101. NYTOs aver that, absent the independent entity variation needed for affected system study priority, the entire interconnection process would unravel to the point of making the accepted and effective tariff provisions unworkable and that the NYTOs who voluntarily assumed tariff obligations to perform significant parts of interconnection studies would have to reevaluate with NYISO what their commitments and time frames would be under a completely different process.<sup>170</sup> NYTOs state that NYISO's proposal to update the affected system study base case and affected system network upgrades as new base cases become available is a reasonable solution that ensures appropriate coordination between an ongoing cluster study and any concurrent affected system studies without upending either process.<sup>171</sup>

**d. Commission Determination**

102. We accept NYISO's proposed affected systems study process and modeling requirements revisions, including the requested independent entity variations, because we find that the proposal is just, reasonable, and not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A.

103. We grant NYISO's proposed independent entity variation to omit the *pro forma* LGIP provision stating that an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results. As NYISO explains, its cluster study process is fundamentally different from the cluster study process in the *pro forma* LGIP, and NYISO's proposal avoids scenarios whereby the affected system interconnection customer would execute a study agreement before the completion of NYISO's cluster study, thus prioritizing neighboring regions over NYISO's own projects. Therefore, we find that the requested independent entity variation is just, reasonable, and not unduly discriminatory or preferential, and accomplishes the purposes of the affected systems study process reforms in Order Nos. 2023 and 2023-A to adopt a detailed affected system study process that will

---

<sup>170</sup> *Id.* at 23-24.

<sup>171</sup> *Id.* at 24 (citing Muessigbrodt Aff.).

improve certainty and transparency regarding process and costs for affected system interconnection customers and avoid increasing delays in the interconnection process.<sup>172</sup>

104. We grant NYISO's proposed independent entity variation to adopt a 300-day affected system study timeline. We agree with NYISO that its unique interconnection study process, which requires interconnection customers to accept a binding cost allocation at the end of that process, justifies its proposed timeline. NYISO argues that the additional, more detailed information that it provides under its proposed 300-day affected system study<sup>173</sup> is necessary because the affected system interconnection customer will be required to elect at the end of the study whether to accept its cost allocation for any required Network Upgrades and post full security for those upgrades to the transmission owner whose facilities are impacted by the upgrade.<sup>174</sup> As NYISO explains, the secured cost allocation represents the affected system interconnection customer's cost responsibility for these upgrades, and could be subject to forfeiture. NYISO's proposed process therefore limits the potential for restudies as the requirement for interconnection customers to submit full security for identified Network Upgrades ensures that a project's withdrawal will not impact other customers that rely on those upgrades. We find that, because NYISO's proposal limits the potential for restudies and provides a firm cost allocation for the affected system interconnection customer, it accomplishes the purposes of the affected systems study process reforms in Order Nos. 2023 and 2023-A to ensure that the affected system study process moves along expediently, providing clarity, cost certainty, and increased transparency throughout the study process, which will minimize opportunities for undue discrimination.<sup>175</sup> Therefore,

---

<sup>172</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1110.

<sup>173</sup> NYISO proposes to conduct the system impact study portion of the affected system study process in 120 calendar days, at which point it will provide interim information to the relevant affected system interconnection customer(s). Nguyen Affidavit at 6 (“[A]n Affected System Interconnection Customer will know within 120 days whether its projects will have an impact in New York that requires upgrades and will have an initial identification of the required upgrades.”) NYISO also notes that the full affected system study will be subject to study delay penalties if it exceeds the tariff-prescribed 300 calendar days. NYISO OATT, attach. HH section 40.9.3.2 (Penalties for Failure to Meet Study Deadlines) (1.0.0).

<sup>174</sup> NYISO notes that it is not required to take the full 300 calendar days. For example, if the system impact component of the affected system study determines that affected system network upgrades are not required, the facilities study component would not be required for that particular study. Second Compliance Filing, Transmittal Letter at 20, n.88.

we find that NYISO has demonstrated, on balance, that the requested independent entity variation is just, reasonable, and not unduly discriminatory or preferential, and accomplishes the purposes of Orders No. 2023 and 2023-A.

## 7. Co-Located Generating Facilities

105. In Order No. 2023, the Commission revised *pro forma* LGIP section 3.1.2 to require transmission providers to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and share a single interconnection request.<sup>176</sup> The Commission clarified that interconnection customers have the choice to structure their interconnection requests for co-located generating facilities according to their preference (i.e., as separate interconnection requests or as a shared interconnection request) and that Order No. 2023 does not require interconnection customers to share a single interconnection request for multiple generating facilities located on the same site.<sup>177</sup> The Commission also clarified that co-located generating facilities can be owned by a single interconnection customer with multiple generating facilities sharing a site, or by multiple interconnection customers that have a contract or other agreement that allows for shared land use.<sup>178</sup>

### a. April Compliance Order

106. In the April Compliance Order, the Commission found that NYISO had not justified its proposed independent entity variation to require that co-located generating facilities participating as Co-Located Storage Resources (CSR) submit a single or consolidated interconnection request.<sup>179</sup> Additionally, the Commission noted that NYISO's provisions appeared to only apply to CSRs that must participate in the ISO Administered Markets as two distinct generators. The Commission directed NYISO to submit a compliance filing that adopts the provisions in *pro forma* LGIP section 3.1.2 or provide further justification under the independent entity variation standard to clarify (1) whether, in addition to a "single or consolidated interconnection request," CSRs also have the choice to submit separate interconnection requests, and (2) whether such choices

---

<sup>175</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1110.

<sup>176</sup> *Id.* P 1346; *see also pro forma* LGIP § 3.1.2.

<sup>177</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 1351-1352.

<sup>178</sup> *Id.* P 1355.

<sup>179</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 301.

to submit interconnection requests apply to co-located generating facility interconnection for other co-located generating facilities that are not participating as CSRs in NYISO.<sup>180</sup>

**b. Second Compliance Filing**

107. NYISO provides further justification for its proposed independent entity variation,<sup>181</sup> stating that its proposal is consistent with its existing CSR rules previously accepted by the Commission that were developed to provide enhanced operating flexibility to CSR generators, while respecting the shared CSR injection Scheduling

Limit.<sup>182</sup> NYISO explains that the two resources that participate together as a CSR share the injection capability at their common point of injection that is represented in the NYISO's markets as the CSR injection Scheduling Limit.

108. NYISO explains that under its existing tariff, interconnection customers may submit separate interconnection requests to interconnect multiple standalone facilities that will be located behind the same point of interconnection and point of injection and use shared facilities, but these facilities may not use the CSR or Hybrid Storage Resource (HSR) participation models to participate in the ISO Administered Markets.<sup>183</sup> NYISO argues that the rules require that to participate through the CSR participation model, an interconnection customer must submit a single interconnection request for the resources that make up that CSR.

---

<sup>180</sup> *Id.* P 302.

<sup>181</sup> Second Compliance Filing, Transmittal Letter at 22; NYISO OATT, attach. HH, § 40.5 (Cluster Study Process Start Date/ Application Window/Interconnection Requests/Interconnection Service Options) (1.0.0), §§ 40.5.5.6; *id.*, attach. X, § 30.14 (Appendices) (26.0.0) (Appendix 1 to LFIP - Interconnection Request).

<sup>182</sup> Second Compliance Filing, Transmittal Letter at 22-23 (citing *N.Y. Indep. Sys. Operator, Inc.*, Proposed Tariff Revisions to Implement Co-located Storage Resource, Docket No. ER21-1001-000, at 7-8, 11-12 (filed Jan. 29, 2021)).

<sup>183</sup> *Id.* at 23. NYISO states that on May 29, 2024, shortly after NYISO submitted its First Compliance Filing, NYISO proposed tariff revisions to enhance its CSR rules and provide for an HSR participation model. These tariff revisions were accepted by the Commission on July 23, 2024, while the First Compliance Filing was pending before the Commission. *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER24-2133-000 (July 23, 2024) (delegated order)).

109. NYISO requests an independent entity variation to continue to apply these requirements accepted by the Commission and contends that a rejection of its proposal would unravel the accepted interconnection rules governing the evaluation of CSRs and other multi-unit facilities that ensure that facilities do not obtain more ERIS or CRIS than the market rules allow.<sup>184</sup>

**c. NYTOs' Comments**

110. NYTOs filed comments in support of NYISO's further justification.<sup>185</sup>

**d. Commission Determination**

111. We accept NYISO's proposed revisions concerning co-located generating facilities, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A.

112. We grant NYISO's requested independent entity variations and find that NYISO has justified its requested independent entity variations as directed by the April Compliance Order. We find that NYISO's requested independent entity variations accomplish the purposes of the requirements regarding co-located generating facilities in Order Nos. 2023 and 2023-A, to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and interconnection customers the choice to structure their interconnection requests for co-located generating facilities according to their preference (i.e., as separate interconnection requests or as a shared interconnection request).<sup>186</sup>

**8. Revisions to the Modification Process to Require Consideration of Generating Facility Additions**

113. In Order No. 2023, the Commission revised section 4.4.3 of the *pro forma* LGIP to require transmission providers to evaluate the proposed addition of a generating facility at the same point of interconnection prior to deeming such an addition a material modification, if the addition does not change the originally requested interconnection service level.<sup>187</sup> The Commission clarified that interconnection customers may continue

---

<sup>184</sup> *Id.* at 25.

<sup>185</sup> NYTOs Comments at 2.

<sup>186</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1346; *see pro forma* LGIP § 3.1.2.

<sup>187</sup> Order No. 2023, 184 FERC ¶ 61,054 P 1406; *see also pro forma* LGIP § 4.4.3.

to request changes to proposed generating facilities at any time in the interconnection process; however, transmission providers are only required to evaluate whether a request to add a generating facility to an existing interconnection request is material if the request is submitted before the interconnection customer returns the executed facilities study agreement to the transmission provider. Once the executed facilities study agreement is returned, the transmission provider may decide to automatically treat requests to add a generating facility to an existing interconnection request as material modifications without review.<sup>188</sup>

**a. April Compliance Order**

114. In the April Compliance Order, the Commission rejected NYISO's proposal in section 40.6.3.7 of Attachment H to the OATT to remove language specifying that a technological change, such as permissible technological advancements, can be requested following delivery of the initial draft of the system reliability impact study report and prior to the return of an executed facilities study agreement.<sup>189</sup> The Commission acknowledged that NYISO's revised interconnection study process removed the system reliability impact study report and facilities study agreement; therefore, NYISO revised its tariff to accommodate technological changes in its revised interconnection study procedures. For this reason, the Commission found that it would evaluate such changes, which are required to comply with Order No. 845, as part of NYISO's Order Nos. 2023 and 2023-A compliance filing. The Commission highlighted that Order No. 845 required transmission providers to revise their LGIP to permit interconnection customers to submit requests to incorporate technological advancements prior to the execution of the interconnection facilities study agreement.<sup>190</sup> Therefore, the Commission directed NYISO to submit a compliance filing that provides a cut-off point for interconnection customers to request a technological change that is consistent with Order No. 845 and otherwise clarifies when interconnection customers may request such a change under NYISO's revised interconnection process.

**b. Second Compliance Filing**

115. NYISO proposes to revise its technological change rules to permit an interconnection customer in an ongoing cluster study process to submit to NYISO a technological change for a cluster study project with a validated interconnection request up to five business days after NYISO posts the cluster study project list during the customer engagement window.<sup>191</sup> NYISO proposes that any technological change

---

<sup>188</sup> Order No. 2023, 184 FERC ¶ 61,054 at PP 1409-1410.

<sup>189</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 324.

<sup>190</sup> *Id.* (citing Order No. 845, 163 FERC ¶ 61,043 at P 535).

request after this date will be deemed material during the remainder of the cluster study. NYISO states that this proposal aligns with NYISO's existing modification rules that permit certain limited modifications up to the completion of the five-business day window in the customer engagement window. NYISO states that, following this point in time, any modifications to the cluster study projects may delay the creation of, or necessitate updates to, the project models and base cases required for the Phase 1 study that NYISO is developing during the customer engagement window and thereby endanger NYISO's and the transmission owner's ability to meet the tariff-prescribed timeframes for the Phase 1 study.

116. NYISO clarifies that the interconnection customer must fully satisfy the requirements for the requested modification no later than the conclusion of the five-business day period.<sup>192</sup> NYISO states that failure to meet this deadline would render the status of the proposed modification uncertain when NYISO develops the base cases.

117. NYISO states that this approach is consistent with the Order No. 845 requirements, under which technological advancement requests were not permitted after the execution of a facilities study agreement because subsequent changes requested during the facilities study could result in delays to other projects.<sup>193</sup> NYISO contends that its proposed cut-off date permits interconnection customers to make use of its technological change procedures while also minimizing the potential delays associated with such changes that could impact other cluster study projects. NYISO also argues that its proposal is consistent with NYISO's previous Class Year Study rules, under which interconnection customers could not submit technological advancement requests during the Class Year Study.<sup>194</sup> NYISO notes that interconnection customers retain the ability to submit technological advancement requests after the conclusion of the cluster study.<sup>195</sup>

---

<sup>191</sup> Second Compliance Filing, Transmittal Letter at 26; NYISO OATT, attach. HH, § 40.1 (Definitions) (1.0.0); *id.* § 40.6 (Queue Position/Modification/Withdrawal/Withdrawal Penalties) (1.0.0), § 40.6.3.7.

<sup>192</sup> Second Compliance Filing, Transmittal Letter at 26.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.* at 26 n.110.

<sup>195</sup> *Id.* at 26-27.

118. NYISO states that, to accommodate such modifications in the limited timeframe, NYISO proposes to revise its definition of “permissible technological advancement” to remove the ability of a permissible technological change to increase the capability of the facility “by more than two (2) megawatts.”<sup>196</sup> NYISO argues that this *de minimis* exception was a NYISO-specific variation from the Commission’s requirements in Order No. 845. NYISO explains that removing this language is necessary because changes to the project size at this stage in the cluster study process would require additional updates to the information submitted by the interconnection customer, which would interfere with NYISO completing the required project modeling and base cases. NYISO notes that instead, an interconnection customer could request a modification to its project size following the completion of the cluster study in accordance with NYISO’s existing tariff rules concerning permissible changes to both the project’s ERIS and CRIS.

119. Finally, NYISO proposes to revise its technological change rules regarding additional studies required to determine whether a technological change requested by an interconnection customer constitutes a permissible technological advancement.<sup>197</sup> NYISO proposes to remove the requirement that it will commence and perform such additional studies to determine whether the technological change constitutes a permissible technological advancement. Instead, NYISO proposes to reject a technological change request if it determines that such additional studies are required. Furthermore, NYISO proposes to remove provisions related to NYISO performing additional studies: specifically, (1) the requirement to review whether the technological change would constitute a material modification if the technological change does not constitute a permissible technological advancement and (2) the requirement for NYISO to describe additional studies conducted. Additionally, NYISO proposes to add language clarifying that, when technological change requests require additional study, an interconnection customer may resubmit a facility modification request for the same technological change at the conclusion of the cluster study process.

**c. NYTOs’ Comments**

120. NYTOs filed comments in support of NYISO’s further justification.<sup>198</sup>

---

<sup>196</sup> *Id.* at 27; NYISO OATT, attach. § HH, 40.1 (Definitions) (1.0.0) (definition of Permissible Technological Advancement).

<sup>197</sup> NYISO OATT, attach. HH, § 40.6 (Queue Position/Modification/Withdrawal/Withdrawal Penalties) (1.0.0), § 40.6.3.7.

**d. Commission Determination**

121. We find that NYISO's proposed revisions relating to technical changes, such as permissible technological advancements, do not accomplish the purposes of Order Nos. 2023 and 2023-A, and do not comply with the requirements of Order No. 845.

122. We reject NYISO's proposal to update its technological change procedure to allow an interconnection customer to submit a technological change for a cluster study project no later than five business days after NYISO posts the cluster study project list during the customer engagement window. We find that NYISO's proposal does not accomplish the purposes of Order No. 845 because the proposed cut-off point is too early in the interconnection study process to allow interconnection customers to make practical use of the technological change procedure and request equipment changes that do not constitute a material modification. Order No. 845 stated that the technological change procedure is intended to create process efficiencies and encourage technological innovation that could lower consumer costs.<sup>199</sup> NYISO's proposal to allow such requests only to be submitted before the cluster study process begins could prohibit those benefits from being factored in during the cluster study process. Accordingly, we direct NYISO to submit a further compliance filing within 60 days of the date of this order to establish a cut-off point to submit a technological advancement request later in the cluster study process.

123. We also find that NYISO's proposed additional revisions to its technological change procedure in sections 40.6.3.7.2, 40.6.3.7.3, and 40.6.3.7.4 of Attachment HH to the OATT and its revised definition of "permissible technological advancement" are outside the scope of this proceeding as neither Order Nos. 2023 and 2023-A nor the April Compliance Order required such revisions. This determination is without prejudice to NYISO proposing this additional language in a future FPA section 205 filing.

**9. Incorporating Enumerated Alternative Transmission Technologies**

124. In Order No. 2023, the Commission revised section 7.3 of the *pro forma* LGIP, and sections 3.3.6 and 3.4.10 of the *pro forma* SGIP.<sup>200</sup> The Commission required transmission providers to evaluate the following enumerated list of alternative transmission technologies (ATT): static synchronous compensators, static VAR compensators, advanced power flow control devices, transmission switching,

---

<sup>198</sup> NYTOs Comments at 2.

<sup>199</sup> Order No. 845, 163 FERC ¶ 61,043 at P 523.

<sup>200</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1578; *see also pro forma* LGIP § 7.3; *pro forma* SGIP §§ 3.3.6, 3.4.10.

synchronous condensers, voltage source converters, advanced conductors, and tower lifting.<sup>201</sup> The Commission revised *pro forma* LGIP section 7.3 to require transmission providers to evaluate the list of ATTs enumerated in Order No. 2023 during the cluster study, including any restudies, of the generator interconnection process in all instances (i.e., for all interconnection customers in a cluster), without the need for a request from an interconnection customer. The Commission required transmission providers to evaluate each ATT listed in *pro forma* LGIP section 7.3 and to determine, in the transmission provider's sole discretion, whether it should be used, consistent with good utility practice, applicable reliability standards, and other applicable regulatory requirements. Finally, the Commission required transmission providers to include, in the *pro forma* LGIP cluster study report, an explanation of the results of the evaluation of the enumerated ATTs for feasibility, cost, and time savings as an alternative to a traditional network upgrade.

**a. April Compliance Order**

125. In the April Compliance Order, the Commission found that NYISO's proposed revisions relating to the evaluation of ATTs did not comply with the requirements of Order Nos. 2023 and 2023-A.<sup>202</sup> Specifically, the Commission found that NYISO's proposal limited this evaluation solely to a list of non-Local System Upgrade Facilities and System Deliverability Upgrades in the Phase 2 study and excluded an evaluation of ATTs associated with Local System Upgrade Facilities in the Phase 1 study. The Commission found that, by limiting evaluation of ATTs to only Phase 2 of the cluster study, NYISO did not comply with Order No. 2023's requirement to evaluate ATTs in the cluster study. Accordingly, the Commission directed NYISO to submit a further compliance filing to either: (1) provide that it will evaluate whether the enumerated ATTs are sufficient alternatives to both non-Local System Upgrade Facilities *and* Local System Upgrade Facilities during its cluster study process; or (2) justify its proposal under the independent entity variation standard.<sup>203</sup>

**b. Second Compliance Filing**

126. NYISO proposes revisions to section 40.10.4.2 of Attachment HH to the OATT requiring Connecting Transmission Owner or Affected Transmission Owner, as applicable, to evaluate ATTs, determine whether any of the technologies should be used in determining the Local System Upgrade Facilities, and include the results of the evaluation in the Phase 1 study report.<sup>204</sup> NYISO states that the proposed tariff language

---

<sup>201</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1578.

<sup>202</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 370.

<sup>203</sup> *Id.* P 372.

mirrors the *pro forma* LGIP language, as modified to include NYISO's applicable defined terms, and NYISO will also perform this evaluation as part of its assessments during the Phase 2 study.<sup>205</sup>

**c. NYTOs' Comments**

127. NYTOs filed comments in support of NYISO's tariff changes.<sup>206</sup>

**d. Commission Determination**

128. We accept NYISO's proposed revisions relating to the evaluation of ATTs, including the requested independent entity variations, because we find that the proposal is just, reasonable, not unduly discriminatory or preferential, and accomplishes the purposes of Order Nos. 2023 and 2023-A. We find that NYISO's proposal complies with the directive of the April Compliance Order because NYISO provides that it will evaluate the enumerated ATTs during the Phase 1 study of its cluster study process and will include an explanation of the results of the evaluation for each technology in the Phase 1 study report, as applicable. We find that NYISO's proposal, including the requested independent entity variations to accommodate NYISO-specific defined terms, accomplishes the purpose of the evaluation of ATTs in Order Nos. 2023 and 2023-A because NYISO will evaluate the list of ATTs during the cluster study, including any restudies, of the generator interconnection process in all instances (i.e., for all interconnection customers in a cluster), without the need for a request from an interconnection customer.<sup>207</sup>

**10. Expedited Deliverability Study**

**a. April Compliance Order**

129. In the April Compliance Order, the Commission denied NYISO's five requested independent entity variations for revisions to its Expedited Deliverability Study to align this study process with the new cluster study process requirements as outside the scope of the proceeding because Order Nos. 2023 and 2023-A did not require such revisions.<sup>208</sup>

---

<sup>204</sup> NYISO OATT, attach. HH, § 40.10 (Phase 1 Study Process, Development of System Models, & Phase 2 Entry Decision) (1.0.0), § 40.10.4.2.

<sup>205</sup> Second Compliance Filing, Transmittal Letter at 27-28.

<sup>206</sup> NYTOs Comments at 2, 8.

<sup>207</sup> Order No. 2023, 184 FERC ¶ 61,054 at P 1578.

The Commission directed NYISO to submit a compliance filing that removes the proposed revisions and noted that NYISO may submit the modifications in a future FPA section 205 filing.

**b. Second Compliance Finding**

130. NYISO notes that it requested rehearing challenging the Commission's rejection of three categories of the revisions to align the Expedited Deliverability Study to the new cluster study process requirements because these revisions are required to enable NYISO to continue to be able to perform the Expedited Deliverability Study in light of the new cluster study process steps.<sup>209</sup> However, to comply with the directives in the April Compliance Order pending the Commission's determination on the rehearing request, NYISO proposes tariff revisions that back out the proposed insertions and deletions of Expedited Deliverability Study requirements.

**c. Commission Determination**

131. As noted above, we modify on rehearing the April Compliance Order and set aside (1) the Commission's rejection of three categories of proposed tariff revisions regarding the revisions to the Expedited Deliverability Study provisions<sup>210</sup> and (2) the directive that NYISO submit a compliance filing to remove these proposed revisions from its OATT.<sup>211</sup> Accordingly, we reject as moot NYISO's revisions in its second compliance filing to remove the five categories of Expedited Deliverability Study revisions NYISO proposed in its First Compliance Filing, and direct NYISO to submit a compliance filing within 60 days of the issuance of this order to restore the three categories of revisions discussed above.<sup>212</sup>

The Commission orders:

(A) In response to the requests for rehearing, the April Compliance Order is hereby modified and set aside, in part, as discussed in the body of this order.

---

<sup>208</sup> April Compliance Order, 191 FERC ¶ 61,049 at P 387.

<sup>209</sup> Second Compliance Filing, Transmittal Letter at 28.

<sup>210</sup> See OATT, attach. HH, § 40.19 (Expedited Deliverability Study Procedures) (0.0.0)).

<sup>211</sup> See *supra* P 35.

<sup>212</sup> See *id.*

(B) NYISO's Second Compliance Filing is hereby accepted in part, effective as of the date of this order, as requested, as discussed in the body of this order.

(C) NYISO is hereby directed to submit a compliance filing that addresses the directives in this order within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,  
Secretary.

**Appendix – eTariff Records**

New York Independent System Operator, Inc.  
NYISO Tariffs

- [NYISO OATT, 40.1 OATT Att HH Definitions \(1.0.0\)](#)
- [NYISO OATT, 30.14 OATT Att X Appendices \(26.0.0\)](#)
- [NYISO OATT, 40.12 OATT Att HH Cluster Baseline Assessment and Cluster Pr \(1.0.0\)](#)
- [NYISO OATT, 40.9 OATT Att HH Cluster Study Overview/ NYISO Minimum Inter \(1.0.0\)](#)
- [NYISO OATT, 40.10 OATT Att HH Phase 1 Study Process, Development of Syst \(1.0.0\)](#)
- [NYISO OATT, 32.5 OATT Att Z Appendices \(27.0.0\)](#)
- [NYISO OATT, 40.6 OATT Att HH Queue Position/ Modification/ Withdrawal/ W \(1.0.0\)](#)
- [NYISO OATT, 40.8 OATT Att HH Affected Systems \(1.0.0\)](#)
- [NYISO OATT, 40.7 OATT Att HH Customer Engagement Window/ Phase 1 Entry D \(1.0.0\)](#)
- [NYISO OATT, 40 Attachment HH - Standard Interconnection Procedures \(1.0.0\)](#)
- [NYISO OATT, 40.19 OATT Att HH Expedited Deliverability Study Procedures \(1.0.0\)](#)
- [NYISO OATT, 40.13 OATT Att HH Deliverability Studies and Cost Allocation \(1.0.0\)](#)

- [NYISO OATT, 40.5 OATT Att HH Cluster Study Process Start Date/Applicatio \(2.0.0\)](#)
- [NYISO OATT, 40.23 OATT Att HH Fast Track Process \(1.0.0\)](#)
- [NYISO OATT, 40.24 OATT Att HH Miscellaneous \(1.0.0\)](#)
- [NYISO OATT, 40.25.8 OATT Att HH Appendix 8 Expedited Deliverability Stud \(1.0.0\)](#)
- [NYISO OATT, 40.25.15 OATT Att HH Appendix 15 Standard Interconnection Ag \(1.0.0\)](#)
- [NYISO OATT, 40.25.16 OATT Att HH Appendix 16 Standard Upgrade Constructi \(1.0.0\)](#)
- [NYISO OATT, 40.25.17 OATT Att HH Appendix 17 Standard Multiparty Upgrade \(1.0.0\)](#)