

## 31.4 Public Policy Transmission Planning Process

### 31.4.1 General

The Public Policy Transmission Planning Process shall consist of three steps: (1) identification of Public Policy Transmission Needs ~~that should be evaluated by the ISO~~; (2) requests for ~~specific~~ proposed ~~solutions~~ Public Policy Transmission Projects and Other Public Policy Projects to address those Public Policy Transmission Needs ~~identified for evaluation~~ and the evaluation of those ~~specific solutions~~ projects; and (3) selection of the more efficient or cost-effective ~~transmission solution~~ Public Policy Transmission Project, if any, to satisfy ~~the each~~ Public Policy Transmission Need to be eligible for cost allocation- under the ISO OATT. Sections 31.4.2.1 through 31.4.2.3 provide for the identification of transmission needs driven by Public Policy Requirements and warranting evaluation by the ISO. The ISO shall request and evaluate ~~specific~~ proposed ~~solutions~~ Public Policy Transmission Projects and Other Public Policy Projects to address such needs. The ISO shall select the more efficient or cost-effective ~~transmission solution~~ Public Policy Transmission Project, if any, to satisfy ~~such needs each need~~. The Public Policy Transmission Planning Process will be conducted on a two-year cycle, unless requested by the NYPSC to be conducted out of that cycle. If the Public Policy Transmission Planning Process cannot be completed in the two-year cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required. The NYPSC's issuance of a written statement pursuant to Section 31.4.2.1 below will occur after the draft RNA study results are posted.

#### **31.4.2 ~~ISO and Interested Party~~ Identification and Posting of Proposed Transmission Needs Driven by Public Policy Requirements**

At the start of each ~~public policy planning~~ cycle for the Public Policy Transmission Planning Process, the ISO will provide a 60-day period to allow any stakeholder or interested party to submit to the ISO, or for the ISO on its own initiative to identify, ~~a~~any proposed transmission need(s) that it believes ~~is~~are being driven by ~~a~~Public Policy Requirement(s) and for which transmission solutions should be requested and evaluated. Each submittal will identify the Public Policy Requirement(s) that the party believes is driving the need for transmission, propose criteria for the evaluation of transmission solutions to that need, and describe how the construction of transmission will fulfill the Public Policy Requirement(s).

For submittals to identify transmission needs pursuant to Section 31.4.2.1, the ISO will post all submittals on its website after the end of the 60-day period, and will submit to the NYPSC all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO. For submittals to identify transmission needs that require a physical modification to transmission facilities in the Long Island Transmission District pursuant to Section 31.4.2.3, the ISO will post all submittals on its website after the end of the 60-day period, and will provide to the NYPSC and the Long Island Power Authority all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO.

##### **31.4.2.1 Identification and Determination of Transmission Needs Driven by Public Policy Requirements**

The NYPSC will review all proposed transmission need(s) and, with input from the ISO and interested parties, identify the transmission needs, if any, for which specific transmission solutions should be requested and evaluated. The NYPSC will ~~develop~~maintain procedures to

govern the process by which it will review proposed transmission need(s), which procedures shall: ensure that such process is open and transparent, provide the ISO and interested parties a meaningful opportunity to participate in such process, provide input regarding the NYPSC's considerations, and result in the development of a written determination as required by law, inclusive of the input provided by the ISO and interested parties. In addition, the NYPSC may, on its own, identify a transmission need driven by a Public Policy Requirement. Any such transmission need identified by the NYPSC on its own shall be described by the NYPSC in accordance with the requirements for stakeholder submittals set forth in Section 31.4.2, and shall be identified and posted to the ISO's website prior to NYPSC's issuance of the required written statement discussed below in this Section 31.4.2.1 so as to provide the ISO and interested parties an opportunity to provide input to the NYPSC relating thereto.

The ISO shall assist the NYPSC in its analyses as requested. The NYPSC may also request that the ISO, pursuant to Section 3.8.1 of the ISO OATT, conduct an evaluation of alternative options to address the transmission needs.

The NYPSC shall issue a written statement that identifies the relevant Public Policy Requirements driving transmission needs and explains why it has identified the Public Policy Transmission Needs for which transmission solutions will be requested by the ISO. The statement shall also explain why transmission solutions to other suggested transmission needs should not be requested. The NYPSC's statement -may also provide: (i) additional criteria for the evaluation of transmission solutions and non-transmission projects, and (ii) the required timeframe, if any, for completion of the proposed solution, and (iii) the type of analyses that it will request from the ISO.

If the NYPSC does not identify any transmission needs driven by Public Policy Requirements, it will provide confirmation of that conclusion to the ISO, and the ISO shall not request solutions. The ISO shall post the NYPSC's statement on the ISO's website.

#### **31.4.2.2 Disputes of NYPSC Determinations**

~~Disputes about~~In the event that a dispute is raised solely within the NYPSC's jurisdiction relating to any NYPSC decision to either accept or deny a proposed transmission need as one for which transmission solutions should be requested, the dispute shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

#### **31.4.2.3 Identification and Determination of Transmission Needs Within the Long Island Transmission District Driven by Public Policy Requirements**

The Long Island Power Authority, pursuant to its jurisdiction under Title 1-A of Article 5 (§1020 et seq.) of the Public Authorities Law of the State of New York, shall identify and determine whether a Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. The identification and determination of such transmission needs shall be consistent with Section 31.4.2.1, as further supplemented by this Section 31.4.2.3. The Long Island Power Authority shall have no authority to identify a transmission need outside of the Long Island Transmission District.

Based on the information provided by the ISO pursuant to Section 31.4.2, the Long Island Power Authority shall review whether a proposed Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. In addition, the following requirements shall apply to the Long Island Power Authority:

- (i) The Long Island Power Authority shall consult with the NYDPS on the identification of transmission needs driven by a Public Policy Requirement solely within the Long Island Transmission District;
- (ii) Upon completion of its review, the Long Island Power Authority shall issue a written statement explaining whether a Public Policy Requirement ~~drives~~does or does not drive the need for a physical modification to transmission facilities solely within the Long Island Transmission District, and ~~the Long Island Power Authority shall describe~~describing the consultation undertaken with the NYDPS;
- (iii) In conjunction with the issuance of its written statement, the Long Island Power Authority shall transmit to the NYPSC and request that ~~the NYPSC~~it review and determine whether a transmission need solely within the Long Island Transmission District identified by the Long Island Power Authority as being driven by a Public Policy Requirement should be considered a Public Policy Transmission Need for purposes of the evaluation of solutions by the ISO and the potential eligibility of transmission solutions for selection and regional cost allocation under the ISO ~~tariff~~OATT. Any transmission need within the Long Island Transmission District that has been identified by the Long Island Power Authority, but which the NYPSC has not determined to be a Public Policy Transmission Need that would be evaluated by the ISO, shall be addressed under the Long Island Power Authority's Local Transmission Plan.
- (iv) The determination of whether there is a transmission need solely within the Long Island Transmission District is the sole responsibility of the Long Island Power Authority;
- (v) The NYDPS and Long Island Power Authority shall consult and coordinate on procedures to be adopted by the NYPSC and Long Island Power Authority to ensure that their respective determinations under this Section 31.4.2.3, including any NYPSC determination that there is a Public Policy Transmission Need within the Long Island Transmission District ~~that~~for which solutions should be evaluated by the ISO, are completed, publicly posted and transmitted to the ISO at the same time as the NYPSC makes its final determinations pursuant to Section 31.4.2.1; and

- (vi) ~~Disputes regarding~~In the event that a dispute is raised solely within the Long Island Power Authority's jurisdiction relating to a decision by the Long Island Power Authority to either accept or deny a proposed transmission need solely within the Long Island Transmission District, ~~the dispute~~ shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

### 31.4.3 Request for Proposed Solutions

The ISO will request ~~specific~~ proposed ~~transmission solutions, Public Policy Transmission Projects,~~ including Interregional Transmission Projects, to ~~asatisfy each~~ Public Policy Transmission Need identified pursuant to Sections 31.4.2.1 through 31.4.2.3. An Interregional Transmission Project shall be: (i) evaluated in accordance with the applicable requirements of the Public Policy Transmission Planning Process of this Attachment Y, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol. The ISO shall also accept specific proposed ~~non-transmission solutions to~~Other Public Policy Projects to satisfy a Public Policy Transmission Need identified ~~by the~~ pursuant to Sections 31.4.2.1 through 31.4.2.3.

#### 31.4.3.1 Timing of ISO Request for Proposed Solutions

Following posting of a determination pursuant to Sections 31.4.2.1 through 31.4.2.3, the ISO will provide a 60-day period for ~~Transmission Owners and Other~~ Developers to propose specific solutions, whether ~~transmission~~Public Policy Transmission Project(s) or ~~non-transmission, Other Public Policy Project(s),~~ to ~~address the~~satisfy each identified Public Policy Transmission ~~Needs.~~Need in accordance with the requirements set forth in Section 31.4.4.3. Any proposed transmission needs that are under appeal pursuant to Section 31.4.2.2 or Section 31.4.2.3(vi) ~~may be addressed with proposed solutions, if required, following~~except where the NYPSC order has been stayed pending the resolution of that appeal.

### **31.4.3.2 NYPSC and LIPA Requests for Solutions**

To ensure that there will be a response to a Public Policy Transmission Need, the NYPSC may request the appropriate Transmission Owner(s) or Other Developer, as identified by the NYPSC, to propose a ~~transmission solution for a~~ Public Policy Transmission ~~Need~~ Project. With respect to a transmission need identified by the Long Island Power Authority and determined to be a Public Policy Transmission Need, by the NYPSC pursuant to Section 31.4.2.3, the Long Island Power Authority's Board of Trustees may request that an appropriate Transmission Owner(s) or Other Developer propose a ~~transmission~~ Public Policy Transmission Project or ~~non-transmission solution for a~~ Other Public Policy ~~Transmission Need~~ Project. A request for the provision of a ~~transmission~~ Public Policy Transmission Project or ~~non-transmission solution~~ Other Public Policy Project by either the ~~NYDPS~~ NYPSC or the Long Island Power Authority's Board of Trustees, pursuant to this section, is supplementary to, and not to the exclusion of, the submission of proposed projects pursuant to Section 31.4.3.1. Costs incurred by a Transmission Owner or Other Developer in preparing a proposed transmission solution in response to a request under this Section 31.4.3.2 will be recoverable under Section 31.5.6.

### **31.4.3.3 Consequences for Other Regions**

~~The ISO will coordinate with the ISO/RTO Regions to identify the consequences of a transmission solution driven by Public Policy Requirements on such neighboring ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results in its Public Policy Transmission Planning Report. The ISO shall not bear the costs of required upgrades in another region.~~

#### **31.4.4 Eligibility and Qualification Criteria for Developers and Projects**

For purposes of fulfilling the requirements of the Developer qualification criteria in this Section 31.4.4 and its subsections, the term “Developer” includes Affiliates, as that term is defined in Section 2 of the ISO Services Tariff and Section 1 of the ISO OATT. To the extent that a Developer relies on Affiliate(s) to satisfy any or all of the qualification criteria set forth in Section 31.4.4.1.1, the Affiliate(s) shall provide to the ISO: (i) the information required in Section 31.4.4.1.1 to demonstrate its capability to satisfy the applicable qualification criteria and (ii) a notarized officer’s certificate, signed by an authorized officer of the Affiliate with signatory authority, in a form acceptable to the ISO, certifying that the Affiliate will participate in the Developer’s project in the manner described by the Developer and will abide by the requirements set forth in this Attachment Y, the ISO Tariffs, and ISO Procedures, related and applicable to the Affiliate’s participation.

##### **31.4.4.1 Developer Qualification and Timing**

The ISO shall provide each Developer with an opportunity to demonstrate that it has or can draw upon the financial resources, technical expertise, and experience needed to finance, develop, construct, operate, and maintain a ~~transmission solution to a~~ Public Policy Transmission ~~Need~~Project. The ISO shall consider the qualification of each Developer in an evenhanded and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

##### **31.4.4.1.1 Developer Qualification Criteria**

The ISO shall make a determination on the qualification of a Developer to propose to develop a ~~transmission project as a transmission solution to a~~ Public Policy Transmission ~~Need~~Project based on the following criteria:



- 31.4.4.1.1.1 The technical and engineering qualifications and experience of the Developer relevant to the development, construction, operation and maintenance of a transmission facility, including evidence of the Developer's demonstrated capability to adhere to standardized construction, maintenance, and operating practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;
- 31.4.4.1.1.2 The current and expected capabilities of the Developer to develop and construct a transmission facility and to operate and maintain it for the life of the facility. If the Developer has previously developed, constructed, maintained or operated transmission facilities, the Developer shall provide the ISO a description of the transmission facilities (not to exceed ten) that the Developer has previously developed, constructed, maintained or operated and the status of those facilities, including whether the construction was completed, whether the facility entered into commercial operations, whether the facility has been suspended or terminated for any reason, and evidence demonstrating the ability of the Developer to address and timely remedy any operational failure of the facilities; and
- 31.4.4.1.1.3 The Developer's current and expected capability to finance, or its experience in arranging financing for, transmission facilities. For purposes of the ISO's determination, the Developer shall provide the ISO:
- (1) evidence of its demonstrated experience financing or arranging financing for transmission facilities, if any, including a description of such projects (not to exceed ten) over the previous ten years, the capital costs and financial structure of such projects, a description of any financing obtained for these projects through rates approved by the Commission or a state regulatory agency, the financing closing date of such projects, and whether any of the projects are in default;
  - (2) its audited annual financial statements from the most recent three years and its most recent quarterly financial statement or equivalent information, if available;
  - (3) its credit rating from Moody's Investor Services, Standard & Poor's, or Fitch or equivalent information, if available;
  - (4) a description of any prior bankruptcy declarations, material defaults, dissolution, merger or acquisition by the Developer or its predecessors or subsidiaries occurring within the previous five years; and
  - (5) such other evidence that demonstrates its current and expected capability to finance a project to solve a Public Policy Transmission Need.
- 31.4.4.1.1.4 A detailed plan describing how the Developer – in the absence of previous experience financing, developing, constructing, operating, or maintaining transmission facilities – will finance, develop, construct, operate, and maintain a transmission facility, including the financial, technical, and engineering qualifications and experience and capabilities of any third parties with which it will contract for these purposes.

#### **31.4.4.1.2 Developer Qualification Determination**

Any Developer seeking to be qualified may submit the required information, or update any previously submitted information, at any time. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any non-public financial qualification information that is submitted to the ISO by the Developer under Section 31.4.4.1.1.3 and is designated by the Developer as "Confidential Information." The ISO shall within 15 days of a Developer's submittal, notify the Developer if the information is incomplete. If the submittal is deemed incomplete, the Developer shall submit the additional

information within 30 days of the ISO's request. The ISO shall notify the Developer of its qualification status within 30 days of receiving all necessary information. A Developer shall retain its qualification status for a three-year period following the notification date; *provided, however*, that the ISO may revoke this status if it determines that there has been a material change in the Developer's qualifications and the Developer no longer meets the qualification requirements. A Developer that has been qualified shall inform the ISO within thirty days of any material change to the information it provided regarding its qualifications and shall submit to the ISO each year its most recent audited annual financial statement when available. At the conclusion of the three-year period or following the ISO's revocation of a Developer's qualification status, the Developer may re-apply for a qualification status under this section.

Any Developer determined by the ISO to be qualified under this section shall be eligible to propose a regulated ~~transmission project as a transmission solution to a~~ Public Policy Transmission ~~Need~~Project and shall be eligible to use the cost allocation and cost recovery mechanism for regulated ~~transmission projects~~Public Policy Transmission Projects set forth in Section 31.5 of this Attachment Y and the appropriate rate schedule for any approved project.

#### **~~31.4.4.2 — Information Requirements for Projects~~**

~~The ISO shall consider the criteria in Section 31.4.5.1 when determining whether a proposed project is eligible to be offered as a transmission solution to a Public Policy Transmission Need.~~

#### **31.4.4.3 Timing for Submittal of Project Information and Developer Qualification Information and Opportunity to Provide Additional Information**

~~The required project information shall be submitted within 60 days of the ISO's request for solutions to a Public Policy Transmission Need.~~ 31.4.4.3.1 The Developer of a Public Policy Transmission Project or an Other Public Policy Project proposed to satisfy a Public Policy Transmission Need shall submit to the ISO within 60 days of the ISO's request for solutions to a Public Policy Transmission Need the project information required under Section 31.4.5. If: (i) the

ISO determines that the Developer's submission of its project information is incomplete, or (ii) the ISO determines at any time in the planning process that additional project information is required, the ISO shall request that the Developer provide additional project information within the timeframe set forth in Section 31.4.4.3.4. A Developer's failure to provide the data requested by the ISO within the timeframes provided in Sections 31.4.4.3.1 and 31.4.4.3.4 of this Attachment Y will result in the rejection of the Developer's proposed Public Policy Transmission Project or Other Public Policy Project from further consideration during that planning cycle.

31.4.4.3.2 Any Developer that the ISO has determined under Section 31.4.4.1.2 of this Attachment Y to be qualified to propose to develop a transmission project as a transmission solution to a Public Policy Transmission Need may submit the required project information for its proposed Public Policy Transmission Project; *provided, however*, that based on the actual identified need that requires resolution, the ISO may request that the qualified Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.4.

31.4.4.3.3 Any Developer that has not been determined by the ISO to be qualified, but that wants to propose to develop a ~~project~~Public Policy Transmission Project, must submit to the ISO the information required for Developer qualification under Section 31.4.4.1 within 30 days after a request for solutions is made by the ISO. The ISO shall within 30 days of a Developer's submittal of its Developer qualification information, notify the Developer if this information is incomplete- and request that the Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.4. The ISO shall notify a Developer that has submitted the requested Developer qualification information whether it is qualified to propose to develop a Public Policy Transmission Project to be considered in that planning cycle.

31.4.4.3.4 The Developer shall submit additional Developer qualification information or project information required by the ISO within 15 days of the ISO's request. ~~A~~

31.4.4.3.5 ~~If a Developer that~~ fails to timely submit the additional Developer qualification information ~~or requested by the required project information ISO, the Developer~~ will not be eligible for its ~~project~~proposed Public Policy Transmission Project to be considered in that planning cycle.

#### **31.4.4.4. Application Fee and Study Deposit for Proposed Regulated Public Policy Transmission SolutionsProject**

Within sixty (60) days of the ISO's request for solutions to a Public Policy Transmission

Need, a Developer that proposes a ~~regulated transmission solution to satisfy the identified~~ Public Policy Transmission ~~Need~~Project shall ~~submit to, at the ISO, along with the same time that it provides~~ project information ~~required~~ pursuant to Section 31.4.4.3.1, (i) execute a study agreement with the ISO for purposes of the ISO's evaluation of the proposed Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, and 31.4.10, and (ii) submit to the ISO: (A) a non-refundable application fee of \$10,000, and (B) a study deposit of \$100,000, which shall be applied to study costs and subject to refund as described in this Section 31.4.4.4.

The ISO shall charge, and a Developer proposing a regulated ~~transmission solution~~Public Policy Transmission Project shall pay, the actual costs of the ISO's evaluation of the Developer's

proposed ~~transmission solution~~Public Policy Transmission Project for purposes of the ISO's selection of the more efficient or cost effective ~~transmission solution~~Public Policy Transmission Project to satisfy a Public Policy Transmission Need for cost allocation purposes, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed ~~transmission solution~~Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, and 31.4.910 and any supplemental evaluation or re-evaluation of the proposed ~~transmission solution~~Public Policy Transmission Project. If the ISO or its subcontractors perform study work for multiple proposed ~~transmission solutions~~Public Policy Transmission Projects on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers.

The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed ~~transmission solution~~Public Policy Transmission Projects as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided, however*, if a Developer: (i) does not pay its monthly invoice within the timeframe described above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such

payments, the ISO may halt its evaluation of the Developer's proposed ~~transmission~~  
~~solution~~Public Policy Transmission Project and may disqualify the Developer's proposed  
~~transmission-solution~~Public Policy Transmission Project from further consideration. After the  
conclusion of the ISO's evaluation of the Developer's proposed ~~transmission-solution~~Public  
Policy Transmission Project or if the Developer: (i) withdraws its proposed ~~transmission~~  
~~solution~~Public Policy Transmission Project or (ii) fails to pay an invoiced amount and the ISO  
halts its evaluation of the proposed ~~transmission-solution~~Public Policy Transmission Project, the  
ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study  
deposit submitted to the ISO under this Section 31.4.4.4 that exceeds outstanding amounts that  
the ISO has incurred in evaluating that Developer's proposed ~~transmission-solution~~Public Policy  
Transmission Project, including interest on the refunded amount calculated in accordance with  
Section 35.19a(a)(2) of FERC's regulations. The ISO shall refund the remaining portion within  
sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved  
Transmission Owners.

In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i)  
timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account  
the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to  
meet these two requirements, then the ISO shall not be obligated to perform or continue to  
perform its evaluation of the Developer's proposed ~~transmission-solution~~Public Policy  
Transmission Project. Disputes arising under this section shall be addressed through the Dispute  
Resolution Procedures set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO  
Services Tariff. Within thirty (30) Calendar Days after resolution of the dispute, the Developer

will pay the ISO any amounts due with interest calculated in accordance with Section

35.19a(2) of FERC's regulations.

#### **31.4.5 ~~Actual Project Proposals~~Information Requirements**

**~~The ISO will process all project proposals for transmission solutions~~ 31.4.5.1  
~~Requirements for Public Policy Transmission Needs—Projects~~**

##### **~~31.4.5.1—Project Information Requirements~~**

~~Any~~ 1. A Developer ~~seeking to offer~~proposing a ~~transmission solution for~~ Public Policy Transmission ~~Needs~~Project to satisfy a Public Policy Transmission Need must provide, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications; (7) a demonstration of Site Control or a schedule for obtaining such control; (8) status of any contracts (other than an ~~Interconnection Agreement~~interconnection agreement) that are under negotiations or in place, including any contracts with third-party contractors; (9) status of ISO interconnection studies and interconnection agreement; (10) status of equipment availability and procurement; (11) evidence of financing or ability to finance the project; (12) capital cost estimates for the project; (13) a description of permitting or other risks facing the project at the stage of project development, including evidence of the reasonableness of project cost estimates all based on the information available at the time of the submission; and (14) any other information requested by the ISO.

**31.4.5.1.2** A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as "Confidential Information."

**31.4.5.1.3** A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

**31.4.5.1.4** A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

~~Failure to provide any data requested by the ISO within the timeframe provided in Section 31.4.4.3 of this Attachment Y will result in the rejection of the proposed solution from further consideration during that planning cycle.~~

### **31.4.5.2 Requirements for Other Public Policy Projects**

31.4.5.2.1 A Developer proposing an Other Public Policy Project to satisfy a Public Policy Transmission Need must provide, at a minimum: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications; (7) a demonstration of Site Control or a schedule for obtaining Site Control, as applicable; (8) the status of any contracts (other than an interconnection agreement) that are under negotiation or in place; (9) the status of ISO interconnection studies and interconnection agreement; (10) the status of equipment availability and procurement; (11) evidence of financing or ability to finance the project; and (12) any other information requested by the ISO.

31.4.5.2.2 A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as "Confidential Information."

31.4.5.2.3 A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

31.4.5.2.4 A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) copies of all loan commitment letter(s) and signed financing contract(s), or (ii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available.

## **31.4.6 ISO Evaluation of Proposed Solutions to Public Policy Transmission Needs**

### **31.4.6.1 Evaluation Time Period**

The ISO will study ~~a proposed project~~ Public Policy Transmission Projects and Other Public Policy Projects using: (i) the RNA Base Case and most recent base case from the reliability planning process, (ii) updates in accordance with ISO Procedures, and (iii)

compensatory MWs as needed to resolve the Reliability Needs over the ten-year Study Period.

The ISO will extend the most recent reliability and economic planning models for modeling solutions for Public Policy Transmission Needs by up to an additional twenty years following the Study Period, as appropriate based upon the Public Policy Requirement and the identified Public Policy Transmission Need.

#### **31.4.6.2 Comparable Evaluation of All Proposed Solutions**

The ISO shall evaluate any proposed ~~solution~~Public Policy Transmission Project or Other Public Policy Project submitted by a Developer to a Public Policy Transmission Need. The ISO will evaluate whether each proposed solution is viable pursuant to Section 31.4.6.3 below and is sufficient to satisfy the Public Policy Transmission Need ~~by the need date~~ pursuant to Section 31.4.6.4. The proposed solution may include multiple components and resource types. When evaluating proposed solutions to a Public Policy Transmission Need from any Developer, the ISO shall consider all resource types – including generation, transmission, demand response, or a combination of these resource types – on a comparable basis as potential solutions. All solutions will be evaluated in the same general time frame.

#### **31.4.6.3 Evaluation of Viability of Proposed Solution**

The ISO will determine the viability of a ~~solution~~Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of these resource types – proposed to satisfy a Public Policy Transmission Need. For purposes of its analysis, the ISO will ~~evaluate whether~~consider: (i) the Developer ~~has provided the required Developer~~ qualification data provided pursuant to Section 31.4.4 and the ~~required~~ project information data provided under Section 31.4.5-4; (ii) ~~whether~~ the proposed solution is technically practicable; (iii) the ~~Developer has indicated~~Developer's possession of, or



~~an~~ approach for acquiring, any necessary rights-of-way, property, and facilities that will make the proposal reasonably feasible in the required timeframe; and (iv) whether the proposed solution can be completed in the required timeframe, if any. If the ISO determines that the proposed solution is not viable, the ISO shall reject the proposed solution from further consideration during that planning cycle.

#### **31.4.6.4 Evaluation of Sufficiency of Proposed Solution**

The ISO will perform a comparable analysis of each proposed ~~solution~~ Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of these resource types – to confirm that the proposed solution satisfies the Public Policy Transmission Need. The ISO will evaluate each solution to measure the degree to which the proposed solution independently satisfies the Public Policy Transmission Need, including the evaluation criteria provided by the NYPSC. If the ISO determines that the proposed solution is not sufficient, the ISO shall reject the proposed solution from further consideration during that planning cycle.

#### **31.4.6.5 ~~ISO Report of Evaluation Results~~ Viability and Sufficiency Assessment**

The ISO will present its Viability and Sufficiency Assessment to stakeholders, interested parties, and the NYPSC for comment. The ISO shall report in the Public Policy Transmission Planning Report the results of its evaluation under this Section 31.4.6 of whether each proposed ~~solution~~ Public Policy Transmission Project or Other Public Policy Project is viable and is sufficient to satisfy the identified Public Policy Transmission Need ~~by the need date~~.

#### **31.4.6.6 Developer's Determination to Proceed**

Within 30 Calendar Days following the ISO's presentation of the Viability and Sufficiency Assessment pursuant to Section 31.4.6.5, the Developer of a proposed Public Policy Transmission Project that the ISO has determined satisfies the viability and sufficiency requirements in this Section 31.4.6 shall notify the ISO whether it intends for its project to proceed to be evaluated by the ISO for purposes of the ISO's selection of the more efficient or cost effective Public Policy Transmission Project to satisfy an identified Public Policy Transmission Need. To proceed, the Developer must include with its notification to the ISO under this Section 31.4.6.6 its consent to the ISO's disclosure of the details of its proposed Public Policy Transmission Project in the Public Policy Transmission Planning Report, except for the information that shall remain confidential in accordance with Section 31.4.15. If a Developer: (i) notifies the ISO that it does not intend for its proposed Public Policy Transmission Project to proceed to be evaluated for purposes of the ISO's selection, or (ii) does not provide the required notification to the ISO under this Section 31.4.6.6, the ISO will remove the project from further consideration during that planning cycle.

#### **31.4.6.7 NYPSC Determination on Whether to Proceed with Evaluation of Transmission Solutions to a Public Policy Transmission Need**

Following the ISO's presentation of the Viability and Sufficiency Assessment, the NYPSC will review the Viability and Sufficiency Assessment and will issue an order, subject to and in accordance with the State Administrative Procedure Act, explaining whether the ~~NYISO~~ISO should continue to evaluate transmission solutions to a Public Policy Transmission Need or whether non-transmission solutions should be pursued. If the NYPSC concludes that non-transmission solutions should be pursued, the NYPSC will indicate in its order that there is no longer a transmission need driven by a Public Policy Requirement that requires the ISO's

evaluation of potential transmission solutions. In such case, the ISO will not perform an evaluation, or make a selection of, a more efficient or cost-effective transmission solution under Sections 31.4.7, ~~through~~ 31.4.8, ~~31.4.9, and 31.4.10~~ 11 for that planning cycle.

**31.4.7 Evaluation of Regional ~~Public Policy~~ Transmission ~~Solutions~~Projects to Address Local and Regional Needs Driven by Public Policy Requirements More Efficiently or More Cost Effectively Than Local Transmission Solutions**

The ISO will review the LTPs as they relate to the BPTFs. The ISO will include the results of its analysis in its Public Policy Transmission Planning Report, as approved by the ISO Board.

**31.4.7.1 Evaluation of Regional ~~Public Policy~~ Transmission ~~Solutions~~Projects to Address Local Needs Driven By Public Policy Requirements Identified in Local Transmission Plans More Efficiently or More Cost Effectively than Local Transmission Solutions**

The ISO, using engineering judgment, will determine whether any proposed regional ~~transmission solution~~Public Policy Transmission Project on the BPTFs more efficiently or cost-effectively satisfies any needs driven by a Public Policy Requirement identified in the LTPs. If the ISO identifies that a regional ~~transmission solution~~Public Policy Transmission Project has the potential to more efficiently or cost effectively satisfy the needs driven by a Public Policy Requirement identified in the LTPs, it will perform a sensitivity analysis to determine whether the proposed regional ~~transmission solution~~Public Policy Transmission Project on the BPTFs would satisfy the needs driven by a Public Policy Requirement identified in the LTPs. If the ISO determines that the proposed regional ~~transmission solutions~~Public Policy Transmission Project would satisfy the need, the ISO will evaluate the proposed regional ~~transmission solution~~Public Policy Transmission Project using the metrics set forth in Section 31.4.8.1 below to determine whether it may be a more efficient or cost effective solution on the BPTFs to the needs driven by

a Public Policy Requirement identified in the LTPs than the local solutions proposed in the LTPs.

**31.4.7.2 Evaluation of Regional Public Policy Transmission ~~Solution~~Project to Address Regional Public Policy Transmission Needs More Efficiently or More Cost Effectively than Local Transmission Solutions**

As referenced in Section 31.2.1.3, the ISO, using engineering judgment, will determine whether a regional ~~transmission solution~~Public Policy Transmission Project might more efficiently or more cost effectively satisfy an identified regional Public Policy Transmission Need on the BPTFs that impacts more than one Transmission District than any local transmission solutions identified by the Transmission Owners in their LTPs in the event the LTPs specify that such transmission solutions are included to address local transmission needs driven by Public Policy Requirements.

**31.4.8 ISO Selection of More Efficient or Cost Effective Public Policy Transmission ~~Solution~~Project to Satisfy a Public Policy Transmission Need**

A proposed regulated ~~transmission solution~~Public Policy Transmission Project submitted by a ~~Transmission Owner or Other~~ Developer that the ISO has determined ~~satisfies~~has provided the ~~viability and sufficiency requirements in~~required notification to proceed under Section 31.4.6.6 shall be eligible under this Section 31.4.8 for selection in the Public Policy Transmission Planning Report for the purpose of cost allocation under the ISO Tariffs. The ISO shall evaluate any proposed regulated Public Policy Transmission Projects that are eligible ~~proposed regulatory transmission solutions~~ for selection in the ~~public policy~~ planning cycle of the Public Policy Transmission Planning Process using the metrics set forth in Section 31.4.8.1 below. For purposes of this evaluation, the ISO will review the information submitted by the Developer and determine whether it is reasonable and how such information should be used for

purposes of the ISO evaluating each metric. The ISO may engage an independent consultant to review the reasonableness and comprehensiveness of the information submitted by the Developer and may rely on the independent consultant's analysis in evaluating each metric. The ISO shall select in the Public Policy Transmission Planning Report for cost allocation purposes the more efficient or cost effective transmission solution to satisfy a Public Policy Transmission Need in the manner set forth in Section 31.4.8.2 below.

#### **31.4.8.1 Metrics for Evaluating More Efficient or Cost Effective Regulated ~~Public Policy Transmission~~ Solution Project to Satisfy Public Policy Transmission Need**

In determining which of the eligible proposed regulated ~~transmission solutions~~ Public Policy Transmission Projects is the more efficient or cost effective solution to satisfy ~~the~~ Public Policy Transmission Need, the ISO will consider, and will consult with the NYDPS regarding, the metrics set forth below in this Section 31.4.8.1 and rank each proposed ~~solution project~~ based on the quality of its satisfaction of these metrics:

31.4.8.1.1 The capital cost estimates for the proposed regulated ~~transmission solutions~~ Public Policy Transmission Project, including the accuracy of the proposed estimates. For this evaluation, the Developer shall provide the ISO with credible capital cost estimates for its proposed ~~solution project~~, with itemized supporting work sheets that identify all material and labor cost assumptions, and related drawings to the extent applicable and available. The work sheets should include an estimated quantification of cost variance, providing an assumed plus/minus range around the capital cost estimate.

The estimate shall include all components that are needed to meet the Public Policy Transmission Need. To the extent information is available, the Developer should itemize: material and labor cost by equipment, engineering and design work, permitting, site acquisition, procurement and construction work, and commissioning needed for the proposed ~~solution project~~, all in accordance with Good Utility Practice. For each of these cost categories, the Developer should specify the nature and estimated cost of all major project components and estimate the cost of the work to be done at each substation and/or on each feeder to physically and electrically connect each facility to the existing system. The work sheets should itemize to the extent applicable and available all equipment for: (i) the proposed project, (ii) interconnection facilities (including Attachment Facilities and Direct Assignment Facilities), and (iii) System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, and Distribution Upgrades.

31.4.8.1.2 The cost per MW ratio of the proposed regulated ~~transmission solutions~~ Public Policy Transmission Project. For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed ~~solution project~~ in current year dollars. The ISO will then determine the cost per MW ratio by dividing the capital cost by the MW value of increased transfer capability.

- 31.4.8.1.3 The expandability of the proposed regulated ~~transmission solution~~Public Policy Transmission Project. The ISO will consider the impact of the proposed ~~solution~~project on future construction. The ISO will also consider the extent to which any subsequent expansion will continue to use this proposed ~~solution~~project within the context of system expansion.
- 31.4.8.1.4 The operability of the proposed regulated ~~transmission solution~~Public Policy Transmission Project. The ISO will consider how the proposed ~~solution~~project may affect additional flexibility in operating the system, such as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed ~~solution~~project may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.
- 31.4.8.1.5 The performance of the proposed regulated ~~transmission solution~~Public Policy Transmission Project. The ISO will consider how the proposed project may affect the utilization of the system (e.g. interface flows, percent loading of facilities).
- 31.4.8.1.6 The extent to which the Developer of a proposed regulated ~~transmission solution~~Public Policy Transmission Project has the property rights, or ability to obtain the property rights, required to implement the ~~solution~~project. The ISO will consider whether the Developer: (i) already possesses the rights of way necessary to implement the ~~solution~~project; (ii) has completed a transmission routing study, which (a) identifies a specific routing plan with alternatives, (b) includes a schedule indicating the timing for obtaining siting and permitting, and (c) provides specific attention to sensitive areas (e.g., wetlands, river crossings, protected areas, and schools); or (iii) has specified a plan or approach for determining routing and acquiring property rights.
- 31.4.8.1.7 The potential issues associated with delay in constructing the proposed regulated ~~transmission solution~~Public Policy Transmission Project consistent with the major milestone schedule and the schedule for obtaining any permits and other certifications as required to timely meet the need.
- 31.4.8.1.8 The ISO shall apply any criteria specified by the Public Policy Requirement or provided by the NYPSC and perform the analyses requested by the NYPSC, to the extent compliance with such criteria and analyses are feasible.
- 31.4.8.1.9 The ISO, in consultation with stakeholders, shall, as appropriate, consider other metrics in the context of the Public Policy Requirement, such as: change in production costs; LBMP; losses; emissions; ICAP; TCC; congestion; impact on transfer limits; and deliverability.

**31.4.8.2 ISO Selection of More Efficient or Cost Effective Regulated Public Policy Transmission Solution to Satisfy a Public Policy Transmission Need**

The ISO shall identify under this Section 31.4.8 the proposed regulated ~~transmission solution~~Public Policy Transmission Project, if any, that is the more efficient or cost effective transmission solution proposed in the ~~public policy~~planning cycle for the Public Policy Transmission Planning Process to satisfy ~~the~~a Public Policy Transmission Need. The ISO shall include the more efficient or cost effective transmission solution in the Public Policy Transmission Planning Report. The Developer of a regulated ~~transmission project~~Public Policy Transmission Project shall be eligible to recover costs for the project only if the project is

selected by the ISO, except as otherwise provided that the Developer may recover costs as in Section 31.4.3.2 or as otherwise determined by the Commission. Costs will be recovered when the project is completed pursuant to a rate schedule filed with and accepted by the Commission in accordance with the cost recovery requirements set forth in Section 31.5.6.5, or as otherwise determined by the Commission. Actual project cost recovery, including any issues related to cost recovery and project cost overruns, will be submitted to and decided by the Commission.

Any selection of a ~~project~~Public Policy Transmission Project by the ISO under Section 31.4.8, including but not limited to the selection of a project that involves the physical modification of facilities within the Long Island Transmission District, shall not affect the obligation and responsibility of the ~~project proponent~~Developer to apply for, and receive, all necessary authorizations or permits required by federal or state law for such project.

#### **31.4.9 Consequences for Other Regions**

The ISO will coordinate with the ISO/RTO Regions to identify the consequences of a transmission solution driven by Public Policy Requirements on neighboring ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results in its Public Policy Transmission Planning Report. The ISO shall not bear the costs of required upgrades in another region.

#### **31.4.10 Evaluation of Impact of Proposed Public Policy Transmission ~~Solution~~Project on ISO Wholesale Electricity Markets**

The ISO shall evaluate using the metrics set forth in Section 31.4.8.1.9 the impacts on the ISO-administered wholesale electricity markets of a proposed ~~transmission solution~~Public Policy Transmission Project that the ISO has determined under Section 31.4.6 is viable and sufficient.

The ISO shall include the results of its analysis in the Public Policy Transmission Planning Report.

### **31.4.1011 Public Policy Transmission Planning Report**

Following the ISO's evaluation of the proposed solutions to Public Policy Transmission Need(s), the ISO will prepare a draft Public Policy Transmission Planning Report that sets forth the ISO's assumptions, inputs, methodologies and the results of its analyses. The draft Public Policy Transmission Planning Report will reflect any input from the NYDPS.

~~The~~Except as otherwise provided in the confidentiality requirements in Section 31.4.15,  
~~the~~ ISO will include in the draft Public Policy Transmission Planning Report: (i) the list of  
Developers and ~~projects~~their proposed Public Policy Transmission Projects and Other Public  
Policy Projects that qualify pursuant to Sections 31.4.4 and 31.4.5 ~~and will identify;~~ (ii) the  
~~proposed solutions~~Public Policy Transmission Projects and Other Public Policy Projects that  
~~it~~the ISO has determined under Section 31.4.6 are viable and sufficient to satisfy the identified  
Public Policy Transmission Need(s). ~~The draft~~; and (iii) the regulated Public Policy  
Transmission ~~Planning Report shall also include the regulated transmission solution~~Project, if  
any, that the ISO staff recommends for selection for cost allocation purposes pursuant to Section  
31.4.8 as the more efficient or cost effective transmission solution to satisfy ~~the~~each identified  
Public Policy Transmission Need(s). The draft Public Policy Transmission Planning Report will  
also include the results of the ISO's analysis of the LTPs consistent with Section 31.4.7.

The draft Public Policy Transmission Planning Report shall include a comparison of a  
proposed ~~regional solution to an identified~~ Public Policy Transmission ~~Need~~Project to an  
Interregional Transmission Project proposed in the Public Policy Transmission Planning Process,  
if any, identified and evaluated under the "Analysis and Consideration of Interregional



Transmission Projects” section of the Interregional Planning Protocol. An Interregional Transmission Project proposed in the ISO’s Public Policy Transmission Planning Process may be selected as a regulated ~~transmission solution~~ Public Policy Transmission Project under the provisions of this process.

#### **31.4.~~40~~11.1 Collaborative Governance Process**

The draft Public Policy Transmission Planning Report shall be submitted to both TPAS and the ESPWG for review and comment. Concurrently, the draft report will be provided to the Market Monitoring Unit for its review and consideration. The Market Monitoring Unit’s evaluation will be provided to the Management Committee prior to the Management Committee’s advisory vote. The ISO shall make available to any interested party sufficient information to replicate the results of the draft Public Policy Transmission Planning Report. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of that review, the draft report reflecting the revisions resulting from the TPAS and ESPWG review shall be forwarded to the Business Issues Committee and the Management Committee for discussion and an advisory vote.

#### **31.4.~~40~~11.2 Board Review, Consideration, and Approval of Public Policy Transmission Planning Report**

Following the Management Committee vote, the draft Public Policy Transmission Planning Report, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the Market Monitoring Unit’s evaluation will be provided to the Board. The Board may approve the Public Policy

Transmission Planning Report as submitted or propose modifications on its own motion, including a determination not to select a ~~transmission project~~Public Policy Transmission Project to satisfy ~~the~~a Public Policy Transmission Need. If any changes are proposed by the Board, the revised report shall be returned to the Management Committee for comment. The Board shall not make a final determination on a revised report until it has reviewed the Management Committee comments, including comments regarding the Market Monitoring Unit's evaluation. Upon approval by the Board, the ISO shall issue the report to the marketplace by posting it on its website. If the ISO Board determines not to select a ~~transmission project~~Public Policy Transmission Project under this Section 31.4.~~4011~~.2, the Board shall state the reasons for its determination.

The responsibilities of the Market Monitoring Unit that are addressed in the above Section of Attachment Y to the ISO OATT are also addressed in Section 30.4.6.8.5 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

**31.4.~~4112~~ Developer's Responsibilities Following Selection of Its Public Policy Transmission Project**

**31.4.12.1 Developer's Responsibility to Obtain Necessary Approvals and Authorizations**

Upon its selection of a Public Policy Transmission Project, the ISO will inform the Developer that it should submit the selected Public Policy Transmission Project to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to the site, construct, and operate the project. In response to the ISO's request, the Developer shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies) to the extent such authorization has not already been requested or obtained.

If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws authorization, for the selected Public Policy Transmission Project, all of the necessary and reasonable costs incurred and commitments made up to the final federal, state or local regulatory decision, including reasonable and necessary expenses incurred to implement an orderly termination of the project, will be recoverable by the Developer. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission. The ISO shall recover such costs in accordance with Section 31.5.6.5.

#### **31.4.12.2 Development Agreement**

As soon as reasonably practicable following the ISO's selection of the proposed project, the ISO shall tender to the Developer that proposed the selected Public Policy Transmission Project a draft Development Agreement with draft appendices completed by the ISO to the extent practicable for review and completion by the Developer. The draft Development Agreement shall be in the form of the ISO's Commission-approved Development Agreement, which is in Appendix D in Section 31.7 of this Attachment Y. The ISO and the Developer, as applicable, shall finalize the Development Agreement and appendices and negotiate concerning any disputed provisions. Unless otherwise agreed by the ISO and the Developer, the Developer must execute the Development Agreement within three (3) months of the ISO's tendering of the draft Development Agreement; *provided, however*, if, during the negotiation period, the Developer determines that negotiations are at an impasse, it may request in writing that the ISO file the Development Agreement in unexecuted form with the Commission. If the Development Agreement resulting from the negotiation between the ISO and the Developer does not conform with the Commission-approved standard form in Appendix D in Section 31.7 of this Attachment

Y, the ISO shall file the agreement with the Commission for its acceptance within thirty (30) Business Days after the execution of the Development Agreement by both parties. If the Developer requests that the Development Agreement be filed unexecuted, the ISO shall file the agreement at the Commission within thirty (30) Business Days of receipt of the request from the Developer. The ISO will draft to the extent practicable the portions of the Development Agreement and appendices that are in dispute and will provide an explanation to the Commission of any matters as to which the parties disagree. The Developer will provide in a separate filing any comments that it has on the unexecuted agreement, including any alternative positions it may have with respect to the disputed provisions. Upon the ISO's and the Developer's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission, the ISO and the Developer shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modification by the Commission.

**31.4.12.3 Process for Addressing Inability of Developer to Complete Selected Public Policy Transmission Project**

31.4.12.3.1 If one of the following events occur: (i) the Developer that proposed the selected Public Policy Transmission Project does not execute the Development Agreement, or does not request that it be filed unexecuted with the Commission, within the timeframes set forth in Section 31.4.12.2, or (ii) an effective Development Agreement is terminated under the terms of the agreement prior to the completion of the term of the agreement, the ISO may take the following actions as soon as practicable after the occurrence of the event:

31.4.12.3.1.1 If the Development Agreement has been filed with and accepted by the Commission, the ISO shall, upon terminating the Development Agreement under the terms of the agreement, file a notice of termination with the Commission.

31.4.12.3.1.2 The ISO may: (i) submit a report to the NYPSC and/or the Commission, as appropriate, for its consideration and determination of whether action is appropriate under state or federal law, and (ii) take such action as it reasonably considers is appropriate, following consultation with the NYPSC, to ensure that the Public Policy Transmission Need is satisfied, including, but not limited to, revoking its selection of the Public Policy Transmission Project and the eligibility of the Developer to recover its costs for the project; *provided, however, the Developer may recover its costs to the extent provided in Sections 31.4.3.2 and 31.4.12.1 or as otherwise determined by the Commission.*

#### **31.4.12.4 Execution of ISO/TO Agreement or Comparable Agreement**

The Developer of a selected Public Policy Transmission Project shall execute the ISO/TO Agreement or an agreement with the ISO under terms comparable to the ISO/TO Agreement prior to energizing the Public Policy Transmission Project.

#### **31.4.13 ISO Monitoring of Selected ~~Public Policy~~ Transmission Projects**

The ISO shall monitor ~~transmission projects~~Public Policy Transmission Projects selected by the ISO as the more efficient or cost effective transmission solutions to Public Policy Transmission Needs to confirm that they continue to develop consistent with the conditions, actions, or schedules for the ~~transmission~~-projects.

#### **31.4.12.14 Posting of Approved Solutions**

The ISO shall post on its website a list of all Developers who have accepted the terms and conditions of an Article VII certificate under the New York Public Service Law, or any successor statute, or any other applicable permits to build a ~~project~~Public Policy Transmission Project in response to a need driven by a Public Policy Requirement.

### 31.4.1315 Confidentiality of Solutions

- 31.4.1315.1 The term “Confidential Information” shall include all proposed solutions to Public Policy Transmission Needs that are submitted to the ISO in response to a request for solutions under Section 31.4.3 of this Attachment Y if the Developer of that solution designates the solution as “Confidential Information.” provided, however, that “Confidential Information” shall not include: (i) the identity of the Developer, (ii) the proposed facility type, (iii) the proposed facility size, (iv) the proposed location of the facility, and (v) the proposed in-service date for the facility.
- 31.4.1315.2 The ISO shall maintain the confidentiality of the Developer’s proposed solution and plans designated as “Confidential Information” until the ISO determines that the Developer’s proposed solution and plans are viable and sufficient to meet the Public Policy Transmission Need and the Developer ~~consents~~ provides its consent to the ISO’s inclusion of the proposed solution in the Public Policy Transmission Planning Report ~~under Section 31.4.6.6~~. Thereafter, the ISO shall disclose the proposed solution and plans to Market Participants. ~~However and other interested parties; provided, however,~~ any preliminary cost estimates that may have been provided to the ISO, any non-public financial qualification information provided under Section 31.4.4.1.2, and any contract provided under Sections 31.4.5.1.2 or 31.4.5.2.2 that is designated as “Confidential Information” shall not be disclosed.