UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.	**)**	**Docket No. ER24-1915-___**

REQUEST FOR REHEARING OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

In accordance with Section 313(a) of the Federal Power Act ("FPA")[1] and Rule 713 of the Commission's Rules of Practice and Procedure,[2] the New York Independent System Operator, Inc. ("NYISO") respectfully requests rehearing of three determinations in the Commission's April 17, 2025, order ("April Order")[3] concerning the NYISO's compliance with Order Nos. 2023 and 2023-A (collectively, "Order No. 2023").[4]

On May 1, 2024, the NYISO submitted its compliance filing in response to Order No. 2023 ("Compliance Filing")[5] to establish a Cluster Study Process set forth in new Standard Interconnection Procedures located in Attachment HH to the NYISO's Open Access Transmission Tariff ("OATT").[6] The NYISO's proposed tariff revisions adopted or otherwise addressed the Order No. 2023 requirements, while employing a number of independent entity variations to

[1] 16 U.S.C. § 8251(a).

[2] 18 C.F.R. § 385.713 (2025).

[3] *New York Independent System Operator, Inc*., 191 FERC ¶ 61,049 (2025) ("April Order").

[4] *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).

[5] *New York Independent System Operator, Inc.*, Compliance Filing for Order No. 2023 and Order No. 2023-A; Conditional Request for Prospective Waivers; Docket No. ER24-1915-000 (May 1, 2025) ("Compliance Filing"). The NYISO subsequently submitted an errata filing on May 8, 2025. Separately, on November 3, 2023, in Docket No. ER24-342-000, the NYISO submitted proposed OATT revisions to partially comply with Order No. 2023 by establishing an interim transition mechanism that set the stage for the NYISO's Order No. 2023 compliance. That filing was also accepted by the April Order.

[6] Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in Section 40.1 of Attachment HH to the NYISO OATT and, if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

maximize the benefits of the reforms in light of the NYISO's distinct interconnection procedures, market structure and planning framework, and other New York-specific considerations.

The April Order largely accepted the NYISO's proposed tariff revisions. The Commission, however, directed the NYISO to make a small number of additional tariff revisions or, in the alternative for certain directives, to provide further clarification on how the NYISO's proposed revisions satisfy the Order No. 2023 requirements or to justify the proposed change as an independent entity variation.

The NYISO requests rehearing of three of these directives. Specifically, the Commission must:

- Grant rehearing to accept certain of the NYISO's tariff revisions concerning its Expedited Deliverability Study process that are necessary to continue to apply this process in light of the new Cluster Study Process;
- Grant rehearing to reverse its determination that study delay penalties apply to interim Phase 1 Studies; and
- Grant rehearing and accept the NYISO's proposed approach for coordinating its Cluster Study Process with any Affected System Studies for projects interconnecting in neighboring regions, to the extent that the April Order's ruling is ripe for rehearing.

The FPA mandates that the Commission's decisions be just and reasonable and not unduly discriminatory. The Administrative Procedure Act ("APA") requires that agency decisions must not be "arbitrary, capricious, an abuse of discretion," or otherwise not in accordance with the law.[7] The Commission must engage in "reasoned decisionmaking," "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made,"[8] and "respond meaningfully to the arguments raised before it."[9]

[7] 5 U.S.C. § 706(2).

[8] *New Eng. Generators Ass'n, Inc. v. FERC*, 881 F.3d 202, 210 (D.C. Cir. 2018) (NEPGA) (quoting *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co*., 463 U.S. 29, 43 (1983)).

[9] *TransCanada Power Mktg. Ltd. v. FERC*, 811 F.3d 1, 12 (D.C. Cir. 2015).

Further, the Commission's orders must be based on substantial evidence supporting its ultimate decision."[10] Finally, the Commission must "provide a reasoned explanation for departing from precedent or treating similar situations differently. . . ."[11] and "may not … depart from a prior policy *sub silentio* or simply disregard rules that are still on the books."[12]

As described in detail below, each of the three directives addressed by this filing falls short of the APA's requirements and should be overturned on rehearing.

I. COMMUNICATIONS

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[10] *Fla. Gas Transmission Co. v. FERC*, 604 F.3d 363, 645 (D.C. Cir. 2010) (*citing Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 368 (D.C. Cir. 2003)).

[11] *W. Deptford Energy, LLC v. FERC*, 766 F.3d 10, 20 (D.C. Cir. 2014) (cleaned up).

[12] NEPGA, 881 F.3d at 210 (quoting *FCC v. Fox Television Stations, Inc*., 556 U.S. 502, 515 (2009)).

[13] Waiver of the Commission's regulations (18 C.F.R. § 385.203(b)(3) (2025)) is requested to the extent necessary to permit service on counsel for the NYISO in both Richmond, VA and Washington, DC.

II. REQUEST FOR REHEARING AND CLARIFICATION

A. The Commission Did Not Engage in Reasoned Decision-Making in Determining that Certain of the NYISO's Proposed Conforming Tariff Revisions for its Expedited Deliverability Study Are Out of the Scope of this Proceeding

The NYISO performs a recurring Expedited Deliverability Study as part of its interconnection procedures.[14] This is a streamlined mechanism by which a project or an existing facility that meets the entry requirements can seek to obtain Capacity Resource Interconnection Service ("CRIS") outside of the NYISO's regular clustered, interconnection study process for new interconnections or material modifications if the expedited study determines that System Deliverability Upgrades are not required for the deliverability of the project or facility.[15] This process existed under the NYISO's previous Class Year Interconnection Facilities Study ("Class Year Study") framework and continues to exist under the new Cluster Study Process framework.

In the Compliance Filing, the NYISO proposed five categories of changes to the Expedited Deliverability Study requirements.[16] The first three categories were conforming tariff revisions that are required to enable the NYISO to continue to be able to perform Expedited Deliverability Studies in light of the new Cluster Study process steps and timeframes. The final two categories included limited improvements to establish consistent invoicing and study agreement rules across the NYISO's different interconnection studies.

In the April Order, the Commission did not address any of the NYISO's arguments in the Compliance Filing detailing why the conforming revisions were necessary for the NYISO to be

[14] *See* OATT Attach. HH § 40.19. These requirements were previously located in OATT Attach. S §§ 25.5.9.2, 25.7.

[15] If System Deliverability Upgrades are required, the Interconnection Customer can only obtain CRIS by participating in the Cluster Study Process, which will identify and allocate the costs of any required upgrades.

[16] Compliance Filing at 92.

able to continue to implement its existing Expedited Deliverability Study requirements.[17] The Commission solely provided the conclusory statement that the "NYISO's proposed revisions to its existing Expedited Deliverability Study rules are outside the scope of this proceeding as Order Nos. 2023 and 2023-A did not require such revisions."[18] The Commission's failure to substantially engage with the NYISO's arguments or to adequately explain its reasons for rejecting them are inconsistent with the Commission's statutory obligation to engage in reasoned decision-making.[19]

The NYISO requests rehearing of the Commission's determination concerning the first three categories of its proposed changes to the Expedited Deliverability Study rules, which are further described below, and which are required to implement the study in light of the new Cluster Study Process requirements and timeframes.[20] Failure by the Commission to accept these revisions will cause significant disruption to the NYISO's ability to perform these expedited studies as a result of the related Order No. 2023 modifications.

First, the NYISO OATT establishes time periods and requirements in which the Expedited Deliverability Study can commence and be performed or updated to avoid conflicts with the then-existing Class Year Study requirements.[21] The NYISO proposed in the Compliance Filing, which established the new Cluster Study Process, to update the references to the Class Year Study process

[17] April Order at P 387.

[18] *Id*.

[19] *See PSEG*, 665 F.3d at 208 (holding that the Commission's "failure to respond meaningfully" to the arguments "renders its decision arbitrary and capricious."); *see PPL Wallingford*, 419 F.3d at 1198 (same); *Golden Spread Elec. Coop. v. FERC*, 319 F.3d 522, 524 (D.C. Cir. 2003) (All arguments clearly expressed to the Commission "[require] a real substantive response."); *City of Vernon v. FERC*, 845 F.2d 1042, 1048 (D.C Cir. 1988) (The Commission may not, "[n]o matter how rudimentary a claim . . . respond with a non sequitur.").

[20] The NYISO is not requesting rehearing of the final two categories of proposed revisions to the Expedited Deliverability Study included in the Compliance Filing concerning the tariff improvements to align the invoicing and *pro forma* study agreement requirements for the Expedited Deliverability Study with the new requirements for the Cluster Study Process. The NYISO will remove these changes in its supplemental compliance filing. The NYISO is also not requesting rehearing of the Commission's separate determination in the April Order that the NYISO's proposed insertion of study cost allocation rules for Expedited Deliverability Studies are outside the scope of this proceeding. *See* April Order at P 119.

[21] *See* OATT Attach. S Sections 25.5.9.2, 25.7.

steps and timeframes with the analogous process steps and timeframes for the new Cluster Study.[22] Without these changes, the NYISO OATT will continue to reference process steps and timeframes for a no longer existing Class Year Study process, and the NYISO will not be able to implement the Expedited Deliverability Study requirements in light of the new Cluster Study Process.

For example, Section 40.19.1 of Attachment HH of the OATT (previously Section 25.5.9.2 of Attachment S of the OATT) establishes the requirements for the NYISO to set the start date for an Expedited Deliverability Study. Pursuant to these rules, the NYISO cannot set the start date within a window of time between the posting of the draft Class Year Study report and the commencement of the next Class Year Study. In the Compliance Filing, the NYISO proposed conforming changes to this provision to update the references in these provisions to include analogous process steps in the new Cluster Study Process. That is, as revised, the NYISO cannot set the start date within a window of time between the posting of the Phase 2 Cluster Study report and the commencement of the next Phase 1 Study. In the absence of these changes, the NYISO OATT only includes references to the no-longer applicable Class Year Study rules.

Similarly, the NYISO proposed conforming tariff revisions: (i) in Section 40.19.2 to update the list of the studies that are prerequisites for entering an Expedited Deliverability Study to account for the updated list of applicable studies under the new Standard Interconnection Procedures; (ii) in Section 40.19.5 to establish the window of time in which an Expedited Deliverability Study report cannot go to the stakeholder Operating Committee due to the status of the Cluster Study (previously the Class Year Study); and (iii) in Section 40.13.7.2 to remove references to system impact study analysis being used in the Expedited Deliverability Study as system impact studies are no longer performed in the new process.

[22] *See* OATT Attach. HH Sections 40.13, 40.19.

Second, the NYISO proposed in the Compliance Filing to clarify in the Expedited Deliverability Study rules in Section 40.19.2 of Attachment HH to the OATT that a project cannot participate in both a Cluster Study and an Expedited Deliverability Study at the same time. This is consistent with the NYISO's existing tariff requirement that a project cannot participate in both the Class Year Study and the Expedited Deliverability Study at the same time and is separately addressed in the NYISO's rules for its new Cluster Study Deliverability Study.[23] The proposed insert simply makes clear that the rule that applied in connection with the Class Year Study process continues to apply in connection with the Cluster Study Process.

Finally, the requirements for the NYISO's performance of deliverability studies, including for Expedited Deliverability Studies, are incorporated within the rules for the Class Year Deliverability Study (now the Cluster Study Deliverability Study).[24] The NYISO proposed in the Compliance Filing to include an explicit cross reference to these rules to account for the relocation of certain tariff requirements in developing the consolidated interconnection procedures in new Attachment HH to the OATT.[25] The proposed changes do not change how the Expedited Deliverability Study is performed, but simply detail where the deliverability study requirements are located within the new Attachment HH to the OATT.

The Commission should grant rehearing and accept the NYISO's proposed tariff revisions detailed above, which are required to enable the NYISO to continue to perform the Expedited Deliverability Study. All of the changes described above are consistent with the types of conforming tariff revisions that the Commission regularly accepts in compliance filings and, in fact, has otherwise accepted in its April Order for other conforming revisions that the NYISO

[23] *See* OATT Attach. S § 25.7.1; OATT Attach, HH § 40.13.1.
[24] These rules are now located in Section 40.13 of Attachment HH to the OATT.
[25] See OATT Attach. HH §§ 40.19.5.

proposed for its OATT and Market Administration and Control Area Services Tariff.[26] The Commission broadly accepted conforming revisions to the NYISO's tariff provisions, which it summarized as including, among other things, revisions "to align tariff requirements with the changes to the interconnection procedures."[27] As with the NYISO's proposed revisions to the Expedited Deliverability Study rules, the accepted conforming changes included revisions to the NYISO's buyer-side mitigation and transmission planning requirements that replaced references to process steps in the Class Year Study process with the analogous steps in the new Cluster Study Process.[28]

For the above-stated reasons, the Commission should grant rehearing and accept the NYISO's proposed revisions to its Expedited Deliverability Study requirements that are required to align these rules with the NYISO's new interconnection procedures that were adopted in response to Order No. 2023.

B. The Commission Did Not Engage in Reasoned Decision-Making When it Held that Study Delay Penalties Must Apply to Phase 1 of the NYISO's Single, Consolidated Cluster Study Process

In the April Order, the Commission partially accepted the NYISO's proposed compliance revisions regarding the elimination of the reasonable efforts standard and the introduction of a study delay penalty regime.[29] The Commission denied the NYISO's requested independent entity variation that would have adopted a study delay penalty structure that applied only at the end of Phase 2 of the NYISO's proposed Cluster Study Process.[30] The Commission should grant

[26] April Order at P 390.

[27] *Id.* at P 388.

[28] *See* Compliance Filing at 128.

[29] The NYISO submitted all of its compliance revisions concerning the study delay penalty requirements under protest and expressly reserved all of its legal rights. The NYISO continues to object to Order No. 2023's study delay penalty regime and is one of many parties challenging it in the consolidated appeals before the United States Court of Appeals for the District of Columbia Circuit. *See Adv. Energy United, et al. v. FERC*, D.C. Cir. Nos. 23-1282, *et al*.

[30] April Order at PP 247-48.

rehearing and accept the NYISO's independent entity variation. Imposing penalties for missing what the Commission acknowledges are **interim** Phase 1 Study deadlines is inconsistent with reasoned decision-making, unduly discriminates against the NYISO, and will impede the interconnection process.

The Commission's principal rationale for imposing study delay penalties on Phase 1 Studies was that the NYISO's Cluster Study process is "similar" to the *pro forma* LGIP. The claimed similarity is that the NYISO's Cluster Study "includes distinct study phases and deadlines under which each phase of a study must be completed."[31]

The fault in this reasoning is that the dissimilarities between the NYISO's Cluster Study process and the *pro forma* LGIP greatly outweigh the similarities. As the NYISO has explained, the two phases of its Cluster Study Process are closely interrelated and produce a single, consolidated study.[32] "The Phase 1 Study and Phase 2 Study are intertwined study components that feed into the Cluster Study results. . . . [B]oth elements are required for the completion of the study, and the study work is overlapping and ongoing throughout the entire Cluster Study."[33] Phase 1 Study results are not complete at the Phase 1 "deadline" but instead are updated "during the Phase 2 Study to account for withdrawn projects."[34] "It would serve no valid purpose to penalize the NYISO if it temporarily falls behind schedule on a Cluster Study but ultimately completes the study by the deadline."[35] The NYISO and the Transmission Owners are held fully "accountable" at the end of the Cluster Study.

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[31] *Id.* at P 248.

[32] *See New York Independent System Operator, Inc*., Request for Leave to Answer, and Answer of the New York Independent System Operator, Inc., Docket Nos. ER24-1915-000, ER24-1915-001 (June 27, 2024) ("NYISO Answer") at 33.

[33] *Id.* at 34.

[34] *Id.* at 34-35.

[35] *New York Independent System Operator, Inc.*, Motion to Reject Second Answer of Clean Energy Associations and Alternative Request for Leave to Answer, and Answer, of the New York Independent System Operator, Inc., Docket Nos. ER24-1915-000, ER24-1915-001 (July 29, 2024) ("Second NYISO Answer") at 6.

By contrast, the three *pro forma* studies are distinct from each other. They are not overlapping or intertwined. The NYISO's Cluster Study, in its entirety, includes the work that is conducted under all three of the *pro forma* studies. And Order No. 2023 is clear that penalties apply when studies are not completed **in their entirety** on time.[36] It is not reasoned decision-making to depart from this principle here. It is likewise not reasoned decision-making to disregard multiple substantial differences and focus solely on an immaterial one, *i.e.*, the fact that the NYISO Cluster Study and the *pro forma* both have multiple parts. Doing so is to elevate form over substance. The Commission has likewise not met its burden to consider and respond to the NYISO's arguments on this point.

The Commission also asserts that the lack of interim study penalties "does not provide a sufficient incentive for NYISO and relevant transmission owners to complete Phase 1 studies in a timely manner . . . ."[37] This is not true. The NYISO and Transmission Owners have strong incentives to stay on schedule during Phase 1. Falling behind in Phase 1 would increase the likelihood that they would not complete the entire Cluster Study on time and therefore would be subject to penalties. A slight delay in the imposition of a financial penalty does not meaningfully reduce the incentive to avoid the penalty in the first place.

Moreover, the Commission wholly overlooks that the NYISO is a not-for-profit entity that will face significant financial risks if it is not granted authorization, at the Commission's sole discretion, to recover study delay penalty costs. The NYISO has previously informed the Commission of its particular vulnerability to study delay penalties as a not-for profit entity without retained earnings.[38] As the NYISO stated in this proceeding, "[t]he practical reality is that the

[36] *See id.* at 5, n. 14.

[37] April Order at P 248.

[38] *See, e.g.*, NYISO Answer at 36-37, n. 82 ("The fact that study delay penalties could present an existential risk to the NYISO is one reason why it has petitioned for judicial review of the Order No. 2023 penalty regime.").

threat of potentially unrecoverable financial penalties has such severe consequences for not-for-profit entities like the NYISO that the requirement to impose the penalties at the conclusion of the Cluster Study in no way diminishes their impact."[39] 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 the NYISO than it is for traditional transmission providers. The Commission itself has acknowledged the unusual challenges that penalties present to Independent System Operators and Regional Transmission Organizations ("ISOs/RTOs"). The Commission professed to address them by adopting Order No. 2023's "procedural safeguards."[40] It is not reasoned decision-making for the Commission to ignore well-understood facts when deciding that imposing penalties only for final study deadlines would somehow be an insufficient incentive in the NYISO's case.

Subjecting the NYISO to penalties for non-final study deadlines would also be unduly discriminatory because it would result in the NYISO being treated more harshly than other transmission providers with no justification. Order No. 2023 only imposes penalties for delaying final studies. The NYISO is not aware of any other ISO/RTO being subject to penalties for missing interim study deadlines. The FPA prohibits undue discrimination, *i.e.*, it forbids entities that are "similarly situated" from being treated differently without a valid reason.[41] The Commission makes no attempt to justify its disparate treatment, even though it was aware of the particular difficulties that penalties pose to not-for-profit ISOs/RTOs. Thus, imposing interim study delay penalties on the NYISO is unduly discriminatory.

[39] NYISO Answer at 36-37.

[40] *See* Order No. 2023-A at PP 384, 414, 426.

[41] *See State Corp. Comm'n of Kan. v. FERC*, 876 F.3d 332, 335 (D.C. Cir. 2017) (quoting *Transmission Agency of N. Cal. v. FERC*, 628 F.3d 538, 549 (D.C. Cir. 2010) and citing *Ark. Elec. Energy Consumers v. FERC*, 290 F.3d 362, 367 (D.C. Cir. 2002)).

In addition, the Commission failed to address, let alone to meaningfully engage with, the NYISO's argument that subjecting it to interim study delay penalties to ensure "symmetrical" treatment with developers is an unjustified and unexplained departure from precedent governing independent entity variations. The NYISO has argued that denying an independent entity variation unless the variation is shown to preserve a balance between the regulatory obligations imposed on the NYISO and developers is more than what the independent entity variation standard actually requires.[42] "[T]he NYISO is not required to demonstrate that any proposed independent entity variation has a symmetrical benefit for Interconnection Customers."[43] It is not reasoned decision-making for the Commission to depart from its precedent without offering a reasoned explanation.

Even if the Commission's "symmetry" test for allowing independent entity variations were legally valid, it was not applied in a reasonable manner in the April Order. The Commission asserts that "[a]s interconnection customers face commercial readiness deposits and increased withdrawal penalties at the end of the Phase 1 study, we find this to be an appropriate point for NYISO and relevant transmission owners to face potential study delay penalties."[44] This is a false equivalence. It is reasonable for developers that choose to proceed beyond the Phase 1 Study to bear additional requirements because their voluntary decision requires the NYISO and Transmission Owners to take on additional commitments and tasks. But the burdens that the NYISO will face if it is subject to penalties for missing an interim study "deadline" are far greater. The magnitude of the potential financial impacts on developers, which can ordinarily bear penalty costs, and the NYISO, which faces potentially existential risks, are not reasonably comparable. It is not reasoned decision-making to treat them as if they are.

[42] NYISO Answer at 35-36.
[43] *Id.* at 36.
[44] April Order at P 248.

Finally, the Commission did not consider the NYISO's warning that penalizing interim study delays would "create a highly inefficient process that would interfere with the NYISO's and Transmission Owner's ability to timely complete the entire Cluster Study. The NYISO and Transmission Owners would have to reallocate limited resources mid-study to administer the penalty process in place of completing necessary study work."[45] Failing to address this concern is not reasoned decision-making. A primary objective of Order No. 2023 is to expedite the interconnection process, not to complicate it or to introduce new inefficiencies. The Commission cannot reasonably sustain a ruling requiring that the NYISO be subject to penalties for missing interim study deadlines when that ruling is contrary to the Commission's own expressly stated policy goals.

C. To the Extent that the Commission's Rejection of the NYISO's Proposed Approach for Coordinating the Cluster Study Process with Affected System Studies is Ripe for Rehearing, the Commission Did Not Engage in Reasoned Decision-Making

In the Compliance Filing, the NYISO proposed an independent entity variation to address the impacts of the parallel performance of its Cluster Study Process and any Affected System Studies. In particular, the NYISO proposed that, during an Affected System Study, the NYISO will be required to refine and update the description of any Affected System Network Upgrades based on changes in the base case that occur during the study.[46]

In the April Order, the Commission indicated that the proposed tariff revision "fails to provide affected system interconnection customers with certainty around study assumptions and cost allocation."[47] The Commission directed the NYISO to either: (i) adopt the Order No. 2023 requirement that an affected system study agreement will be higher-queued than the

[45] NYISO Answer at 35.
[46] Compliance Filing at 95-96.
[47] April Order at P 284.

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 (ii) justify its proposal under the independent entity variation standard.

As permitted by the April Order, the NYISO will be providing additional support to justify its requested independent entity variation in its supplemental compliance filing. The NYISO is also seeking rehearing out of an abundance of caution in case the Commission – notwithstanding its invitation that the NYISO further justify its proposal –later concludes that the April Order is the final word on this issue.[48]

The Commission's rejection of the independent entity variation, were it ripe for rehearing, should be overturned because it was not based on reasoned decision-making. If the NYISO were required to prioritize one-off Affected System Studies over the NYISO's Cluster Study, the Cluster Study could be subject to substantial delays or re-studies that would modify the structure of the Cluster Study Process. This would harm the substantial number of projects participating in the process[49] and could require the NYISO and Transmission Owners to restart study work, thereby causing delays and missed deadlines that then could subject them to penalties. Such an outcome would be inconsistent with reasoned decision-making because it would exacerbate the harms of imposing penalties for missing interim study deadlines as discussed in Part II.B above. It would also not be reasoned decision-making on its own merits because the Commission failed to consider the NYISO's arguments for the independent entity variation and to reasonably explain its rejection.

[48] *See* 18 C.F.R. § 385.713(a)(1).
[49] The NYISO's Transition Cluster Study Process currently has 237 Cluster Study Projects.

III. SPECIFICATION OF ERRORS/STATEMENT OF ISSUES

In accordance with Rule 713(c),[50] the NYISO submits the following specifications of error and statement of the issues on which it seeks rehearing of the April Order:

1. The April Order's determination that the NYISO's proposed conforming revisions to its Expedited Deliverability Study requirements are out of the scope of this proceeding is arbitrary and capricious as the Commission did not engage in reasoned decision-making in failing to substantively engage with or address the NYISO's arguments concerning the need for these conforming tariff revisions nor to adequately explain the Commission's reasons for rejecting the revisions. See 5 U.S.C. § 706(2); *see, e.g.*, *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983); *PSEG Energy Res. & Trade LLC v. FERC*, 665 F.3d 203, 207-08 (D.C. Cir. 2011); *Am. Gas Ass'n v. FERC*, 593 F.3d 14, 19 (D.C. Cir. 2010); *PPL Wallingford Energy LLC v. FERC*, 419 F.3d 1194, 1198 (D.C. Cir. 2005); *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 299 (D.C. Cir. 2001).

2. The April Order's determination that the NYISO is required to apply penalties for delays in the Phase 1 Study process component of the Cluster Study Process is arbitrary and capricious and not based on reasoned decision-making because it failed to consider the NYISO's arguments, did not provide a reasoned explanation, is unduly discriminatory and departed from precedent without acknowledging or justifying the change. *See* 5 U.S.C. § 706(2); *see, e.g.*, *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983); *PSEG Energy Res. & Trade LLC v. FERC*, 665 F.3d 203, 207-08 (D.C. Cir. 2011); *Am. Gas Ass'n v. FERC*, 593 F.3d 14, 19 (D.C. Cir. 2010); *PPL Wallingford Energy LLC v. FERC*, 419 F.3d 1194, 1198 (D.C. Cir. 2005); *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 299 (D.C. Cir. 2001); *State Corp. Comm'n of Kan. v. FERC*, 876 F.3d 332, 335 (D.C. Cir. 2017); *Transmission Agency of N. Cal. v. FERC*, 628 F.3d 538, 549 (D.C. Cir. 2010); *Ark. Elec. Energy Consumers v. FERC*, 290 F.3d 362, 367 (D.C. Cir. 2002).

3. The April Order's rejection of the NYISO's independent entity variation addressing the coordination of its Cluster Study Process with Affected System Studies, to the extent that it is ripe for rehearing, is arbitrary and capricious and not the product of reasoned decision-making because it failed to consider the NYISO's arguments, did not provide a reasoned explanation, and exacerbates the problems caused by the Commission's requirement that the NYISO apply penalties for delays in the Phase 1 Study process component of the Cluster Study Process. *See* 5 U.S.C. § 706(2); *see, e.g.*, *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983); *PSEG Energy Res. & Trade LLC v. FERC*, 665 F.3d 203, 207-08 (D.C. Cir. 2011); *Am. Gas Ass'n v. FERC*, 593 F.3d 14, 19 (D.C. Cir. 2010); *PPL Wallingford*

[50] 18 C.F.R. § 385.713(c).

Energy LLC v. FERC, 419 F.3d 1194, 1198 (D.C. Cir. 2005); *Canadian Ass'n of Petroleum Producers v. FERC*, 254 F.3d 289, 299 (D.C. Cir. 2001).

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission grant rehearing of the three determinations in the April Order that are specified above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

Dated at Rensselaer, NY this 16th day of May 2025.

/s/ Alexander Morse

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