

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on December 11, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

- CASE 12-T-0502 - Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades.
- CASE 13-E-0488 - In the Matter of Alternating Current Transmission Upgrades - Comparative Proceeding.
- CASE 13-T-0454 - Application of North America Transmission Corporation and North America Transmission, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for an Alternating Current Transmission Upgrade Project Consisting of an Edic to Fraser 345 kV Transmission Line and a New Scotland to Leeds to Pleasant Valley 345 kV Transmission Line.
- CASE 13-T-0455 - Part A Application of NextEra Energy Transmission New York, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Marcy to Pleasant Valley Project.
- CASE 13-T-0456 - The Part A Application of NextEra Energy Transmission New York, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for the Oakdale to Fraser Project.
- CASE 13-M-0457 - Application of New York Transmission Owners Pursuant to Article VII for Authority to Construct and Operate Electric Transmission Facilities in Multiple Counties in New York State.

CASE 12-T-0502, et al.

CASE 13-T-0461 - Application of Boundless Energy NE, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for Leeds Path West Project.

ORDER ESTABLISHING MODIFIED PROCEDURES
FOR COMPARATIVE EVALUATION

(Issued and Effective December 16, 2014)

BY THE COMMISSION:

INTRODUCTION

The Commission initiated these proceedings to consider whether to address the persistent transmission congestion that exists at the Central East and Upstate New York/Southeast New York (UPNY/SENY) electrical interfaces. On August 13, 2014, a notice was issued seeking comments on certain Advisory Staff recommendations regarding: 1) the procedural steps for evaluating the proposed transmission projects; 2) the mechanism for recovering the costs; 3) the methodology for allocating those costs; and 4) how the risk of cost-overruns should be handled (collectively, Advisory Staff Recommendations). By this order, the Commission adopts Advisory Staff's recommended procedural steps, with modifications, as discussed herein. The order also identifies the Commission's preferred approaches for cost recovery, cost allocation, and risk-sharing.

A number of the comments question the need for a transmission solution to the identified congestion. The Commission responds to those concerns by expanding the process to address the issue of basis of the need before proceeding to a full Article VII review. Included in the approved process are requirements that Trial Staff prepare a report addressing the question and present its findings in a technical conference open

to all the parties so that there can be a full airing and discussion among the stakeholders of the basis of the need for transmission facilities and the viability of potential alternatives.

BACKGROUND

In the order instituting Case 12-T-0502, the Commission explained that the transmission corridors that include the Central East and UPNY/SENY electrical interfaces were persistently congested and contributing to higher energy costs and reliability concerns. The Commission recognized that upgrades to those sections of the transmission system could produce various benefits for New York, including: 1) enhancing system reliability, flexibility, and efficiency; 2) reducing environmental and health impacts; 3) increasing diversity in supply; 4) promoting job growth and the development of new efficient generation resources upstate; and, 5) mitigating reliability problems that may arise with expected generator retirements.¹

The Commission sought Statements of Intent from transmission owners and other developers proposing projects to increase the UPNY/SENY transfer capacity by approximately 1,000 MW.² On January 25, 2013, six interested parties offered

¹ Case 12-T-0502, Order Instituting Proceeding (issued November 30, 2012), pp. 1-2.

² Case 12-T-0502, Order Instituting Proceeding (issued November 30, 2012), p. 2. A technical conference was held on December 17, 2012, in order to explain the purpose and information requirements for the Statements of Intent, and the process for reviewing specific projects. Case 12-T-0502, Notice of Technical Conference (issued November 30, 2012).

proposals intended to address the Commission's objectives.³ Supplemental information related to the Statements of Intent was subsequently requested by February 15, 2013.⁴

On February 7, 2013, comments were sought on proposed rule changes to streamline the certification process under Article VII of the Public Service Law (PSL) by avoiding the need for future applicants to seek case-specific routine waivers, and to clarify certain regulatory requirements.⁵ On April 22, 2013, the Commission adopted the proposed rule changes under PSL Article VII, with modifications, and established procedures for a comparative evaluation of proposed AC project applications, while outlining additional procedural steps.⁶ The Commission also directed Department of Public Service Staff (Staff) to

³ Statements of Intent were filed by: 1) North America Transmission, LLC and North America Transmission Corporation (collectively, NAT); 2) Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc./ Orange & Rockland Utilities, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation/ Rochester Gas and Electric Corporation, New York Power Authority, and the Long Island Power Authority (collectively, the New York Transmission Owners (NYTOs)); 3) West Point Partners, LLC; 4) Cricket Valley Energy Center, LLC; 5) NextEra Energy Resources, LLC (NextEra); and, 6) Boundless Energy NE, LLC (Boundless).

⁴ Case 12-T-0502, Notice of Information Requirements (issued February 12, 2012).

⁵ Case 12-T-0502, Notice Soliciting Comments (issued February 7, 2013).

⁶ Case 12-T-0502, Order Establishing Procedures for Joint Review under Article VII of the Public Service Law and Approving Rule Changes (issued April 22, 2013) (April 2013 Order). A two-step review process was established involving the submission of initial application materials, scoping documents, and proposed schedules by October 1, 2013 (referred to as "Part A" application materials), and the submission of the remaining Article VII application materials (referred to as "Part B" application materials) on a schedule to be set by an Administrative Law Judge (ALJ).

develop a straw proposal addressing mechanisms for cost recovery, mechanisms for allocating cost-overrun risk between developers and ratepayers, and methods for allocating project costs among ratepayers. Further, the Commission advised that other rule changes might be necessary to facilitate the comparative evaluation and directed Staff to prepare a proposal identifying such changes.⁷

On May 29, 2013, a notice was issued seeking comments on Staff's proposed procedures to facilitate a comparative evaluation of multiple projects on a common record. Staff also proposed rule changes for how projects that are not subject to Article VII of the PSL would be reviewed, including the content for such applications (collectively, May 2013 Staff Proposal).⁸

On July 10, 2013, a notice was issued soliciting comments on a separate Staff proposal to address the allocation and recovery of project costs, and mechanisms for allocating risk between developers and ratepayers (collectively, July 2013 Staff Proposal).⁹ The July 2013 Staff Proposal focused on the establishment of a State mechanism for allocating and recovering costs, while recognizing that an alternative cost recovery

⁷ On May 14, 2013, Staff hosted a technical conference to discuss the process with potential applicants and other interested parties and to answer questions. Case 12-T-0502, Notice of Technical Conference (issued April 29, 2013); Case 12-T-0502, Technical Conference Agenda (issued May 10, 2013).

⁸ Case 12-T-0502, Notice Soliciting Comments (issued May 29, 2013). On June 17, 2013, Staff convened an additional technical conference to further discuss the process set forth in the April 2013 Order and to answer questions. Case 12-T-0502, Notice of Technical Conference (issued May 31, 2013).

⁹ Case 12-T-0502, Notice Soliciting Comments and Scheduling Technical Conference (issued July 10, 2013). The July 10, 2013 notice also advised interested parties of a technical conference to discuss the July 2013 Staff Proposal. The conference was subsequently held on August 1, 2013.

mechanism might be available pursuant to the New York Independent System Operator, Inc's (NYISO) transmission planning process to address Public Policy Requirements, as approved by the Federal Energy Regulatory Commission (FERC).¹⁰

On September 19, 2013, the Commission addressed the May 2013 Staff Proposal and adopted procedural and substantive rules to help expedite and process proposed solutions. The Commission also directed the assigned ALJ(s) to "consider, promptly after the initial applications are filed, whether an early screening would help streamline the process and serve the goal of obtaining congestion relief at the least cost to ratepayers, and in the 2014-2018 timeframe set out in the Energy Highway Blueprint."¹¹

On October 1, 2013, four AC transmission developers submitted Part A application materials for consideration (i.e., NAT, NextEra, Boundless, and NYTOs). Thereafter, the ALJs analyzed and ruled on deficiencies alleged in the applications. On February 14, 2014, the NYISO filed an initial screening-level analysis of the incremental transfer capability of each project. At a technical conference held on March 19, 2014, the NYISO provided in-depth explanations of its process and results for the initial screening-level analysis.

On February 21, 2014, the Commission stated that it would accept proposals that contribute to the targeted level of

¹⁰ FERC Docket No. ER13-102 et al., New York Independent System Operator, Inc., Order on Rehearing and Compliance, 148 FERC ¶61,044 (issued July 17, 2014). The Commission issued a Policy Statement on August 15, 2014, in Case 14-E-0068, which established generic procedures that will be used to guide the implementation of the Commission's role in the NYISO's public policy planning process.

¹¹ Case 12-T-0502, Order Adopting Additional Procedures and Rule Changes for Review of Multiple Projects Under Article VII Of the Public Service Law (issued September 19, 2013), p. 11.

congestion relief, even if they do not, individually, provide the full 1,000 MW of additional transfer capability. The ALJs were also directed to establish a process that offers the current applicants an opportunity to "submit alternatives to their existing proposals, incorporating, to the maximum extent possible, projects that can be contained within the bounds of existing rights-of-way."¹²

The ALJs conducted a telephone conference on February 27, 2014 to discuss the establishment of such a process. Thereafter, on April 10, 2014, the parties were advised by the ALJs that further guidance on the next procedural steps would be forthcoming that would also address how the NYISO cost recovery mechanism for public policy requirements should apply to the ongoing AC Transmission proceeding. After considering various comments and requests for clarification made in the course of these proceedings, Advisory Staff developed recommendations regarding procedural matters, cost recovery, cost allocation, and risk-sharing. On August 13, 2014, the Commission sought comments on the Advisory Staff Recommendations.¹³ The deadline for initial comments was September 2, 2014, and reply comments were due September 12, 2014.¹⁴

¹² Case 12-T-0502 et al., Order Authorizing Modification Of The Process To Allow For Consideration Of Alternative Proposals (issued February 21, 2014) (February 2014 Order), p. 4.

¹³ Case 12-T-0502 et al., Notice Seeking Comment on Attached Advisory Staff Recommendations (issued August 13, 2014).

¹⁴ Case 12-T-0502 et al., Letter Ruling On Extension Request (issued August 27, 2014); Case 12-T-0502 et al., Notice Regarding Reply Comments (issued September 5, 2014).

ADVISORY STAFF RECOMMENDATIONS

Procedural Matters

Advisory Staff recommends that the Commission conduct a comparative evaluation of the proposals in order to identify the project or group of projects that best meet the objectives of these proceedings and therefore should continue towards certification. To accomplish this, Advisory Staff would require applicants to submit their existing proposals, revisions to those proposals, or any alternatives developed in response to the Commission's February 2014 Order, for a comparative evaluation. Advisory Staff suggested a deadline of November 14, 2014, for applicants to file certain information identified in Appendix B of the Advisory Staff Recommendations and a deadline of January 19, 2015, for applicants to file additional materials identified in Appendix C. This information would be reviewed using the following criteria: (1) the amount of increased transfer capability that each proposal offers; (2) the cost of the proposal(s) to ratepayers; (3) electric system impacts, emissions reductions, and production cost impacts, measured in terms of overall changes to electric generation dispatch; (4) the extent of any additional rights-of-way (ROW) that the applicant(s) will need to acquire in order to build and operate the proposed facility(ies); (5) the application of innovative technologies to enhance transfer capability or reduce the physical footprint of the project; and, (6) an initial assessment of environmental compatibility, including visual impacts. An analysis of any alternative risk-sharing proposals would be used in assigning a cost to the potential for cost-overruns.

Trial Staff would submit the results of its comparative evaluation to the Commission in the form of a report and motion, upon which all parties would have the opportunity to

comment. The motion portion of the document would contain Trial Staff's proposal as to which projects best meet the Commission's objectives and should therefore proceed, with an expectation of public policy benefit and cost recovery, and which projects should proceed on their own, at the developers' option, without any such expectations. At the time of considering the report and motion, the Commission would also consider whether it should request one or more of the applicants to propose their projects to the NYISO as potential transmission solutions under the NYISO's public policy planning process. The individual Article VII cases would thereafter proceed before the assigned ALJs under the Commission's existing regulations. A table of proposed milestones and deadlines is contained in Appendix A of the Advisory Staff Recommendations.

Cost Recovery

Advisory Staff recommends that the Commission decline, at this time, to adopt a State rate-based cost recovery mechanism, as had been suggested in the July 2013 Staff Proposal. Advisory Staff concludes that there is no compelling reason to adopt such a mechanism since the NYISO's tariff provides a cost recovery mechanism for transmission projects that meet certain Public Policy Requirements, which may well include the congestion relief being sought in these proceedings. Alternatively, a transmission developer could seek cost recovery under Section 205 of the Federal Power Act, by filing directly with FERC.

Advisory Staff recommends that the Commission coordinate the comparative evaluation phase of these proceedings with the NYISO public policy planning process so as to potentially afford applicants an opportunity for cost recovery

through FERC.¹⁵ The NYISO tariff provides for the recovery of costs incurred by an applicant in preparing a proposed transmission solution in response to a request by the Commission, regardless of whether the project is ultimately selected by the NYISO as the best solution. Moreover, Advisory Staff notes that a project that is ultimately granted a certificate under Article VII of the PSL and that has been identified as the most cost-effective or efficient by the NYISO would be able to recover its development costs under the NYISO tariff.

Cost Allocation

Advisory Staff recommends that 75% of project costs be allocated to the economic beneficiaries of reduced congestion, consistent with the methodology embodied in the NYISO's Congestion Assessment and Resource Integration Study process, and that the other 25% of the costs be allocated to all customers on a load-ratio share. The net result would be about 90% of the costs being allocated to customers in the downstate region, and about 10% to upstate customers, instead of a 79%/21% split previously proposed in a Straw Proposal issued on July 10, 2013, in Case 12-T-0502. According to Advisory Staff, this revision recognizes that the primary benefit of the projects will be reduced congestion into downstate load areas, but also acknowledges that there will be some benefits accruing to upstate customers in the form of increased reliability and reduced operational costs.

¹⁵ On August 1, 2014, the NYISO commenced its public policy planning process by soliciting filings by parties proposing transmission needs believed to be driven by Public Policy Requirements.

Risk-Sharing

In order to balance the competing interests of ratepayers and developers, Advisory Staff recommends that the Commission treat project cost estimates as binding applicant bids subject to risk-sharing of cost over-runs or under-runs between ratepayers and independent developers/investor-owned utility shareholders. Specifically, Advisory Staff explains that the developer would bear 20% of the actual cost over-runs, while ratepayers would bear 80% of those costs. If actual costs come in below the bid, the developer would retain 20% of the savings.

In addition, as a component of the risk-sharing model, if the developer is seeking incentives from FERC above the base return-on-equity otherwise approved by FERC, Advisory Staff recommends that the developer not receive any incentives above the base return-on-equity on any cost overruns over the bid price. Applying the risk-sharing model, the bid price would cap the costs that may be proposed to FERC for incentives. The initial bid price, however, could be updated to reflect additional identifiable and verifiable costs associated with Commission-imposed modifications and mandates, the cost of which the developer could not have anticipated in formulating the initial bid price. These additional costs would need to exceed a materiality threshold of 5% above the initial bid price. Advisory Staff also recommends that developers be allowed to propose alternative risk-sharing proposals if they are submitted in addition to the developer's bid prepared on the partial pass-through model. Advisory Staff maintains that this approach would allow the projects to be evaluated on a comparable basis.

Advisory Staff recommends that the Commission adopt an approach whereby the NYISO would include the risk-sharing proposal as part of the cost allocation prescribed under the

Public Policy Requirement. Any successful developer would similarly include the risk-sharing proposal when filing at FERC for cost recovery.

COMMENTS

Approximately 2,300 public comments have been received in these cases since their inception. The overwhelming majority of the comments are in opposition to building any overhead power lines because of adverse visual impacts that would occur in the Hudson Valley, the loss or impairment of agricultural uses, and resultant adverse impacts on property values or from the taking of land. In general, the people expressing opposition believe that the proposed projects are either unnecessary or will cost too much in relation to alternative technologies or resources such as undergrounding, local grid enhancements, demand-side management, and renewable resources. Many argue that undergrounding may have a higher initial cost, but will be less expensive to maintain in the long run considering the newly higher threat of severe storms due to climate change. Many argue that the need for more power should be addressed in the Reforming the Energy Vision (REV) proceeding or as part of the Clean Energy Fund. Another common concern is that property values are currently being harmed by the pendency of the proposed projects. A few people mentioned concerns about the potential health effects of power lines or the use of herbicides to treat the right-of-way.

Procedural Matters

Several commenters raise issues, which they consider to be threshold matters, related to the need for 1,000 MW of AC transmission upgrades, and how this need relates to other Commission proceedings, such as the REV initiative in Case 14-M-

0101.¹⁶ Scenic Hudson, Inc. (Scenic Hudson) suggests that the AC transmission upgrade proceeding should be suspended pending a determination of need for the proposed projects, as well as an analysis of alternative non-transmission congestion solutions.¹⁷ Clinton similarly seeks to postpone the Commission's consideration of 1,000 MW of AC congestion relief until after the REV proceeding is completed.¹⁸

A concerned citizen urges the reconductoring of existing transmission lines to reduce line losses and increase capacity, while providing time to implement REV initiatives and integrate new renewable resources.¹⁹ Congressman Gibson supports upgrades to the transmission system, but urges the Commission to examine all alternatives, such as buried cable, to minimize impacts.²⁰ Congressman Gibson also requests that the Commission conduct a full and transparent public comment process, and expeditiously address the concerns about the need for AC transmission upgrades. Assembly-member Barrett urges the Commission to close down the current AC Transmission proceedings and look at opportunities to be innovative and visionary in our energy policies in New York State to meet the real needs before moving forward.

¹⁶ Town of Clinton, Clinton Concerned Citizens, and Pleasant Valley Concerned Citizens comments (Clinton) (filed August 28, 2014); Town of Pleasant Valley and Farmers and Families of Livingston (Pleasant Valley) comments (filed September 2, 2014); Dutchess County of New York (Dutchess County) comments (filed August 20, 2014); Dutchess Land Conservancy comments (filed September 2, 2014); Farmers and Families for Claverack comments (filed August 26, 2014); Town of Milan comments (filed August 27, 2014).

¹⁷ Scenic Hudson comments (filed September 2, 2014), pp. 1, 4.

¹⁸ Clinton comments (filed August 28, 2014), p. 2.

¹⁹ Todd M. Pflieger comments (filed August 26, 2014).

²⁰ Congressman Gibson comments (filed August 29, 2014).

The Department of Environmental Conservation (DEC) seeks clarification of the impact that the comparative evaluation process and the NYISO public policy transmission planning process will have upon the required statutory findings under Article VII of the PSL, such as the basis of need. DEC requests further clarification of the extent to which procedures previously adopted by the Commission will apply going forward. In establishing new procedures, DEC asks that the Commission define the scope, factual basis, and legal significance of the findings and determinations that will be made at each phase of these proceedings.

NextEra supports the Advisory Staff Recommendations in their entirety, but requests clarification whether the Part A cost estimates will be binding estimates for purposes of the comparative evaluation and for calculating the risk allocation mechanism. If so, NextEra asks for clarification as to how the cost estimates provided in Part B would differ.

Entergy supports the proposal to utilize the NYISO public policy planning process.²¹ NextEra suggests that the Commission designate the relief of transmission congestion, through a 1,000 MW increase in transfer capability, as a Public Policy Requirement within the meaning of the NYISO's planning process.

Scenic Hudson suggests the timeframes proposed under the Advisory Staff Recommendation are unrealistically short. These include: 1) three weeks for the NYISO to conduct an analysis of Part A proposals; 2) four weeks for Trial Staff to prepare its report and motion ranking the proposals; and, 3)

²¹ Entergy Nuclear FitzPatrick, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. (collectively, Entergy) comments (filed September 2, 2014), p. 2.

three weeks for public comment on the Trial Staff report and motion.²² Scenic Hudson seeks to extend the public comment period to a minimum of 60 days.²³ DEC requests an additional week to review Trial Staff's report and motion. The Otsego County Conservation Association, Inc. (OCCA) also requests an extension of this deadline.²⁴ OCCA requests clarification that public comments will be sought on the Part A submissions due January 19, 2015.

Clinton notes the proposed time schedule significantly extends the length of these proceedings and that the delays have had adverse negative impacts on residents, including property values. Clinton also seeks additional time to receive intervenor funding and to hire experts to analyze the documents submitted by applicants, the NYISO, and Staff.

The NYTOs suggest that the deadline for providing notification that a System Reliability Impact Study (SRIS) is in progress should be extended to March 2, 2015 to align with the date for Trial Staff's submission of its report and motion.²⁵ According to the NYTOs, this extension will assist developers in assessing whether to incur SRIS costs, help the NYISO manage resources, and allow project details to remain confidential until after the January 2015 submittal. Further, the NYTOs request that developers be allowed to propose a process to protect the confidentiality of proposals during the project submittals. This would include prohibiting developers from

²² Dutchess County raises similar concerns with the proposed schedule.

²³ Scenic Hudson comments (filed September 2, 2014), p. 9.

²⁴ OCCA comments (filed September 3, 2014).

²⁵ On October 27, 2014, the ALJs issued a ruling indefinitely postponing the deadline for applicants to provide notice that an SRIS was in progress pursuant to the NYISO tariff, pending further guidance from the Commission on the future process.

substantially modifying or submitting alternative proposals beyond the submission due date.

The NYTOs also request clarification as to whom to submit the filings, and suggest that application materials should be submitted only in project-specific cases. Regarding service, the NYTOs maintain that an email filed with the Secretary and served upon all parties and the statutory service list should be sufficient, unless a party requested to be served by mail when they intervened. Further, the NYTOs suggest that the additional intervenor funding required under Article VII should be submitted with the applications for individual projects, which are projected to be submitted in May 2015.

In reply comments, Clinton criticizes the lack of involvement by the ALJs in the proposed comparative evaluation process. Clinton believes that the ALJs would ensure that the interests and concerns of the residents and municipalities most impacted will be acknowledged and responded to in a meaningful manner.

In reply to concerns DEC expressed about when further factual development on the issue of need would be appropriate in the proceedings, the Town of Pleasant Valley and Farmers and Families for Livingston (Pleasant Valley/Livingston) suggest that need should be established first and fully. Pleasant Valley/Livingston argues that there is no reliability need, that congestion has been decreasing annually, that there has been no showing that reduced congestion during peak periods would enable generally off-peak wind energy to reach downstate consumers, that REV will alleviate congestion, that generation attracted by the new capacity zone may render additional transmission unnecessary, and that pursuing energy efficiency is significantly more cost-beneficial than pursuing transmission. Scenic Hudson agrees with DEC that it is necessary for the

Commission to clarify when and how the need issues will be addressed in these proceedings. Boundless requests that all matters decided in these proceedings not be subject to re-litigation in the individual Article VII proceedings.

Pleasant Valley/Livingston also expresses concern that, since the NYISO would be doing electric system studies as part of the winnowing process, demand side management and energy efficiency solutions will be given short shrift because of the heavy influence of the transmission and generation owners in the NYISO governance structure, and because most parties do not understand the modeling used by the NYISO. Pleasant Valley/Livingston requests that the Commission establish a process to enable the parties to verify that the NYISO analyses are robust, independent, and produce reasonable results. Clinton raises similar concerns about the transparency of the NYISO study process.

Pleasant Valley/Livingston suggests that these proceedings are operating outside the confines of the FERC-approved and mandated NYISO transmission planning process, and as such, should be suspended until both the NYISO process and the REV proceeding have been completed. Clinton takes a similar position that these proceedings should be suspended. Scenic Hudson also believes that the proceedings should be suspended until the NYISO Public Policy Planning Process is complete. Scenic Hudson argues that proceeding with project evaluations would be inefficient because it does not believe that congestion relief meets the public policy standard and that non-transmission alternatives need to be given equal treatment with transmission. According to Scenic Hudson, congestion relief should not be designated as a public policy since it is not required by a law or regulation as required by the NYISO tariff.

In reply to the requests for suspension, NextEra asserts that no basis has been provided to conclude that an incremental increase in distributed generation will resolve the persistent congestion in the transmission system that resulted in the initiation of these proceedings, and that, in any event, the Commission will not issue an Article VII certificate without determining that there is a need for the facility.

In reply to the parties questioning need, Boundless submits that FERC established the lower Hudson Valley New Capacity Zone based on the existing limitation on the transfer capability across the UPNY/SENY interface due to a constraint across this interface of approximately 849 MW, and therefore these proceedings should be continued by the Commission without the extensive delay called for by certain parties.

NextEra agrees with the suggestion by the NYTOs that applicants be prohibited from substantially modifying their proposals or submitting alternative proposals for consideration in the comparative stage of the proceeding after the deadline for the revised submissions. In reply to a request for clarification made by the NYISO, NextEra argues that the Commission has made it clear that developers should be allowed to submit multiple alternative project designs/routes as part of their applications.

In response to the NYTOs' suggestion that the deadline for applicants to have a System Reliability Impact Study in progress for each preferred and alternate project design be extended to March 2, 2015, NextEra recommends that it be extended to May 31, 2015, to accommodate the cumulative time necessary to complete all of the steps leading from the filing of an interconnection request to the start of an SRIS.

Evaluation Criteria

Regarding the criteria to be used in ranking the proposals, several parties request that specific weights be assigned to each criterion.²⁶ Scenic Hudson suggests eliminating any project from consideration that would result in construction outside of an existing transmission line footprint, in terms of length, height, and width. Clinton similarly interprets the February 2014 Order as requiring all proposals to stay within existing ROWs.²⁷ OCCA recommends that minimizing further ROW impacts should be a primary factor. Dutchess Land Conservancy maintains that visual impacts should be ranked as a top consideration.

New York State Senator Gipson supports the comparative evaluation process using the criteria proposed by Advisory Staff, but suggests the most important criteria should be public impacts from the physical footprint and environmental compatibility, including visual impacts.²⁸ Senator Gipson suggests that the cost to ratepayers should include the impact on property values.

DEC seeks clarification of the criteria that would be used in performing an initial environmental assessment. The Department of Agriculture and Markets (Ag & Mkts) maintains that it should be involved in the ranking of the proposals and the identification of mitigation steps related to agricultural resources.²⁹

²⁶ Scenic Hudson comments (filed September 2, 2014), p. 10; Farmers and Families for Claverack comments (filed August 26, 2014); OCCA comments (filed September 3, 2014); Town of Milan comments (filed August 27, 2014); NAT comments (filed September 2, 2014).

²⁷ Clinton comments (filed August 28, 2014), p 3.

²⁸ Senator Gipson comments (filed August 26, 2014).

²⁹ Ag & Mkts comments (filed September 2, 2014).

The NYISO requests clarification as to: 1) the scope of the studies (i.e., the number of projects and studies for each project); 2) the timing of the studies, which may require more than three months to complete depending on the scope; and, 3) how the costs of the analyses would be recovered. The NYISO asks the Commission to provide for the NYISO's recovery of its actual costs in performing the requested studies.

The NYTOs note that the Transmission Owner Transmission Solutions (TOTS) proposed in these proceedings were previously selected as part of the Indian Point Contingency Plan approved by the Commission.³⁰ Accordingly, the NYTOs propose that the TOTS should not participate in the comparative evaluation process or be required to provide additional information.³¹

The NYTOs propose four additional criteria beyond the six criteria proposed by Advisory Staff for use in the comparative analysis phase. These include: 1) the project's resiliency and its impact on the total transmission system resiliency (i.e., storm hardening); 2) the project's impact on system reliability; 3) the project's robustness and expandability to provide the transmission system the long-term flexibility to respond to future load and generation needs; and, 4) economic benefits to the State (i.e., job growth, tax base expansion, more efficient use of existing generating resources, development of efficient and lower-cost new generating resources

³⁰ Case 12-E-0503, Generation retirement Contingency Plans, Order Accepting IPEC Reliability Contingency Plans, Establishing Cost Allocation And Recovery, And Denying Requests For Rehearing (issued November 4, 2013).

³¹ NYTO comments (filed September 2, 2014), p. 8. On November 17, 2014, NYPA and NYSEG withdrew their respective portions of the Marcy South Series Compensation Project from further consideration in these proceedings.

in upstate areas, and fewer reliability issues resulting from retirement of existing upstate generators).

The NYTOs request that the NYISO perform a complete transfer analysis, including thermal and voltage impacts, on the interfaces subject to the original scope of study and on any additional interfaces affected by the proposals. The NYTOs also suggest additional information requirements to improve the quality of the cost estimates. In particular, they recommend that each estimate should include, by discrete transmission element (i.e., each transmission line, each substation addition), information regarding: 1) material cost; 2) labor cost broken out by engineering, construction, and survey; 3) regulatory permitting and legal fees; 4) property acquisition; 5) taxes; 6) program/project management; 7) Allowance for Funds Used During Construction (AFUDC); and, 8) risk and contingency. The NYTOs indicate these estimates should be provided in current year dollars and as-spent dollars.

NAT suggests a list of information requirements that include items identified by the NYTOs. NAT requests that estimates of this information be represented in total capital cost by year-of-occurrence dollars. In order to minimize risk premiums, NAT suggests allowing bids to be indexed to inflation and the costs of labor, steel, aluminum, and other construction materials.

NAT asks the Commission to identify the methodology and assumptions that will be used to identify the transfer capability under the first criterion. NAT suggests that the second criterion (cost) should be evaluated based on total cost, cost per MW of transfer capability, and cost relative to benefits. The third criterion (electric system impacts), according to NAT, should evaluate production cost energy savings, load energy savings, and load capacity market savings.

NAT also suggests that emissions reductions calculated under the third criterion should instead be considered as part of the sixth criterion (environmental compatibility).

Regarding the analysis of ROWs under the fourth criterion, NAT seeks clarification that some additional private ROWs would be acceptable, and that the analysis of additional ROWs would relate to private ROWs. NAT suggests that the fourth and sixth criterion (additional ROWs and environmental compatibility, respectively) be combined since additional ROW is one aspect of environmental compatibility. NAT further contends that the fifth criterion (innovative technologies) should be eliminated because innovative technology was not an original goal, or alternatively it should be reflected in the first and fourth criterion (transfer capability and additional ROWs, respectively).

Boundless argues that the appropriate studies should be performed under normal dispatch conditions. Boundless also contends that the NYISO should perform studies using the same approach the NYISO took in justifying the lower Hudson Valley capacity zone, which would provide a basis for seeking relief at FERC from the costs associated with the new zone. Boundless requests a technical conference to discuss modeling protocols and assumptions before the NYISO performs any additional analysis. Boundless maintains that the ALJs should rank the projects, rather than Trial Staff.

NextEra does not object to the proposals by the NYTOs and NAT that cost estimates be provided using certain categories, but does not believe that the NYTOs' suggestion to use the Association for the Advancement of Cost Engineering International Recommended Practice as a reference point is appropriate because that practice is relevant to process plants and is not used as an industry standard for estimating costs of

transmission facilities. In addition, NextEra recommends that the parties be required to provide estimates escalated to the year in which the project will be built, as recommended by NAT, rather than current dollars, to allow a relevant comparison of the projects.

Boundless supports the suggestion that the project cost estimates should be of high quality, but opposes the detailed requirements proposed by the NYTOs because they would significantly raise the cost of preparing the estimates and the cost to Boundless and the other non-incumbent generators would outweigh the purported advantages of the more detailed information, unless reimbursement of the cost to prepare the estimates is provided to all parties.

In response to DEC's comments, Pleasant Valley/Livingston states that it agrees that the Part A evaluation needs to include environmental criteria. Pleasant Valley/Livingston also agrees with NAT that the relative weights assigned to evaluation criteria should be stated. Boundless also agrees with the comments of NAT and others on the criteria and with a request by Otsego County Conservation Association, Inc. that ROW impacts be given greater emphasis than other criteria.

In response to a proposal by the NYTOs that four additional criteria be added (resiliency, system reliability, robustness and expandability, and economic benefits to New York), NextEra believes them to be unnecessary, as the originally stated criteria appropriately reflect the key goals of the Energy Highway Blueprint and that supplementing the review process with these additional criteria, many of which are difficult or impossible to quantify, may make the comparison process unduly burdensome without a corresponding increase in the likelihood of identifying the project that best addresses

the key goals of the Energy Highway Blueprint. In contrast, Boundless supports the additional criteria proposed by the NYTOs.

Boundless questions the proposal by Ag & Mkts that other State agencies participate in the ranking of proposals over concerns that such participation not be done in secret, but does not appear to oppose written input to DPS Staff by other State agencies in the form of comments.

In reply to comments filed by the NYTOs asserting that the Ramapo to Rock Tavern project and the Marcy South series compensation project (MSSC) have already been selected for construction by the Commission and therefore do not need to be comparatively evaluated in these proceedings, Entergy argues that the MSSC project (which had not yet been withdrawn from the AC Transmission proceedings at the time Entergy's comments were filed) should participate in the comparative evaluation portion of this proceeding. Boundless submits that the MSSC project should be voluntarily withdrawn or the Commission should remove the project from further consideration as a simplifying measure. Boundless also seeks a clarification as to how the withdrawn projects will be treated for system modeling purposes.

Cost Recovery and Cost Allocation

Dutchess County supports cost recovery through FERC authorized tariffs, but opposes allowing a developer, which is ultimately not selected to build a project, to recover its costs in proposing a solution to the NYISO. Dutchess County seeks an evaluation of cost impacts on ratepayers by utility franchise, broken down for residential, commercial, and industrial customers.

Multiple Intervenors (MI) opposes Advisory Staff's recommended cost recovery approach and maintains that the

proposal is not consistent with cost causation principles and fails to ensure customer rate impacts are adequately minimized. According to MI, recovering costs on a volumetric MWh basis is contrary to cost causation principles and the Commission's precedence, and is inequitable to high-load-factor customers.

MI supports the July 2013 Staff Proposal to allocate costs among utility service classes based on class contribution to peak demand, and then recovered on a per kW basis from demand-metered customers. MI further supports recovery of costs over the projected service life of the transmission facility in order to minimize rate impacts on customers.

The NYTOs support cost recovery through FERC-approved tariffs, but suggest that they should be allowed to propose a State-based cost recovery mechanism where it may be reasonable, such as where an upgraded project replaces pre-existing facilities.

Entergy supports adoption of the proposal to file a cost recovery and allocation methodology with FERC as the entity with jurisdiction over such matters.

Dutchess County argues that there is no basis to include it within the downstate region that is expected to be the primary beneficiary. Accordingly, if a transmission project moves forward, Dutchess County seeks to ensure Zone G would be considered in the upstate region.³² Senator Gipson supports a 90% allocation of costs to downstate customers, and proffers to define downstate to include Nassau, Suffolk, Westchester, and New York City.

MI supports Advisory Staff's allocation of approximately 90% of the costs to SENY customers and 10% to UPNY customers. This approach, MI asserts, is consistent with the

³² Dutchess County comments (File August 20, 2014).

beneficiaries pay principle given that the primary benefits of the transmission project would be reduced congestion and economic benefits for downstate load areas.

The NYTOs maintain that their rights under the Federal Power Act allow them to propose their own cost allocation methods, and ask the Commission to clarify that such alternative cost allocation methods are acceptable.

In response to comments that oppose cost recovery for projects that are not ultimately selected, NextEra argues that the competition provided by non-winning bidders is what keeps the ultimate project costs at a level that reflects effective competition, and that new entrants/non-incumbents will not be attracted to add to the competition if incumbent transmission owners can likely recover their prudent development costs but new entrants/non-incumbents cannot. NextEra believes that the financial and other benefits that will accrue to ratepayers from preserving a competitive dynamic in these proceedings will far outweigh the expense to consumers of the cost recovery mechanism recommended by Advisory Staff.

In response to the NYISO's comments as to what development costs may be recoverable under its tariff, Boundless submits that the language of the tariff provision is better read as covering cost recovery for the development of the project which was selected by the Commission for submission to the NYISO. According to Boundless, even if the cost directly associated with participation in these proceedings before the Commission are excluded, as presumably would meet the NYISO's interpretation, the tariff section would provide for more extensive cost recovery than suggested by the NYISO.

In reply to the NYISO's request for compensation for studies it would perform at the request of the Commission, Boundless challenges the NYISO's authority to charge the

Commission for such study work, argues that transferring such costs to applicants is contrary to the policy and goals of FERC which has encouraged the regional independent system operators to undertake such a planning function, and notes that the NYISO has a tariff which permits it to collect all of its planning expenses at no risk. Boundless notes that the NYISO submitted the Screening-Level Analysis on February 14, 2014 in these proceedings, without reimbursement. Boundless also argues that nothing in Article VII of the PSL authorizes the Commission to assess charges on developer-applicants for the processing of their applications. According to Boundless, the Commission cannot simply accept the submission of certain charges from the NYISO and then impose them on the current parties as a condition of continuing in these proceedings. In addition, Boundless cautions that if the Commission were to allow these costs to be charged to applicants, such charges would unfairly and greatly exacerbate the distinction between incumbent and non-incumbent developers because incumbents may be able to recover their prudently incurred development costs from ratepayers, whereas no vehicle has been established for non-incumbents to recover such development costs.

Boundless states its understanding is that a successful developer will be able to recover its development costs under a FERC cost recovery order. Therefore, Boundless suggests that the NYISO prepare cost records of its studies for developers in these proceedings in sufficient detail so that a developer which seeks a cost recovery order from FERC will be able to include the NYISO's study costs in its presentation to FERC as an element of cost to be recovered.

Pleasant Valley/Livingston believes that developers should pay for the NYISO study costs based on their opportunity to gain; unsuccessful developers should not be allowed to shift

their business risk of participating to ratepayers. Clinton echoes those concerns, finding it completely unacceptable to allow developers to proceed without any significant financial risk. Scenic Hudson also believes that developers, not ratepayers, should pay for NYISO study costs given that developers stand to gain if successful, and therefore have also assumed the risk of not being selected.

Pleasant Valley/Livingston also believes that DPS Staff needs to tightly define the study work scope of the NYISO to ensure the process is manageable and not unduly burdensome, and that such continuing and open-ended incremental costs can be avoided by placing the proceeding on hold until the REV proceeding concludes and the need for more overhead AC transmission is established.

The NYTOs agree with the NYISO that the NYISO should be compensated for its study costs, but urges that mechanisms be adopted to reduce those costs by eliminating redundant studies and allowing developers to self-perform some of the studies. NAT believes that the NYISO study costs should be paid proportionally by the developers selected by the Commission at the conclusion of the comparative evaluation phase of the proceedings, with payment due within 30 days of the Commission order. NextEra suggests that following completion of studies by NYISO, the developers/applicants participating in that stage of the proceedings should reimburse NYISO for its study costs on an equal per capita basis.

The New York Municipal Power Agency (NYMPA) supports Advisory Staff's proposed 75%/25% CARIS/Load Ratio Share cost allocation as more closely based on the quantifiable economic benefits of congestion relief than the initial Straw Proposal, even though NYMPA believes that Advisory Staff failed to satisfactorily quantify how generic (non-congestion reduction)

benefits would benefit upstate when most such dispatch cost savings would likely accrue to downstate loads. In response to the NYTOs' comments regarding alternate, case-specific cost allocation methodologies, NYMPA states that it favors a pre-determined single cost allocation methodology rather than a flexible method as proposed by the NYTOs because the pre-determined method has been fully vetted and is consistent with FERC's policy that there be transparency in determining the chosen methodology. Alternately, NYMPA supports imposing a high burden of proof, including a precise quantification of benefits, for any other individually proposed cost allocation methodology.

Risk-Sharing

Pleasant Valley and Scenic Hudson object to the Advisory Staff Recommendation to adopt an 80%/20% risk allocation because it incentivizes cost overruns and makes ratepayers responsible for 80% of cost overruns. Farmers and Families for Claverack take the same position. Dutchess County similarly maintains that the Advisory Staff Recommendations allow too much of a return on cost overruns for developers, and thus expresses a preference for a fixed price bid, without sharing, but the possibility of a tightly controlled verifiable price true-up if "material" or above 5%.

MI supports the Advisory Staff Recommendations with respect to risk-sharing as a reasonable approach.

The NYTOs argue that Advisory Staff's recommendation to deny cost recovery for certain cost over-runs contradicts with FERC's approach, which provides full cost recovery of prudently incurred investments. The NYTOs contend that assuming the risks of cost overruns will lead to higher capital costs. The NYTOs advocate that any risk-sharing mechanism should be consistent with FERC's policies and subject to FERC's approval.

In reply to comments that seek to shift more risk onto the developers, the NYTOs reiterate that any risk-sharing which does not allow full recovery of prudently incurred costs would be inconsistent with FERC policy. According to the NYTOs, FERC already includes risk-sharing by making projects with cost overruns subject to loss of transmission return equity adders. The NYTOs oppose the risk-sharing proposal made by Advisory Staff as being inconsistent with FERC policy and also believe that it would result in higher capital costs. Boundless agrees with the Indicated NYTOs on this point.

NextEra, responding to the NYTOs, argues that FERC did not intend to preclude innovative risk and reward-sharing arrangements that might be proposed pursuant to FERC Order No. 1000, and has explicitly approved transmission provider proposals to allow participants in competitive transmission proceedings to include binding cost containment measures to enhance the attractiveness of their bids, which could preclude some degree of cost recovery.³³ In reply to other comments suggesting that the risk-sharing model will incentivize cost overruns because a developer's penalty in the event of an overrun would be limited to 20%, NextEra argues that a 20% overrun penalty eliminates the possibility of cost recovery for a significant portion of overages and will therefore operate as an incentive for developers to avoid cost overruns.

The NYTOs opposes NextEra's proposal that the Part A project estimates be binding for the purposes of comparison evaluations and for allocating risk-sharing. The NYTOs caution that these cost estimates are necessarily preliminary and should not be accorded great weight because of uncertainties as to interconnection costs, detailed construction costs, local

³³ NextEra cites California Independent System Operator Corporation, 143 FERC ¶ 61,057, at P 233 (2013).

government compliance costs, and necessary environmental mitigation measures, all of which cannot be accurately determined at this stage in the development process. Boundless similarly opposes the concept of binding bids given the potential of unforeseen contingencies at this early stage of development and the potential for fluctuations in commodity prices. Boundless is also concerned that developers that are large corporations can likely assume more cost risk than developers like Boundless, such that the risk-sharing provision may drive Boundless out of the competition.

DISCUSSION

The various comments provided by interested parties, stakeholders, and State agencies have significantly contributed to the development of the record in these proceedings. This input is truly appreciated and serves to better inform the Commission's decision-making. Upon considering these comments, the Commission adopts a comparative evaluation process and schedule for these proceedings that is to be coordinated with the process and schedule for the Commission's determination as to whether transmission congestion at the Central East and UPNY/SENY interfaces creates a transmission need driven by Public Policy Requirements.

In response to the substantial number of comments that question the need for a transmission solution to the identified congestion, the Commission is supplementing the process to address the basis of the need in the comparative evaluation phase of these proceedings. The Commission is requiring that Trial Staff prepare a report addressing the need question and present its findings in a technical conference open to all the parties so that there can be a full airing and discussion among the stakeholders of the basis of the need for transmission

facilities and the viability of potential alternatives. The Commission expects all the parties to cooperate and assist Trial Staff in the creation of a record on these issues for the Commission's consideration.

The Commission also adopts methodologies for cost recovery, cost allocation, and risk-sharing. As also discussed below, the Commission clarifies several matters raised in the comments.

Procedural Matters

A comparative evaluation of the proposed projects is necessary to determine which project, or combination of projects, will best achieve the Commission's objectives. The Commission also notes that the question of whether any projects should be evaluated under the NYISO's tariff is presently before the Commission in Case 14-E-0454, where the Commission will consider whether Central East and UPNY/SENY congestion relief should be designated as a Public Policy Requirement driving a need for transmission within the meaning of the NYISO's public policy planning process.³⁴ The Commission's determination on that issue should be informed by the analyses being conducted in the comparative evaluation phase of the AC Transmission proceedings, and conversely analyses made in the AC Transmission proceedings should inform the decision in the Public Policy Requirements process. Therefore, the Commission will direct Trial Staff to consider comments in Case 14-E-0454 and provide an overall assessment of the benefits and costs of congestion relief as part of the Trial Staff report. The Table of Milestones and Deadlines, attached as Appendix A, identifies the

³⁴ The procedures to be followed in Case 14-E-0454 comport with the Policy Statement on Transmission Planning for Public Policy Purposes (Policy Statement). Case 14-E-0068, Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, Policy Statement (issued August 15, 2014).

key deliverables and the timing to help guide the completion of the comparative process. These steps, which supplant the procedures previously adopted, are also discussed below.

The milestones and deadlines proposed in the Advisory Staff Recommendations have been revised to accommodate certain additional procedural steps and to reflect an updated time schedule. The four developers shall therefore submit, by January 7, 2015, the information identified in Appendices B and C, which is needed to commence the comparative evaluation, including the powerflow analyses. No substantial modifications of the proposals will be allowed after the submissions due January 7, 2015 until the comparative evaluation process is completed. The additional information identified in Appendix D, which is needed to complete the evaluation, will be due on January 19, 2015. The Commission notes that the information to be submitted in both instances has been augmented to require more specific information from the developers and to place a greater portion of the burden of developing the record on them rather than on Trial Staff. The deadline to provide notification that an SRIS is in progress will be February 27, 2015. That date preserves the confidentiality of the revised proposals prior to their submittal deadlines, but also requires submission of the notification prior to the deadline for parties to comment, and substantially before Trial Staff has to complete its comparative evaluation. The Commission adopts the suggestion to allow comments on these submissions, and establishes deadlines for parties to submit such comments, and for replies. Parties that have information to contribute to the record on these issues should avail themselves of the comment opportunity provided.

The Commission anticipates that the powerflow analyses will be completed by May 13, 2015, and that the production

simulations will be completed by May 20, 2015. Trial Staff should thereafter rank the proposals according to the criteria and present a Report and Motion³⁵ by June 10, 2015, for the Commission's consideration. In addition, to be responsive to the comments received about transparency and the basis of the need for any facilities, Trial Staff should plan to host a technical conference on or about June 17-18, 2015, in order to explain the results in the Report and Motion and answer questions about the modeling and analyses that went into the results. The NYISO, and any other entity that assisted, should also participate in the technical conference. The technical conference will also serve the dual purpose of informing the Public Policy Requirements process. It is anticipated that the information available at the time of the technical conference will also inform parties of the potential need for congestion relief. After the technical conference, interested parties will be afforded an opportunity to submit comments on the Trial Staff Report and Motion in these proceedings, and supplemental comments in the Public Policy Transmission Planning Process proceeding. The schedule also provides for replies to the comments submitted.

This schedule will allow the Commission to consider the Trial Staff Motion in August or September 2015, including determining which project(s) best meets the overall objectives of these proceedings such that they should continue in the Article VII process following our decision. The Commission recognizes the concerns raised in comments that the mere

³⁵ The Report and Motion should contribute towards a winnowing process to identify the most beneficial project or projects of the group, and provide Trial Staff's recommendations regarding whether transmission facilities are needed to address the identified congestion as compared to other non-transmission solutions that might be available as an alternative.

pendency of these proceedings may adversely affect property values and real estate transactions. By reducing the projects for consideration in as timely a manner as possible given the necessity of making an informed decision, the Commission intends to provide some level of certainty to the potentially affected communities and landowners.

Consideration of the Trial Staff Report and Motion will enable the Commission to consider whether to request the developers of any of the proposals submitted in the comparative process to propose their solution(s) to the NYISO for further evaluation.³⁶ In the event such request is made by the Commission, the costs incurred by a developer in preparing its proposed transmission solution would be recoverable under the NYISO tariff.³⁷ The Commission finds that allowing the recovery of these preparation costs would be reasonable under the circumstances because it encourages competition among the proposals that is ultimately more beneficial to ratepayers than the costs to be recovered, and therefore rejects the arguments to the contrary.

Following the comparative evaluation phase and the Commission's determination as to Public Policy Requirements, it is expected that if the Commission determines projects should proceed, the developer(s) of the preferred projects will pursue the completion of the Article VII process, while the NYISO completes its analysis required under the Public Policy Transmission Planning Process.³⁸ The Public Policy Transmission

³⁶ The results of those studies may also further inform the record in the certification proceedings.

³⁷ NYISO Open Access Transmission Tariff, Attachment Y, §31.4.3.2.

³⁸ Any projects that are ultimately selected by the NYISO as more efficient or cost-effective would require siting approvals from the Commission before they could be constructed.

Planning Process also provides an additional mechanism for studying generation and demand response alternatives to the AC transmission upgrades.³⁹

In pursuing a comparative evaluation of projects to relieve congestion, the Commission is cognizant of other related proceedings. While many comments refer to the REV initiative, the Commission views this proceeding as complementary to the goals of REV. Achieving the objectives of the REV proceeding will not, at any time in the foreseeable future, eliminate the need for more robust and flexible transmission infrastructure linking the upstate regions to downstate through the Mohawk and Hudson Valleys. At the same time, improving the existing infrastructure will support some of the REV goals. It will allow for more efficient dispatch of bulk system resources to complement the activation of distribution-level resources, and it will facilitate the development of new renewable resources, such as wind, most of which will be sited upstate on the constrained side of the congested interfaces. The Commission therefore declines to hold these proceedings in abeyance until the completion of the REV initiative.

As requested by DEC, the Commission notes that the investigation of transmission solutions through a comparative evaluation process, and in the public policy planning process, is not the full equivalent to the statutory findings required under the PSL for granting an Article VII certificate. These investigations however will contribute to the record that informs the Commission in making the Article VII statutory findings for issuance of an Article VII certificate, which include, among other matters, the basis of the need for a

³⁹ NYISO Open Access Transmission Tariff, Attachment Y, §31.4.6.2.

particular facility and the degree of environmental compatibility.

The concept of environmental compatibility and public need requires the Commission to "protect environmental values, and take into account the total cost to society of such facilities."⁴⁰ The relevant considerations include, without limitation, the electric system requirements, the cost, the environmental impact, the availability and impact of alternatives, undergrounding considerations, conformance to long-range plans, State laws and local laws, and the public interest, convenience, and necessity. These Article VII findings can only be made after considering the totality of all relevant factors related to the environmental compatibility and public need for a particular facility.

The Commission finds that the comparative evaluation should proceed because there is sufficient evidence of significant constraints at the Central East and UPNY-SENY interfaces to support the decision to investigate possible transmission solutions, and because resolving that congestion could produce significant benefits for ratepayers. But the Commission has heard the concerns of the many parties that question the need for a transmission solution. As noted above, Commission is requiring that the need question be addressed beginning with a Trial Staff report and a technical conference. The parties remain free to develop arguments that alternative non-transmission congestion solutions rebut the need for designating the congestion relief as a Public Policy Requirement, or for the granting of an Article VII certification

⁴⁰ Chapter 272 of the Laws of 1970, Section 1, Legislative Findings.

to a proposed AC transmission project.⁴¹ The Commission also invites those commentators who question whether any such solutions are necessary, to also participate and offer their views in Case 14-E-0454, as that proceeding is an appropriate

forum for comments⁴² relating to the scope and significance of the Central East and UPNY/SENY congestion problem and to the necessity and effectiveness of a transmission solution.

Evaluation Criteria

As noted above, Trial Staff will be tasked with ranking the proposals. The ranking should take into account the six criteria identified in the Advisory Staff Recommendations, including: 1) the relative contribution to transfer capability; 2) the costs to ratepayers; 3) electric system impacts, emissions reductions, and impacts on production costs, measured in terms of overall changes to generation dispatch; 4) the extent of any additional right-of-ways that may be needed; 5) the integration of innovative technologies to enhance transfer capability or reduce the physical footprint of the project; and, 6) an initial assessment of environmental compatibility, including visual impacts. The four additional criteria proposed by the NYTOs are not adopted because they are largely redundant with the concept of electric system impacts and would remove focus from the key issue of increasing transfer capability in a manner that is cost efficient and environmentally compatible.

⁴¹ In addition, the NYISO may be requested to evaluate alternative options to address the transmission needs. NYISO Open Access Transmission Tariff, Attachment Y, §31.4.2.1.

⁴² Initial comments in that proceeding are due on December 29, 2014, but the schedule set forth in Appendix A attached to this order anticipates another round of comments at a later date.

The Commission declines to assign weights to the criteria at this time, as suggested by various parties. While each criterion should be given due consideration, Trial Staff will be given latitude in the first instance to look at the completeness, quality and verifiability of the information that is received and thereafter shall consider the feasibility of assigning weights to the criteria as part of its Report and Motion. Trial Staff, after reviewing the information received, will also devise what units of measurement will be used for the comparative evaluation in the first instance. The Commission appreciates the offer of Ag & Mkts to assist in the ranking, and expects Trial Staff will carefully consider any comments it receives from other State agencies and interested parties and explain its considerations for our review.

Regarding right-of-ways, the Commission clarifies that its objective is to encourage innovation and the use of existing rights-of-way so that the State experiences smart growth of the electric grid with the least impact to the environment and our communities. Therefore, the Commission desires, to the degree possible consistent with other policy objectives, to minimize the acquisition of additional lands for right-of-ways and the construction of major electric transmission facilities that are out of scale or character with existing facilities already in the landscape. While it is unfortunately impractical and would be unduly restrictive to impose an outright ban on all new right-of-way acquisition, the degree of necessity for such acquisition will be a key distinguishing factor affecting the viability of project proposals. The Commission recognizes that some additional private lands may be needed, but encourages developers to limit such requirements to the degree possible.

The NYTO's TOTS projects have been withdrawn from these proceedings, so they will not be considered in the

comparative evaluation process. The TOTS projects have already been accepted as part of the Indian Point Reliability Contingency Plan and their contribution toward the 1,000 MW target of congestion relief should be identified by Trial Staff and reflected in the baseline used to evaluate the incremental contribution of the remaining projects.

Regarding the NYISO's request for clarification as to the scope of the studies (i.e., the number of projects and studies for each project), the Commission recognizes that if too many variations are received, it may be necessary to limit each applicant to a single preferred proposal for full study purposes so as to not unreasonably delay the comparative evaluation process. The timing of the studies has been revised in the adopted schedule along with the insertion of intermediate milestones that reflect the need to obtain information from the powerflow analysis to use as modeling inputs in the analysis of production cost savings using General Electric's Multi-Area Production Simulation (GE MAPS). The Commission expects the NYISO to work cooperatively with DPS Staff and provide whatever assistance is necessary.

Cost Recovery and Cost Allocation

The comments are generally supportive of ensuring cost recovery through FERC-approved tariffs. Coordinating the comparative evaluation phase with the NYISO's public policy planning process would establish a mechanism for such cost recovery. The Commission adopts this approach.⁴³

The Commission declines to address requests for an evaluation of ratepayer impacts by customer classifications

⁴³ This approach does not foreclose the possible consideration of an alternate method for cost recovery under State-approved mechanisms in the event recovery through FERC rates proves to be infeasible.

within each utility franchise, or to ensure cost allocation based on the contribution of each customer class to peak load, since these are matters best addressed in a ratemaking proceeding. Similarly, it is not appropriate to address at this time whether the period for cost recovery should extend over the projected service life of a project or a shorter period.

The Commission supports a "beneficiaries pay" approach for allocating costs, whereby those that derive the benefits of a project should bear the costs. Although a precise calculation of the projected benefits has not been completed, the cost allocation proposed in the Advisory Staff Recommendations is roughly commensurate with the anticipated beneficiaries. The Commission therefore adopts an approach whereby 75% of project costs are allocated to the economic beneficiaries of reduced congestion, while the other 25% of the costs are allocated to all customers on a load-ratio share. This would result in approximately 90% of the project costs being allocated to customers in the downstate region, and about 10% to upstate customers. This allocation reflects that the primary benefit of the projects will be reduced congestion into downstate load areas, but also recognizes that some benefits accrue to upstate customers in the form of increased reliability and reduced operational costs.

In the event the Commission designates Central East and UPNY/SENY congestion relief as a transmission need driven by a Public Policy Requirement under the NYISO's planning process, the Commission intends to prescribe the above-described cost allocation methodology in connection with such public policy determination. Parties that dispute they are beneficiaries, or that they are assigned a reasonable portion of the costs, would then be able to raise their objections before FERC.

The Commission notes that under the NYISO tariff, the NYISO would file with FERC any cost allocation prescribed under the Public Policy Requirement.⁴⁴ The NYISO tariff further provides that nothing therein "shall deprive a Transmission Owner or Other Developer of any rights it may have under Section 205 of the Federal Power Act to submit filings proposing any other cost allocation methodology to [FERC]..."⁴⁵ While the Commission does not take a position on the NYTOs' rights under the Federal Power Act, it appears the clarification requested by the NYTOs is already contained in this provision of the NYISO tariff.

Cost Estimates and Risk-sharing

Because the costs to ratepayers will be one of the criteria that Trial Staff will utilize in preparing its Report and Motion during the comparative evaluation process, the developers are expected to provide reliable and binding cost estimates or bids. All costs shall be stated in nominal (year of occurrence) dollars.

Upon considering the various requests to require additional information in the developer's cost estimates, the Commission adopts the following items, consistent with what would similarly be required to satisfy the provisions in the NYISO tariff.⁴⁶ In particular, each developer should provide credible capital cost estimates for its proposed project, with itemized supporting work sheets that identify all material and labor cost assumptions. The work sheets should include an estimated quantification of cost variance, providing an assumed plus/minus range around the capital cost estimate. Each

⁴⁴ NYISO Open Access Transmission Tariff, Attachment Y, §31.5.5.4.1.

⁴⁵ Id.

⁴⁶ NYISO OATT, Attachment Y, §31.4.8.1.

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, all in accordance with Good Utility Practice.

For each of the above 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, 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.

To help ensure the quality and comparability of the bids, and that ratepayers retain the benefit of this comparative evaluation process, the Commission finds that a risk-sharing mechanism is appropriate. The Commission anticipates that the successful developer or developers will seek cost recovery from FERC. Therefore, the Commission's policy approach to risk-sharing necessarily considers FERC policies and balances ratepayer interests with a developer's expectation that it will earn a regulated rate-of-return on an approved transmission project.

The Commission believes a transmission developer who intends to seek regulated rates should be incented to produce accurate cost estimates in the Article VII process, and then to meet them, particularly since cost is one of the criteria by which projects will be selected or rejected. The developer should be entitled to a reasonable base rate-of-return up to the

amount of its estimates, but should not receive compensation at the same level for the actual costs that exceed those estimates. The Advisory Staff recommendation, which recognizes this principle, is a reasonable approach for risk-sharing and is therefore adopted. Accordingly, if actual costs come in above a bid, the developer should bear 20% of the cost over-runs, while ratepayers should bear 80% of those costs. If actual costs come in below a bid, then the developer should retain 20% of the savings. Furthermore, if the developer seeks incentives from FERC above the base return-on-equity otherwise approved by FERC, then the developer should not receive any incentives above the base return-on-equity on any cost overruns over the bid price. The bid price would therefore cap the costs that may be proposed to FERC for incentives. The Commission believes this approach to be consistent with FERC policies and reflects FERC's underlying objectives of balancing customer and utility interests, and FERC's policies encouraging innovative risk and reward sharing arrangements.

Regarding comments that suggest a risk-sharing approach is inconsistent with FERC policies and should be modified to ensure consistency (i.e., to allow cost over-runs and full recovery of prudently incurred investment), the Commission notes that FERC has accepted "specific, binding cost control measures that the transmission developer agrees to accept, including any binding agreement by the transmission developer and its team to accept a cost cap that would preclude project costs above the cap from being recovered...."⁴⁷ The Commission finds that the risk-sharing approach proposed in the Advisory Staff Recommendations is reasonable and appropriate,

⁴⁷ Docket Nos. ER13-103-000 et al., California Independent System Operator Corporation, Order on Compliance Filing (issued April 18, 2013), 143 FERC ¶61,057, ¶233.

and is generally consistent with FERC precedent. Accordingly, the Commission will expect any developer submitting a project for consideration in the comparative evaluation process to be willing to accept the risk-sharing proposal adopted herein. The Commission expects this approach will ultimately be subject to FERC's approval.

The Commission also acknowledges that a developer may incur additional, identifiable, and verifiable costs necessary to comply with Commission-imposed modifications and mandates that could not have been reasonably anticipated in formulating the initial bid price. These additional qualifying costs would need to exceed a materiality threshold of 5% above the initial bid price to be recoverable. To encourage further creativity, developers will be allowed to propose alternative risk-sharing proposals if they are submitted in addition to the developer's bid prepared on the above-described partial pass-through model. Developers are also free to propose methods to index their bid prices to changes in the cost of key elements so long as the indexes chosen are governmental in origin and not subject to influence or manipulation by developers.

CONCLUSION

As discussed above, the Commission adopts a comparative evaluation process and expanded procedural schedule contained in Appendix A. The Commission also adopts the Advisory Staff Recommendations with respect to cost recovery, cost allocation, and risk-sharing. Any developer that may be selected should file with FERC the cost allocation and risk-sharing methodologies we adopt herein. In the event we designate the congestion relief being investigated in these proceedings as a Public Policy Requirement under the NYISO's planning process and our Policy Statement, the Commission

expects that the NYISO will file these methodologies with FERC on behalf of any selected developer(s).

The Commission orders:

1. The Commission adopts the cost allocation and risk-sharing mechanisms, and cost recovery approach, as discussed in the body of this order.
2. The Commission adopts the procedural processes and schedule set forth in Appendix A. North America Transmission, LLC and North America Transmission Corporation (NAT), the New York Transmission Owners (NYTOs); NextEra Energy Resources, LLC (NextEra) and, Boundless Energy NE, LLC (Boundless) shall file with the Secretary in the application-specific docket to which the filing pertains (Cases 13-T-0454, 13-T-0455, 13-T-0456, 13-M-0457 and 13-T-0461), the information identified in Appendices B and C by January 7, 2015, and the information identified in Appendix D by January 19, 2015. Any information filed in any one of these cases shall be part of the common-record of all of these cases as well as of Cases 12-T-0502 and 13-E-0488. NAT, NextEra and Boundless shall file with the Secretary on or before February 27, 2015, in the application-specific docket to which the filing pertains, a notice that a System Reliability Impact Study (SRIS) was in progress pursuant to the tariff requirements of the New York Independent System Operator, Inc. (NYISO).
3. Trial Staff shall be designated prior to the January 7, 2015 deadline set forth above.
4. The Secretary, in sole discretion, may extend the deadlines set forth in this order relating to the AC Transmission Process. Any request for an extension must be in writing, include a justification for the extension, and be filed at least one day prior to any affected deadline. The deadlines in Appendix A for the "NYISO PPR Process" are merely anticipated

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at this time and will be subject to further notification in that proceeding.

5. All intervenor funding matters shall be addressed directly to the Administrative Law Judges.

6. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

APPENDIX A

Table of Milestones and Deadlines

<u>AC Transmission Process</u>		<u>NYISO PPR Process</u>	
<u>Milestone</u>	<u>Deadline</u>	<u>Milestone</u>	<u>Deadline</u>
		NYISO Receives Public Policy Requirements Proposals	September 30, 2014
		NYISO Submits any Proposed Public Policy Requirements to the Commission	October 3, 2014
		SAPA Notice Published in State Register	November 12, 2014
Commission Decision on Advisory Staff Process Proposal	December 2014 Session*		
Deadline for Applicants to Submit Part A Data Required for NYISO Analysis at Request of DPS	January 7, 2015		
		Deadline for SAPA Comments	December 29, 2014
Deadline for Applicants to Submit Remainder of Part A Proposals Offered for Comparative Evaluation	January 19, 2015		
Deadline for Applicants to give notice that their SRIS is underway	February 27, 2015		
Deadline for Parties to Submit Written Comments on the Part A Submittals	March 4, 2015		
Deadline for Replies	March 19, 2015		
Part A MAPS Inputs Completed	April 15, 2015		
Part A Power Flow Analyses Completed	May 13, 2015		

* Note: The date for any action intended to occur at a Commission Session is to be established at the discretion of the Chair.

Table of Milestones and Deadlines
(Continued)

<u>AC Transmission Process</u>		<u>NYISO PPR Process</u>	
<u>Milestone</u>	<u>Deadline</u>	<u>Milestone</u>	<u>Deadline</u>
Part A MAPS Runs Completed	May 20, 2015		
Deadline for DPS Trial Staff Report and Motion	June 10, 2015		
Technical Conference	June 17-18, 2015	Technical Conference	June 17-18, 2015
Deadline for Responses to DPS Trial Staff Report and Motion	July 15, 2015	Deadline for Supplemental Comments on Proposed Public Policy Requirements	July 15, 2015
Deadline for Replies	July 30, 2015	Deadline for Replies	July 30, 2015
Commission Decision on DPS Motion	August or September 2015 Session*	Commission Decision on Public Policy Requirements; Commission Requests Winning Developers to Propose Transmission Solutions	August or September 2015 Session*
Comparative Phase Ends; Individual Article VII Cases Resume; Part B Scoping Process Commences	September 2015	NYISO Solicits Transmission Solutions	September 2015
		NYISO Receives Transmission Solutions Proposals	November 2015
Part B Applications Submitted	To Be Determined by ALJs	NYISO Begins Review of Solutions	To Be Determined by NYISO

* Note: The date for any action intended to occur at a Commission Session is to be established at the discretion of the Chair.

APPENDIX B

Part A Data to be filed by Applicants on January 7, 2015

(1) Modeling data that has been identified (see Appendix C).

(2) Provide the information identified in the New York Independent System Operators Open Access Transmission Tariff Attachment Y Sections 31.4.4.1 Developer Qualification and Timing and 31.4.5.1 Project Information Requirements, as follows:

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 develop, construct, operate, and maintain a transmission solution to a Public Policy Transmission Need. The ISO shall consider the qualification of each Developer in an evenhanded and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

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 based on the following criteria:

31.4.4.1.1 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;

31.4.4.1.2 The current and expected capabilities of the Developer to finance, develop and construct a transmission facility and to operate and maintain it for the life of the facility. For purposes of this criteria, the Developer shall provide the ISO a description of 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

31.4.4.1.3 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, 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.

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 31.4.4.1.3 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 and shall be eligible to use the cost allocation and cost recovery mechanism for regulated transmission projects set forth in Section 31.5 of this Attachment Y and the appropriate rate schedule for any approved project.

31.4.5.1 Project Information Requirements

Any Developer seeking to offer a transmission solution for Public Policy Transmission Needs 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) that are under negotiations or in place; (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.

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."

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.

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.

APPENDIX C

IDENTIFIED DATA REQUIRED FOR POWERFLOW MODELING

(To be filed by Applicants on January 7, 2015)

The following data is required to model each portfolio. Additional data may be requested as necessary to accurately model the proposed projects.

AC Transmission

For each new or modified circuit, provide:

- From Bus, To Bus: Substations at which the circuit terminates
- Base kV: Nominal operating voltage in kV
- R, X: Line impedance in per unit on 100 MVA system base
- B: Total line charging susceptance in per unit on 100 MVA system base
- Normal rating: Summer peak 24 hour thermal rating in MVA
- LTE rating: Summer peak 4 hour long term emergency thermal rating in MVA
- STE rating: Summer peak 15 minute short term emergency thermal rating in MVA
- Common tower: Identify all other circuits that will share common towers with the circuit

Series Compensation

For each new series capacitor, provide:

- Circuit: Identify circuit to be compensated
- Location: Specify location of series compensation (e.g., which end of the circuit)
- X: Percentage compensation of the line
- Normal rating: Summer peak 24 hour thermal rating in MVA
- LTE rating: Summer peak 4 hour long term emergency thermal rating in MVA
- STE rating: Summer peak 15 minute short term emergency thermal rating in MVA

Transformers

For each new or modified transformer, provide:

- From Bus, To Bus: Substations at which the transformer terminates
- Voltage ratio: Nominal operating high side and low side voltages in kV
- R, X: Transformer impedance in per unit on 100 MVA system base
- Control Type: Fixed tap or voltage control
- Fixed Taps: Tap positions available

- Vmax, Vmin: Upper and lower voltage limits at the controlled bus
- Normal rating: Summer peak 24 hour thermal rating in MVA
- LTE rating: Summer peak 4 hour long term emergency thermal rating in MVA
- STE rating: Summer peak 15 minute short term emergency thermal rating in MVA

Substations

For each new substation, provide a breaker diagram depicting the connection of each element to the substation and corresponding breaker locations.

For each modified substation (e.g., new line connecting to existing substation) provide a breaker diagram depicting the connection of each element to the substation and corresponding breaker locations, OR provide a detailed description as to the modifications to the substation. Specifically identify other circuits in breaker positions adjacent to new or modified circuits.

APPENDIX D

Part A Materials to be filed by Applicants on January 19, 2015
(Remainder of proposals offered for comparative evaluation)

Part A Article VII application must include:

- a. Payment for Intervenor Fund (85-2.4):
- b. Application content (85-2.8(a), (b), (d) and (f)):
 - i. Proposed Facility (85-2.8)
 1. a description of the proposed facility,
 2. location of proposed facility or right-of-way,
 3. explanation of need for the proposed facility, and
 - ii. such other information as the applicant deems necessary or desirable.
- c. Notice of Application, newspaper publication and proof of service (85-2.10)
- d. General requirements for each exhibit (86.1)
- e. Exhibit 1: General Information Regarding Application (86.2): Two additional requirements:
 - i. applicant must include an e-mail address with applicant's contact information.
 - ii. corporate applicant must identify whether it is incorporated under the Transportation Corporation Law.
- f. Exhibit 2: Location of Facilities (86.3) (a) (1): Detailed maps, drawings and explanations showing the ROW,¹ including GIS shapefiles of facility locations and:
 - i. NYS DOT 1:24,000 topographic edition showing:
 1. proposed ROW (indicating control points) covering an area of at least 5 miles on either side of the proposed centerline.
 2. Cross Sections of typical ROW depicting location and configuration of proposed and all existing overhead and underground facilities with typical design detail including height of structures and configuration of circuits for overhead facilities and diameter of pipe or conduit for underground facilities. geologic, historic resources listed on the state or national register of historic places, or scenic area, park, or wilderness within three miles on either side of the proposed

¹ Aerial photo requirement (86.3(b)) shifts to Part B as long as applicant uses 2010 or newer USGS topo for 1:24,000 mapping required by 86.3(a) (1).

- centerline for an overhead facility; or within one mile of the proposed centerline for an underground or sub-aquatic segment.
- ii. (86.3) (a) (2) - NYSDOT 1:250,000 scale or other recent edition topographic maps showing the relationship of the proposed facility to the applicant's overall system, with respect to:
 - 1. the location, length and capacity of the proposed facility, and of any existing appurtenances related to the proposed facility.
 - 2. the location and function of any structure to be built on, or adjacent to, the right-of-way (including switchyards; substations; series compensation station facilities; microwave towers or other major system communications facilities; etc.)
 - 3. the location and designation of each point of connection between an existing and proposed facility, and
 - 4. nearby, crossing or connecting rights-of-way or facilities of other utilities.
- g. Exhibit 5: Design Drawings (86.6(a) and (b)): design, profile and architectural drawings and descriptions of proposed facility, including:
 - i. the length, width and height of any structure, and
 - ii. the material of construction, color and finish
- h. Exhibit 7: Local Ordinances (86.8(4)):² Recent edition 1:24,000 topos with overlays showing:
 - i. zoning; and
 - ii. flood zones (include 100 year (1%) and 500 year (0.2%) flood hazard areas, and floodway locations, as available)
- i. Exhibit E-1: Description of Proposed Transmission Line (88.1(a)-(d)): detailed description of proposed line, including:
 - i. design voltage and voltage of initial operation
 - ii. type, size, number and materials of conductors
 - iii. insulator design
 - iv. length of the transmission line

² Applicants are encouraged to show zoning districts as overlays on 1:24,000 scale topo maps, but may use other appropriate mapping that clearly relates the proposed facilities locations to zoning district maps.

- j. Exhibit E-4: Engineering Justification (88.4) and new section of 85-2.8 addressing compatibility of the facility with the goals and benefits to New York's ratepayers identified in the Blueprint:
 - i. summary of engineering justification for proposed line, showing its relation to applicant's existing facilities and the interconnected network, with full justification to be submitted in Part B;
 - ii. summary of anticipated benefits with respect to reliability and economy to applicant and interconnected network. Specific benefits to be submitted in Part B;
 - iii. proposed completion date, and impact on applicant's systems and of others' of failure to complete on such date;
 - iv. appropriate system studies (see SIS notice requirement below);
 - v. a general demonstration of how, and to what extent, the proposed transmission project meets the congestion relief, system reliability, reduction in regional air pollution and greenhouse gas emissions and the other benefits and objectives identified by the Commission in Case 12-T-0502; details of this demonstration shall be provided with Part B filing, along with the results of the NYISO studies required by 16 NYCRR 88.4 (a) (4);
 - k. Pre-Filed direct testimony of applicant's witnesses supporting Part A exhibits
2. Factual evidence showing how the project utilizes existing ROW and what additional land rights will need to be acquired.
 3. Information on the use of any advanced technologies that are proposed to apply to facility design, construction or operations.
 4. Notice that the SIS/SRIS studies are in progress (study scope accepted and work underway pursuant to a Study Agreement with the NYISO); and
 5. Scoping statement and schedule: Describing how and when the applicant will produce the exhibits required for the Part B filing:

- i. Exhibit 3 (86.4): Alternatives: applicant may use recent edition topographic maps (1:24,000). If any alternative is sub aquatic, applicant should use recent edition nautical charts to show any alternative route considered.(86.4)
- ii. Exhibit 4 (86.5): Environmental Impact must include: assessment of impacts on ecological, land use, cultural and visual resources; noise analysis; coastal zone consistency (including local waterfront revitalization programs and designated inland waterway areas); efforts, if any, to minimize the emissions of greenhouse gases during the construction, operation and maintenance of the proposed facility; plans to ensure facility resilience to rising water tables, flooding, ice storms, coastal storm surges, and extreme heat.
- iii. Exhibit 6 (86.7): Economic Effects of Proposed Facility
- iv. Exhibit 7(86.8 (1), (3), (5) and (6): Local Ordinances where Facility modifications being made, including statement of consultations with municipalities and local agencies, summary table of all substantive requirements, zoning designation or classification, and list of regulatory approvals.
- v. Exhibit 8(86.9): Other Pending Filings
- vi. Exhibit 9(86.10): Cost of Proposed Facility modifications.
- vii. Exhibit E-1 (88.1(e) (f)): Facility Description
- viii. Exhibit E-2 (88.2): Other Facilities
- ix. Exhibit E-3 (88.3): Underground Construction
- x. Exhibit E-5 (88.5): Effect on Communications
- xi. Exhibit E-6 (88.6): Effect on Transportation
- a. Notice of Application and proof of notice and service (85-2.10)

Part A Initial Applications for projects that are not subject to Article VII must include:

1. Links to the full text and figures of all applications submitted to any state, local or federal agency related to the proposed project.
2. A list of the permits and approvals that the project sponsor is required to obtain for the construction and operation of the project, and a schedule for the submission of any applications or other filings not provided under item 1.
3. Where a lead agency has been identified and has made a determination of significance pursuant to SEQRA, a copy of the lead agency's determination.
4. A copy of the EAF reviewed by the lead agency in making its determination, or, if a determination has not been made, a copy of the Part 1 EAF submitted to the involved agency or agencies.
5. If the lead agency's determination of significance was positive, a schedule for the preparation and submission of a DEIS or a copy of the DEIS submitted to the lead agency.
6. If an applicant has yet to receive the lead agency's determination, a description of the status of the SEQRA review (including a proposed schedule for preparation and submission of a DEIS, assuming the determination will be positive).
7. A demonstration of how and to what extent the proposed project meets the congestion relief objectives identified by the PSC in Case 12-T-0502.
8. Factual evidence showing how the project utilizes existing ROW and what additional land rights they will need to acquire.
9. Information on the use of any advanced technologies that they propose to apply.

**Additional information to be included in the
Part A Materials to be filed by Applicants
on January 19, 2015
(as a result of comments received):**

Provide tables and summary information, and narrative description of facility impacts and compatibility with existing environmental conditions and land uses in the various project locations. Tables should address project total as well as segments individually (e.g., individual terminal facilities, and transmission line right-of-way from substation to substation).

Land Cover and Land Use

Land Cover Type Categories - Provide a table listing standard classifications (USGS NLCD 2011 mapping) and identify by classification the distance crossed, acres of areas included (a) in affected ROW and (b) within 500 feet of ROW limits.

Land Use Categories - Provide a table listing real property classifications codes based on NYS ORPS Land Use Classifications, identify by classification the distance crossed in miles, acres of areas included (a) in affected ROW and (b) within 500 feet of ROW limits.

Agricultural Lands - Provide a table indicating ROW Distance, area, acres of disturbance as either permanent or temporary impacts (include facility footprint for: transmission structures (indicating temporary and permanent installations); associated facilities (substations, etc.); access roads; staging or laydown areas; identify impacted lands using criteria above for the following categories:

Agricultural Lands crossed - identify specific categories including:

Use categories: croplands, haylands, pasture lands, reserve lands;

Agricultural Districts: including 'use categories' above and Farm Woodlands;

Orchards and Vineyards;

'Sugar Bush' woodland (managed for maple syrup production); and

Prime Soils; Soils of Statewide Significance.

Residential Areas - Provide a table listing by Towns crossed (and Cities or Villages as appropriate) the number of existing residences within 500 feet of the proposed facility by distance zones: 1 to 100 feet; 101 to 250 feet; 251 to 500 feet. Specify the location, number and type of any buildings and structures (residences, barns, garages, swimming pools) that may need to be acquired to accommodate facility construction and operation.

Population Densities: provide mapping of project location showing population density by municipality, using US Census Bureau, Census 2010 Demographic Profile Data.

Natural and Ecosystem Resources

Wetlands - Identify potential impact areas for facility footprints including structures and access roads for total mapped wetlands areas (using NYSDEC mapping for NYS-regulated wetlands; and USDI-NWI for federally identified wetlands; supplemented by ground survey information or remote-sensing techniques as applicable); provide tables listing individual wetlands distances crossed by facility ROW in feet; and total in miles; ROW in wetland area crossed in acres; anticipated number of structures within wetlands (based on site survey or typical design criteria based on structure type, height and span lengths anticipated); expected areas of wetland cover type conversions, specifying temporary and permanent impacts (e.g. wetland forest clearing and conversion to scrub-shrub or emergent marsh, etc.); and a characterization of probable impacts to significant wetlands benefits.

Rivers and streams: Provide a table identifying NYS Water Quality classification, number and distance crossed for river and stream crossings; number, length and acreage of proposed access road construction or improvements within river and streams crossed (bed and banks disturbance); provide a narrative discussion and tabular summary of cumulative effects on watershed areas for stream impacts within a common watershed.

Significant Coastal Habitats & Significant Natural Ecological Communities: Provide a table listing NYS DOS Significant Coastal Habitats and NYS DEC Significant Natural Ecological Communities within proposed facility ROW limits, indicating the distance of crossing; an estimate of the extent of disturbance anticipated due to facility construction including acres of clearing, length and acreage of access road improvements, number of transmission structures to be installed, and extent of excavation within the communities, if any.

Rare, Threatened or Endangered Species Habitats: Provide a table identifying and listing RT&E species locations and habitats for listed State and Federal Plants and Animals potentially crossed by or affected by transmission facilities and associated access roads and related facilities; indicate the distance of crossing; an estimate of the extent of disturbance anticipated due to facility construction including acres of clearing, length and acreage of access road improvements, number of transmission structures to be installed, and extent of excavation within the habitats, if any. Provide a confidential report addressing the nature of locations and habitats identified, potential impacts to RT&E species, feasible mitigation measures and the nature of probable impacts and avoidance strategies and mitigation measures.

Cultural Resources

For each designated or pre-determined eligible NRHP historic property and district in the project area, indicate:

- (a) the distance and acreage directly crossed by the proposed facility ROW or permanent associated facilities (separately addressing any permanent or temporary access roads);
- (b) distance to historic properties and districts not directly crossed by the facilities; and
- (c) potential for visibility from the resource to the facilities.

Provide assessment of project visual impact on NRHP listed and eligible properties as per the Visual Assessment criteria below.

Visual Resources

Identify Visual resources within 3 miles study area; provide map of preliminary viewshed area based on assumed structure heights and screening by vegetation (specifying assumptions and applicable criteria); for facility locations within 5 miles of Dept. of State designated Scenic Areas of Statewide Significance (SASS), extend study area to 5 miles; list number of visual resources by category within projected areas of project visibility; and assess the degree of project visibility and probable extent of visual contrast change from existing conditions based on classes listed below. Provide

narrative assessment of visual contrast including rating of photosimulation depictions of facility appearance from representative visual receptor locations. Describe mitigation measures appropriate to minimize adverse visual impacts.

Areas in Visibility classes:

- A. no change in extent of visibility - new structures at same height as existing or shorter than existing;
- B. minor change - structures height increase by 10 feet or less;
- C. structure height increase by more than 10 feet.

Areas in Qualitative Change classes:

- A. no significant change in structure design (e.g., re-conductoring; lattice tower replaced by similar lattice tower);
- B. structure change potentially significant (e.g. lattice replaced by monopoles with other lattice facilities remaining on ROW).

Sound Environment and Noise Assessment

For projects proposing the upgrade of existing or construction of new terminal or associated facilities such as substations, provide a preliminary assessment of the existing sound environment identifying the characteristics of the facility area and surrounding setting, distances from noise sources to surrounding critical noise sensitive receptors and site boundary lines. Report existing daytime and nighttime residual ambient (L90) sound levels based on field noise surveys performed during a representative period of time in line with applicable and relevant ANSI standards. Indicate potential for noise producing equipment (transformers, reactors, emergency generators, etc.) to increase existing residual ambient sound levels; and specify design goals and criteria for minimizing adverse environmental noise impacts on identified noise sensitive receptor locations (residences, property lines, public use areas, etc.). Provide a preliminary assessment of potential annoyance or community noise response associated with design goals and/or expected noise levels including the effect of any prominent tones as well as any limitations on future use of adjacent properties caused by noise emissions. Identify any local laws, noise ordinances or regulations applicable to noise levels due to operation or construction of the proposed terminal or associated facilities.

Storm Resiliency & Climate Change

Provide a table identifying the number and distance of river and stream flood hazard areas crossed (specify Floodways, Flood Hazard Zone A through E, etc.); and estimated number of permanent structures within river or stream flood hazard areas (specify estimates for transmission facility structures, access roads, culverts, and fill areas).

Provide a narrative description for each major flood hazard area (e.g., Mohawk River - Erie Barge Canal; Hudson River; Susquehanna River; Schoharie Creek) crossed by proposed facility, indicating characteristics of setting and proposed facility design measures to avoid or minimize potential impacts on facility reliability due to flooding and severe storm events.