

LS Power Transmission – Comments to NY-ISO: March 9, 2012

Additional FERC Order 1000 Compliance Requirements That Should Be Included in February 2012 NY-ISO Compliance Table

Order 1000 Paragraph	Paragraph Quote	Add To Table?	LS Power Comment
314, Footnote 294	“If there is no ROFR in tariff or agreement, it should state so in its compliance filing.”	Yes	NY-ISO should clearly state in its filing that there is no ROFR in its tariffs or agreements that establish a federal ROFR for an incumbent transmission provider with respect to transmission facilities that are selected in a regional plan for purposes of cost allocation.
315	“To ensure comparable treatment of all resources, the Commission has required public utility transmission providers to include in their OATTs language that identifies how they will evaluate and select among competing solutions and alternatives.”	Yes	NY-ISO should specifically adopt changes in their reliability planning process which allows a process for non-incumbents to be allowed to propose and to be selected to build reliability projects. NY-ISO currently has an evaluation process for non-incumbents to propose reliability projects, but it does not currently have a non-discriminatory process for the selection of reliability projects. Paragraph 315 requires this selection process to include not only public policy and economic projects, but also reliability projects.
319	The NY-ISO compliance filing “does not remove or limit any right an incumbent may have to build, own and recover costs for upgrades to the facilities owned by the incumbent, nor” does this compliance filing “grant or deny transmission developers the ability to use rights-of-way held by other entities, even if the transmission facilities associated with such upgrades or uses of existing rights-of-way are selected in the regional transmission plan	Yes	<p>The current table omits the actual sentences from the commission determination in Paragraph 319. These sentences from Paragraph 319 should be added to NY-ISO’s filing in its entirety.</p> <p>FERC Order 1000 (in the Commission determination in paragraph 319) does not state that a ROFR remains on incumbent right-of-way. NY-ISO compliance spreadsheet should be modified to reflect accurately FERC Order 1000 Commission Determination.</p>

	for purposes of cost allocation. The retention, modification, or transfer of rights-of-way remains subject to relevant law or regulation granting the rights-of-way.”		
318	“Commission does not, in this Final Rule, require the removal from Commission tariff and agreements of a federal right of first refusal as applicable to local transmission facility, as that term is defined herein”	Yes	The definition of local transmission facility in NY-ISO compliance filing should be consistent with FERC Order 1000, paragraph 63 (Footnote 300, See definition supra Section 11.D of Final Rule). “A local transmission facility is a transmission facility located solely within a public utility transmission provider’s retail distribution service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation.”
323	“Qualifications cannot be unduly discriminatory or preferential.”	Yes	NY-ISO’s compliance spreadsheet does not include this requirement. This sentence should be added to spreadsheet. (LS Power notes that qualification criteria should be related to being selected into a regional plan.)
324	“The Commission stresses that the qualification criteria should be fair and not unreasonably stringent when applied to either the incumbent transmission provider or the nonincumbent transmission developers”	Yes	NY-ISO’s compliance spreadsheet does not include this requirement. Since the qualification criteria relates to the selection of a project into the regional plan, LS Power would also add that the current “80% rule” in NY-ISO does not meet this criteria, as it is unreasonably stringent and not fair. The NY-ISO compliance spreadsheet should include the removal of the “80% rule” in NY-ISO as it is unreasonably stringent and not fair selection criteria.
328	“Evaluation of projects must build on FERC Order 890.”	Yes	While NY-ISO’s FERC Order 890 tariff was found to be compliant, FERC Order 1000 calls on NY-ISO’s evaluation process “to build on FERC Order 1000”. The removal of the “80% rule” builds on NY ISO’s 890 filing. A compliant FERC Order 890 is simply not enough for a compliant FERC Order 1000 filing.
330	“Commission encourages public	Yes	NY-ISO should add additional measures in its compliance filing to minimize

	utility transmission providers to consider ways to minimize disputes, such as through additional transparency mechanisms, as they identify enhancements to regional transmission planning processes.”		disputes, such as transparency mechanisms or arbitration provisions. LS Power footnotes its specific proposal below.
332	“More specifically, each public utility transmission provider must participate in a regional transmission planning process that provides that the nonincumbent developer has an opportunity comparable to that of an incumbent transmission developer to allocate the cost of such transmission facility through a regional cost allocation method or methods.”	Yes	<p>NY-ISO should clarify in their compliance spreadsheet that their tariff should be specifically modified that non-incumbents can have comparable opportunity to allocate the cost of such transmission facility through a regional cost allocation method or methods.</p> <p>NY-ISO Tariff language needs to be expanded to clarify that non-incumbents can not only submit projects for evaluation, but also have comparable opportunity for cost recovery. In order to have comparable opportunity for cost recovery, LS Power believes that a comparable evaluation should be established in NY-ISO, especially related to reliability projects.</p>
343	“However, if there are still concerns regarding the lack of clarity as to when compliance with NERC registration and reliability standards would be triggered, we conclude that the appropriate forum to raise these questions and request clarification is the NERC process.”	Yes	NY-ISO should clarify in their compliance spreadsheet that the timing of registration with NERC is subject to and in accordance with applicable NERC regulations.