

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 24, 2017

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
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 - 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-T-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.

CASES 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.

CASE 14-E-0454 - In the Matter of New York Independent System Operator, Inc.'s Proposed Public Policy Transmission Needs for Consideration

ORDER ADDRESSING PUBLIC POLICY TRANSMISSION NEED
FOR AC TRANSMISSION UPGRADES

(Issued January 24, 2017)

BY THE COMMISSION:

INTRODUCTION

On December 17, 2015, the Commission issued an order finding that the need for certain upgrades across the Central East and Upstate New York (UPNY)/Southeast New York (SENY) portions of the AC transmission system were being driven by a Public Policy Requirement, as defined under the New York Independent System Operator, Inc.'s (NYISO) federally-approved Open Access Transmission Tariff (OATT).¹ Pursuant to the NYISO's OATT, any Public Policy Requirements identified by the Commission that may be driving the need for additional transmission facilities, referred to as Public Policy Transmission Needs (PPTNs), are forwarded to the NYISO to solicit potential solutions and to prepare a Viability and Sufficiency Assessment of the proposed projects.

As directed under the OATT, the NYISO issued a solicitation on February 29, 2016, seeking potential solutions to resolve the Public Policy Requirement identified by the

¹ Case 12-T-0502, Order Finding Transmission Needs driven by Public Policy Requirements (issued December 17, 2015) (December 2015 Order).

Commission. In response to the solicitation, the NYISO received proposals from six developers, which submitted a total of 16 projects. These projects included 15 transmission projects and one non-transmission proposal.

The NYISO filed the results of its Viability and Sufficiency Assessment on October 28, 2016 (Filing). The Filing also included the results of the NYISO's analysis of cost allocation methodologies that comport with the Commission-identified Public Policy Requirement. On November 16, 2016, a Notice of Proposed Rulemaking (Notice) was published regarding the Filing and inviting comments from interested entities.

In this order, the Commission considers the comments received in response to the Notice and finds that a PPTN continues to exist with respect to the Central East and UPNY/SENY AC transmission upgrades. Accordingly, the NYISO should proceed to a full evaluation and selection, as appropriate, of the more efficient or cost-effective transmission solution to meet the PPTN. Further, the Commission adopts the cost allocation methodology outlined in the NYISO's analysis for recovering the costs of the transmission upgrades, which the NYISO should file with the Federal Energy Regulatory Commission (FERC). The Commission will remain responsible for ensuring that any applicant seeking to site, construct, and operate these transmission facilities has obtained the requisite authorizations under the Public Service Law (PSL).

BACKGROUND

The Public Policy Transmission Planning Process

The NYISO's Public Policy Transmission Planning Process (PPTPP) was developed to comply with FERC's Order No. 1000, which required, in part, the development of a planning process for the consideration of public policy-driven

transmission needs.² The NYISO's PPTPP consists of four main steps, which include: (1) the identification of Public Policy Requirements/PPTNs; (2) the solicitation of proposed solutions to identified PPTNs; (3) the evaluation of the viability and sufficiency of proposed transmission and non-transmission solutions to the PPTNs; and, (4) upon confirmation of the transmission need by the Commission, the evaluation and selection of the more efficient or cost-effective transmission project to satisfy the PPTN.³

The NYISO's PPTPP establishes the Commission's role in identifying any Public Policy Requirements, and confirming that such requirements continue to exist after reviewing the results of the NYISO's Viability and Sufficiency Analysis. The NYISO OATT defines a Public Policy Requirement as:

[a] federal or New York State statute or regulation, including [an order issued by the Commission] adopting a rule or regulation subject to and in accordance with the State Administrative Procedure Act, any successor statute, or any duly enacted law or regulation passed by a local governmental entity in New York State, that may relate to transmission planning on the [Bulk Power Transmission Facilities].⁴

The Commission established the procedures for identifying any Public Policy Requirements and the process for carrying out its responsibilities in an August 2014 Policy

² See, Docket No. RM10-23-000, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, Order No. 1000 (issued July 21, 2011), reh'g denied, Order No. 1000-A (issued May 17, 2012) reh'g denied, Order No. 1000-B (issued October 18, 2012).

³ NYISO Public Policy Transmission Planning Process Manual; Section 1.2 (July 2015).

⁴ NYISO OATT, Attachment Y, §31.1.1.

Statement.⁵ Under the final step identified in the August 2014 Policy Statement, the Commission determines, after reviewing the NYISO's Viability and Sufficiency Assessment of any proposed solutions, whether a transmission solution should or should not be pursued further.

Assuming the Commission determines to pursue a transmission solution, the process specified under the NYISO OATT requires the NYISO to prepare fully detailed analyses. The NYISO then provides its full analyses in a Public Policy Transmission Planning Report, in which it may select the more efficient or cost-effective transmission solution to the identified PPTN, based on various metrics specified under its OATT.⁶ The NYISO will also include, to the extent it is feasible, any criteria or analyses specified by the Commission or contained within the Public Policy Requirement. Transmission projects selected by the NYISO are eligible for cost allocation and recovery under the NYISO's OATT.

NYISO's Solicitation of Needs

On August 1, 2014, the NYISO initiated the first round of its PPTPP under its OATT by requesting interested entities to identify any potential transmission needs that may be driven by

⁵ Case 14-E-0068, Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, Policy Statement on Transmission Planning for Public Policy Purposes (issued August 15, 2014) (August 2014 Policy Statement).

⁶ In determining which transmission solution is the more efficient or cost-effective, the NYISO considers several metrics, including: cost estimates, cost per MW ratio, expandability of the project, flexibility in operating the system (such as generation dispatch, access to operating reserves and ancillary services, or ability to remove transmission for maintenance), utilization of the system (such as interface flows or percent loading of facilities), a developer's property rights, potential construction delays, and impacts on NYISO-administered markets.

a Public Policy Requirement. Following its receipt of responses, the NYISO filed the proposed Public Policy Requirements for the Commission's consideration. While the Commission initially identified a PPTN to relieve transmission congestion in Western New York, the Commission noted that it was continuing to address the need for AC transmission upgrades across the Central East and UPNY/SENY interfaces.⁷ The Commission's December 2015 Order ultimately found that relieving constraints across the Central East ("Segment A") and UPNY/SENY ("Segment B") portions of the transmission system (collectively, the AC Transmission PPTN) would advance numerous public policies. Accordingly, the AC Transmission PPTN was referred to the NYISO to solicit and evaluate potential solutions.

In referring the AC Transmission PPTN, the Commission described the two segments as:

SEGMENT A:

Edic/Marcy to New Scotland; Princetown to Rotterdam
Construction of new 345 kV line from Edic or Marcy to New Scotland on existing right-of-way (primarily using Edic to Rotterdam right-of-way west of Princetown); construction of two new 345 kV lines or two new 230 kV lines from Princetown to Rotterdam on existing Edic to Rotterdam right-of-way; decommissioning of two 230 kV lines from Edic to Rotterdam; related switching or substation work at Edic or Marcy, Princetown, Rotterdam and New Scotland.

SEGMENT B:

Knickerbocker to Pleasant Valley
Construction of a new double circuit 345 kV/115 kV line from Knickerbocker to Churchtown on existing Greenbush to Pleasant Valley right-of-way; construction of a new double circuit 345 kV/115 kV line or triple circuit 345 kV/115 kV/115 kV line from Churchtown to Pleasant Valley on existing Greenbush to Pleasant Valley right-of-way; decommissioning of a

⁷ Case 14-E-0454, Order Addressing Public Policy Requirements for Transmission Planning Purposes (issued July 20, 2015), p. 30.

double-circuit 115 kV line from Knickerbocker to Churchtown; decommissioning of one or two double-circuit 115 kV lines from Knickerbocker to Pleasant Valley; construction of a new tap of the New-Scotland-Alps 345 kV line and new Knickerbocker switching station; related switching or substation work at Greenbush, Knickerbocker, Churchtown and Pleasant Valley substations.

Upgrades to the Rock Tavern Substation

New line traps, relays, potential transformer upgrades, switch upgrades, system control upgrades and the installation of data acquisition measuring equipment and control wire needed to handle higher line currents that will result as a consequence of the new Edic/Marcy to New Scotland; Princetown to Rotterdam and Knickerbocker to Pleasant Valley lines.

Shoemaker to Sugarloaf

Construction of a new double circuit 138 kV line from Shoemaker to Sugarloaf on exiting Shoemaker to Sugarloaf right-of-way; decommissioning of a double circuit 69 kV line from Shoemaker to Sugarloaf; related switching or substation work at Shoemaker, Hartley, South Goshen, Chester, and Sugarloaf.

In order to address the AC Transmission PPTN, the Commission established criteria that a sufficient project should meet. At a high level, the criteria established by the Commission required any proposed solution to Segment A (Central East) to provide a minimum 350 MW increase to the Central East interface transfer capability, while proposed solutions to Segment B (UPNY/SENY) must provide a minimum 900 MW increase to the UPNY/SENY interface transfer capability. Additionally, the Commission required the proposed solutions to not include additional acquisitions of new permanent rights-of-way or crossings of the Hudson River. The full details of the evaluation criteria were laid out in Appendix B of the December 2015 Order.

NYISO's Solicitation of Projects and Analysis

Based on the Commission's directives, the NYISO solicited potential solutions to address the identified AC Transmission PPTN on February 29 2016. In response to the solicitation, the NYISO received proposals from six developers, which proposed a total of 15 transmission projects and one non-transmission proposal. Based on the evaluation criteria established by the Commission, the NYISO prepared a Viability and Sufficiency Assessment for each of the proposed solutions and, following stakeholder review and comments, issued a report dated October 25, 2016.

The NYISO's Filing, on October 28, 2016, explains that it performed an analysis of the proposed solutions and concluded that four developers submitted 13 transmission projects that were viable and sufficient to solve the AC Transmission PPTN, including: 1) Niagara Mohawk Power Corporation d/b/a National Grid (National Grid)/New York Transco, LLC (NY Transco); 2) NextEra Energy Transmission New York (NextEra); 3) North America Transmission (NAT)/New York Power Authority (NYPA); and, 4) ITC New York Development. Two transmission projects and one non-transmission proposal submitted on behalf of two other developers were found to not be viable and sufficient (i.e., Avangrid's two Connect New York high voltage direct current transmission projects, as well as GlidePath's Distributed Generation portfolio).⁸

In addition to conducting its Viability and Sufficiency Assessment, the NYISO also completed an analysis, at the request of the Commission, to consider a prescribed cost allocation methodology for the AC Transmission PPTN. Under the

⁸ These three project proposals did not meet the criteria established by the Commission.

NYISO OATT, the Commission may identify a particular methodology for allocating the costs of transmission facilities to load serving entities under the OATT when it adopts a Public Policy Requirement. The OATT directs the NYISO to file any such methodology with FERC within 60 days.⁹

In the December 2015 Order, in conjunction with the identification of the AC Transmission PPTN, the Commission prescribed the following cost allocation methodology:

The cost allocation and recover methodology shall be based on a "beneficiaries pay" approach for allocating costs, whereby those that derive the benefits of a project shall bear the costs. In that regard, 75% of project costs are to be allocated to the economic beneficiaries of the reduced congestion, while the other 25% of the project costs are to be allocated to all customers on a load ratio basis.¹⁰

The Commission went on to request that the NYISO take additional steps to refine the prescribed cost allocation methodology to ensure equity based on the "beneficiaries pay" principle and to design a more granular allocation which determines the respective shares of upstate and downstate entities.

Based on the Commission's directive, the NYISO proceeded to analyze the proposed cost allocation methodology. In order to assign 75% of the project costs based on the economic beneficiaries of reduced congestion, the NYISO followed, to a large extent, the same methodology it uses to allocate costs under its economic planning process, known as the Congestion Analysis and Resource Integration Study (CARIS). This methodology has been vetted through the NYISO's stakeholders and approved by FERC as just and reasonable for the allocation of costs for projects resulting in lower system

⁹ NYISO OATT, Attachment Y, §§31.1.1 and 31.5.5.4.1.

¹⁰ December 2015 Order, Appendix D.

congestion costs. This approach allocates costs to New York Control Area load zones based on the relative reduction in energy payments resulting from the addition of the proposed project to a production cost analysis model.¹¹ Utilizing the GE-MAPS database adopted by the Brattle Group in its work for the Commission in the AC Transmission proceedings in 2015, the NYISO conducted an illustrative analysis of the difference in zonal energy payments for each NYISO load zone between the base case and project case with both Segments A and B in service. The results of the illustrative analysis determined that, overall, 89.5% of the costs would be allocated to downstate zones (G-K) and 10.5% to upstate zones (A-F). This allocation is intended to reflect the expectation that the primary benefits of the upgrades will be reduced congestion into downstate load areas, while also recognizing that some benefits would accrue to upstate customers in the form of increased reliability and reduced operational costs.¹²

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), the Notice was published in the State Register on November 16, 2016 [SAPA No. 12-T-0502SP6]. The time for submission of comments pursuant to the Notice expired on January 3, 2017. In response to the Notice, various entities filed comments, including: (i) International Brotherhood of Electrical Workers Local 97 (IBEW Local 97); (ii) Consolidated Edison Company of New York, Inc. (Con Edison); (iii) the City of New

¹¹ The NYISO's recommended approach is based on relative reduction in energy payments without consideration of load served by generation owned by LSEs or bilateral contracts not linked to NYISO's energy prices.

¹² December 2015 Order, Appendix D

York (the City); (iv) National Grid; (v) NY Transco; (vi) Multiple Interveners; (vii) NYISO; (viii) New York Municipal Power Agency (NYMPA); (ix) NAT/NYPA; (x) the Long Island Power Authority (LIPA); and, (xi) NEET NY. These comments are addressed below.¹³

COMMENTS

IBEW Local 97

IBEW Local 97 supports the Commission continuing to find a PPTN for AC Transmission upgrades to address upstate to downstate transmission congestion, and that the NYISO should be directed to continue its evaluation and selection of the more efficient or cost-effective transmission project. IBEW Local 97 goes on to recommend that transmission projects should be selected based on many of the principles specified in the Commission's December 2015 Order identifying the AC Transmission Need, such as utilizing existing rights of way, as well as reducing the lengthy review period, eliminating need for new capacity zones, and providing additional renewable energy to downstate loads in response to the CES.

Con Edison

Con Edison argues that the Commission's proposed cost allocation methodology fails to meet FERC principles that costs of new transmission projects be allocated in a manner that is "at least roughly commensurate" with their benefits. They argue

¹³ On January 17, 2017, late-filed comments were submitted on behalf of Columbia Land Conservancy, Farmers and Families for Claverack, Farmers and Families for Livingston, Town of Claverack, Town of Clinton, Town of Livingston, Town of Milan, and Walnut Grove Farm, LLC. These comments, which were filed after the deadline, are not considered herein. Regardless, these comments raise issues that the Commission has already considered.

that the proposed methodology allocates costs predominately based on projected energy market savings and ignores other key benefits of the AC transmission projects, such as capacity savings and reduction in costs of Renewable Energy Certificates and Zero Emission Certificates. Con Edison believes that energy market savings will constitute a relatively small share of the AC Projects' benefits. Con Edison states that adopting the proposed cost allocation methodology assigns the vast majority of the costs to Con Edison's customers when such costs should be more widely allocated, especially to Long Island. Con Edison requests that the Commission reject the proposed cost allocation methodology and adopt a method that more accurately reflects the benefits of the AC projects, including certain unaddressed benefits. Con Edison points to the NYISO's illustrative analysis (NYISO Electric System Planning Working Group presentation on October 13, 2016) and the benefit-cost analysis prepared by Brattle Group for the AC Proceeding in October 2015, to demonstrate such inequity in the benefits to costs allocated to Con Edison.

The City

The City suggests that persistent congestion continues to exist on the UPNY/SENY transmission interface, contributing to higher energy costs and reliability concerns for downstate consumers, as well as accessibility to renewable resources located upstate and neighboring regions. The City suggests that these conditions are no different than when the Commission instituted the proceeding in 2012. The City further notes that the Commission's adoption of the Clean Energy Standard has increased the public policy need for the AC Transmission projects, as most of the State's renewable capacity is located upstate of the UPNY/SENY interface, with significant load located below the interface. The City also cites policies it

has adopted independently of the rest of the state which support a greater reliance on renewable resources for its energy needs. The City indicates it will require transmission expansion and alleviation of the UPNY/SENY constraint in order to access renewable capacity and achieve its policy goals and targets. For all of these reasons, the City submits that the Commission should find that there continues to be a PPTN for the AC Transmission Upgrades. Additionally, the City believes that the cost allocation methodology proposed by the Commission and the NYISO provides a reasonable and fair approach, which acknowledges that most of the benefits of these projects will flow to downstate customers while additional benefits will be seen statewide.

National Grid

National Grid supports a decision that a PPTN continues to exist for AC Transmission upgrades in the Central-East and UPNY/SENY sections of the New York transmission system and that the NYISO should continue with its evaluation of proposed solutions to address the PPTN. They suggest the bases for the Commission's public policy findings in the December 17, 2015 Order continue to exist and there is a continued need for transmission solutions to address them. National Grid further suggests that relieving the congestion on the interfaces will help to achieve the recently adopted Clean Energy Standard targets.

In regards to the cost allocation methodology, National Grid believes the analysis presented by the NYISO is reasonable and achieves a "beneficiaries pay" result and is consistent with the FERC-approved tariff. National Grid also addresses the issue of cost containment, suggesting that, although cost is a critical factor in the evaluation and ranking of projects, the NYISO should not be directed to evaluate and

rank projects based solely on cost or cost containment proposals. National Grid believes developers should have the opportunity and flexibility to structure cost containment proposals based on specific characteristics of their projects.

NY Transco

New York Transco recommends the Commission continue to find a PPTN for AC Transmission upgrades and that the NYISO should proceed with evaluation and selection of the most efficient and cost-effective transmission solution, indicating that the need to increase transmission capability across the Central East and UPNY/SENY interfaces remains. NY Transco suggests that the PPTN is crucially important to meeting the State's energy policy goals, including the CES. NY Transco goes on to note that no non-transmission alternatives were identified in the NYISO's viability and sufficiency assessment which met the criteria set forth by the Commission.

In regards to cost allocation, Transco suggests that the Commission consider all cost allocation comments received when determining if the methodology proposed to FERC will be appropriate and would result in the greatest possible level of support by participants and in the best interest of customers throughout the state. NY Transco also submitted comments on cost containment indicating that, although the NYISO public policy planning process does not require cost containment measures, NY Transco has submitted bids with cost-containment provisions, and if selected, would address its risk sharing proposals which ultimately need to be approved by FERC.

Multiple Interveners

Multiple Interveners supports the Commission's adoption of the cost allocation methodology and analysis conducted by the NYISO. They believe that the general cost allocation for transmission projects developed under Case 12-T-

0502 using a "beneficiaries pay" approach has already been decided and adopted by the Commission, and suggests that the NYISO's analysis of the allocation methodology of this methodology is all that is currently before the Commission. Multiple Intervenors also maintains that the NYISO's analysis is in all respects reasonable and should be adopted. Multiple Intervenors continues to believe that certain transmission projects proposed in these proceedings could result in higher energy prices in upstate regions of the state, and that it would be inequitable to require upstate customers to fund a material portion of the costs. Multiple Intervenors asserts that a 25% cost allocation based on statewide load-ratio share is more than sufficient to compensate for any experienced non-economic benefits related to the proposed transmission projects.

NYISO

The NYISO submits that there continues to be a transmission need driven by Public Policy Requirements identified in the AC Transmission proceedings, and that the proposed transmission expansion in the Central East and UPNY/SENY corridors of the State would provide a number of benefits to that State's power grid and New York customers. The NYISO has observed constraints over these interfaces which limit the capability and efficient operation of the Bulk Power Transmission Facilities and believes a transmission solution the AC Transmission Need continues to be necessary and will assist New York in achieving its energy policy objectives. NYISO points to its 2016 Power Trends report which discusses the State's aging infrastructure and the need to update the bulk electric system.

NYISO reiterates its previous comments that the implementation of a solution to the AC transmission Need will improve reliability and resiliency, provide greater operational

flexibility, enhance competitive electric markets, and help to achieve important public policy objectives, such as increasing renewable resource capacity and accessibility. The NYISO also points the Brattle Group Report identifying benefits of electric transmission, which highlights that the "transmission grid is the backbone that supports all future policy changes in the electricity sector." The NYISO also believes that completing transmission upgrades for the Western New York Transmission Need and the AC Transmission Need will significantly increase the ability of the bulk electric system to dispatch and deliver renewable energy resources to loads and is a necessary step for the State in achieving the CES.

NYMPA

NYMPA supports the NYISO's cost allocation methodology. Specifically, NYMPA argues a beneficiary pays model where approximately 90% of the costs of the AC Transmission projects are allocated to downstate ratepayers, based on a 75% economic/25% load share methodology is appropriate because it properly follows Commission precedent in other PPTN cases and should continue to be applied in the instant case.

NAT and NYPA

NAT and NYPA filed joint comments, stating that the need for additional transmission capacity across the UPNY/SENY interface remains a valid public policy goal. NYPA and NAT further state that the need is, in some ways even more pronounced than it was in December 2015, specifically, the need to integrate renewable resources. They also state that the benefits put forward by the Commission in December 2015, namely relieving congestion, replacing aging infrastructure and capacity market benefits will still accrue as a result of continuing the PPTN process. Finally, NYPA and NAT state that

there are no non-transmission alternatives capable of meeting this public policy need because an interface transfer capacity increase of 900 MW, as the Commission identified for UPNY/SENY, cannot be accomplished without the introduction of new transmission system elements.

LIPA

LIPA states in its comments that relieving congestion on the UPNY/SENY interface remains an important public policy goal and that the PPTN process should continue as a result. With respect to the NYISO's proposed cost allocation methodology, LIPA states that it supports the use of an economic benefits test for allocation of costs for the AC Transmission PPTN projects. However, they argue, the NYISO's "Approach 2" calculation fails to consider bilateral contract or generator ownership information. LIPA states that the exclusion of this portion of the CARIS methodology overstates the benefits that a zone may receive through lowering of energy prices because it ignores the extent to which the Load Serving Entities within a zone, such as LIPA, have long-term arrangements in place to limit their actual exposure to congestion. As a result, LIPA requests that the Commission "endorse and seek application of the benefits calculations" in the NYISO's "Approach 1."

NEET NY

NEET NY states that there is a continued public policy need for additional transmission capacity across the UPNY/SENY interface. Specifically, NEET NY argues that the recently adopted Clean Energy Standard will increase the need to move wind power from upstate to downstate New York. In addition, NEETNY states that addressing congestion on that interface remains a viable need and will lower energy costs for New York Customers. With respect to cost containment, NEET NY asks that the NYISO give significant consideration to cost containment

measures contained in various bids to ensure that ratepayers are protected.

DISCUSSION

The Commission's responsibility at this stage in the planning process is to make a determination, based on the NYISO's Viability and Sufficiency Assessment, as to whether a solution to the previously-identified AC Transmission PPTN should continue to be analyzed by the NYISO, or whether a non-transmission solution should be pursued instead. In accordance with the NYISO OATT and the Commission's August 2014 Policy Statement, the Commission has reviewed the results of the NYISO's Viability and Sufficiency Assessment, as well as the comments received in response to the SAPA Notice. As discussed below, the Commission confirms that the record supports the NYISO proceeding to a full evaluation of the viable and sufficient transmission solutions. The Commission expects that the NYISO will select, for purposes of cost allocation and recovery under the OATT, the most cost-effective and efficient solution, and to seek FERC's approval of the cost allocation methodology adopted by the Commission as part of the Public Policy Requirement.

The AC Transmission PPTN

There was a consensus among commenters that the circumstances which led the Commission to identify the AC Transmission PPTN continue to exist. The Commission agrees that persistent congestion on the Central East and UPNY/SENY interfaces continues to contribute to higher energy costs for downstate customers and to limit the accessibility of renewable resources located upstate. As discussed by several commenters, the recently adopted Clean Energy Standard (CES), which will require 50% of the state's load to be served by renewable

resources by 2030, further heightens the public policy need for transmission constraint relief and cross-state power flows.¹⁴ The CES will undoubtedly require significant increases in renewable generation capacity with the majority of that additional capacity likely to be located in the northern and western regions of the state. The increased transmission capacity will allow these resources to deliver their energy to downstate load centers and avoid being curtailed.

Based on the NYISO's Viability and Sufficiency Assessment, there were no non-transmission alternatives available to solve the PPTN identified by the Commission. In accordance with the NYISO's assessment, various commenters urge the Commission to direct the NYISO to move forward with evaluation and selection of a transmission solution to meet this Public Policy Requirement. The Commission agrees that new 345 kV electric transmission upgrades should be fully evaluated by the NYISO for purposes of addressing the persistent congestion across the Central East and UPNY/SENY portions of the transmission system. The additional transmission capacity to move power from upstate to downstate New York should provide various economic and public policy benefits. Therefore, the Commission directs the NYISO to proceed to a full evaluation of the proposed transmission solutions deemed viable and sufficient.

Cost Allocation and Recovery Methodology

With regards to a cost allocation methodology, the Commission disagrees with Con Edison's contention that the NYISO's methodology fails to meet the "beneficiaries pay"

¹⁴ Case 15-E-0302, et al., Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016).

principle. Con Edison offers no evidence that the proposed cost allocation method is unfair or inaccurate, nor any case for what the value of "other benefits" relative to market savings might be, or why a 25% statewide allocation for these benefits is not roughly commensurate with benefits.

The Commission has previously addressed and adopted a cost allocation methodology for using a "beneficiaries pay" approach, whereby those that derive the benefits of a project should bear the costs.¹⁵ The Commission has repeatedly found that there are numerous potential benefits of implementing the AC Transmission upgrades, and has supported an allocation whereby 75% of the costs are allocated to the economic beneficiaries of the projects and 25% of the costs are distributed based on a state-wide load ration share. The Commission continues to find that this 25% allocation compensates for the non-economic benefits that would be realized by all ratepayers.

The Commission also rejects LIPA's suggestion that the calculation of energy price savings as part of any cost allocation for the AC Transmission Need must take into account the effect of bilateral contracts and generation ownership. The NYISO analyzed the allocations that would result from the relative reduction in energy payments, both with and without consideration of bilateral contracts and generation ownership information, and determined that the resulting allocation percentages by NYISO Zone were similar. As can be seen in the NYISO's analysis in which it utilized available bilateral and self-generation data gathered in 2010/2011 to strictly follow the CARIS methodology, the allocation percentages for each

¹⁵ Case 12-T-0502, et al., Order Establishing Modified Procedures for Comparative Evaluation (issued December 16, 2014), pp. 40-42.

approach are very similar. The NYISO further suggests that it would be a more complicated, time consuming approach to utilize the alternative methodology which would require updating confidential contract and owner documentation. Using the relative energy savings approach is less time consuming, equally accurate, and more transparent.

All other commenters support the Commission's proposed cost allocation methodology, as reflected in the NYISO's analysis. Further, as Multiple Intervenors indicates, such a cost allocation methodology for the AC Transmission Need was already established in prior orders, and the only subject open for discussion here is the NYISO's analysis of that methodology. The NYISO's CARIS-based methodology very closely aligns with the Commission's expectation stated in the December 2015 Order that following such a "beneficiaries pay" approach would result in approximately 90% of the project costs being allocated to customers in the downstate region, while roughly 10% would be assigned to upstate customers. The Commission therefore adopts the NYISO's analysis of the recommended cost allocation methodology as part of the AC Transmission Public Policy Requirement/PPTN.

Finally, the Commission reiterates that certain incentives are appropriate to ensure accurate cost estimates. As the Commission stated,

[i]f 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.¹⁶

The Commission encourages developers to pursue these cost-containment incentives or comparable mechanisms before FERC to ensure that ratepayers retain the economic benefits of the NYISO's competitive transmission process and that the NYISO can select the most cost-effective or efficient solution.

CONCLUSION

The Commission finds that the NYISO should proceed to a full evaluation of the proposed transmission solutions deemed viable and sufficient for purposes of addressing the persistent congestion across the Central East and UPNY/SENY interfaces. Further, the NYISO should select, as appropriate, the more cost-effective or efficient transmission solution to address this AC Transmission PPTN. In addition, the Commission adopts the refined approach identified by the NYISO and discussed herein as the preferred cost allocation methodology associated with the Public Policy Requirement/AC Transmission PPTN.

The Commission orders:

1. The development of new 345 kV electric transmission facilities to cross the Central East and Upstate New York/Southeast New York interfaces, as described in the body of this order, shall be considered a Public Policy Requirement and Public Policy Transmission Need, as defined in the New York Independent System Operator, Inc.'s Open Access Transmission Tariff, and shall continue to be addressed by the NYISO's Public Policy Transmission Planning Process.

¹⁶ December 2015 Order, p. 48.

CASES 12-T-0502, et al.

2. The Commission prescribes the particular cost allocation and recovery methodology recommended in New York Independent System Operator, Inc.'s October 28, 2016 filing, and discussed in the body of this order, as part of the Commission's identification of the Public Policy Transmission Need.

3. These proceedings shall be continued, with the exception of Case 14-E-0454, which shall be closed.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary