

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY**

National Electric Transmission Congestion Study)

**COMMENTS OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR**

INTRODUCTION.

The New York Independent System Operator (“NYISO”)¹ respectfully submits these comments in response to the Department of Energy’s (“DOE”, “Department”) National Electric Transmission Congestion Study (the “Study”).² In these comments, the NYISO responds to questions raised in the DOE’s Congestion Study and makes recommendations regarding the inputs the Department should consider in designating National Interest Electric Transmission Corridors (“NIETC”). The NYISO believes that the DOE correctly designated a broad geographic area from Metropolitan New York through Northern Virginia as a Critical Congestion Area containing the nation’s financial center in New York City as well as the national capital in Washington D.C. The DOE also correctly identified the general location and the direction of congestion in New York, specifically the congestion flowing from the Hudson Valley south to the New York City Metropolitan Area and up and down the Northeast Corridor.³ Finally, the DOE correctly

¹ The NYISO is the independent body responsible for providing open-access transmission service, maintaining reliability, and administering competitive wholesale electricity, ancillary services and capacity markets in New York State. The NYISO conducts a Comprehensive Reliability Planning Process pursuant to Attachment Y of the NYISO’s OATT that includes analysis of congestion within the New York Control area. The NYISO also conducts an economic planning process and participates in inter-regional planning processes, including analyses of transmission congestion, pursuant to the Northeastern ISO/RTO Planning Coordination Protocol.

² The Department of Energy (DOE) published Notice of Availability of the National Electric Transmission Congestion Study (Study) and Request for Comments in the Federal Register on August 8, 2006. 71 Fed. Reg. 45047 (August 8, 2006).

³ See Figure ES-2 of the Congestion Study. The NYISO notes, however, that Appendix 4-2, Appendix 3 for the Eastern Interconnection (posted on the DOE website following issuance of the Congestion Study) identifies a substantial amount of congestion (as measured by congestion rent) in Upstate New York, but

acknowledged that potential solutions to congestion may take the form of: (i) new generation; (ii) demand-side resources; and (iii) transmission upgrades. The Study should provide useful information, which, in combination with the NYISO's analysis of historic congestion, will allow the marketplace to respond with appropriate transmission, generation or demand-side projects to relieve that congestion in a manner that is most economic for customers. Moreover, while not the only relevant factor, the Congestion Study should be useful in designating future NIETCs that may include New York.

Any NIETC designation should be undertaken with care not to usurp state authority or arbitrarily disrupt market-based projects already underway. Nevertheless, the designation of NIETCs and the potential use of FERC's backstop transmission siting authority may be necessary to obtain needed transmission investments for New York if State siting processes fail to approve the transmission or generation facilities needed to serve New York's reliability and market needs. Because the timing of market-based solutions is uncertain, the DOE should maintain sufficient flexibility to allow NIETCs to be identified and designated on a timely basis, if required to implement regulated transmission solutions needed for reliability pursuant to NYISO's Comprehensive Reliability Planning Process. (Section I).

The NYISO's strongly believes that its locational energy and capacity markets and planning processes send appropriate congestion information and other market signals to inform market participants on how best to meet future bulk power system requirements in the most competitive and economic fashion. The Comprehensive Reliability Planning

relatively little congestion in Southeastern New York which is counter to the actual experience in the NYISO markets. The assumptions used in the Congestion Study should be examined further to verify that the location and degree of congestion within New York State have been analyzed correctly.

Process (“CRPP”)⁴ analyzes transmission congestion, identifies reliability needs, elicits market-based solutions to meet those needs treating transmission, generation, and demand response on an equal basis, and identifies regulated backstop solutions that may be required. Although it is relatively early in NYISO’s planning process, market solutions have already been nominated to fulfill future bulk power system reliability needs through 2014. The NYISO has also begun an economic planning process that provides information on congestion to inform Market Participants’ business decisions. On a regional and inter-regional basis, the NYISO actively participates in the Northeastern Independent System Operator and Regional Transmission Organization Planning Coordination Protocol. The DOE should draw upon information supplied by all of these processes to inform its analysis of congestion and of potential NIETCs in New York (Section II).

The NYISO believes that the proper metric to measure congestion should be based upon actual bid production cost savings and not upon gross congestion rent, which does not factor in the effects of financial hedging and other measures that already ameliorate the effects of congestion. In designating NIETCs and reviewing specific proposals, care should be taken to ensure that transmission upgrades to relieve congestion do not merely shift congestion locationally rather than reduce overall cost impacts on customers. (Section III).

Finally, the NYISO appreciates the opportunity to respond to the specific questions DOE posed in the Congestion Study (Section IV).

⁴ NYISO Open Access Transmission Tariff (“OATT”), Attachment Y.

I. The DOE's Study Properly Identified New York as part of a Critical Congestion Area and Correctly Identified the General Location and Direction of Congestion.

The NYISO generally supports classifying congestion areas as Critical Congestion Areas, Congestion Areas of Concern, or Conditional Congestion Areas as a means of distinguishing the characteristics of these broad geographic areas. NYISO agrees with the DOE's approach of considering, among other things, the severity of existing congestion, the population density in the area, the implications for national economic impacts of the area, and the relative timeframes in which congestion issues are likely to arise.

The DOE correctly designated a broad geographic area from Metropolitan New York through Northern Virginia as a Critical Congestion Area containing the nation's financial center in New York City as well as the national capital in Washington D.C. The DOE also correctly identified the general location and direction of congestion in New York, specifically the congestion flowing from the Hudson Valley south to the New York City Metropolitan Area and up and down the Northeast Corridor.⁵ Importantly, the DOE correctly acknowledged that potential solutions to congestion may take the form of generation and demand-side resources, and not exclusively transmission upgrades. The NYISO believes that congestion should be relieved to the extent economically efficient and with the most economic resources available, as determined by investors in New York's markets. The Study should provide useful information, which in combination with the NYISO's analysis of historic congestion, will allow the marketplace to respond

⁵ Nevertheless, as stated in footnote 3, *supra*, the assumptions underlying the Congestion Study should be carefully examined to determine why the amount of congestion identified in Upstate New York is relatively high compared to the amount of congestion determined to be present in Southeastern New York and to reconcile why this finding is inconsistent with the actual experience of the NYISO's markets.

with appropriate transmission, generation or demand-side projects to relieve that congestion in a manner that is most economic for customers.

New York's Comprehensive Reliability Planning Process, discussed more fully below, seeks market-based solutions to identified reliability needs, but recognizes that regulated projects may ultimately be necessary. Thus, the Congestion Study should be useful to the DOE in designating any future NIETCs that may include New York.

The DOE should designate NIETCs with care not to arbitrarily usurp State siting authority or undermine pending market-based solutions. Article VII of the New York Public Service Law establishes a hearing process for transmission siting that should not cavalierly be set aside. If, however, the Article VII process cannot be concluded or if unreasonable conditions are attached to transmission siting (as defined under Section 216 of the Federal Power Act), then designation of NIETCs and FERC's exercise of backstop transmission siting authority may be the only way to facilitate construction of transmission facilities needed to maintain bulk power system reliability. While the CRPP seeks market-based solutions, the NYISO cannot simply ignore the fact that New York's comprehensive and effective generation siting law expired in December 2002 and has not been re-enacted. Thus, despite appropriate market signals, state siting – especially of new generation -- could prove difficult or impossible, which, in turn, may trigger reliance on transmission resources to meet future reliability and market needs.

While NIETCs may provide a "safety net," the NYISO believes that properly designed markets, including locational-based marginal cost pricing for energy and locational installed capacity markets, together with NYISO's reliability and economic planning processes, should send the price signals and market information needed to

encourage resources, whether generation, demand-side or transmission, to satisfy New York's bulk power system needs.

NYISO's markets have had considerable success in attracting investment. Approximately 2,143 new Megawatts ("MW") of generating capacity was built in New York City from 1999 to 2005. During that period, 801 MW of new generation was added on Long Island and another 1,808 MW was added in the rest of New York State. Transmission resources have also been added. Consolidated Edison Company of New York has made transmission upgrades within New York City, the 330 MW Cross Sound Cable was completed between Connecticut and New York, and the 660 MW Neptune Cable is under construction between PJM and Long Island. An additional 1,200 MW of market-based generation projects were nominated to fulfill reliability needs identified in NYISO's 2005 Comprehensive Reliability Plan.

In sum, NIETC designation may be necessary as a backstop if state siting processes fail and market solutions are unavailable to meet the reliability needs identified by the NYISO's CRPP. Because the timing of market-based solutions is uncertain, the DOE should maintain sufficient flexibility in its NIETC designation process to allow NIETCs to be identified, on a timely basis, for regulated transmission solutions that may ultimately be required to meet the reliability needs identified in the NYISO's CRPP.

II. The Department Should Rely Upon the NYISO's Planning Processes to Inform its Identification of Congestion Areas or Potential NIETCs that Include New York.

With the advent of competition, the State's electric utilities no longer conduct vertically-integrated planning though which generation and transmission plans were, historically, coordinated. Today, bulk power system needs depend, in part, upon the

development of additional resources in response to market forces. To marshal and encourage these market forces, the NYISO and its stakeholders developed and implemented a Comprehensive Reliability Planning Process (“CRPP”), which was approved by the FERC in December 2004.⁶ The CRPP is an annual, ongoing process to assess and establish the reliability needs and solutions to maintain bulk power system reliability in New York over a ten-year planning horizon. All resources, generation, transmission and demand-side, are eligible to participate and no particular type of resource is preferred over any other. The CRPP is designed to elicit market-based responses to identified reliability needs. The Transmission Owners in whose districts needs arise are also required to submit regulatory projects to meet these needs with rate recovery through the NYISO’s tariff. These regulatory projects may be triggered by the NYISO as a backstop only if and when market-solutions are not expected to be available on a timely basis to meet forecasted reliability needs. The NYISO evaluates the viability of market-based solutions and monitors their progress. The NYISO can also request the responsible TOs to provide and implement a “gap” solution for unanticipated circumstances that threaten reliability, such as immediate needs that arise outside of the normal annual planning cycle. The NYISO evaluates all proposed solutions to determine whether they meet identified reliability needs. The NYISO does not evaluate the relative economics of market-based or regulatory solutions. Ultimately, state and federal utility and environmental regulatory agencies decide which projects are permitted and sited.

The NYISO’s CRPP begins with a Reliability Needs Assessment (“RNA”), which determines the reliability needs of the bulk power system over a ten-year planning

⁶ See NYISO OATT, Attachment Y. NYISO’s tariffs are posted on its website: www.nyiso.com.

horizon to maintain compliance with bulk power system reliability criteria established by the North American Electric Reliability Council (“NERC”), the Northeast Power Coordinating Council (“NPCC”), and the New York State Reliability Council (“NYSRC”). The RNA uses a base case model of the current New York System and employs General Electric’s Multi-Area Reliability Simulation (“MARS”) tool to model expected future system conditions, including load growth and resource retirements, to determine whether the system will maintain a Loss-of-Load-Expectation (“LOLE”) not to exceed a probability of one outage occurrence in ten years.

The RNA includes an annual analysis of New York Control Area-wide historic transmission congestion. In collaboration with its stakeholders at the Electric System Planning Working Group, the NYISO developed a detailed methodology for analysis of historic congestion costs. The objective of this analysis is to better understand transmission congestion by defining it, analyzing its causes and providing information to market participants to enable them to make investment decisions. To that end, the NYISO provides congestion measures and metrics, assesses the magnitude of congestion and defines its location by zone and by constraint.

The NYISO released its first RNA in December 2005. The 2005 RNA found a need for additional resources in southeastern New York starting in 2008 due to increased power demands and scheduled generation retirements. As called for in the CRPP, the NYISO solicited market-based solutions to meet these needs. Subsequently, the NYISO’s 2005 Comprehensive Reliability Plan (CRP), which was approved by the NYISO’s Board of Directors in August 2005, determined that, together with updated plans from the Transmission Owners, sufficient market-based generation solutions had

been submitted that bulk power system criteria would be met through 2014.⁷ These market-solutions include 950 MW of new generation in New York City and 250 MW of new generation on Long Island. Accordingly, the NYISO determined that it was not necessary to trigger a regulated backstop or alternate regulatory solution at this time. The NYISO will continue to analyze its capacity and energy markets to determine that they remain competitive and send the right price signals for investments in new resources to meet reliability needs. These market signals also inform the market for demand-side projects and merchant transmission projects.

In addition to the CRPP, the NYISO has begun engaging in an Economic Planning Process (“EPP”). The EPP is designed to provide stakeholders with up-to-date data to inform market-participant decisions on investments in all type of resources, transmission, demand-side and generation. These include quarterly postings on the NYISO’s website which provide daily, monthly and annual summaries of congestion based upon the primary measurement methodology—bid production cost—as well as other metrics, reporting of congestion by zone, and tracking of congestion by key constraints.

In the future, the EPP will be expanded to perform “what if” scenario analyses of congestion under different possible bulk power system conditions, and to report on other economic parameters. Further, the EPP will also provide estimates of future congestion based upon the same ten-year planning horizon utilized in the CRPP. The assumptions in these studies will be developed in a transparent stakeholder process, with scenario analyses of possible future system conditions over the planning period, with results that

⁷ The NYISO noted that a reliability need remains for 2015 that had not been fulfilled by market-based solutions, and that it will be examining this issue as well as bulk power system needs under updated higher load forecasts in the 2006 RNA.

are published and posted for Market Participants to examine. By design, the NYISO leaves the decision making on economic solutions for the Market Participants..

Accordingly, the EPP does not: (i) determine a threshold of congestion that requires a specific action; (ii) propose specific projects or solutions; (iii) draw conclusions pertaining to the potential economic benefits of proposed projects; (iv) perform cost-benefit analyses; (v) perform analyses of the allocation of the economic costs of projects; or (vi) mandate solutions to economic opportunities.

The NYISO's Independent Market Advisor analyzes the performance of all NYISO markets, reviews the results of the NYISO's planning analyses, and identifies areas of improvement to be pursued through the NYISO's stakeholder governance process. The NYISO also provides analyses of proposed upgrades at developers' requests. These analyses examine the reliability and interconnection impacts of proposed projects, cost allocation for system upgrade facilities needed to maintain interconnection reliability, allocation of Transmission Congestion Contracts ("TCCs") associated with upgrades, and eligibility of projects for Unforced Capacity Deliverability Rights ("UDRs") to bring external capacity resources into New York's markets.

Joined by ISO New England and PJM, the NYISO entered into the Northeastern Coordination of Planning Protocol ("Protocol") in December 2004.⁸ Supported by the staff of the Northeast Power Coordinating Council ("NPCC"), the Protocol will contribute to ongoing reliability, enhanced operational performance, and economic efficiency of the bulk power system in the northeastern United States. The Protocol established a Joint ISO/RTO Planning Committee (JIPC) and an Inter-Area Planning

⁸ The Independent Electric System Operator of Ontario, Hydro-Quebec, Transenergie and New Brunswick are participating in the Protocol on a limited based.

Stakeholder Advisory Committee (“IPSAC”) that is open to all stakeholders in the northeast region. These bodies: (i) facilitate data and information exchange; (ii) analyze interconnection and transmission service requests; and (iii) develop a Northeastern Coordinated System Plan (“NCSP”).⁹ These regional and inter-regional analyses and studies feed into the NYISO’s reliability and economic planning processes.

Together, the NYISO’s reliability (CRPP), economic (EPP), and regional and inter-regional planning processes provide reliability and economic information to participants and investors in New York’s and other Northeast regional markets. The NYISO encourages the DOE to continue to draw upon the extensive information compiled in the CRPP and these other planning processes in its future analysis of congestion and to consider this information in the designation of NIETCs.

III. The DOE Should Rely Upon Net Production Cost Savings Rather Than Total Congestion Rents as the Proper Measurement of Transmission Congestion.

Congestion rent is noted as a principal metric utilized by the DOE for estimating and evaluating congestion in the Congestion Study. The Department defined “congestion rent” as the shadow price¹⁰ multiplied by the flow summed over all hours the constraint is binding.¹¹ In quantifying the economic significance of congestion, the DOE stated that:

the analysts summed the shadow price times flow over all the hours when the constraint is binding, and call this sum ‘congestion rent’ for purposes of this study. This congestion rent is estimated for each constraint, and is used

⁹ The first NCSP was issued to stakeholders on April 6, 2005.

¹⁰ Shadow price “equals the value of the change in all affected generation if one more MWh could flow across a constrained facility then loaded to its maximum limit; the marginal cost of generation redispatch required to obey the transmission constraint.” Congestion Study, Glossary.

¹¹ Congestion Study, § 2.4, at 13.

to indicate and rank the severity of transmission congestion at various locations on the transmission system.¹²

The NYISO agrees with the DOE's caveat that "this estimate should not be assumed to equal the benefit that might be achieved by expanding the transmission system to eliminate that constraint, and should not be compared to the cost of any such expansion."¹³ Indeed, the NYISO would take DOE's point one step further to state that congestion rent should not be used as a primary metric for transmission congestion in the first place. The "congestion rent" metric should not be relied upon in future analyses of congestion because it is merely an accounting protocol that does not recognize the offsets that exist under various hedging instruments and grandfathered contract arrangements. Transmission congestion should be measured by its impact on energy markets. NYISO believes that the market impact of congestion, expressed as the change in bid production cost, is the proper metric to measure congestion because it measures the true resource cost impact on society.

The NYISO's Operating Committee approved this market impact metric to define transmission congestion for the New York Control Area. Our experience is that production cost change is a more stable measure of upgrade benefits than congestion rents. The NYISO's more comprehensive methodology reveals cost shifting rather than net savings, the impact on energy markets, and whether and to what extent other constraints are "hiding" beneath the analyzed constraints. Under the production cost savings methodology of defining congestion, it is possible to determine whether transmission development will lower costs enough to justify the investment on an economic basis.

¹² Congestion Study, § 2.4, at 14.

¹³ Id. at 14.

In DOE's designation of NIETCs, as well as in the review of specific proposals, care should be taken to ensure that potential transmission upgrades to relieve congestion do not simply shift congestion locationally rather than reduce overall cost impacts on customers. That is, in a layered and networked transmission system like New York's, relieving congestion in one location tends only to shift it to another location. For example, relieving congestion on the Total East Interface in Central New York may only shift transmission congestion further downstate into Southeastern New York. In some situations, there may be economically efficient transmission investments that will relieve persistent, high-cost impact constraints. Moreover, as stated above, given the uncertainties associated with state siting procedures for transmission and generation, future NIETC designation and FERC backstop siting authority may need to be invoked if sufficient resources cannot be mustered to serve New York's reliability and market needs.

IV. Responses to Questions

6. Request for Comments on Designation of National Corridors and on This Study

6.1 Request for Comments Concerning Designation of National Corridors

1. Would designation of one or more National Corridors in these areas be appropriate and in the public interest?

Response: The DOE correctly designated a broad geographic area from Metropolitan New York through Northern Virginia as a Critical Congestion Area containing the nation's financial center in New York City as well as the national capital in Washington D.C. Overall, the DOE also correctly identified the general location and direction of congestion in New York, specifically the congestion flowing from the Hudson Valley south to the New York City Metropolitan Area and up and down the Northeast Corridor. Importantly, the DOE correctly acknowledged that potential solutions to congestion may take the form of: (i) new generation; (ii) demand-side resources; and (iii) transmission upgrades. The NYISO believes that congestion should be relieved to the extent economically efficient and with the most economic resources available, as determined by

investors in New York's markets. The Study should provide useful information, which, in combination with the NYISO's analysis of historic congestion, will allow the marketplace to respond with appropriate transmission, generation or demand-side projects to relieve that congestion in a manner that is most economic for customers. Moreover, while not the only relevant factor, the Congestion Study should be useful to the DOE in its designation of future NIETCs that may include New York.

The DOE should designate NIETCs with care not to usurp State authority or arbitrarily undermine pending market-based solutions. Article VII of the New York Public Service Law establishes a hearing process for transmission siting that should not cavalierly be set aside. If, however, the Article VII process cannot be concluded or if unreasonable conditions are attached to transmission siting (as defined under Section 216 of the Federal Power Act), then designation of NIETCs and FERC's exercise of backstop transmission siting authority may be the only way to facilitate construction of transmission facilities needed for New York to maintain bulk power system reliability. Moreover, while the CRPP seeks market-based solutions, the NYISO cannot simply ignore the fact that New York's generation siting law expired in December 2002 and has not been reenacted. Thus, despite appropriate market signals, state siting -- especially of new generation -- could prove difficult or impossible, which, in turn, may trigger reliance on transmission resources to meet future reliability and market needs.

The DOE's designation of NIETCs should also be careful to take into consideration the presence of pending market-based solutions to transmission congestion. The NYISO believes that properly designed markets, including locational-based marginal cost pricing for energy and demand-curve locational pricing for generating capacity, together with NYISO's reliability and economic planning processes, should send the price signals and market information needed to encourage resources, whether generation, demand-side or transmission, to satisfy New York's bulk power system needs.

In sum, NIETC designation may be necessary as a backstop if state siting processes fail and market solutions are unavailable to meet the reliability needs identified by the NYISO's CRPP. Because the timing of market-based solutions is uncertain, the DOE should maintain sufficient flexibility in its NIETC designation process to allow NIETCs to be identified on a timely basis for regulated transmission solutions that may ultimately be required to meet the reliability needs identified in the NYISO's CRPP.

See Section I of the NYISO's comments for a complete discussion of this point.

A. Does a major transmission congestion problem exist?

Response: The DOE correctly designated a broad geographic area from Metropolitan New York through Northern Virginia as a Critical Congestion Area containing the nation's financial center in New York City as well as the national capital in Washington D.C. Overall, the DOE also correctly identified the general location and direction of congestion in New York, specifically the congestion flowing from the Hudson Valley south to the New York City Metropolitan Area and up and down the Northeast Corridor. Nevertheless, the DOE should measure congestion costs according to total production cost savings rather than total congestion rents in the Congestion Study and in future studies. The DOE should also reexamine the assumptions underlying its study to determine why the amount of congestion identified in Upstate New York is relatively

high compared to the amount of congestion determined to be present in Southeastern New York and to reconcile why this result is contrary to the actual experience of the NYISO's markets.. See Sections II and III of the NYISO's comments for a complete discussion of this point.

B. Are key transmission constraints creating the transmission congestion?

Response: NYISO's historic congestion studies identify the most constraining facilities in the NYCA. This information is posted on the NYISO's website at http://www.nyiso.com/public/services/planning/congestion_cost.jsp . These studies provide information to the NYISO's Market Participants to enable them to make informed business decisions as the appropriate size and type of resource that would most economically address the congestion identified. See Sections II and III of the NYISO's comments for a complete discussion of this point.

C. What is the magnitude of the problem?

Response: See the NYISO's responses to Q1A and Q1B, above.

D. What are the relevant transmission or non-transmission solutions?

Response: Reliability solutions are determined for the New York bulk power system pursuant to the NYISO's Comprehensive Reliability Planning Process. The CRPP strongly prefers market-based responses to fulfill reliability needs. Solutions may take the form of transmission, generation or demand-side resources. Economic projects are proposed by the NYISO's Market Participants. Economic decisions are facilitated by the price signals in the NYISO's competitive markets, and congestion studies and related information provided in the NYISO's Reliability Needs Assessment, Economic Planning Process, and regional and inter-regional planning analyses conducted under the Northeastern Coordination of Planning Protocol. Should state transmission siting proceedings not be successfully concluded, however, designation of NIETCs and FERC's exercise of its backstop transmission siting authority may become the only way to obtain needed transmission investments for New York to maintain bulk power system reliability and to meet market needs. Moreover, while the CRPP seeks market-based solutions, the NYISO cannot simply ignore the fact that New York's generation siting law expired in December 2002 and has not been re-enacted. Thus, despite appropriate market signals, state siting – especially of new generation – could prove difficult or impossible, which, in turn, may trigger reliance on transmission resources to meet future reliability and market needs.

2. How and where should DOE establish the geographic boundaries for a National Corridor?

Response: See Section I of the NYISO's Comments for a complete discussion of the parameters for the DOE's designation of congestion areas and NIETCs; see also Federal

Power Act §216(a)(4) (indicating that several factors need to be considered in designation of NIETCs including reliability, congestion, national security, economic growth, and national energy policy).

3. How would the costs of a proposed transmission facility be allocated?

Response: The costs and associated risks of market-based solutions to reliability solutions, including transmission, are borne by the investors in market-based projects. The costs for regulatory backstop solutions are allocated upon a “beneficiaries pay” principle set forth in Attachment Y of the NYISO’s OATT. Implementation of the “beneficiaries pay” model of cost allocation is being worked out by the NYISO’s stakeholders at the Electric System Planning Working Group. To the extent that new transmission projects require system upgrade facilities to interconnect to the bulk power system, cost allocation is worked out through a series of studies conducted pursuant to Attachments S and X to the NYISO’s OATT. The DOE correctly recognizes in the Congestion Study that cost allocation has no direct relationship to the designation of a NIETC, and the Department should respect regional differences in this regard.

6.2 General Request for Comments on the Congestion Study

1. Did the study accurately identify appropriate areas as National Interest Congestion Areas, Congestion Areas of Concern, and Conditional Congestion Areas? Are there additional areas that should have been so identified?

Response: The DOE correctly designated a broad geographic area from Metropolitan New York through Northern Virginia as a Critical Congestion Area containing the nation’s financial center in New York City as well as the national capital in Washington D.C. Overall, the DOE also correctly identified the general location and direction of congestion in New York, specifically the congestion flowing from the Hudson Valley south to the New York City Metropolitan Area and up and down the Northeast Corridor. The DOE should measure congestion costs according to total bid production cost savings rather than total congestion rents in the Congestion Study and in future studies. See Sections I and III of the NYISO’s comments for a complete discussion of this point

2. How should the method and approach for analyzing historical and future congestion on the grid be improved?

Response: As noted in the comments of the ISO/RTO Council on the DOE’s Notice of Inquiry on the criteria for designating NIETCs, the DOE should rely upon the inputs of ISO, RTO, regional and inter-regional planning processes in defining congestion. Together, the NYISO’s reliability (CRPP), economic (EPP) and regional and inter-regional planning processes provide the reliability and economic information market participants need to make investment decisions, including decisions on where, how and

when to implement transmission upgrades. The NYISO encourages the DOE draw upon the extensive information compiled in the CRPP and EPP collaborative processes. The NYISO will continue to work with the DOE and will provide information to assist in identifying reliability needs and economic opportunities for future investment in the bulk power system. Nevertheless, the DOE should measure congestion costs according to total production cost savings rather than total congestion rents in the Congestion Study and in future studies. The DOE should also reexamine the assumptions underlying its study to determine why the amount of congestion identified in Upstate New York is relatively high compared to the amount of congestion determined to be present in Southeastern New York and to reconcile why that finding is contrary to the actual experience in the NYISO's markets.. See Sections II and III of the NYISO's comments for a complete discussion of this topic.

3. Are there better ways to define, identify and measure “congestion” and “transmission constraints”?

Response: Stakeholders in New York have agreed on the definition of congestion based on bid production cost savings on a statewide basis. The NYISO believes that this is the appropriate way to evaluate the true cost of congestion. In particular, the “congestion rent” metric should not be relied upon in future analyses of congestion because it is merely an accounting protocol that does not recognize the offsets that exist under various hedging instruments and grandfathered contract arrangements. As noted in the Congestion Study, the congestion rent metric “should not be assumed to equal the benefits that might be achieved by expanding the transmission system to eliminate that constraint and should not be compared to the cost of any expansion.” In designating NIETCs, the DOE should be careful that transmission upgrades to relieve congestion do not serve only to shift congestion locationally rather than reduce overall cost impacts on customers. See Section III of the NYISO's comments for a complete discussion of this topic.

4. How should additional data to improve the quality of the congestion analysis be obtained?

Response: See the NYISO's response to Question 6.2(3) above and Section III of the NYISO's comments.

5. What is the appropriate level of “granularity” for analyzing the Eastern and Western Interconnections? That is, what level of detail is appropriate in terms of geographic and electrical specificity?

Response: If by “granularity” the DOE is indicating that lower voltage levels and consequently more busses were included in the study in the Eastern Interconnection, the NYISO believes that the appropriate level of granularity is a function of the transmission topology of the region being modeled. The Western Interconnection is both geographically and electrically more dispersed or nodal in nature than the Eastern

Interconnection. As a result, a less granular analysis in the Western Interconnection can capture as much information as a more granular approach in the Eastern Interconnection.

6. Is it necessary or appropriate to use the same analytical tools to examine congestion in the Eastern and Western Interconnections?

Response: There are several analytical tools of equal quality that can be used to examine congestion in the Western and Eastern Interconnections. The NYISO does not believe that it is necessary for the DOE to prescribe that the same tools be used in each region. In fact, the use of different tools can provide valuable insights.

7. Would it be useful, for both transmission planning purposes and DOE’s congestion analyses, to develop a “path catalog” for the Eastern Interconnection similar to that used in the Western Interconnection?

Response: As noted in the ISO/RTO Council’s (“IRC”) comments on the DOE’s Notice of Inquiry on the criteria for designating NIETCs, a “path catalog” for the Eastern Interconnection would not provide benefits. The Eastern Interconnection is tightly networked and complex, and there are many permutations in transmission paths that make producing a catalog a daunting and probably unproductive exercise.

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