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MEMORANDUM

September 7, 2012

TO: NYISO Board of Directors

FROM: Jackson Morris, on behalf of Pace, NRDC, Environmental Advocates of New York, American Lung Association in New York, and Riverkeeper, Inc.

RE: General Support for NYISO Order-1000 Compliance Filing

Pace has been engaged in the Order 1000 working group discussions from the outset in February 2012, having participated in person or by phone in each of the ten occasions on which the topic was discussed at the Joint ESPWG/IPTF Working Group and other committees. First, we would like to commend NYISO staff for commencing the process soon after FERC issued the Order, and for scheduling the many meetings necessary to allow all interested market participants to express concerns, advance their positions, and engage in a substantive and productive dialogue.

However, as this is ultimately by definition a *compliance filing*, NYISO staff have correctly pointed out on multiple occasions that there are limitations on how much discretion the NYISO has regarding what is included in tariff language, etc. Indeed, there are certain core components of this initial regional October filing (and the subsequent interregional filing in April 2013) that are more or less explicitly spelled out in Order-1000, and failing to comply with those would simply result in cumbersome process delays and unnecessary additional back-and-forth with FERC.

While we withhold our final position on the ultimate filing until it is presented to market participants, we generally support the latest draft language, and believe NYISO staff have compiled language that complies with both the spirit and the letter of Order 1000 in establishing a process in which transmission solutions to transmission needs driven by public policy requirements (PPRs) can be implemented. Specifically, the following core tenets have been included, all of which we believe are essential for prudent Order 1000 compliance:

- **Comparable treatment of transmissions solutions—transmission, generation, and non-transmission alternatives (NTAs)—to public policy driven transmission needs.** It is essential that all tariff language and accompanying documents contain this principle. Doing so is consistent with the NYISO's other processes for reliability (CRPP) and economic (CARIS) planning, and meets a key minimum requirement set forth in Order 1000. While the NYISO has done so in some instances, as we have raised at various meetings changes must be made to the

tariff language to ensure that in each instance where solutions are mentioned, that it is clarified that this does not mean only transmission, but that transmission solutions could also take the form of generation or NTAs such as targeted demand response, distributed generation, or energy efficiency. We urge NYISO staff review the tariff language and ensure this concept is explicitly included in each instance.

- **Default for cost allocation should be to socialize costs proportionally across load.** Order 1000 will enable projects to be constructed and funded that are driven by “public policy requirements”—projects that by definition will fulfill public policies in a cost-effective and efficient manner and that benefit society at large. Thus, the appropriate initial default for cost allocation should be proportional across all load. If PPR driven transmission solutions are proposed for which stakeholders can identify a subset of beneficiaries and justify an alternative cost allocation methodology, that opportunity should be provided and an appropriate allocation should be established. But the default should be the aforementioned proportional socialization. For example, a PPR driven project that enables increased deployment of renewable resources such as wind and solar will result in cleaner air and water, reduced greenhouse gas emissions and other environmental benefits. Such benefits are experienced by all consumers, and thus it is appropriate for all consumers to bear some portion of the costs of that project (similar to programs such as the state’s renewable portfolio standard and energy efficiency portfolio standard). In cases where a project meets both PPR needs as well as other grid functions such as reliability, cost allocation should be broken up accordingly to the extent practicable (see point C6 at the end of this document).
- **PSC Orders should be included when establishing PPRs, and a prominent role for DPS/PSC is appropriate.** As a one state RTO, New York has a unique opportunity to more readily establish what public policies should be considered for purposes of Order 1000. As New York has traditionally shaped the bulk of its key energy policies via the PSC rather than the legislature, failing to include PSC Orders would result in non-compliance with Order 1000. Furthermore, as NYISO counsel has correctly pointed out to market participants on multiple occasions, any PSC Order established in accordance with the State Administrative Procedures Act meets the same legal and statutory definition of a “state or federal law or regulation”, which is spelled out in Order 1000 as the criteria for establishing PPRs.
- **The PPR planning process should occur in parallel with the reliability and economic planning processes, and ensure full participation by all interested stakeholders.** Order 1000 requires that the PPR planning process should be conducted in an open and transparent manner, and as frequently as other planning processes. The current NYISO proposal meets these key requirements by initiating the PPR process on the same two-year time cycle as the CRPP and CARIS.

In addition to the above bullets, the following provides a checklist of key minimum compliance requirements of Order 1000. For purposes of this October filing, Section A covers the “Regional Planning Procedures”. Based on the latest materials provided by NYISO staff, we believe the draft compliance filing would largely meet these requirements (though the comparable consideration and treatment of all solutions—particularly NTAs—needs strengthening). Section B provides guidance for the second phase of this process, when the NYISO will be working with PJM and ISO-NE to establish

“Interregional Planning Coordination”. While these won’t come into play until after the Regional Compliance Filing in October, we offer them to the Board now as an initial look at where things are headed. A more comprehensive discussion of Order 1000 minimum requirements can be found at the link in the footnote at the bottom of this page.

We appreciate this opportunity to provide feedback, and welcome the opportunity to discuss Order 1000 further in either formal or informal settings with any interested Board Members.

Order No. 1000: Checklist of Recommended Minimum Compliance Provisions¹

A. Regional Planning Procedures – Transmission Provider (TP) tariffs must include:

1) Procedures to ensure timely and meaningful opportunities for *stakeholder consultations* in the Regional Transmission Planning Process (RTPP). The TP tariff must, at a minimum, specify:

- i) *Actions the TP will take to consult with stakeholders in the RTPP*, including hosting meetings at which TP grid needs assessments and analyses are provided to stakeholders; inviting written comments to provide feedback and information; and creating a regional plan development website for stakeholder comments, questions and recommendations on grid needs and solutions;
- ii) *The timelines for conducting stakeholder consultations* for input on regional plan development, including the time periods prior to each RTPP decision that the TP will provide opportunities for stakeholder input, as well as the times for stakeholder review and comment on proposed planning decisions; and
- iii) *The matters on which the TP will consult with its stakeholders*, including, at a minimum, study requests and access to planning data, models, etc.; identification and evaluation of needs driven by public policy requirement (**PPRs**); evaluation of solution alternatives, including non-transmission alternatives (**NTAs**), for inclusion in regional plans; and evaluation of facilities proposed to meet both regional and interregional needs.

2) Procedures to ensure reasonable consideration of transmission needs driven by PPRs in the RTPP. The tariff must specify at a minimum:

- i) *When and how stakeholder input on PPR-driven grid needs* will be solicited and considered in an open and transparent manner;
- ii) *How stakeholders will be provided access to the studies, models and data* the TP will use to make planning decisions; and

¹ *The minimum requirements described in this checklist relate only to the Order 1000 reforms that Public Interest Organizations (PIOs) have determined to be their highest priorities for regional grid planning. A PIO white paper on Order 1000 minimum compliance requirements is found at <http://sdrv.ms/NFtVnS>*

iii) *When, how and based on what criteria the TP will select PPR-driven needs to be evaluated for solutions*, as well as the procedures to be used to explain its decisions.

3) Procedures to ensure *comparable consideration* of transmission and non-transmission solutions to address grid needs, including the *process & metrics* for evaluating and selecting alternative solutions. The tariff must specify at a minimum:

- i) *When and how stakeholder solution proposals will be evaluated* in the regional plan development process;
- ii) *Procedures for responding to stakeholder study requests* in a timely manner; and
- iii) *The procedures & metrics* to be used *to evaluate on a comparable basis* all solution options *and to select solutions* that are more efficient or cost-effective for inclusion in its regional plan.

B. Interregional Planning Coordination – TP compliance filings must include:

- 1) The *methods and studies* to be used in the interregional coordination process**, along with explanations and justifications for the methods to be used – the TP compliance filing should state why its methods are appropriate and useful for identifying and evaluating interregional facilities;
- 2) Specific descriptions, in their tariffs or JOAs, of the *mechanisms to be used to harmonize differences in the models, assumptions & approaches of neighboring TPs/planning regions*** –interregional coordination cannot be effective without efforts by neighboring planning regions to harmonize differences;
- 3) Procedures by which neighboring TPs will describe the reliability, efficiency and public policy requirements that drive their systems’ grid needs and how they will reconcile any differences in those drivers** – essential for enabling evaluation of interregional facilities that may meet grid needs more efficiently or cost-effectively; and
- 4) A detailed description of how interregional coordination will occur in neighboring TPs’ regions in the *same general timeframe* as each individual region’s regional planning process** – concurrent evaluations can avoid the risk of foreclosing opportunities to identify and select more efficient or cost-effective solutions to meet the transmission needs of both regions.

C. Cost Allocation – TP compliance filings must include:

- 1) Actual cost allocation methods** – adoption of cost-allocation principles, a project by project approach, or a decision deferral proposal would not comply with Order 1000 requirements;

2) Cost allocation methods for projects to address PPR-driven needs – an essential part of a compliance filing to satisfy Order 1000’s requirement that projects *solely* to address PPR-driven needs must be eligible for selection in a regional plan for purposes of cost allocation;

3) Definitions of “benefits” and “beneficiaries” for purposes of cost allocation – the potential beneficiaries of proposed transmission infrastructure must be able to identify whether they may be beneficiaries, and the types of benefits that will be considered in determining how to allocate costs must be identified in order to satisfy Order 1000;

4) Definitions of benefits in cost methodologies that include the benefits of meeting public policy requirements – without a complete accounting for benefits, it will not be clear that a proposed project is more efficient or cost-effective or that an allocation of costs is demonstrably “roughly commensurate” with benefits;

5) Definitions of benefits in cost allocation methodologies that include the benefits related to likely future scenarios – prudence requires consideration of future scenarios to determine likely beneficiaries, which are likely to change over time, of proposed transmission plans; and

6) Provisions requiring that all benefits of a transmission facility, including PPR-related benefits, be evaluated for purposes of cost allocation – Order 1000 requires that if a new transmission facility is determined to serve several regional grid functions, cost allocation must take the benefits of each of these functions into account to properly allocate its costs. In some cases, properly accounting for benefits may require regional cost sharing.