

September 2, 2014

Hon. Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
Agency Building 3, 19<sup>th</sup> Floor  
Albany, NY 12223-1350

**Subject:** **CASE 12-T-0502** - Alternating Current Transmission Upgrades.  
**CASE 13-E-0488** - Alternating Current Transmission Upgrades– Comparative Proceeding.  
**CASE 13-T-0454** - North America Transmission Corporation and North America Transmission, LLC – Alternating Current Transmission Upgrade Project  
**CASE 13-T-0455** - NextEra Energy Transmission New York, Inc. – Marcy to Pleasant Valley Project.  
**CASE 13-T-0456** - NextEra Energy Transmission New York, Inc. – Oakdale to Fraser Project.  
**CASE 13-M-0457** - New York Transmission Owners – Electric Transmission Facilities in Multiple Counties in New York State.  
**CASE 13-T-0461** - Boundless Energy NE, LLC – Leeds Path West Project.

Dear Secretary Burgess:

Submitted for filing herewith in the above-entitled cases are “Comments of the New York Independent System Operator, Inc.,” in response to the Commission’s August 13, 2104 Notice Seeking Comments on Advisory Staff Recommendations.

Please contact me at (518) 356-6220 or at [cpatka@nyiso.com](mailto:cpatka@nyiso.com) if you have any questions or concerns.

Very truly yours,

/s/ Carl F. Patka

Carl F. Patka  
Assistant General Counsel  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, New York 12144

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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

**Comments of the New York Independent System Operator, Inc.**

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits these comments in the above-captioned proceedings in response to the *Notice Seeking Comment on*

*Attached Advisory Staff Recommendations* issued by the Public Service Commission of the State of New York (“Commission”) on August 13, 2014.<sup>1</sup>

## **I. Background**

On November 30, 2012, the Commission commenced a proceeding in which it requested “written public Statements of Intent from developers and transmission owners proposing projects that will increase transfer capacity through the congested transmission corridor, which includes the Central East and UPNY/SENY interfaces ... and meet the objectives of the Energy Highway Blueprint” (“AC Transmission Proceeding”).<sup>2</sup> Following the initiation of this proceeding, the Commission requested preliminary project submissions by interested developers and transmission owners and established procedures for a comparative evaluation of the transmission project applications under Article VII of the Public Service Law.<sup>3</sup> The Commission also requested comments on a straw proposal developed by Department of Public Service Staff (“DPS Staff”) regarding cost recovery, cost allocation, and risk mitigation for transmission projects in the AC Transmission Proceeding (“Straw Proposal”).<sup>4</sup>

---

<sup>1</sup> *Notice Seeking Comment on Attached Advisory Staff Recommendations*, Proceeding on Motion to Examine Alternating Current Transmission Upgrades, Case 12-T-0502, *et al.* (Aug. 13, 2014) (“NYPSC Request for Comments”).

<sup>2</sup> *Order Instituting Proceeding*, Proceeding on Motion to Examine Alternating Current Transmission Upgrades, Case 12-T-0502 (Nov. 30, 2012) at p 2. On October 25, 2013, the Commission established a new docket for the comparative evaluation phase of the alternating current transmission upgrades examination initiated by the Commission in Case 12-T-0502. *Notice of New Case Number*, In the Matter of Alternating Current Transmission Upgrades – Comparative Proceeding, Case 13-E-0488 (Oct. 25, 2013). Both dockets are referred to herein collectively as the “AC Transmission Proceeding.”

<sup>3</sup> *Order Establishing Procedures for Joint Review Under Article VII of the Public Service Law and Approving Rule Changes*, Proceeding on Motion To Examine Alternating Current Transmission Upgrades, Case 12-T-0502 (Apr. 18, 2013); *Order Adopting Additional Procedures and Rule Changes for Review of Multiple Projects Under Article VII of the Public Service Law*, Proceeding on Motion To Examine Alternating Current Transmission Upgrades, Case 12-T-0502 (Sept. 19, 2013).

<sup>4</sup> *Notice Soliciting Comments and Scheduling Technical Conference*, Proceeding on Motion to Examine Alternating Current Transmission Upgrades, Case 12-T-0502 (July 10, 2013).

In response to the Commission’s solicitation for preliminary project submissions, the incumbent New York Transmission Owners, NextEra Energy Transmission, LLC, North America Transmission, LLC, and Boundless Energy NE, LLC (collectively, the “Developers”) each filed Article VII siting applications in October 2013 for their portfolio of transmission projects.<sup>5</sup> At the request of DPS Staff and Administrative Law Judges Prestemon and Phillips, the NYISO submitted on February 14, 2014, and presented at a technical conference, its preliminary analysis of the incremental power transfer capability of each of the proposed transmission portfolios.<sup>6</sup>

In February 2014, to promote the construction of transmission facilities that minimize landowner and environmental impacts, the Commission initiated a separate proceeding to establish an expedited siting process for Article VII applicants that propose to build within existing utility or state-owned rights-of-way.<sup>7</sup> At the same time, the Commission directed the Administrative Law Judges reviewing the initial project submissions in the AC Transmission Proceeding to offer the current applicants an opportunity to submit alternatives to their existing proposals, incorporating, to the maximum extent possible, projects that can be contained within the bounds of existing rights-of-way (“February 2014 Order”).<sup>8</sup>

---

<sup>5</sup> Case 13-T-0461 – Application of Boundless Energy NE, Case 13-M-0457 – Application of New York Transmission Owners, Case 13-T-0456 – Application of NextEra Energy Transmission New York - Oakdale to Fraser Project, Case 13-T-0455 – Application of NextEra Energy Transmission New York - Marcy to Pleasant Valley Project, Case 13-T-0454 – Application of North America Transmission.

<sup>6</sup> The NYISO submitted its technical conference presentation in Case 13-E-0488 on May 14, 2014.

<sup>7</sup> *Order Instituting Proceeding*, Proceeding on Motion of the Commission to Develop an Expedited Process for Siting Transmission on Existing Rights-of-Way, Case 14-T-0017 (February 21, 2014). The Commission recently adopted its expedited transmission siting process. *Order Establishing Policy Statement on Expedited Process for Siting Transmission*, Proceeding on Motion of the Commission to Develop an Expedited Process for Siting Transmission on Existing Rights-of-Way, Case 14-T-0017 (Aug. 14, 2014).

<sup>8</sup> *Order Authorizing Modification of the Process to Allow for Consideration of Alternative Proposals*, Proceeding on Motion to Examine Alternating Current Transmission Upgrades, Case 12-T-0502, *et al.* (Feb. 21, 2014).

On August 13, 2014, the Commission issued a request for comments regarding Advisory Staff recommendations (“Advisory Staff Proposal”) to clarify and respond to comments regarding: (i) how the Commission will determine which project(s) best satisfy the goals of the AC Transmission Proceeding, (ii) how the AC Transmission Proceeding will be coordinated with the NYISO’s Public Policy Transmission Planning Process, and (iii) how to address the cost allocation, cost recovery, and risk-sharing proposals described in the Straw Proposal.

## **II. Comments**

The NYISO appreciates this opportunity to provide comments regarding the Advisory Staff Proposal and supports the need for coordination of the AC Transmission Proceedings and the NYISO’s recently initiated Public Policy Transmission Planning Process. The NYISO submits these limited comments on specific issues regarding: (i) the scope and timing of its role in providing technical analyses to support the comparative phase of the AC Transmission Proceeding and (ii) the alignment of the Commission’s proceeding with the NYISO’s planning process set forth in Attachment Y of the NYISO’s Open Access Transmission Tariff (“OATT”).

### **A. Clarifications Are Needed Regarding the Scope of the NYISO’s Technical Analyses to Support the Comparative Phase of the AC Transmission Proceeding**

The Advisory Staff Proposal recommends that DPS Staff request the NYISO to perform certain study work to assist with the evaluation of Developers’ proposed transmission projects in the AC Transmission Proceeding.<sup>9</sup> The NYISO has regularly performed technical analyses in support of the Commission in various matters, including in an earlier stage of the AC Transmission Proceeding, and does not object to performing additional study work in this proceeding. However, the NYISO requests that Advisory Staff or the Commission, as appropriate, clarify the scope, timing, and recovery of costs associated with such analyses.

---

<sup>9</sup> NYPSC Request for Comments, Attachment at pp 2-3.

As an initial matter, it is not clear to the NYISO how many transmission projects it is being requested to evaluate. The Advisory Staff Proposal recommends that: “the Commission require applicants to *offer their existing proposals, revisions to those proposals, or any alternatives* developed in response to the Commission’s February 2014 Order for a comparative evaluation.”<sup>10</sup> The NYISO requests that Advisory Staff or the Commission clarify: (i) whether the Developers are being directed to each provide a single project (or portfolio of projects), which would include any modifications in response to the February 2014 Order or other revisions, (ii) whether the Developers may continue to pursue their current portfolios of transmission projects in the comparative proceeding, and (iii) whether the Developers may each provide multiple alternative proposals. This information will clarify how many portfolios of transmission solutions the NYISO will be asked to evaluate.

In addition, the NYISO respectfully requests clarification of the scope of the requested study work. The Advisory Staff Proposal indicates that the NYISO should perform studies to evaluate each Developer’s proposed transmission project(s) in accordance with the following three criteria: (1) “the amount of increased transfer capability that each proposal offers,” which is described as “basically, a determination as to what level of increased transfer capability is achieved at the Upstate New York (UPNY)-Southeast New York (SENY) interface and that transfers across Central East/Total East do not deteriorate system operations;” (2) “the cost of the proposal(s) to ratepayers;” and (3) “electric system impacts, emissions reductions, and production cost impacts, measured in terms of overall changes to the generation dispatch,” which

---

<sup>10</sup> NYPSC Request for Comments, Attachment at p 2 (emphasis added).

should be determined “using General Electric Multi-Area Production Simulation (GE MAPS) modeling.”<sup>11</sup>

The Commission should direct DPS Staff to work with the NYISO to identify the scope of the study work that will be required of the NYISO. The criteria set forth in the Advisory Staff Proposal can be interpreted to require widely-different levels of analysis, requiring different amounts of NYISO resources, time, and costs. Depending on the level of specificity and detail required, the schedule (see below), and the NYISO’s own resources, consultants may be needed to perform these analyses. The multiple analyses and criteria proposed, when multiplied by the number of existing, revised, and yet-to-be-proposed portfolios of transmission solutions, could result in an unmanageable amount of work for the NYISO considering its resources and current planning responsibility under its tariffs and agreements.

The Advisory Staff Proposal provides that the NYISO would perform the study work over less than three months between November 14, 2014, and February 6, 2015.<sup>12</sup> However, without a clearly defined study scope, the NYISO cannot evaluate the reasonableness of this timeframe, particularly as the NYISO’s planning engineers will be simultaneously performing analyses during this time period for certain components of its Comprehensive System Planning Process which has been recently approved by the Federal Energy Regulatory Commission (“FERC”).<sup>13</sup> The NYISO, therefore, requests that the Commission direct DPS Staff to work with the NYISO to propose an appropriate timeframe in light of the study scope that they develop.

Finally, the Advisory Staff Proposal does not establish a mechanism for the NYISO to recover its costs for the performance of the study work, including any work performed by

---

<sup>11</sup> NYPSC Request for Comments, Attachment at pp 2-3.

<sup>12</sup> NYPSC Request for Comments, Attachment, Appendix A.

<sup>13</sup> *New York Independent System Operator, Inc.*, Order on Rehearing and Compliance, 148 FERC ¶ 61,044 (July 17, 2014) (“FERC Planning Order”).

consultants. The Commission should provide for the NYISO's recovery of its actual costs in performing the requested study work. One approach that has worked well in this proceeding has been holding technical conferences with the ALJs, Staff/Advisory Staff, Developers, the NYISO and other interested parties to discuss the scope and schedule for the NYISO's study work. That forum could be employed to address study costs as well.

**B. Clarifications Are Needed to Provide Alignment of the AC Transmission Proceeding with the NYISO's Public Policy Transmission Planning Process**

**1. Coordination of Timing of AC Transmission Proceeding and NYISO Planning Process**

As stated in the Advisory Straw Proposal, the NYISO has established a Public Policy Transmission Planning Process as part of its Comprehensive System Planning Process in response to FERC's Order No. 1000.<sup>14</sup> FERC has accepted the Public Policy Transmission Planning Process in large measure and directed the NYISO to implement the process as part of its current planning cycle.<sup>15</sup> Pursuant to this process, the NYISO will select the more efficient or cost-effective transmission solution to a transmission need driven by a Public Policy Requirement<sup>16</sup> for purposes of cost allocation under the NYISO OATT. The Commission plays a significant role in this process as it is responsible for identifying the transmission needs driven by Public Policy Requirements for which the NYISO will solicit, evaluate, and select

---

<sup>14</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (2011) ("Order No. 1000"), *order on reh'g and clarification*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) ("Order No. 1000-A"), *order on reh'g and clarification*, 141 FERC ¶ 61,044 (2012) ("Order No. 1000-B").

<sup>15</sup> FERC Planning Order at P 37.

<sup>16</sup> The NYISO OATT uses the term "Public Policy Transmission Need" to describe "[a] transmission need identified by [the Commission] that is driven by a Public Policy Requirement . . . ." Section 31.1.1 of Attachment Y of the NYISO OATT. In place of the NYISO OATT's terminology, the Commission has indicated that it will identify "Public Policy Requirements that may drive the need for transmission." *Policy Statement on Transmission Planning for Public Policy Purposes*, Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, Case 14-E-0068 (Aug. 15, 2014) ("NYPSC Policy Statement") at p 7.



transmission solutions, as well as providing additional criteria by which the NYISO should conduct its evaluation and selection.

The Advisory Staff Proposal recommends that the Commission adopt a schedule that will align the AC Transmission Proceeding with the NYISO's Public Policy Transmission Planning Process.<sup>17</sup> Under the proposed schedule, the Commission would identify in March 2015 any Public Policy Requirements that may drive the need for transmission. The NYISO could then initiate in April 2015 the sixty-day period required by the OATT for the solicitation of solutions to any transmission needs identified by the Commission. At the same time, the Commission would take action in the AC Transmission Proceeding to address DPS Staff's report and motion regarding Developers' proposed transmission projects in time to request that the "Winning Developers" submit their projects to the NYISO for evaluation under the NYISO's process. The proposed schedule ends in June 2015 with the receipt of proposed transmission solutions by the NYISO.

At this time, the milestones in the proposed schedule are consistent with the schedule the NYISO intends to follow in its initial cycle of the Public Policy Transmission Planning Process through next June. However, depending on the final agreed-upon scope of NYISO's analyses needed in the comparative phase, the NYISO may require longer than the approximately three months proposed in the Advisory Staff Proposal to perform the study work requested by the Commission. For this reason, if the time period for the NYISO's study work is extended following agreement on the final study scope, the Advisory Staff or Commission should make conforming changes to the proposed schedule to ensure that the AC Transmission Proceeding and the NYISO's Public Policy Transmission Planning Process remain aligned.

---

<sup>17</sup> NYPSC Request for Comments, Attachment, Appendix A.

The proposed schedule appropriately indicates that the next step in the AC Transmission Proceeding will be the submission of the “Part B Applications” under Article VII to the Commission, while the NYISO begins its evaluation of the “Winning Developers” identified by the Commission, and potentially other proposals, including the “non-winners” from the AC Transmission Proceeding, submitted in response to the NYISO’s request for proposed solutions. However there are no further steps, milestones or schedules indicated for the actions to be taken under each of these processes. The Commission should direct the DPS Staff to work with the NYISO, and with stakeholders and interested parties in both the Commission’s proceedings and the NYISO’s planning process, to ensure proper coordination of the AC Transmission Proceeding and the NYISO’s Public Policy Transmission Planning Process going forward.

## **2. Clarification Regarding Developer Recovery of Costs of Proposing Transmission Projects to the NYISO**

The Advisory Staff Proposal recommends that the Commission request under Section 31.4.3.2 of Attachment Y of the NYISO OATT that one or more Developers propose their projects in the NYISO’s process to enable the Developers to be eligible to recover certain costs incurred “in preparing a proposed transmission solution in response to a request by the Commission.”<sup>18</sup> The NYISO clarifies that such Developer would only be eligible under Section 31.4.3.2 to recover under the NYISO OATT those costs that it incurs in preparing the required information for a proposed transmission solution for submission to the NYISO. This would not include the costs incurred by the Developer associated with its participation in the AC Transmission Proceeding or in related Article VII or other governmental permitting proceedings.

---

<sup>18</sup> NYPSC Request for Comments, Attachment at p 5. Note that if the Commission were to request under Section 31.4.3.2 of Attachment Y of the OATT that multiple Developers submit transmission solutions to the NYISO to address a Public Policy Transmission Need and to obtain cost recovery of their proposal costs, it will be up to FERC to determine that this provision permits cost recovery for multiple projects and to determine which costs can be recovered by Developers.

The Commission should provide this clarification when taking action on Advisory Staff's recommendations.

### **3. Identification of Cost Allocation Methodology and Risk Sharing Model in the Public Policy Requirement**

The Advisory Staff Proposal also recommends the adoption of a particular cost allocation methodology for projects that satisfy the goals of the AC Transmission Proceeding and recommends that the NYISO, or any successful Developer, file this methodology with the Commission.<sup>19</sup> In addition, the Advisory Staff Proposal recommends the adoption of a risk-sharing model for use by the NYISO and/or any successful Developer.<sup>20</sup> The NYISO does not take a position as to the substantive merits of the proposed cost allocation methodology or risk-sharing model. However, the NYISO requests that if the Commission decides to adopt these proposals, it does so when it issues its order identifying the related Public Policy Requirement that may drive the need for transmission.

Such action by the Commission will permit the NYISO to apply the risk sharing criteria when performing its evaluation of proposed solutions and to file the proposed cost allocation methodology with FERC. Specifically, the NYISO OATT provides that the Commission may, in its written statement identifying the relevant Public Policy Requirement driving transmission need, "provide additional criteria for the evaluation of transmission solutions and non-transmission projects, and the types of analyses that it will request from the ISO."<sup>21</sup> In performing its selection process, the NYISO "shall apply any criteria specified by the Public

---

<sup>19</sup> NYPSC Request for Comments, Attachment at p 8.

<sup>20</sup> NYPSC Request for Comments, Attachment at p 12.

<sup>21</sup> Section 31.4.2.1 of Attachment Y of the NYISO OATT. Note that the NYISO's tariff provisions currently indicate that such determination will be made by DPS Staff. In response to the Commission's August 15, 2014, policy statement, the NYISO is revising Attachment Y to clarify that the Commission, rather than the NYDPS, is responsible for identifying Public Policy Requirements that may drive the need for transmission. NYPSC Policy Statement at p 9.

Policy Requirement or provided by the [Commission] and perform the analyses requested by the [Commission], to the extent compliance with such criteria and analyses are feasible.”<sup>22</sup> In addition, the NYISO is required to file with FERC any cost allocation and recovery methodology that is prescribed by the relevant Public Policy Requirement.<sup>23</sup>

### **III. Conclusion**

For the foregoing reasons, the NYISO respectfully requests that the New York State Public Service Commission consider these comments regarding the Advisory Staff Proposal and provide the requested clarifications.

Respectfully submitted,

/s/ Carl F. Patka

Robert E. Fernandez

General Counsel

Carl F. Patka

Assistant General Counsel

New York Independent System Operator, Inc.

10 Krey Boulevard

Rensselaer, New York 12144

September 2, 2014

---

<sup>22</sup> Section 31.4.8.1.8 of Attachment Y of the NYISO OATT.

<sup>23</sup> Section 31.5.5.4.1 of Attachment Y.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Rensselaer, NY this 2<sup>nd</sup> day of September, 2014.

*/s/ Joy A. Zimmerlin*

Joy A. Zimmerlin  
New York Independent System Operator, Inc.  
10 Krey Blvd.  
Rensselaer, NY 12144  
(518) 356-6207