



Memorandum

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cc:
Date: June 13, 2012
Re: NYISO Straw Proposal on Public Policy Planning for FERC Order 1000

The Alliance for Clean Energy New York (ACE NY) submits the following preliminary comments on the NYISO's straw proposal for compliance with the public policy provisions of FERC Order 1000 and the discussion of this proposal at the stakeholder meeting held to review it on June 6, 2012. We reserve the right to comment more fully as this discussion proceeds. We have structured these comments to address five broad categories of concerns raised by stakeholders at the June 6th meeting and elsewhere.

Definition of Public Policy

ACE NY supports a broad definition of "public policy" consistent with what we believe is FERC's intent. The straw proposal's inclusion of federal or state law or regulation and Public Service Commission Orders fits well within the domain of FERC Order 1000 and how public policy is developed in New York. Commission Orders are developed as part of stakeholder processes and discussion among many parties and have the force of regulation; it is appropriate and necessary to include them within the domain of public policies addressed by FERC Order 1000. We also believe that public policy requirements that appear imminent should be considered, especially given the time frames needed for system planning. If a public policy requirement is clearly in development but has not been finally adopted, it should be included and any needed solutions explored. Alternatively, there should be a process for consideration of new public policy requirements in between the two-year review cycle proposed.

Jurisdiction

The straw proposal envisions Step One ("Identification of Transmission Needs Being Driven by Public Policy Requirements for which Transmission Solutions should be Evaluated") being administered by the Department of Public Service/Public Service Commission (DPS/PSC). A number of NYISO market participants appear uncomfortable with the extent to which the DPS/PSC will control this process versus a process moderated by the NYISO governance structure. ACE NY sees some merit in the process as proposed, but also notes that a more

prominent role for the NYISO would be appropriate. However, it is ACE NY's perspective that while the NYISO itself may need to play a larger role in Step One, that does not translate to a position in favor of governance structure votes taking the place of the decision-making now proposed to be the domain of the DPS/PSC. The decision on what transmissions needs may be caused by public policy, and which of those may require a transmission – or other cost-effective – solution, should not be dictated only by those whose market power or revenues may be impacted. The governance structure and voting process of the NYISO is not representative of the public at large and cannot adequately address public policy considerations, which by definition are those not being adequately addressed by the market. A process that encompasses both entities, the DPS/PSC and the NYISO, and includes active participation by both jurisdictions' broadly defined stakeholders, is most appropriate.

Process

We recognize that the NYISO's role is to provide independent analysis rather than to pass judgment on public policy, but the NYISO has expertise that is essential to a fair and impartial analysis of the transmission system. As written, Step One provides the DPS with the authority to dictate the criteria used by the NYISO in its evaluation of transmission solutions and the type of analyses it wants performed by the NYISO. We believe the NYISO, and the stakeholder process, should play a greater role in these decisions. In other words, there should be a more collaborative process between the DPS/PSC and the NYISO and the stakeholders engaged in both arenas. The process outlined in Step One also should include more explicit provisions for participation of all stakeholders and for the availability of documents. As written, the DPS could take proposals under consideration, hold a meeting or two (or perhaps not), solicit comments (or perhaps not), and issue findings. It would be preferable for drafts to be made available for discussion in a manner similar to the committee and working group process of the NYISO governance structure, even if the framework for decision-making that is envisioned is a PSC proceeding. We note, however, that the actual decision-making structure is left completely unstated in the straw proposal and the word proceeding is not used. Further clarity on exactly how the process will work and how transparency will be assured is necessary.

Non-Transmission Alternatives

FERC Order 1000 requires that cost effective non-transmission solutions be identified if appropriate. The proposed OATT language addresses this requirement, however the straw proposal does not adequately incorporate this concept. The NYISO should revise the straw proposal to include language clearly stating the need to consider non-transmission solutions such as generation and demand-side management in order to meet public policy requirements in a cost-effective manner.

Cost Allocation

We believe this section of the straw proposal needs revision and more discussion. Order 1000 requires a detailed and specific cost allocation methodology for public policy driven transmission solutions rather than a case-by-case approach as envisioned here. Such cost allocation methods need to clearly specify the benefits and class of beneficiaries. We note that most stakeholders present at the June 6th meeting expressed some degree of discomfort with this section as written, although clearly represented various viewpoints. While we do not share all of the concerns expressed by other parties, we would like to see further discussion and a revision that contains an explicit cost allocation process for solutions that are driven by public policy, and therefore provide broad public benefits.