

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on July 16, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman, concurring

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 REQUIREMENTS
FOR TRANSMISSION PLANNING PURPOSES

(Issued and Effective July 20, 2015)

BY THE COMMISSION:

INTRODUCTION

On August 1, 2014, the New York Independent System Operator, Inc. (NYISO) commenced its Public Policy Transmission Planning Process specified under its Open Access Transmission Tariff (OATT) by requesting interested entities to identify any potential transmission needs that may be driven by a Public Policy Requirement. Pursuant to the NYISO's OATT, the Commission may identify any Public Policy Requirements that may be driving the need for additional transmission facilities, which are referred to as Public Policy Transmission Needs. Any Public Policy Requirements identified by the Commission are

referred to the NYISO to solicit and evaluate proposed solutions.¹

On October 3, 2014, the NYISO filed, for the Commission's consideration, the proposed Public Policy Transmission Needs it received from eight entities. The proposed Public Policy Transmission Needs cover three broad categories, including those related to the Commission's AC Transmission Upgrades proceedings,² Western New York congestion relief, and various other environmental and system-related needs.

In conformance with the State Administrative Procedure Act (SAPA) §202(1) and the Commission's Policy Statement on Transmission Planning for Public Policy Purposes,³ notice of the NYISO's filing was published in the State Register on November 12, 2014. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on December 29, 2014. The comments received in response to the notice are summarized and discussed below.

On April 3, 2015, the Commission sought supplemental comments on certain matters raised by commenters regarding transmission capability in Western New York. The comments

¹ The capitalized terms used above are defined in the NYISO's OATT, Attachment Y, §31.1.1. The NYISO's Public Policy Transmission Planning Process is contained in Attachment Y of the OATT, §31.4, et seq.

² Case 12-T-0502, et al., Proceeding to Examine Alternating Current Transmission Upgrades, Order Establishing Modified Procedures for Comparative Evaluation (issued December 16, 2014)(AC Transmission Upgrades proceedings).

³ 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).

received in response to the notice seeking supplemental comments are also summarized and addressed below.

As discussed in the body of the order, the Commission identifies a Public Policy Requirement related to Western New York congestion relief. We refer this Public Policy Requirement to the NYISO for the solicitation of potential solutions and the preparation of a viability and sufficiency analysis related to those solutions. The Commission will review the NYISO's analysis and determine whether a transmission solution should proceed to a full evaluation. We also determine that the other proposed Public Policy Requirements should not be referred to the NYISO at this time.

BACKGROUND

The NYISO's Public Policy Transmission Planning Process was developed to comply with the Federal Energy Regulatory Commission's (FERC) Order No. 1000, which required, in part, the development of a planning process for the consideration of public policy-driven transmission needs.⁴ On October 11, 2012, the NYISO and New York Transmission Owners (NYTOs) made an initial compliance filing with FERC to amend the NYISO's OATT to include this new planning process, which will be conducted on a two-year cycle.⁵ On April 18, 2013, FERC accepted

⁴ 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).

⁵ The NYTOs include Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Long Island Power Authority (LIPA), Niagara Mohawk Power Corporation d.b.a. National Grid (National Grid), New York State Electric & Gas Corporation (NYSEG), Rochester Gas and Electric Corporation (RG&E), and the New York Power Authority (NYPA).

the initial compliance filing, subject to further modifications.⁶ The NYISO and NYTOs submitted three additional compliance filings with FERC, as directed by FERC orders.⁷ The fourth compliance filing was made on May 18, 2015, in order to comply with the April 2015 FERC Order and is still pending before FERC. The fourth compliance filing does not affect the action taken in this order.

As approved by FERC, the NYISO's Public Policy Transmission Planning Process commences with a 60-day solicitation period for any interested entities to identify proposed transmission needs that are potentially being driven by Public Policy Requirements. The NYISO posts all submittals on its website and forwards them for the Commission's consideration. The Commission is assigned the role of identifying any Public Policy Requirements that may be driving the need for transmission facilities.⁸ 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].⁹

⁶ Docket No. ER13-102-000, New York Independent System Operator, Inc., Order on Compliance Filing (issued April 18, 2013) (April 2013 FERC Order).

⁷ Docket Nos. ER13-102-000 et al., New York Independent System Operator, Inc., Order on Rehearing and Compliance (issued July 17, 2014) (July 2014 FERC Order); Order on Rehearing and Compliance (issued April 16, 2015) (April 2015 FERC Order).

⁸ The Long Island Power Authority (LIPA) is responsible for identifying transmission needs driven by Public Policy Requirements within the Long Island Transmission District.

⁹ NYISO OATT, Attachment Y, §31.1.1.

The August 2014 Policy Statement established the procedures for identifying any Public Policy Requirements that warrant the NYISO soliciting solutions for evaluation. These procedures include:

- (1) the NYISO submitting the proposed Public Policy Requirements that interested entities have identified regarding potential transmission needs, which the Commission will post on its website;
- (2) the Commission issuing a notice in the State Register, pursuant to SAPA, inviting comments on any proposals posted in Step 1, along with any subsequent additions identified by the Commission, and any proposed evaluation criteria the NYISO should apply and analyses it should perform;
- (3) Department of Public Service Staff (Staff) posting, when deemed appropriate, preliminary comments for interested parties to review and comment upon, addressing why any proposed Public Policy Requirements warrant, or do not warrant, the NYISO soliciting projects for evaluation;
- (4) the Commission issuing an order identifying the potential transmission needs, based on Public Policy Requirements, that warrant the NYISO soliciting solutions (along with an explanation of proposed Public Policy Requirements that do not warrant referral to the NYISO), and an identification of any proposed evaluation criteria the NYISO should apply and analyses it should perform;¹⁰ and,
- (5) the Commission posting the Order, issued under Step 4, on its website and providing it to the NYISO.¹¹

¹⁰ The Commission may also find that none of the suggested policies constitute Public Policy Requirements, or that transmission is not needed to address them.

¹¹ The NYISO's OATT indicates that the Commission's procedures should "ensure that such process is open and transparent, provide the ISO and interested parties a meaningful opportunity to participate in such process, provide input regarding the NYPSC's considerations, and result in the development of a written determination as required by law, inclusive of the input provided by the ISO and interested parties." NYISO OATT, Attachment Y, §31.4.2.1.

Following these steps, the NYISO undertakes a second 60-day solicitation for proposed solutions to any Public Policy Transmission Needs. The NYISO then conducts a preliminary analysis regarding whether each proposed solution is viable and sufficient to meet the Public Policy Transmission Need. When evaluating proposed solutions to a Public Policy Transmission Need, the NYISO considers, on a comparable basis, all resource types, including generation, transmission, demand response, or a combination of these resource types.

The NYISO presents the results of its Viability and Sufficiency Assessment for review and comment. Under the sixth and 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. If the Commission concludes that non-transmission solutions should be pursued, it will indicate that there is no longer a transmission need being driven by a Public Policy Requirement that requires the NYISO's evaluation of potential transmission solutions. Similarly, the Commission may determine an appropriate course of action where a suitable solution has not been presented to meet the identified Public Policy Requirement.

Assuming the Commission determines to pursue a transmission solution, the process specified under the NYISO OATT requires the NYISO to prepare further detailed analyses. The NYISO provides its analyses in a Public Policy Transmission Planning Report, in which it may select the more efficient or cost-effective transmission solution to the identified Public Policy Transmission Need, based on various metrics specified

under its OATT.¹² 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.

PROPOSED PUBLIC POLICY TRANSMISSION NEEDS

On October 3, 2014, the NYISO filed the proposed Public Policy Transmission Needs it received from eight entities, including: (i) H.Q. Energy Service U.S., Inc. (HQUS); (ii) Iberdrola, USA, Inc. (Iberdrola); (iii) National Grid; (iv) NYPA; (v) the NYTOs (excluding LIPA); (vi) NextEra Energy Transmission New York, Inc. (NextEra); (vii) North America Transmission, LLC (NAT); and, (viii) NYSEG/RG&E.

HQUS

HQUS proposes several public policies that it believes are driving the need for transmission throughout the State. In particular, HQUS points to the Commission's AC Transmission Upgrades proceedings where the Commission is currently considering whether to address the persistent transmission congestion that exists at the Central East and Upstate New York/Southeast New York (UPNY/SENY) electrical interfaces. It contends that increasing transmission capacity across these interfaces would provide several benefits, such as reduced

¹² 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.

congestion, lower energy costs, and increased reliability, efficiency and transmission flexibility.

In addition, HQUS cites the Commission's Generation Retirement Contingency Plan for the Indian Point Energy Center in Case 12-E-0503 as driving the need for additional transmission. HQUS contends that while certain Transmission Owner Transmission Solutions (TOTS) have been approved and are moving forward, the TOTS do not fully meet the identified reliability need that would occur in the event of an Indian Point closure.¹³

Further, HQUS suggests that the Commission should identify a Public Policy Requirement to promote fuel diversity. HQUS notes that there are currently no statutes or regulations that call for a certain level of fuel diversity in the State's resource mix. According to HQUS, operating experience in New England and other parts of the U.S. during last winter's polar vortex indicates that the growing reliance on natural gas for power generation can have negative consequences. It argues that a diverse generation mix of fuel sources is critical for system reliability and economic stability.

HQUS also suggests that consideration be given to establishing a Public Policy Requirement related to reducing greenhouse gas emissions, based on established regional, state, and city goals.

Iberdrola

Similar to HQUS, Iberdrola suggests that there are transmission needs being driven by the Commission's AC Transmission Upgrades proceedings and Generation Retirement Contingency Plan for the Indian Point Energy Center. Iberdrola

¹³ The remaining deficiency after completion of the TOTS projects and implementation of targeted Energy Efficiency and Demand Response is estimated to be approximately 570 MW at this time.

notes various benefits to increasing the capacity of the system and relieving congestion, including improving system reliability, flexibility, and efficiency, lowering ratepayer costs, promoting renewables, and increased fuel diversity. It also points to job growth and economic development benefits, as well as reduced environmental and health impacts.

National Grid

National Grid advocates for a Public Policy Requirement related to transmission congestion relief in Western New York. National Grid notes that current congestion in Western New York is limiting the output of hydroelectric resources in Western New York and imports from Canada. Relieving this congestion would, according to National Grid, allow for increased output from renewable resources and assist in achieving carbon dioxide (CO₂) emissions reductions goals, such as those established under the Regional Greenhouse Gas Initiative (RGGI). Furthermore, it maintains that improved transmission capability would guard against the loss of fossil generation in Western New York.

NYPA

NYPA, similar to National Grid, argues for a Public Policy Requirement to address Western New York transmission constraints. NYPA points to RGGI, the Commission's Renewable Portfolio Standards (RPS) goals, the Niagara Redevelopment Act, and the State Energy Plan developed pursuant to Article 6 of the State Energy Law as driving the need for transmission to relieve the constraints. NYPA maintains that relieving Western New York's transmission congestion would further the policies represented by these statutes and regulations by enabling full use of the renewable, non-carbon producing generation available from the Niagara Plant.

NYPA contends that the State Energy Plan is a statutory requirement which addresses strategies for facilitating and accelerating the use of low carbon energy sources and/or carbon mitigation measures. NYPA cites the 2014 Draft State Energy Plan, which indicates that "it is essential to guard against failures of the existing transmission system, since such failures not only raise safety and reliability concerns, but also can lead to increased system congestion, with related higher electricity costs and power plant emission levels goals."

NYPA also asserts that the RGGI program qualifies as a Public Policy Requirement because it seeks to reduce emissions of greenhouse gasses, and maintains that renewable assets, such as NYPA's Niagara facility, would assist in this effort. NYPA explains that when the Niagara facility's output is limited, increased fossil-fuel generation must be dispatched, increasing air emissions and driving up RGGI allowance costs. Relief of transmission constraints, according to NYPA, would further the objectives of the RGGI program by reducing CO₂ emissions and lowering ratepayer costs. Similarly, NYPA argues that the Commission's RPS objectives of increasing renewable, non-fossil fuel electricity also support alleviating Western New York transmission congestion to allow for increased production and delivery of renewable power from the Niagara Plant.

Lastly, NYPA cites the Niagara Redevelopment Act, which states that "at least 50[%] of the [Niagara] project power shall be available for sale and distribution primarily for the benefit of the people as consumers...to whom such power shall be made available at the lowest rates reasonably possible and in such manner as to encourage [its] widest possible use...."¹⁴ NYPA believes that Western New York transmission constraints

¹⁴ 16 U.S.C. §836(b)(1).

pose a challenge to the objective of the Niagara facility's enabling statute, and relieving such congestion would allow the Niagara plant to better meet its legislative mandate.

NYTOs

The NYTOs, except LIPA, identify the Commission's AC Transmission Upgrades proceedings as a potential Public Policy Requirement. The NYTOs highlight the benefits of reducing the UPNY/SENY and Central East interfaces to help lower energy costs, increase reliability, and improve system efficiency.

NextEra

NextEra claims that the AC Transmission Upgrades proceedings and RPS should qualify as Public Policy Requirements. NextEra asserts that one of the primary impediments to accomplishing the policy objectives of the RPS orders is inadequate transmission facilities to provide renewable energy from upstate projects to downstate zones. Citing the NYISO's 2010 Growing Wind report and the NY Energy Highway Blueprint, NextEra contends that transmission projects would accommodate the integration and delivery of renewable generation in upstate New York, and that greater production cost savings than those identified by the NYISO's wind report could be realized if transmission constraints between upstate and downstate were eliminated.

NextEra notes that the NYISO interconnection queue currently shows approximately 2,000 MWs of new proposed wind projects to be constructed in western and central New York and the Mohawk Valley, which it argues are areas previously identified by NYISO where transmission facilities could limit wind delivery, and thereby inhibit the economic viability of those projects.

NAT

NAT, like various other commenters, identifies the Commission's AC Transmission Upgrades proceedings as driving the need for transmission solutions. NAT points to the same potential benefits noted by other parties.

NYSEG/RG&E

NYSEG/RG&E propose designating the RPS initiative as a Public Policy Requirement potentially driving transmission needs. NYSEG/RG&E also suggest the U.S. Environmental Protection Agency's (EPA) proposed Clean Air Act §111(d) rule should be identified as a Public Policy Requirement potentially driving transmission needs in New York. NYSEG/RG&E report that on June 16, 2014, the EPA published its proposed carbon pollution emission guidelines for existing electric utility generating units. The proposed rule includes state-specific rate-based goals for CO₂ emissions and guidelines for the development and implementation of State plans addressing CO₂ emissions from existing fossil fuel-fired electric generating units in order to achieve those goals.

SAPA COMMENTS

On November 12, 2014, notice of the NYISO's filing containing proposed Public Policy Transmission Needs was published in the State Register. In response to the notice, the Commission received comments from ten entities, including: (i) NYISO; (ii) NYTOs (excluding LIPA); (iii) LIPA; (iv) Entergy;¹⁵ (v) Scenic Hudson; (vi) the Town of Milan/Farmers and Friends for Livingston/Town of Pleasant Valley (Milan/Pleasant Valley); (vii) Boundless Energy NE, LLC (Boundless); (viii) West Point

¹⁵ The filing parties include Entergy Nuclear Fitzpatrick, LLC, Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Entergy Nuclear Operations, Inc. (collectively, Entergy)

Partners, LLC (West Point Partners); (ix) Farmers and Families for Claverack; and, (x) the Columbia Land Conservancy.

NYISO

The NYISO points to the annual publication of Power Trends 2014, which it asserts highlights the need to update the transmission system. The NYISO maintains that New York's transmission infrastructure is aging and needs to be upgraded and replaced, and that transmission upgrades would bring many necessary and important benefits. The NYISO also notes that additional transmission capacity is needed in Western New York to improve the bulk power system's ability to move power from the Niagara hydroelectric facility and other major economic resources located in Western New York to Eastern New York. The NYISO says that this area of the system is constrained today, depriving New Yorkers of the full amount of clean and economic resources that are available.

NYTOs

The NYTOs provide support for their proposal to designate the Commission's AC Transmission Upgrades proceedings as a Public Policy Requirement that is driving the need for transmission improvements. Their comments point to existing studies and findings which they believe show a clear need for AC transmission improvements to address the public policy goals established by the Commission's AC Transmission Upgrades proceedings and the Governor's Energy Highway Blueprint. The NYTOs point to multiple benefits of AC transmission upgrades across the UPNY/SENY and Central East interfaces, including congestion relief, improved reliability through replacement of aging infrastructure, environmental benefits through the ability to dispatch cleaner resources, a more flexible transmission system capable of withstanding various contingencies,

transmission system resiliency, fuel resource diversity, and economic development benefits.

The NYTOs focus on system efficiency and congestion relief and point to the NYISO's 2013 Congestion Assessment and Resource Integration Study (CARIS), which shows that system congestion can cost ratepayers between \$500 million and \$2.5 billion annually. Even with the recent downtrend in congestion cost over the past few years due to a slow economy and an abundance of natural gas resources, the NYTOs note that the NYISO is projecting that congestion costs will increase to over \$900 million by 2020.¹⁶

Further, the NYTOs argue that a robust transmission system allows the flexibility to address contingencies that may occur as a result of generation retirements, and could avoid costly and uneconomic gap solutions and reliability contracts. With adequate transmission, the NYTOs contend, generators that have become uneconomic or obsolete would be permitted to retire without adverse reliability or economic impacts.

LIPA

LIPA declares that the interest in the AC Transmission Upgrades proceedings on economic and reliability matters should be addressed in the NYISO's economic or reliability planning processes, and should not be identified as a Public Policy Requirement. LIPA believes that designating a Public Policy Requirement based on these proceedings would undermine the NYISO's economic planning process. LIPA also notes that the AC Transmission Upgrades proceedings are ongoing, and that a final order has not yet been issued.

LIPA also comments that there is no present need to identify a Public Policy Requirement based on the Indian Point Generation Retirement Contingency Plan. LIPA points out that

¹⁶ NYISO 2013 CARIS, p.49.

the plan was developed to secure against potential reliability needs in the case of a closure of the Indian Point facility. LIPA notes that while the plan identified a need for transmission system improvements, those improvements have already proceeded past the planning stage and are now in active development. The TOTS projects, LIPA points out, have already been approved by the Commission and the NYTOs are proceeding with construction. LIPA states that they have significant reservations regarding the NYTO's TOTS projects and that an identification of a Public Policy Requirement for the Indian Point Generation Retirement Contingency proceeding would exacerbate those concerns.

LIPA believes that the Commission should reject requests to designate a Public Policy Requirement based on any pending proceedings, such as the EPA's proposed Clean Air Act §111(d) regulations and the Draft New York State Energy Plan. LIPA believes that adopting a Public Policy Requirement based on either of these pending proceedings would be premature given that the final rule or outcome may further evolve and could look drastically different than what is currently proposed.

Further, LIPA refutes the suggestions that RGGI, RPS, and Section 5(2) of the Public Service Law should qualify as Public Policy Requirements. LIPA does not believe that any of these suggestions have a direct, causative relationship with bulk transmission system development rising to the level of driving transmission needs. LIPA argues that RGGI is solely a trading program for CO₂ allowances and does not directly relate to transmission planning. It further maintains that while RGGI was expected to shift the power systems reliance toward less carbon-intensive resources, such a shift does not necessarily drive transmission needs. Regarding Section 5(2) of the Public Service Law (PSL), LIPA asserts that although certain

regulations or orders established by the Commission under Section 5(2) may constitute a Public Policy Requirement, the generalized policy articulated in Section 5(2) is not an independent basis for designation of a Public Policy Requirement. Likewise, LIPA does not believe that RPS requires improvements to the bulk transmission system in order to effectuate the purpose and goal of the initiative.

LIPA supports the designation of a Public Policy Requirement based on the Niagara Redevelopment Act, and believes that mandates imposed on New York State Public Authorities by federal or state statutes are an appropriate basis for such a designation. LIPA states that NYPA cannot meet its requirement to encourage the "widest possible use" of the Niagara hydroelectric project where significant transmission constraints restrict the availability of that power.

Entergy

Entergy opposes the proposals made by HQUS and Iberdrola related to the Commission's Indian Point Reliability Contingency Planning proceeding, the New York Energy Highway Blueprint, and a litany of other general policy considerations. Entergy maintains that none of these orders and policies have been adopted as a rule of general applicability by any New York State agency, and thus cannot constitute a regulation promulgated under SAPA in the form of a Commission order, and therefore do not meet the definition of a Public Policy Requirement under the NYISO's OATT.

Scenic Hudson

Scenic Hudson opposes the designation of the AC Transmission Upgrades proceedings as a Public Policy Requirement. Scenic Hudson puts forth three main reasons for its opposition to this Public Policy Requirement. First, Scenic Hudson contends that there is no established law, regulation, or

order establishing relief of congestion on the UPNY/SENY and Central East interfaces. They suggest that the only apparent source identifying congestion relief as a policy goal is the New York Energy Highway Blueprint, which recommends transmission upgrades capable of providing approximately 1,000 MW of additional transfer capacity between upstate and downstate. However, Scenic Hudson does not believe the Energy Highway Blueprint qualifies as a law or regulation and therefore cannot be the basis for designating a Public Policy Requirement.

Second, Scenic Hudson argues that transmission projects which increase transfer capability across UPNY/SENY and Central East will not produce congestion reduction benefits that justify their costs. Scenic Hudson points to the NYISO's 2013 CARIS, which projects congestion across the UPNY/SENY and Central East interfaces will decline over the 10-year planning horizon, and that the costs of a generic transmission solution will not be economically beneficial.

Lastly, Scenic Hudson points to countervailing public policies that would be negatively impacted by construction of transmission projects to relieve congestion in the Hudson River and Hudson Valley region. Scenic Hudson notes several federal and State policies which promote environmental protection and conservation of this region, including the Hudson River Estuary Management Plan, the New York State Open Space Plan, the Mid-Hudson Regional Economic Development Council Strategic Plan, and the New York State Department of State Coastal Management Plan.

Milan/Pleasant Valley

Milan/Pleasant Valley supports the comments submitted by Scenic Hudson in opposition to designation of the AC Transmission Upgrades proceedings as a Public Policy Requirement. They argue that there is no Public Policy Requirement, as defined in the NYISO's OATT. Moreover,

Milan/Pleasant Valley contends that congestion costs are declining and that a transmission solution, as proposed, would be more costly than bearing the current costs of congestion. Milan/Pleasant Valley also disputes that RGGI, RPS, and the Niagara Redevelopment Act contain provisions which directly relate to transmission planning on the bulk power transmission facilities, and therefore do not qualify as Public Policy Requirements.

Boundless

Boundless points to several statements and determinations made by the Energy Highway Initiative Task Force, and the Commission, which they maintain supports the need for additional transmission capacity in the State. It proposes additional evaluation criteria for consideration in the NYISO's project review process, such as ranking criteria, early elimination of impacts in the New Capacity Zone, use of existing rights-of-way, improvement of economic efficiency, and to limit study duration used for ranking to ten years. Boundless also proposes that the Commission direct the NYISO to perform an analysis, as it did when justifying the New Capacity Zone, with each of the AC Transmission developers' projects included individually in a new case. Boundless notes the difference between transmission and non-transmission solutions, suggesting that allowing non-transmission solution options to supplant the transmission solutions under consideration in the AC Transmission Upgrades proceedings would introduce regulatory issues.

West Point Partners

West Point Partners endorses Public Policy Requirements to relieve congestion between upstate and downstate New York, ease limitations on developing upstate renewables, provide access to lower cost and cleaner energy for downstate

energy users, improve resource diversity, and enhance the flexibility of the system to address major contingencies such as the possible retirement of Indian Point. It points to the Commission's proceedings addressing the AC Transmission Upgrades and Indian Point Reliability Contingency Plan, and the 2014 Draft State Energy Plan as establishing Public Policy Requirements. It also notes that the NYISO has urged new investment in transmission and generation to maintain system reliability and reduce costs, which in turn would provide access to renewables, upgrade aging infrastructure, and provide greater operational flexibility.

Farmers and Families for Claverack

Farmers and Families for Claverack oppose designating a Public Policy Requirement with respect to the AC Transmission Upgrades proceedings. These commenters contend that there is no current law or regulation supporting such a designation, that the NYISO's 2013 CARIS study shows declining congestion, and that transmission was the least cost-effective solution analyzed. Farmers and Families for Claverack suggest that market forces should be allowed to work to spur efficiency of the system.

Columbia Land Conservancy

Columbia Land Conservancy supports Scenic Hudson's comments and opposes designating a Public Policy Requirement regarding congestion relief on the UPNY/SENY and Central East interfaces, such as that being addressed in the AC Transmission Upgrades proceedings. Columbia Land Conservancy specifically notes its involvement in the New York State Open Space Conservation Plan, the Hudson River Estuary Action Agenda, and the Capital Region Economic Development Council's Strategic Plan, as public policy agendas whose activities would be

jeopardized by building new transmission projects in the proposed corridors.

SUPPLEMENTAL COMMENTS

After reviewing the comments submitted in response to the SAPA notice, the Commission determined that additional information related to the Public Policy Requirement associated with the Western New York congestion recommendations warranted further record development. On April 3, 2015, the Secretary issued a Notice Seeking Supplemental Comments related to two types of information; any information on whether there are demand resource-based measures that could be pursued in order to resolve or mitigate the problems identified in Western New York, and more specific information on the potential benefits that transmission solutions in the region may have. The notice specifically cited a report written by the Brattle Group, which outlines the potential benefits of transmission investments.

The Commission received supplemental comments from NYPA, New York Association of Public Power (NYAPP), National Grid, and the NYISO by the May 18, 2015 deadline, and reply comments thereto from LIPA and NRG by the June 2, 2015 deadline.¹⁷

NYPA

NYPA maintains that establishing a Public Policy Requirement driving the need for transmission in Western New York would leverage the benefits provided to the UPNY/SENY interface by the TOTS projects being developed under the Commission's Indian Point Reliability Contingency Plan, as well as potential projects developed under the AC Transmission Upgrades proceedings. Increasing access across these interfaces, NYPA asserts, will help to deliver the significant

¹⁷ The NYISO also submitted late-filed comments on June 4, 2015.

resources located in Western New York across the State and to the load centers in the southeast. NYPA also suggests that benefits could be realized in the energy and ancillary services markets by allowing greater access to the clean low-cost energy from NYPA's Niagara facility and Ontario imports.

NYPA cites the potential environmental benefits associated with relieving transmission constraints, primarily by allowing greater access to the zero-emission Niagara hydroelectric facility and Ontario imports. NYPA additionally suggests that there would be employment and economic development benefits, and opportunities to interconnect new renewable resources. Thus, it asserts that establishment of a Public Policy Requirement driven need would enhance the ability of the transmission system to withstand the loss of generation at risk.

When considering demand-side resources and the Commission's Reforming the Energy Vision (REV) proceeding, NYPA notes that it has an informed perspective on Western New York's potential. NYPA indicates that the market is unlikely to realize the magnitude of incremental demand-side resources that would be necessary to fully meet the suggested Public Policy Requirement.

NYAPP

NYAPP supports the identification of a Public Policy Requirement to address the transmission needs associated with the constraints limiting the output of the Niagara hydroelectric facility. NYAPP notes that its members have long-term power supply contracts with NYPA for the output from NYPA's Niagara facility in accordance with the Niagara Redevelopment Act, which requires that 50% of the Niagara Project power be sold at the lowest rates reasonably possible. NYAPP argues that when transmission constraints limit the output from the Niagara facility, the costs are increased for NYAPP's members. NYAPP

also states that a solution to the transmission constraints in Western New York will provide many benefits for New York ratepayers compared to Reliability Support Service Agreements. NYAPP does not believe that demand response solutions would be a practical solution to resolve the existing transmission constraints in Western New York.

National Grid

National Grid states that the electric infrastructure in Western New York is among the oldest in the State, and was originally constructed in the early part of the last century for the purpose of harnessing and delivering hydropower from the Niagara River. National Grid does not believe that the NYISO's Comprehensive Reliability Plan (CRP) or CARIS processes adequately consider the benefits of transmission investments, and would not, on their own, lead to optimized investments in Western New York.

National Grid also points to the problem of the aging generation fleet and the risk that plants may retire. It notes that such risks of generation retirement are not directly accounted for in the NYISO's reliability planning process, and the risk of bottling significant resource capacity due to such a potential unit retirement could threaten statewide electric reliability. Additionally, National Grid asserts that out-of-market Reliability Support Service Agreements create additional costs to consumers and adversely impact wholesale markets until permanent solutions can be put in service.

National Grid points to data supported by the NYISO showing that significant economic benefits could be obtained by "relaxing" the 230 kV transmission constraints in the area. Relaxing constraints on the 230 kV system would, according to National Grid, increase the aggregate Niagara/Ontario

Independent Electric System Operator (IESO) output by 1,500 GWh annually.

NYISO

The NYISO also submitted supplemental comments supporting a finding of a Public Policy Transmission Need addressing Western New York congestion relief. The NYISO first points out that while the bulk power system meets minimum transmission reliability standards, the physical facilities are aging and need to be replaced. For example, the NYISO asserts that over 75% of the State's high voltage transmission lines are over 35 years old. The NYISO also notes that the reliability of the system in Western New York is highly sensitive to the status of local generators. The NYISO argues that upgrading the system would bring a range of reliability and economic benefits to New Yorkers.

Focusing on Western New York, the NYISO states that ratepayers are already exposed to significant congestion costs due to the transmission constraints that limit flows out of the western part of the State to the east. The NYISO asserts that congestion costs in Zone A have increased in recent years from an average of \$1.5 million to an average of \$8 million per year, and reached over \$12 million in the first quarter of 2015. The NYISO indicates that as much as 1,780 MW of potentially available power is bottled behind the 230 kV system constraints. The NYISO further states that these system limitations reduce the amount of hydropower available from the Niagara facility and renewable resources in Ontario, thus limiting access to clean generation.

According to the NYISO, average wholesale prices in Zone A could be lowered by as much as 15% if the 230 kV system constraints were eliminated, while at the same time increasing hydroelectric outputs. The NYISO suggests that other potential

economic benefits of resolving this congestion could include production cost savings across the entire control area, and capacity market savings arising from the ability to increase Ontario imports, thus allowing New York to meet reliability requirements with fewer capacity resources. This latter factor could avoid approximately \$60 million in annual capacity payments.

The NYISO opines that demand resource measures are not likely to resolve the Western New York system constraints. The NYISO explains that the problems identified in its studies relate to a general inability to access the potential power from the Niagara facility and Ontario, and not from local difficulties with meeting peak load, where a demand response would be useful. In late filed comments, the NYISO outlined multiple benefits of an upgraded transmission system.

LIPA

LIPA argues that its customers are statutorily prohibited from enjoying the benefits of Niagara redevelopment power and must therefore not be allocated any portion of transmission costs arising from a Niagara-related Public Policy Requirement. Moreover, LIPA asserts that the benefits of unbottling Western New York generation will not accrue to customers on Long Island and, therefore, they should not be allocated costs.

NRG

In response to comments submitted by National Grid and the NYISO, NRG observes that no party has identified the specific Public Policy Requirement that warrants addressing transmission congestion as a public policy issue. NRG asserts that Public Policy Transmission Needs must be defined clearly, especially when market solutions have been proposed.

NRG states that in the current proceeding, congestion has been suggested as the basis for determining a Public Policy Transmission Need. NRG urges the Commission to consider that market-driven proposals have been presented to address some of the transmission congestion identified by National Grid and the NYISO. NRG points to recommendations made by the NYISO market monitor, Potomac Economics, for increased modeling of constraints in the day-ahead and real-time markets to reflect transmission congestion, granting financial capacity transfer rights when transmission upgrades are made, and pre-defining capacity zones to ensure market signals prompt investment to address reliability needs and deliverability constraints.

DISCUSSION

The Commission's role in the planning process at this step is to identify any Public Policy Requirements that may be driving the need for transmission facilities. The NYISO OATT provides that:

[the Commission] shall issue a written statement that identifies the relevant Public Policy Requirements driving transmission needs and explains why it has identified the Public Policy Transmission Needs for which transmission solutions will be requested by the ISO. The statement shall also explain why transmission solutions to other suggested transmission needs should not be requested. The [Commission's] statement may also provide additional criteria for the evaluation of transmission solutions and non-transmission projects, and the type of analyses that it will request from the ISO.¹⁸

In accordance with the NYISO OATT and the August 2014 Policy Statement, this order addresses the proposed Public Policy Requirements submitted by the NYISO on October 3, 2014. It is important to recognize that this order does not pass judgment on the merits of the public policies raised by

¹⁸ NYISO OATT, Attachment Y, §31.4.2.1.

commenters, but rather identifies those public policies that could lead to additional ratepayer-supported transmission facilities in a particular region at this time. As discussed below, we explain why the NYISO should request solutions to address Western New York congestion relief, and should apply certain criteria in its analyses. We also explain why solutions to other proposed transmission needs are not warranted at this time.

Western New York Congestion Relief

There is consensus among NYPA, National Grid, and the NYISO that there is significant and persistent transmission congestion within Western New York. National Grid and the NYISO are uniquely situated to identify this congestion and its impacts on the electric system. National Grid has a comprehensive understanding of the system as one of the principal transmission owners and operators in this region. Similarly, the NYISO has considerable experience operating the State's bulk electric transmission system and managing congestion in this part of the State, as well as coordinating transactions between New York and Ontario IESO.

National Grid and the NYISO have determined that the congestion in Western New York is adversely impacting the performance of the bulk power transmission system. A primary impact is that the congestion limits the output from NYPA's Niagara hydroelectric facility, particularly during high electric demand periods. This facility is the largest producer of electric energy in New York State, and provides approximately 10% of the State's annual electric energy needs. It is also New York's largest renewable resource, with an electric generating capability of approximately 2,700 MW. During times when the output from the Niagara facility is limited, the NYISO must

dispatch additional fossil-fueled generation to provide necessary supply.

As various commenters note, the potential benefits of reducing or relieving the identified congestion in Western New York include access to increased output from NYPA's Niagara hydroelectric facility and additional imports of renewable energy from Ontario IESO. Increased dispatch of these renewable and economical resources could produce significant benefits to the State in terms of reduced air emissions and energy costs. Congestion relief may also have significant system reliability benefits, including increased operational flexibility, efficiency, and avoiding the need to maintain generation that would otherwise retire.

Upon considering the various comments submitted in response to the SAPA notice and the notice requesting supplemental comments, the Commission finds that significant environmental, economic, and reliability benefits could be achieved by relieving the transmission congestion identified in Western New York. The Commission therefore directs the NYISO to consider solutions for increasing Western New York transmission capability sufficient to ensure the full output from NYPA's Niagara hydroelectric generating facility (i.e., 2,700 MW including Lewiston Pumped Storage), as well as certain levels of simultaneous imports from Ontario across the Niagara tie lines (i.e., maximize Ontario imports under normal operating conditions and at least 1,000 MW under emergency operating conditions). This increased transmission capability should maximize transfers out of Load Zone A and into the rest of the State.

The NYISO's analysis should ensure no transmission security violations, thermal, voltage or stability, would result under normal and emergency operating conditions. The analysis

should also ensure the system would be maintained in a reliable manner with fossil-fueled generation in Western New York out-of-service, as well as in-service. The NYISO shall also consider other metrics in its evaluation of this Public Policy Requirement, including: changes in production costs; Load-Based Marginal Prices; transmission losses; emissions; Installed Capacity costs; Transmission Congestion Contract revenues; transmission congestion; impacts on transfer limits; and, resource deliverability.

As noted above, a Public Policy Requirement is defined in the NYISO OATT to include a Commission order that is adopted "subject to and in accordance with [SAPA],...that may relate to transmission planning on the [Bulk Power Transmission Facilities]."¹⁹ The Commission's action herein falls under this definition by adopting, in compliance with SAPA, a requirement that the NYISO address Western New York congestion relief and consider potential solutions related to the bulk-power transmission system. Concomitantly, the Commission identifies Western New York Congestion Relief as a Public Policy Requirement, for which the NYISO shall solicit and evaluate solutions.

While NYPA asserts that the Niagara Redevelopment Act, RPS, RGGI, and the State Energy Plan should be considered Public Policy Requirements driving the need to upgrade the transmission system in Western New York, the Commission need not rely on those assertions because the need to provide congestion relief, as National Grid suggests, is compelling enough to reach this conclusion. This approach, as authorized under the PSL, adequately covers the congestion relief in Western New York that the Commission seeks to address and ensures sufficient specificity with respect to multiple objectives. We note that

¹⁹ NYISO OATT, Attachment Y, §31.1.1.

congestion relief in Western New York, as well as the ancillary benefits of promoting renewables, reducing environmental emissions, and improving the reliability and resiliency of the electric system, are consistent with the final 2015 State Energy Plan.

Although the Commission is not prescribing a cost allocation methodology in connection with this Public Policy Requirement, it is important to recognize that the public policy benefits of Western New York congestion relief may accrue across the entire State. Therefore, contrary to LIPA's suggestion, the NYISO's default load ratio share cost allocation methodology may be an appropriate approach under these circumstances. We anticipate that the NYISO's analyses will assist us and interested entities in identifying where the benefits of Western New York congestion relief would accrue throughout the State.

We further note that the NYISO's Public Policy Transmission Planning process does not supplant the need for developers to obtain any necessary permits and approvals, such as siting approvals under PSL Article VII. However, developers do not need to await the outcome of the NYISO's process to start seeking such approvals. In order to ensure any necessary facility upgrades are expedited, the Commission encourages initiation of the effort required for the submission of siting applications under the PSL Article VII as soon as practicable following our review of the NYISO's viability and sufficiency analysis. Moreover, applicants are encouraged to use existing rights-of-way if possible. Projects that can fall within existing rights-of-way may be able to qualify for the Commission's expedited Article VII process.²⁰

²⁰ 14-T-0017, Proceeding on Motion of the Commission to Develop an Expedited Process for Siting Transmission on Existing Rights-of-Way, Order Establishing Policy on Expedited Process for Transmission Siting (issued August 15, 2014).

AC Transmission Upgrades proceedings

Several commenters suggested that the Commission-initiated AC Transmission Upgrades proceedings be designated as a Public Policy Requirement driving transmission needs in the State, while other parties opposed such a designation. The Commission's proceedings were initiated to consider whether to address the persistent transmission congestion that exists at the Central East and UPNY/SENY electrical interfaces.

On December 16, 2014, the Commission established procedures for carrying out a comparative evaluation of the proposed projects.²¹ That process envisioned that the Commission would make a determination, similar to the one commenters have requested the Commission to make in this proceeding, as to whether the AC Transmission Upgrades proceedings should be identified as a Public Policy Requirement and referred to the NYISO's Public Policy Transmission Planning Process to solicit and evaluate solutions. However, additional analyses are currently on-going to determine whether transmission solutions should proceed to be evaluated through the NYISO's process. A determination will be made in the context of the AC Transmission Upgrades proceedings. Therefore, we find that it is premature to identify the transmission congestion that exists at the Central East and UPNY/SENY electrical interfaces as a Public Policy Requirement. The Commission will revisit this matter in the AC Transmission Upgrades proceedings after the necessary analyses are complete and the Commission has an opportunity to consider the results.

²¹ Case 12-T-0502, et al., Proceeding to Examine Alternating Current Transmission Upgrades, Order Establishing Modified Procedures for Comparative Evaluation (issued December 16, 2014)(AC Transmission Upgrades proceedings).

Fuel Diversity, RPS, RGGI, and Clean Air Act §111(d)

Various comments proposed that the Commission adopt environmental and system-related needs as Public Policy Requirements, including fuel diversity, RPS, RGGI/greenhouse gas reduction, and the Clean Air Act §111(d) regulations. While the Commission generally supports the goals of these initiatives, it is premature to refer these matters to the NYISO for the solicitation of solutions. The Commission recognizes that there are several efforts currently under way to analyze these initiatives and to develop a comprehensive statewide approach to address them.

In particular, the Commission is in the process of conducting a State Resource Planning Analysis, with the NYISO, NYTOs, the New York State Energy Research and Development Authority, the New York State Department of Environmental Conservation, and other entities.²² The results of this analysis are expected to inform the potential need for additional transmission facilities throughout the State with respect to adequate fuel diversity, the integration of renewables, reduction of greenhouse gas emissions, and the development of a Clean Power Plan to comply with Section 111(d) of the Clean Air Act.²³ The Commission also notes that fuel diversity is a major goal in the Commission's REV proceeding, is a consideration in

²² Presentation by Diane Barney, Chief - Bulk Electric Systems Section, New York State Department of Public Service to NYISO Management Committee, March 31, 2015. See, <http://www.nyiso.com>.

²³ The EPA's regulations to comply with Section 111(d) of the Clean Air Act are not yet finalized. Once a final rule is issued by the EPA, states will be required to develop State Implementation Plans (SIPs) as a guide for compliance, which could take several years to complete.

the New York-Sun program, the Commission's large-scale renewable efforts,²⁴ and the State Energy Plan.

When the State's planning efforts are more advanced, or interested entities identify a specific transmission issue that would be satisfied by such a Public Policy Requirement, further consideration will be given as to whether the Commission should refer additional transmission needs for the NYISO's solicitation and evaluation of solutions. We therefore decline to identify these environmental and system-related needs as Public Policy Requirements at this time.

Although we will await the outcome of the State Resource Planning Analysis or the identification of specific transmission needs before referring potential transmission needs to the NYISO, the Commission expects that the Western New York congestion relief analyses, discussed above, would address, to some extent, the integration of renewables, fuel diversity, and the reduction of greenhouse gases by potentially unbottling significant hydroelectric generation, Canadian imports, and additional renewable resources in that region of the State. The Commission's AC Upgrades proceedings are also designed, in part, to address the potential need to relieve key transmission constraints between upstate and downstate and to ensure the deliverability of upstate generation. As noted above, these proceedings are currently on-going and a decision whether to proceed is expected after additional analyses are completed.

Generation Retirement Contingencies

Both Iberdrola and HQUS suggest that generation contingency plans are driving the need for additional transmission. HQUS specifically points to the Commission's

²⁴ Case 15-E-0302, et al., Implementation of a Large-Scale Renewable Program, Notice Instituting Proceeding, Soliciting Comments and Providing for Technical Conference (issued June 1, 2015).

Reliability Contingency Plan addressing the Indian Point Energy Center. Upon consideration, we find that a Public Policy Requirement addressing Generation Retirement Contingency Plans for the Indian Point Energy Center is not warranted because the Commission has already addressed the need for transmission related to the Indian Point Reliability Contingency Plan by approving the TOTS for development. A referral to the NYISO would be duplicative of the efforts the Commission, the NYISO, the NYTOs, and other parties have already taken. Further, the Commission expects that the need for additional transmission related to other generator contingency plans will be addressed on a case-by-case basis depending on the specific circumstances that may arise. We also note that the Western New York Congestion Relief Public Policy Requirement we identify herein will address potential contingencies with the retirement of fossil-fueled generation in Western New York.

CONCLUSION

The Commission identifies Western New York congestion relief as a Public Policy Requirement that may drive the need for transmission. Accordingly, this Public Policy Transmission Need is referred to the NYISO to solicit potential solutions and to prepare an initial viability and sufficiency analysis for Commission review. No other proposals are referred to the NYISO at this time.

The Commission orders:

1. The relief of congestion in Western New York, as described in the body of this order, shall be addressed by the New York Independent System Operator, Inc. (NYISO) and be considered a Public Policy Requirement, as defined in NYISO Open Access Transmission Tariff.

2. The New York Independent System Operator, Inc. shall evaluate the Public Policy Requirement identified in Ordering Clause 1 utilizing the evaluation criteria described in the body of this order.

3. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

Commissioner Diane X. Burman, concurring:

As reflected in my comments made at the public session on July 16, 2015, I concur. Specifically as it relates first to whether there is a public policy transmission requirement found for the AC transmission upgrades proceeding the decision to wait to address this issue in that proceeding is justified as long as it is expeditiously decided, especially in light of the June 4, 2015 NYISO letter that signifies a clear need to address the constraint issues. Secondly as it relates to the other remaining items left to be decided, other than the generation retirement contingency plans for the Indian Point Energy Center, the Final State Plan Resource Report should be submitted to the Commission for a discussion and resolution of the public policy transmission requirements issues as well as to address any other energy planning issue that may be deemed relevant for resolution, discussion and Commission direction at that time.