



June 3, 2021

Yachi Lin
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Dear Chi,

Thank you for the opportunity to comment on the New York Independent System Operator's (NYISO) proposed mechanism to implement the federal Right of First Refusal (ROFR) for upgrades to existing Transmission Owner (TO) facilities identified as components of competitive bids. The Federal Energy Regulatory Commission recently determined that the NYISO tariff contains a ROFR for upgrades, but lacks an implementation mechanism that would allow TOs to exercise the ROFR for upgrades identified in competitive bids. *See New York Independent System Operator, Inc.*, 175 FERC ¶ 61,038 (2021). NextEra Energy Transmission New York, Inc. (NEETNY) provides comments on two issues related to the NYISO's proposed ROFR implementation mechanism: 1) Timing and 2) Cost Containment.

Timing – NYISO is proposing that the final designation of upgrades be made at the conclusion of the viability and sufficiency phase of the Public Policy Transmission Need process. NEETNY supports this timeline. The proposed process will require Developers to identify the upgrades within their project proposal at the time it is submitted. Concurrent with the viability and sufficiency review, the NYISO will assess the Developers designation of upgrades. NEETNY encourages the NYISO to engage and discuss with Developers the upgrade proposal designation if the NYISO assessment conflicts with the Developers designation.

Cost Containment – Cost containment is an important element of the NYISO PPTN process as it provides consumers protection for project cost overruns and it incentivizes Developers to be innovative and efficient. NEETNY believes that cost containment provisions that Developers propose for upgrade components of their proposal should apply to the incumbent Transmission Owners (TO) if they elect to exercise their ROFR. The election of the ROFR is a choice – the TO is not compelled to exercise their ROFR and build the competitive upgrade. If the TO does not want to expose its shareholders to cost overrun risk, it can choose not to exercise its ROFR. Customers should not suffer as a result of the TO's choice to exercise a ROFR and bear the risk of cost overruns they would otherwise be shielded from under a Developer's cost containment commitments. Further, the mechanism should provide Developers the option to offer cost containment on each upgrade component rather than one cost containment proposal covering all upgrades. This will provide the TO flexibility to exercise the ROFR on select upgrades and have a defined cost containment proposal for those upgrades.

Thank you for the opportunity to offer comments and for your continued dedication to the collaborative stakeholder process to ensure transparency and a well-vetted outcome.

Regards,

A handwritten signature in blue ink that reads "Richard W. Allen".

Richard W. Allen
President
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NextEra Energy Transmission New York, Inc.

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