

Mechanism to Implement Transmission Owners' ROFR over Upgrades in the Public Policy Transmission Planning Process

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Background

Date	Working Group	Discussion points and links to materials
2018-12-19	ESPWG/TPAS	Necessary Local Upgrades for Public Policy Transmission Need projects by Indicated Transmission Owners (Central Hudson Gas & Electric, ConEd, National Grid, NYSEG, O&R, and RG&E)
2019-04-12	ESPWG/TPAS	Straw Proposal to Address Non-BPTF Upgrades in the Public Policy Transmission Planning Process and Establish a Procedure to Administer Section 31.6.4 of Attachment Y by the NYISO
2019-05-21	ESPWG/TPAS	Updated Straw Proposal to Address Upgrades in the Public Policy Transmission Planning Process by the NYISO
2019-08-20	ESPWG/TPAS/ICAP WG	Updated Straw Proposal to Address Upgrades in the Public Policy Transmission Planning Process by the NYISO
2020-04-15	N/A	FERC Issues Declaratory Order Clarifying ROFR in NYISO's Planning Processes
2021-05-20	ESPWG/TPAS	Proposed Mechanism to Effectuate a ROFR in the Public Policy Transmission Planning Process by the NYISO
2021-06-22	ESPWG/TPAS	Updated Mechanism to Effectuate a ROFR in the Public Policy Transmission Planning Process by the NYISO

General Approach

- **Proposed revisions are envisioned to apply to the current Long Island Offshore Wind Export Public Policy Transmission Need**
- **Proposed revisions principally aimed at developing a mechanism for NYTOs to exercise the ROFR in the Public Policy Transmission Planning Process (“PPTPP”)**
- **Proposed revisions do not include an expanded definition of “upgrade”**
 - As directed by FERC in a 2014 compliance order, NYISO’s definition is directly from Order No. 1000,
 - The 2021 Declaratory Order did not direct changes to the NYISO’s definition of upgrade in the NYISO’s tariff and rejected arguments requesting a change, and
 - Five other ISOs/RTOs have similar definitions in their tariffs and agreements.
- **The NYISO is seeking robust discussion and stakeholder feedback**
 - In addition to comments received in stakeholder meetings, LS Power, NYTOs, and NextEra submitted written comments, which are posted on NYISO’s website with the June 22, 2021 ESPWG/TPAS materials,

Clarification in Project Submittals

- **NYISO proposes to clarify the various types of components in a Public Policy Transmission Project in order to:**
 - Aid Developers in conceptualizing which components of their project would be subject to the federal ROFR and potentially designated to a Transmission Owner
 - Assist NYISO in characterizing the various project components in the proposed designation process
 - Help to eliminate confusion between characterization of the project and Network Upgrade Facilities that may occur during the negotiation of the Development Agreement and Interconnection Agreement
- **NYISO proposes to consider the facility characterizations provided in a Developers' proposal as a starting point in identifying components of a project that may be designated to a Transmission Owner exercising the ROFR**
- **Revisions would be primarily focused on the project submittal forms in the applicable attachments to the PPTPP Manual requiring Developers to specify components of its project**

Clarification in Project Submittals

- **Difference between the Project vs. potential Network Upgrade Facilities:**
 - New transmission facilities and upgrades are considered to be “part of the project” and for the purpose of addressing the Public Policy Transmission Need
 - Developer proposes the design of the facility in its proposal to satisfy the Public Policy Transmission Need
 - Cannot be modified by the Developer or the NYISO after submission and during the evaluation process
 - Potential NUFs are for the purpose of reliably interconnecting the project to the NYS Transmission System and allows the Developer to provide a complete project to the NYISO
 - The NYISO, in conjunction with the Connecting Transmission Owner, identifies the design of the NUFs through the Transmission Interconnection Studies that would be required in order for the project to interconnect
 - Any potential NUF will likely be modified based upon the results from the NYISO-conducted interconnection studies, which will account for system conditions using the base cases under the Transmission Interconnection Procedures

Facility Characterization

■ New transmission facilities:

- To achieve the Public Policy Transmission Need
- Automatically designated to the proposing Developer of the selected Public Policy Transmission Project

■ Upgrades:

- To achieve the Public Policy Transmission Need (includes those directed by the New York State Public Service Commission (“PSC”) for a Public Policy Transmission Need), and meets the definition in Section 31.6.4 of Attachment Y, as well as Commission precedent
- Handled through a designation process prior to the evaluation and selection phase of the process

■ Potential Network Upgrade Facilities (“potential NUFs”)

- Interconnection facilities and system upgrades that a Developer believes may be necessary to reliably interconnect the proposed transmission project to the New York State Transmission System pursuant to the Transmission Interconnection Standard
- Handled through Attachment P process

Designation Process for Upgrades

- The following proposal for a designation process contains changes that take into account comments from stakeholders

Designation Process for Upgrades: Proposed Procedure - Step 1

Following submission of proposals, the NYISO will review a Developer's proposed Public Policy Transmission Project and facility characterizations, based on reasonably available information, and will:

- Review and characterize each facility of the Public Policy Transmission Project (*e.g.*, new transmission facilities, upgrades, and potential Network Upgrade Facilities), and
- Communicate with the Developer any deficiency in the proposal based on a difference in characterization from the original submission and request additional information to clarify the deficiency. (Developer would have 15 days to respond consistent with existing provisions).
 - Developer may provide additional information (i) to clarify why the Developer characterized a facility in a particular way or (ii) to update the project proposal information as it relates to the changed characterization of a facility.
 - For example, if the Developer proposed a cost cap that is affected, the Developer would have the opportunity to provide additional information to revise the cost cap. The facilities included in the voluntary cost containment cap will be limited to only new facilities.

Designation Process for Upgrades: Proposed Procedure - Step 2

Thirty (30) calendar days prior to the finalization of the Viability & Sufficiency Assessment, the NYISO will:

- Post a list of all the facilities identified to be an upgrade and the Transmission Owner(s) that own the existing facility to be upgrade from all regulated Public Policy Transmission Project proposals
- During the review of the Viability & Sufficiency Assessment, interested parties may provide comments on the list of facilities and, if not resolved to the satisfaction of a party, such party can raise it through the dispute resolution process under Section 31.1.8.4 of Attachment Y
- If the NYISO updates the list of upgrades, the NYISO will notify affected Developers that additional information is required to cure any resulting deficiency in their proposals

Designation Process for Upgrades: Proposed Procedure - Step 3

Within fifteen (15) calendar days of the NYISO's filing of the final Viability and Sufficiency Assessment with the New York State Public Service Commission, Developers must notify the NYISO whether they wish to proceed with the evaluation of their proposed projects for selection pursuant to Section 31.4.6.6 of Attachment Y

- This decision point is a part of the NYISO's existing process
- Developers can consider the identification of facilities in their Public Policy Transmission Projects in electing whether to proceed with the evaluation and selection under Section 31.4.6.6 of Attachment Y
- If a Developer elects to withdraw its project at this juncture, the Developer will not be billed for study costs in evaluating its proposed Public Policy Transmission Project

Designation Process for Upgrades: Proposed Procedure - Step 4

First, the NYISO will include in the Public Policy Transmission Planning Report, among other things, a list of facilities from the recommended Public Policy Transmission Project and the corresponding Designated Entity(ies)

- New transmission facilities will be designated to the proposing Developer
- Upgrades will be designated to the Transmission Owner owning the existing facility to be upgraded
- Network Upgrade Facilities will be handled through Attachment P

Second, following the Board's selection of the more efficient or cost effective solution, the Designated Transmission Owner must notify the NYISO within 30 calendar days whether it will accept or reject the designation of an Upgrade

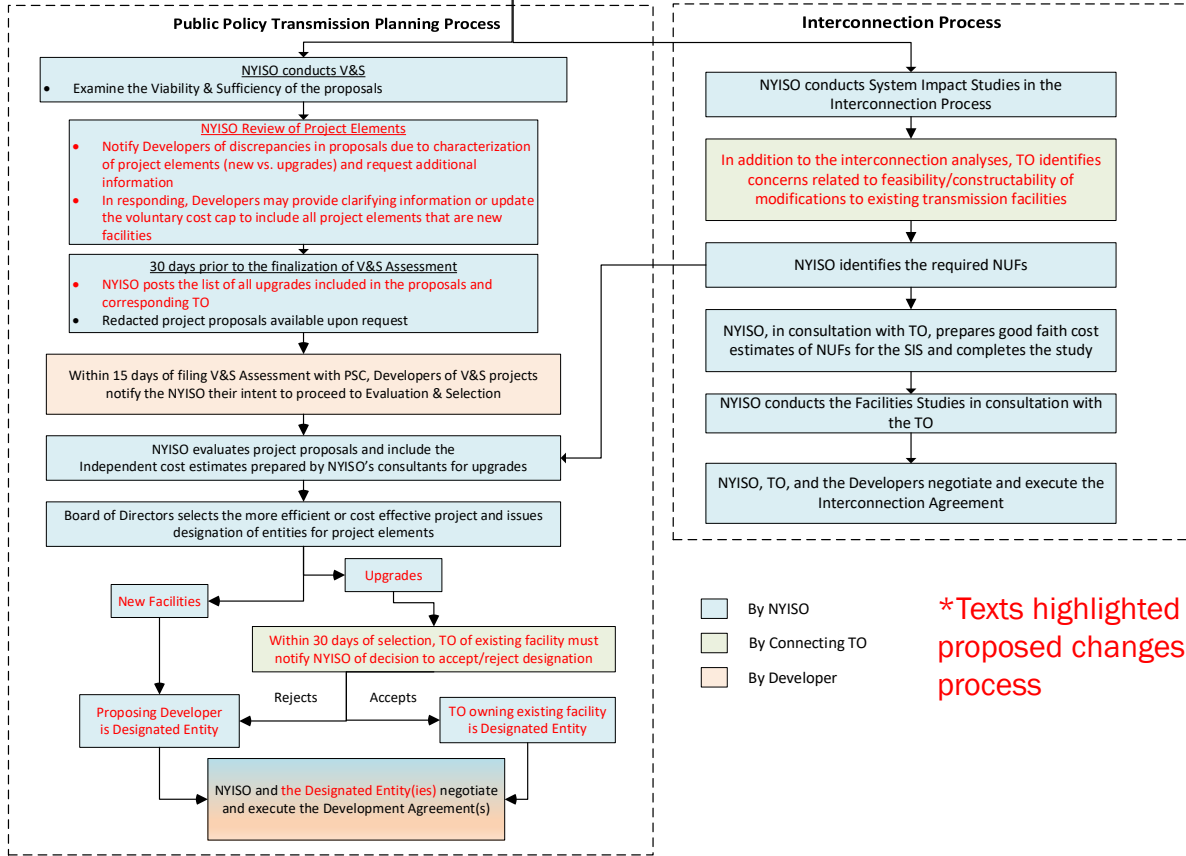
- If the Transmission Owner accepts its designation, the Transmission Owner shall be the Designated Entity for the Upgrade
- If the Transmission Owner rejects its designation, the proposing Developer shall be the Designated Entity for the Upgrade

Designation Process for Upgrades: Proposed Procedure - Step 5

- Designated Entities shall enter into a Public Policy Transmission Planning Process Development Agreement with NYISO for the components of the selected project that it was designated for
- Designated Entities can join and participate in the ongoing and future TIP studies for the selected project as it relates to the designated components
 - If the Transmission Owner is a Designated Entity for an Upgrade, it can participate as (a) a co-sponsoring “Transmission Developer” with the proposing Developer or (b) initiate a new Transmission Interconnection Application for the elected Upgrade
 - If the Transmission Owner joins in the TIP studies under the ongoing TIP Application, it will agree to equally share in the costs of any ongoing or future studies with the Developer
- Designated Entities will have the opportunity to recover the costs for the selected project under Rate Schedule 10, as a well as a reasonable rate of return
 - Designated Entities are responsible for making and supporting rate submissions (*i.e.*, NYISO, as tariff administrator, will file the submission on behalf of the Designated Entity)

Developers can propose projects comprised of new and upgrades on the existing facilities, but should understand that upgrades to the existing facilities would be designated to the applicable TOs unless they decline.

NYISO review the project proposals for 1) completeness of information (including characterization of project elements), 2) consistency of applications between the interconnection and PPTPP, and 3) identify the connecting TO, and the TOs of the upgrades to the existing facilities



*Texts highlighted in red represent the proposed changes in the existing process

- By NYISO
- By Connecting TO
- By Developer

Feasibility/Constructability Evaluation of Upgrades During System Impact Study (NOTE: unchanged from 5/20 meeting)

- **NYISO will perform sensitivities, as appropriate, to account for the Public Policy Transmission Need case when performing the required interconnection studies**
- **Revise the scope of the feasibility/constructability analyses in the optional Feasibility Study and System Impact Study (“SIS”) under Attachment P for upgrades proposed or related to Public Policy Transmission Projects to study the feasibility/constructability as it relates to the local transmission system**
 - Analyzes not only the Points of Interconnection but also the feasibility/constructability of the Upgrade itself
- **Include a tariff requirement for applicable Transmission Owner staff to execute a non-disclosure agreement when performing the expanded analysis in the SIS**

Next Steps

Stakeholder Feedback and Next Steps

- **The NYISO is seeking robust discussion and stakeholder feedback**
 - Please submit any questions or comments by June 25, 2021, to PublicPolicyPlanningMailBox@nyiso.com
 - All comments will be posted to the NYISO's website
- **NYISO plans on returning to the ESPWG/TPAS on July 1 with proposed tariff and manual revisions**

Questions?

Our mission, in collaboration with our stakeholders, is to serve the public interest and provide benefit to consumers by:

- Maintaining and enhancing regional reliability
- Operating open, fair and competitive wholesale electricity markets
- Planning the power system for the future
- Providing factual information to policymakers, stakeholders and investors in the power system

