

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

Yachi Lin

Senior Manager, Transmission Planning

ESPWG/TPAS

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Background

Date	Working Group	Discussion points and links to materials
2018-12-19	ESPGWG/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	ESPGWG/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	ESPGWG/TPAS	Updated Straw Proposal to Address Upgrades in the Public Policy Transmission Planning Process by the NYISO
2019-08-20	ESPGWG/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	ESPGWG/TPAS	Proposed Mechanism to Effectuate a ROFR in the Public Policy Transmission Planning Process by the NYISO
2021-06-22	ESPGWG/TPAS	Updated Mechanism to Effectuate a ROFR in the Public Policy Transmission Planning Process by the NYISO
2021-07-12	ESPGWG/TPAS	Draft Tariff and Manual 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.

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
 - Inform NYISO in characterizing the various project components in the proposed designation process
 - Help to eliminate confusion between characterization of the project and interconnection 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 will be designated to a Transmission Owner exercising the ROFR**

Clarification in Project Submittals

- **Difference between the project and potential interconnection 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 Interconnection Facilities are for the purpose of reliably interconnecting the project to the NYS Transmission System
 - The NYISO, in conjunction with the Connecting Transmission Owner, identifies the design of the interconnection facilities (e.g., Network Upgrade Facilities) through the interconnection studies
 - Any potential interconnection facility 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 applicable interconnection procedures

Clarification in Project Submittals

- **Proposal: Revise Attachment C to the PPTPP Manual: Data Submission for Public Policy Transmission Projects form**
 - Add instructions for Developers in the data submission form to distinguish between the types of facilities for their transmission projects and to clarify in-service dates of facilities
 - Distinguish between new transmission facilities and an upgrade to existing transmission facilities in describing the project, and identifying potential interconnection facilities separately from the project
 - Identify the in-service date of the project, as well as in-service dates for individual components of the transmission proposal when construction requires sequencing of facilities
 - Request additional information related to the operation of the proposed facilities
 - Costs necessary to operate the proposed project (e.g., construction of a new local control center or modification to an existing control center)
 - Plan to operate and maintain the proposed project assets.
 - Ministerial changes to existing language

Designation Process for Upgrades

- **Designation process for upgrades is a mechanism to implement the federal ROFR confirmed by the FERC, which includes:**
 - 1) Review of project submittals for completeness and identify deficiencies related to, among other things, facility characterization and cost containment proposals with an opportunity for Developers to cure,
 - 2) NYISO's determination and posting of new transmission facilities and Public Policy Transmission Upgrades for each proposed Public Policy Transmission Project prior to release of Viability and Sufficiency Assessment,
 - 3) Identification in the Public Policy Transmission Report of the Designated Entities that are responsible for undertaking the Public Policy Transmission Project or a part of the Public Policy Transmission Project,
 - 4) Opportunity for Transmission Owners that are identified as Designated Entities to reject their designation within 30 days of the NYISO Board's selection, and
 - 5) Post-selection obligations of Designated Entities and ability of the NYISO to address inability of Designated Entities to complete their designated projects

Designation Process for Upgrades

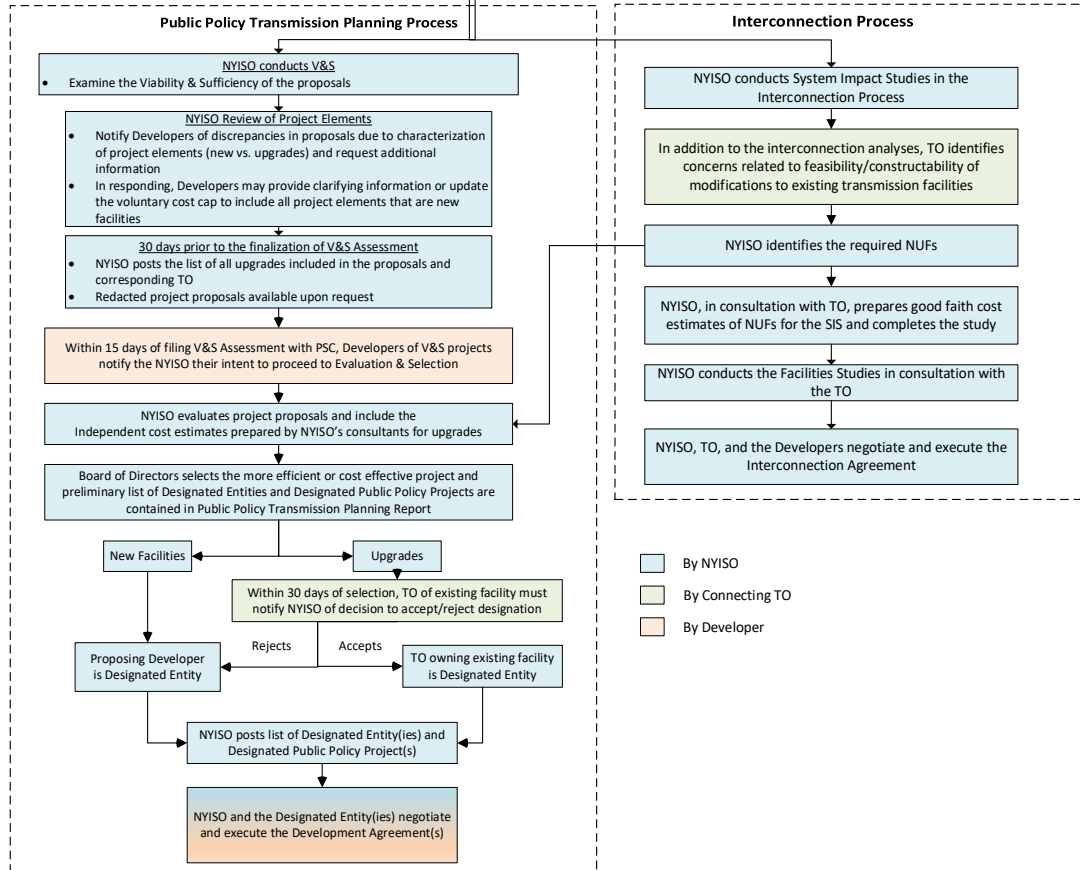
- **Concepts across proposed designation process in the PPTPP**
 - New definitions in Section 31.1 of Attachment Y:
 - **Designated Entity** - A Developer or Transmission Owner that the ISO designates pursuant to Section 31.4.11 of this Attachment Y as the person or entity to build, own, and recover the costs of a Designated Public Policy Project.
 - **Designated Public Policy Project** - The Public Policy Transmission Project selected by the ISO as the more efficient or cost effective solution to a Public Policy Transmission Need, or a portion of such Public Policy Transmission Project, that the ISO designates to a Designated Entity pursuant to Section 31.4.11 of this Attachment Y.
 - **Public Policy Transmission Upgrade** - Any portion(s) of a Public Policy Transmission Project that satisfies the definition of upgrade in Section 31.6.4 of this Attachment Y.
 - Conforming revisions across Sections 6.10, 31.4, 31.5, and 31.7 of the OATT to incorporate new definitions.

Designation Process for Upgrades

- **Concepts across proposed designation process in the PPTPP (cont.)**
 - Revisions to the cost containment provisions in the PPTPP to add Public Policy Transmission Upgrades to the list of Excluded Capital Costs and to use an independent cost estimate for all Public Policy Transmission Upgrades during the evaluation and selection process
 - Proposed Tariff Revisions:
 - Section 6.10.6 of the OATT
 - Sections 31.4.8.1.1 through 31.4.8.1.3 of Attachment Y
 - Section 31.4.8.2 of Attachment Y
 - Section 31.7 of Attachment Y (provisions of the *pro forma* Development Agreement)

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



- By NYISO
- By Connecting TO
- By Developer

Designation Process for Upgrades

Step 1: Review of submissions and an opportunity to cure deficiencies

Concept: Following submission of proposals, NYISO will review the Developers' proposed Public Policy Transmission Projects and facility characterizations, based on reasonably available information, and will:

- Review and characterize each facility of the Public Policy Transmission Projects (*e.g.*, new transmission facilities, Public Policy Transmission Upgrades, and potential interconnection facilities), and
- Communicate with the Developers any deficiencies in the proposals based on NYISO's characterization of facilities and request additional information to clarify the deficiencies.
 - Developers would have 15 days to respond consistent with existing provisions .
 - Developers 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 characterization of a facility—in particular, the Developers' Cost Cap.

Designation Process for Upgrades

Step 1: Review of submission and an opportunity to cure deficiencies (cont.)

Proposed Tariff Revisions:

- Section 31.4.5.1 of Attachment Y
- New Section 31.4.5.1.8.5 of Attachment Y

Designation Process for Upgrades

Step 2: NYISO's Identification of Public Policy Transmission Upgrades in Proposed Public Policy Transmission Projects

Concept: Post a list of all the facilities that NYISO identified to be Public Policy Transmission Upgrades for review by interested parties

- During the review of the Viability & Sufficiency Assessment, interested parties may provide comments on the list of facilities
- NYISO will post the final list of Public Policy Transmission Upgrades on or before the Viability and Sufficiency Assessment is filed with the NYPSC
- If NYISO updates the list of upgrades, NYISO will notify affected Developers that additional information is required to cure any resulting deficiency in their proposals prior to the start of the evaluation

Designation Process for Upgrades

Step 2: NYISO's Identification of Public Policy Transmission Upgrades in Proposed Public Policy Transmission Projects (cont.)

Concept:

- 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

Proposed Tariff Revisions :

- New Section 31.4.6.5.1 of Attachment Y

Designation Process for Upgrades

Step 3: Identification in the Public Policy Transmission Report the Designated Entities that are responsible for the Designated Public Policy Projects

Concept: NYISO staff will include in the Public Policy Transmission Report a preliminary list of Designated Entities and Designated Public Policy Projects that makeup the recommended Public Policy Transmission Project

- New transmission facilities will be designated to the proposing Developer
- Public Policy Transmission Upgrades will be designated to the Transmission Owner owning the existing facility to be upgraded
- A Designated Public Policy Project will contain all the facilities that NYISO preliminarily identifies as being designated to a particular Designated Entity
- Network Upgrade Facilities will continue to be handled through Attachment P

Designation Process for Upgrades

Step 3: Identification in the Public Policy Transmission Report the Designated Entities that are responsible for the Designated Public Policy Projects (cont.)

Proposed Tariff Revisions :

- Section 31.4.8.3 of Attachment Y
- Section 31.4.11 of Attachment Y

Designation Process for Upgrades

Step 4: Transmission Owners that are identified as Designated Entities have an opportunity to reject their designation within 30 days of the NYISO Board's selection

Concept: The 30-day period following selection allows the applicable Transmission Owner to decide whether it wishes to serve as the Designated Entity to build, own, and recover the cost of the Designated Public Policy Project

- If the Transmission Owner does not reject its designation, the Transmission Owner shall be the Designated Entity for the identified Designated Public Policy Project
- If the Transmission Owner rejects its designation, the proposing Developer shall be the Designated Entity for the identified Designated Public Policy Project

Proposed Tariff Revisions:

- New Section 31.4.11.3 of Attachment Y

Designation Process for Upgrades

Step 5: Post-selection obligations of Designated Entities and ability of NYISO to address inability of Designated Entities to complete their designated projects

Concept: Following NYISO's posting of a list of Designated Entities and Designated Public Policy Projects, a Designated Entity shall have responsibilities akin to a current Developer

- Obtain necessary approvals and authorizations for its Designated Public Policy Project,
- Enter into a Development Agreement for its Designated Public Policy Project,
- Complete the applicable interconnection process for its Designated Public Policy Project, and
- Ability to recover the costs for the selected project under Rate Schedule 10, as a well as a reasonable rate of return

Designation Process for Upgrades

Step 5: Post-selection obligations of Designated Entities and ability of NYISO to address inability of Designated Entities to complete their designated projects (cont.)

Concept:

- In the event that a Designated Entity of a Designated Public Policy Project fails to execute or file a Development Agreement pursuant to Section 31.4.12.2 of Attachment Y or NYISO terminates the Development Agreement and NYISO determines that an alternative Developer should be designated, a Designated Public Policy Project that was originally designated to a Transmission Owner will first be offered to the proposing Developer before NYISO solicits bids from other Developers. Otherwise, consistent with existing provisions, NYISO shall solicit bids from Developers to finance and complete the development and construction of the Designated Public Policy Project.

Proposed Tariff Revisions:

- Section 31.4.12 of Attachment Y
- Section 31.4.12.3 of Attachment Y
- Section 31.7 of Attachment Y (*pro forma* Development Agreement)
- Sections 22.4.2.2 and 22.4.2.4 of Attachment P
- Section 6.10 of the OATT

Feasibility/Constructability Evaluation of Upgrades

Concept:

- NYISO will perform sensitivities, as appropriate, to account for the Public Policy Transmission Need case when performing the required interconnection studies
- Conduct a feasibility/constructability analysis in the optional Feasibility Study or 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
 - Such analysis is intended to evaluate the feasibility/constructability of the upgrade itself, as opposed to the current feasibility analysis under Attachment P for the Point of Interconnection

Feasibility/Constructability Evaluation of Upgrades

Concept:

- Include a tariff requirement for applicable Transmission Owner staff to execute a non-disclosure agreement when performing the expanded analysis during the optional Feasibility Study and SIS

Proposed Tariff Revisions:

- Section 22.4.2.2 of Attachment P
- Section 22.7.2 of Attachment P
- Sections 22.8.3 and 22.8.4 of Attachment P
- Section 31.4.8 of Attachment Y

Next Steps

Next Steps

■ Targeted Next Steps:

- Plan on returning to the ESPWG/TPAS in July 2021 for further feedback on tariff revisions and Attachment C of the PPTPP Manual
- Finalize and post Attachment C prior to solicitation of Long Island Offshore Wind Export Public Policy Transmission Need
- Bring tariff revisions to the BIC and MC in August 2021

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

