
NYISO Business Issues Committee Meeting Minutes
August 11, 2021
10:00 a.m. – 11:55 a.m.

1. Introductions, Meeting Objectives, and Chairman's Report

Mr. John Marczewski (East Coast Power) called the meeting to order at 10:00 a.m. The members of the BIC identified themselves and attendance was recorded. A quorum was determined.

2. Draft June 23, 2021 and July 14, 2021 BIC Minutes

There were no questions or comments regarding the draft minutes from the June 23, 2021 and July 14, 2021 BIC meetings included as part of the meeting material.

Motion #1:

Motion to approve the June 23, 2021 and July 14, 2021 BIC meeting minutes.

Motion passed unanimously.

3. Market Operations Report

Mr. Rana Mukerji (NYISO) stated that due to the early timing of the meeting within the month, the market performance highlights were not yet available for review. It was further noted that the Market Operations Report would be posted as part of the meeting material once available.

4. Transmission Congestion Contracts Manual Revisions

Mr. Greg Williams (NYISO) reviewed the presentation included with the meeting material. There were no questions or comments.

Motion #2:

The Business Issues Committee (BIC) hereby approves the revisions to the Transmission Congestion Contracts Manual, as more fully described in the presentation entitled "Transmission Congestion Contracts Manual Revisions" made to the BIC on August 11, 2021. The revisions approved by the BIC shall become effective on October 15, 2021.

Motion passed unanimously with an abstention.

5. Mechanism to Implement Right of First Refusal (ROFR) for Upgrades within the Public Policy Transmission Planning Process

Ms. Yachi Lin (NYISO) reviewed the presentation included with the meeting material.

Mr. Mike Mager (Couch White) asked for clarification regarding the rationale for structuring the proposal to include an implicit assumption that a transmission owner will exercise its right of first refusal (ROFR) over upgrades to its existing transmission facilities unless the affected transmission owner otherwise expressly declines to exercise its ROFR. Mr. Brian Hodgdon (NYISO) clarified that the NYISO has structured the operation of proposal for alignment with the ISO-TO Agreement that reserves the right of the transmission owners to undertake upgrades to their respective transmission facilities.

Mr. Howard Fromer (Bayonne Energy Center) asked for clarification regarding whether a developer is required to provide an anticipated schedule and estimated cost for upgrades subject to a ROFR as part of its project proposal. Ms. Lin clarified that a developer's proposal will be required to include a cost estimate for upgrades subject to a ROFR and an overall anticipated schedule for its project proposal. Ms. Lin further clarified that the independent consultant utilized as part of the evaluation and selection process will consider all components of the project proposal submitted by a

developer, including any upgrades subject to a ROFR, in developing its independent cost estimate and schedule for the developer's proposed project.

Mr. Fromer, Mr. Kevin Lang (Couch White), and Mr. Mager requested clarification regarding which entity would be responsible for delays to the overall project schedule and/or incremental project costs that may result from the development of upgrades for which a transmission owner has exercised its ROFR. Ms. Lin noted that responsibility for any such cost increases or project schedule delays attributable to project delays that could arise from the activities of a transmission owner in completing upgrades for which it has elected to exercise its ROFR would be determined on a case-by-case basis. Mr. Carl Patka (NYISO) noted that if a transmission owner exercises its ROFR for an upgrade that is a component of another developer's project proposal, such upgrade would be subject to a separate development agreement and that ultimate responsibility for any incremental costs or project schedule delays would need to be determined on a case-by-case basis given the facts and circumstances at hand, including consideration of the project and nature of the issue, the affected development agreement(s), and the nature of any cost caps that may have been submitted as part of the bid for a selected project.

Ms. Doreen Saia (Greenberg Traurig) recommended that the NYISO consider clarifying as part of any filing to the Federal Energy Regulatory Commission (FERC) related to the proposal whether potential risks undertaken by a developer in proposing a cost cap for a project proposal include the risk of incremental costs and/or project delays that may arise from the actions of a transmission owner in pursuing an upgrade for which it has exercised any applicable ROFR. Mr. Michael Messonnier (Hunton Andrews Kurth) noted that the tariff revisions proposed by the NYISO do allow a developer the opportunity to exclude from any cost cap submitted as part of its project proposal the incremental costs and/or schedule delays that may arise for its projects based on the actions of a third party which could include a transmission owner that has exercised its ROFR over an upgrade that is a component of the developer's proposed project.

Mr. Fromer, Mr. Lang, and Mr. Mager expressed concerns that the proposal does not satisfactorily address the potential impacts to transmission customers with respect to incremental costs and/or project delays that could arise from actions by a transmission owner in undertaking an upgrade for which it has exercised an applicable ROFR.

Mr. Lang asked for clarification regarding whether a transmission owner could elect to exercise its ROFR over an upgrade and subsequently assign responsibility for such upgrade to a third party. Ms. Lin noted that the development agreement includes provisions that address rights for a party to assign its obligations under the agreement, which includes a requirement for NYISO approval and subjects any permissible assignee to all the terms and conditions of such agreement. Mr. Lang expressed concerns that potential rights for subsequent assignment by a transmission owner that has exercised an applicable ROFR over an upgrade may present opportunities for a transmission owner to exercise rights that it ultimately does not intend to pursue.

Mr. Lang asked for clarification regarding whether the NYISO's proposal would require a transmission owner that exercises its ROFR over an upgrade to enter into a development agreement for any such upgrade. Ms. Lin stated that a transmission owner that elects to exercise its ROFR for an upgrade that it is a component of a selected project would be required to enter into a development agreement for such upgrade.

Mr. Fromer asked for clarification regarding the process for scheduling outages related to project components that may be being undertaken by different entities. Ms. Lin stated that the NYISO has existing processes for the scheduling of facility outages that would apply, and clarified that the proposal does not include any revisions to such existing processes.

Mr. Dave Clarke (LIPA) noted that the potential for transmission owners to elect to exercise an applicable ROFR over an upgrade that is a component of a project proposal highlights the importance of ensuring that the evaluation of project proposals and their schedules for completion carefully consider the implications of an exercise of an applicable ROFR over an upgrade that is a component of the project.

Mr. Stu Caplan (Troutman Pepper) noted that the NYISO's proposal is responsive to the determinations made by the FERC with respect to the existence of a ROFR as it relates to upgrades that are a component of a project proposal submitted as part of the Public Policy Transmission Planning Process (PPTPP). Mr. Caplan further noted that the ROFR also extends to other transmission planning processes that are not addressed as part of the immediate proposal. Mr. Caplan stated that after careful consideration of the proposal the New York Transmission Owners support it as a means of appropriately recognizing the existing ROFR within the context of the PPTPP and look forward to expeditiously addressing the FERC-recognized ROFR as it relates to other NYISO transmission planning processes.

Ms. Saia asked for clarification regarding whether any proposal submitted by the NYISO to FERC would expressly indicate the intent to apply the proposed revisions to the Public Policy Transmission Need (PPTN) currently under consideration related to facilitating the delivery of power from offshore wind facilities. Mr. Hodgdon stated that the NYISO intends the proposed revisions to apply to the PPTN currently under consideration related to facilitating the delivery of power from offshore wind facilities.

Mr. Mager and Mr. Lang noted overall concerns that broad definition of upgrades within the context of the PPTPP and the potential for transmission owners to exercise of an applicable ROFR may have detrimental impacts on the competitiveness of the project solicitation process, as well as undermine the benefits for consumers that were intended by the implementation of the opportunity to submit cost capping mechanisms as part of project proposals within the PPTPP. As a result of such concerns, Mr. Mager and Mr. Lang noted that they would be opposing the NYISO's proposal on behalf of Multiple Intervenors and the City of New York, respectively.

Mr. Marc Montalvo (UIU) noted appreciation for the robust discussion about the NYISO proposal and indicated that the UIU is continuing to consider the proposal and, therefore, will be abstaining from the vote on the proposal.

Motion#3:

The Business Issues Committee ("BIC") hereby recommends that the Management Committee approve and recommend that the Board of Directors approve the revisions to Sections 6.10, 22, 31.1, 31.4, 31.5, 31.6, and 31.7 of the Open Access Transmission Tariff ("OATT"), as more fully described in the presentation entitled "Mechanism to Implement Transmission Owners' ROFR over Upgrades in the Public Policy Transmission Planning Process" as presented and discussed at the August 11, 2021 BIC meeting.

*Motion passed with 64.91% affirmative votes.**

*National Grid was unable to cast a vote on the motion, but requested that the minutes note that National Grid supports the NYISO's proposal and would have voted to approve the motion.

6. Working Group Updates

- Billing and Accounting and Credit Working Group: The group met on July 23, 2021 and reviewed: (1) the standard accounting/settlement reports; and (2) an overview of the upcoming market trials related to the software enhancements for the co-located storage resource participation model.
- Electric System Planning Working Group: The group has met twice since the last BIC meeting. The group met on July 23, 2021 and reviewed: (1) key study assumptions for the short-term assessment of reliability study for Q3 2021; (2) proposed revisions to the Economic Planning Process Manual to address the recent enhancements to the Economic Planning Process; (3) a presentation by Con Edison regarding updates to its local transmission plan; (4) a presentation by NEET New York to provide an update regarding the status of its transmission upgrade project selected in response to the Western New York Public Policy Transmission Need (PPTN); (5) presentations by LS Power and NYPA, and New York Transco to provide an update regarding the status of the transmission upgrade projects selected in response to the AC Transmission PPTN; and (6) a proposal to clarify and implement the federal right of first refusal of transmission owners within the context of the Public Policy Planning Process. The group also met on August 2, 2021 and reviewed: (1) a presentation by Equinor to provide an update regarding the status of the Empire Wind offshore wind facility; and (2) a proposal to clarify and implement the federal right of first refusal of transmission owners within the context of the Public Policy Planning Process.

- Installed Capacity Working Group: The group has met jointly with MIWG and/or PRLWG six times since the last BIC meeting. On July 16, 2021, the group met and reviewed the proposal for compliance with FERC Order No. 2222 related to the participation of distributed energy resource aggregations in the wholesale markets. The group met on July 22, 2021 and reviewed key assumptions for the buyer-side Installed Capacity market mitigation assessments related to the second expedited deliverability study of 2020. The group met on July 27, 2021 and reviewed: (1) potential changes to the peak load hours utilized in allocating capacity requirements among Load Serving Entities; and (2) potential enhancements to the current rules governing the expiration and transfer of Capacity Resource Interconnection Service. On August 5, 2021, the group met and reviewed proposed reforms to the buyer-side Installed Capacity market mitigation rules and related enhancements to the current capacity accreditation rules. The group met on August 9, 2021 and reviewed proposed reforms to the buyer-side Installed Capacity market mitigation rules and related enhancements to the current capacity accreditation rules. The group also met on August 10, 2021 and reviewed: (1) an overview of upcoming outreach to Market Participants for informal discussions with the NYISO's Market Design group, and (2) considerations regarding the development of a participation model for aggregations of hybrid storage resources.
- Load Forecasting Task Force: The group met on July 21, 2021 and reviewed: (1) an update regarding peak loads experienced to date during the ongoing 2021 Summer Capability Period; (2) the impact of behind-the-meter solar on the peak load hour and load forecast uncertainty modeling; and (3) an analysis of historical load duration curves for behind-the-meter solar from 2012 through 2020.
- Market Issues Working Group: The group has met jointly with ICAPWG and/or PRLWG five times since the last BIC meeting. The group met on July 16, 2021 and reviewed the proposal for compliance with FERC Order No. 2222 related to the participation of distributed energy resource aggregations in the wholesale markets. On July 22, 2021, the group met and reviewed: (1) an update to the proposed methodology for conducting a consumer impact analysis related to the results of the study to evaluate the provision of grid reliability services by renewable generation resources; and (2) a proposal to exempt 20 MW and smaller solar generation facilities from the requirement to report certain meteorological data to the NYISO. The group met on July 27, 2021 and reviewed proposed revisions to the Transmission Congestion Contracts Manual. On August 3, 2021, the group met and reviewed: (1) proposed manual revisions (i.e., Ancillary Services Manual, Day-Ahead Scheduling Manual, and Transmission and Dispatch Operations Manual) related to the recently implemented reserve shortage pricing enhancements, and enhancements to the 30-minute reserve requirement in the Southeastern New York reserve region; and (2) proposed manual revisions (i.e., Ancillary Services Manual, Day-Ahead Scheduling Manual, and Transmission and Dispatch Operations Manual) related to the co-located storage resource participation model. The group also met on August 10, 2021 and reviewed: (1) an overview of upcoming outreach to Market Participants for informal discussions with the NYISO's Market Design group, and (2) the consumer impact analysis related to the results of the study to evaluate the provision of grid reliability services by renewable generation resources.
- Price Responsive Load Working Group: The group has met jointly with ICAPWG and/or MIWG six times since the last BIC meeting (i.e., July 16, 2021, July 22, 2021, August 3, 2021, August 5, 2021, August 9, 2021, and August 10, 2021). At each meeting, the group reviewed the agenda topics related to distributed energy resources, energy storage resources and/or the NYISO-administered demand response programs.

7. New Business

There was no new business.

Meeting adjourned at 11:55 a.m.