

**DRAFT**

**NYISO Management Committee Meeting Minutes**

**August 25, 2021**

**10:00 a.m. – 11:30 a.m.**

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

The chair of the Management Committee (MC), Mr. Chris Wentlent (MEUA/NYMPPA), called the meeting to order at 10:00 a.m. by welcoming the members of the MC. Members identified themselves and the attendance was recorded. A quorum was determined.

**2. Approval of the Draft Meeting Minutes – July 28, 2021**

The draft meeting minutes from July 28, 2021 were presented for approval.

**Motion #1:**

Motion to approve the draft July 28, 2021 Management Committee meeting minutes.

The motion passed unanimously.

**3. NYISO CEO-COO Report**

Mr. Rich Dewey (NYISO) provided an update on the NYISO Return to In-Person Meetings.

Mr. Dewey announced that NYISO staff will be returning to the office on October 4 and the plan is to begin to holding in-person stakeholder meetings the week of October 18. He offered the caveat that in some parts of the country, the new COVID delta variant is causing a significant rise in infections and community spread, which has caught the NYISO's attention. The NYISO will be looking at that on a daily basis and will push back the date if necessary. Mr. Dewey explained that to protect the health and safety of everyone in the room, we are initially going to put out a requirement that only vaccinated attendees and visitors will be allowed on site. The option to participate remotely, which has been demonstrated to be very effective, will still be available. Further information on the plan will be sent out to stakeholders.

Mr. Rick Gonzales (NYISO) provided the Market Performance Highlights and Operations report (included with meeting material).

Mr. Wes Yeomans provided the following Operational updates, noting that a formal presentation on Summer 2021 Hot Weather Operations would be provided to the OC and MC at a later date:

Our first instance of hot weather was June 27-30 whereby we recorded a peak hour load of 30,919 MW on June 29. Unfortunately, on July 15, the 345 kV Y50 Cable between Westchester (Con Ed Dunwoodie substation) to Long Island (LIPA Shore Rd substation) experienced a fault and was unavailable until September 15 (as posted on NYISO's OASIS). As very bad luck would have it, on August 6, the 345 kV Y 49 Cable also between Westchester (Con Sprainbrook substation) to Long Island (LIPA East Garden City substation) experienced a fault and is not expected to be available until October 15 (again, as posted on OASIS). New York experienced its second instance of hot weather from Sunday August 8 through Friday August 13, with temperatures in the low 90's early in week, rising to the mid 90's with high humidity. The following actions were taken:

- Recalled all transmission outages.
- Held several NPCC conference calls monitoring conditions with our neighboring operating areas including PJM and MISO.
- Provided 21 hour notice to NYISO DR Zone K Resources (only) for Wednesday-Friday and activated such resources on Wednesday-Friday.

Gen performance, along with market energy schedules, worked well during this heat wave.

On Thursday August 19, it was clear that tropical storm Henri was tracking toward the Northeast with a projected landfall as a category 1 hurricane on Sunday, August 22 at 2PM targeting Long Island, Connecticut, and Rhode Island. At one point, the track shifted west toward NYC then 12 hours later shifted back east. The following actions were taken:

- Scheduled extra operators and operating management for Sunday
- Recalled Southeastern NY transmission outages
- Worked & coordinated operational plans with LIPA
- Monitored carefully predicted storm elevations for NYC and LI and worked with generator asset owners to understand their operating capabilities for different storm elevations.
- Held several conference calls prior to the storm

Ultimately, the storm downgraded to a tropical storm with a late morning landfall, and further east than predicted. It did hit Rhode Island hard and mostly became a rain event for eastern NY. We were very happy to report no generation or transmission outages and better, probably less 3,000 distribution customer outages.

#### **4. Vice Chair Election**

Ms. Julia Popova (NRG Energy) was elected 2021-2022 Vice-Chair of the Management Committee.

#### **5. Mechanism to Implement Transmission Owners' ROFR over Upgrades in the Public Policy Transmission Planning Process**

Ms. Yachi Lin (NYISO) provided an update (presentation included with meeting material).

Mr. Kevin Lang (City of NY) commented that if the NYISO's proposal is to designate an upgrade portion of the Public Policy Transmission Projects to the transmission owner (TO) of the facilities during the evaluation and selection phase, it should just assign the TO the responsibility and obligation from the beginning and tell the competitive developers they don't need to worry about upgrades anymore. If you are designating the TO as responsible, then there is really no decision, and the NYISO is claiming a right of first refusal, which is already a right the TOs have. To the extent this is supposed to eliminate confusion, Mr. Lang said it would create more confusion and developers will have tremendous uncertainty. TOs should be required to make the decision at the beginning of the process and not at the end.

Mr. Stu Caplan (NYTOs) stated that it is not an absolute guarantee that when exercising the right of first refusal, the TOs will accept the designation to build, own, and recover the cost of an upgrade. The NYISO's process allows for TO to decline, which equates to a right of first refusal. From a timing perspective, as stated in other stakeholder meetings, the NYISO's proposal would facilitate a timely process and avoid delay. One of the objectives was to avoid delay in the process. Mr. Caplan added, to Mr. Lang's main point, that the proposed designation is subject to the election process whereby the TO may decline the designation and the developer may still be the designated entity to build, own, and recover the cost of the upgrade.

Mr. Caplan further noted that there may be many projects, and it would not be reasonable to expect the TOs to evaluate them and exercise the right of first refusal in a timely manner at Mr. Lang's suggested point in the process. The way that the NYISO has staged this allows the TOs to focus on the project the board selected and act on it quickly. Mr. Caplan stated that he does not think that there is any confusion; it makes sense that the developers would know where they stand through the meticulous process that the NYISO has laid out. Developers would understand the risks that the TO could exercise a right of first refusal and this proposal even allows for a timely process for disagreement on whether a facility is an upgrade and, therefore, subject to that right.

Mr. Mike Mager (Multiple Intervenors) noted his concern that the NYISO is missing the mark and is watering down the cost containment provisions in the Public Policy Transmission Planning Process that took a long time to get through the stakeholder process. Multiple Intervenors (MI) think that cost containment is incredibly important and that the Public Policy Transmission Planning Process is supposed to be a competitive solicitation process, with the idea of getting the best project at the lowest cost to consumers. MI disagrees with not requiring TOs that exercise the right of first refusal to accept the developer's cost containment from the proposal. When a developer proposes a cost containment measure for a project, that measure should be part in parcel with the obligations that a TO must accept in deciding whether to accept or reject the upgrade. The mechanism to implement the right of first refusal should require a TO that exercises the right of first refusal to accept another developer's cost containment measure. The NYISO says it will not consider a cost containment proposal for the upgrades by an independent developer, and this approach hurts the process and potentially eliminates cost containment certainty for consumers.

Mr. Mager also noted that a right of first refusal is something that has to be affirmatively exercised. The logical approach would be that the independent developer is awarded the project and then the TO has to affirmatively exercise its right of first refusal to take over an upgrade. Yet, the NYISO is bending over backwards to give the TO the project and the TO doesn't have to exercise anything. If the TO does nothing, then it gets the project. Mr. Mager stated that he does not understand why the TO would have to affirmatively reject an upgrade. At a minimum, the NYISO should require the TO to affirmatively exercise whatever right of first refusal it has.

Mr. Caplan stated that the TOs would have to provide cost information in order to recover those costs through their rates, and the NYISO's implementation, as proposed, is consistent with its obligations under the ISO TO agreement. Mr. Caplan noted that the NYISO indicated it would publish the independent consultant cost estimates in publicly available documents.

Mr. Brian Hodgdon (NYISO) stated, in response to a question, that the Commission in Order 1000 sought to encourage competition for transmission development by removing barriers, such as an elimination of federal ROFRs. In doing so the Commission enumerated exceptions, and the right of TOs to build, own, and recover of the cost of upgrades is one of them.

Mr. Mark Montalvo (UIU) noted that UIU supports the NYISO's work in public policy transmission planning, and understands and appreciates that there are many moving parts. UIU has given a lot of thought to proposal, but thinks its valuable to spend some serious, additional time thinking about how the NYISO is actually allocating costs.

Mr. Mark Younger (Hudson Energy Economics) asked what mechanisms there would be to track the spending that the TOs do on parts of a project where they exercise the right of first refusal and compare it to the cost estimates from both for the sponsoring developer's proposals and the NYISO's independent consultant. He asked that the information be available in a location that is easy for people to look at.

Ms. Lin said that the NYISO would take Mr. Younger's request back for further consideration. The NYISO already publishes the cost estimates from NYISO's independent consultant as part of a Public Policy Transmission Planning report, which is aimed at promoting openness and transparency in the NYISO's process. For instance, there is a summary in the report with a detailed breakdown by component. The NYISO plans on continuing to do so. However, the actual costs of the project will be based on the rate approved by the FERC. Mr. Mager asked that the report be clear on the cost estimate used for upgrade portions of the projects and available to the public.

Ms. Lin responded that the NYISO would consider what additional information can be provided.

Mr. Brian Hodgdon (NYISO) said that project cost information from the developer's proposal would remain confidential per the tariff; however, the Public Policy Transmission Planning Process report is public. Mr. Mager stated that when a project and a developer bid is chosen and NYISO is going to collect money from consumers through its tariff to pay for that project, then the winning bid should be made public. Mr. Mager asked if a developer bids on an entire project and part of it is deemed an upgrade, and that upgrade is removed from the independent developer, how does the developer's bid get adjusted?

Ms. Lin responded that this is step 1 in the part 2 process. Developers would have an opportunity to cure the deficiency in the information by updating a proposed cost cap measure, if included voluntarily as a part of the proposal. Ms. Lin provided an example.

Mr. Caplan provided the following statement on behalf of the New York Transmission Owners:

We have a major job to do in implementing the CLCPA. We need clear rules on how to achieve public policy transmission projects in order to do this. Today's proposal is not about whether a ROFR exists. It is about how to implement it in an orderly manner.

The Public Policy Transmission (or PPT) solicitation process will go much more smoothly and be more timely with clear tariff implementation provisions. The ISO has worked hard to provide for provisions that will achieve this goal.

This implementation will lead to a smoother and timely PPT solicitation and evaluation process.

Under the ISO's proposal, TO elections on Upgrades will not impact the evaluation and selection process. The ISO will rely on its independent consultant for cost estimates for all Upgrades. All Developers will be treated identically in this regard.

Under the ISO's proposal, the TO election process will not cause a delay in the selection process or in advancing projects.

The TOs support the ISO's proposal in so far as it addresses implementation of the ROFR with respect to Upgrades that are part of a proposed PPT project. The NYTOs remain concerned that Upgrades, which are subject to the ROFR, will arise in other aspects of the NYISO's planning and interconnection processes, and the instant filing does NOT address ROFR implementation in these other settings. One example that could arise in a PPT project is if a Network Upgrade Facility identified pursuant to Attachment P of the OATT includes an Upgrade. The TOs believe it is important to resolve tariff implementation of the ROFR in these other settings and to do so on a timely basis so that delay and uncertainty can be replaced by a timely and transparent process.

The TOs urge approval of the NYISO proposal.

Mr. Mager, on behalf of MI, noted his concern about the future competitiveness of the Public Policy Transmission Planning Process if developers are forced to complete the entire process, and then have substantial portions of a project taken away from them at the very last minute. He also noted that he is also very concerned that cost containment, which was a major consideration, is being watered down by not only excluding any right of first refusal from cost containment, but also not even considering cost containment proposals that include what potentially could be an upgrade subject to a right of first refusal. Mr. Mager stated that for the aforementioned reasons and other reasons articulated at prior stakeholder meetings, MI regretfully has to oppose this motion.

Mr. Lang echoed Mr. Mager's concerns, in particular, about the impact on competition. He noted that there have been two public policy transmission planning processes in the past that went to merchant developers. Those processes demonstrated that competitive pricing is achievable through competition. The TOs have had decades to take on transmission upgrades but declined to do it so, and now the NYISO proposes a process that is undermined by the TOs stepping in when they previously had every opportunity to do so in the past, but chose not to. Mr. Lang's clients are concerned that this will result in higher prices for customer that the NYISO has been striving to reduce for over 20 years and undermine the whole concept of competition. Mr. Lang said that because of this, the City of New York, along with MI, is forced to oppose this proposal.

Mr. Chris Hall (NYSERDA) stated that NYSERDA will be voting against this proposal today as well due to many of the concerns that have already been expressed by other stakeholders. He stated that the primary concern is related to cost containment. NYSERDA thinks that the TO should be bound to the entire proposal, including cost containment, when exercising their right of first refusal.

### **Motion #2**

The Management Committee ("MC") hereby approves changes to the Open Access Transmission Tariff as more fully described in the presentation titled "Mechanism to Implement Transmission Owners' ROFR over Upgrades in the Public Policy Transmission Planning Process" presented to and discussed with the MC on August 25, 2021, and recommends that the NYISO Board of Directors authorize NYISO staff to file such revisions under Section 205 of the Federal Power Act.

**The motion failed with 42.38% affirmative votes.**

Following the vote, Ms. Lin made the statement below.

The NYISO continues to think the revisions to establish a mechanism in Public Policy Transmission Planning Process are necessary and time sensitive. As we have previously mentioned and given the outcome of the vote today, the NYISO will consider other avenues to revise the tariff to include a mechanism in the Public Policy Transmission Planning Process. For instance, the NYISO will look at pursuing a section 206 filing.

### **New Business**

There was no new business. The meeting adjourned at 12:00 p.m.