

**NYISO Business Issues Committee
(November 16, 2022)**

**NYISO Operating Committee
(November 17, 2022)**

**NUF ROFR Tariff Comparison –
changes to provisions presented at
October 25 ESPWG Meeting.**

This document shows the changes that were made to the OATT provisions presented at the October 25 ESPWG Meeting in response to NYISO staff suggestions and consisting of discreet clarifications and conforming changes.

In addition, the full redlines posted for the NYISO Business Issues Committee meeting (November 16, 2022) and NYISO Operating Committee meeting (November 17, 2022) reflect additional conforming changes in response to NYISO staff feedback. The complete set of proposed tariff changes has been posted, and the presentation for these meetings describes the NYTO proposal and the tariff changes.

Contacts listed at TPAS/ESPWG meetings on this subject have not received any other comments on the presentations and draft tariff changes.

Proposed Tariff Changes in OATT Attachment P:

22.9.6 Designation of Network Upgrade Facilities for Selected Public Policy Transmission Projects

~~[1. In the Facilities Study, the ISO shall determine whether NUFs are Upgrades or New Facilities after considering comments.]~~

For a Transmission Project that is selected by the ISO for inclusion in the regional transmission plan for purposes of cost allocation as the more efficient or cost effective solution to a need identified in the Public Policy Transmission Planning Process under Attachment Y to the ISO OATT, the ISO shall identify the Network Upgrade Facilities that satisfy the definition of upgrade under Section 31.6.4 of Attachment Y to the ISO OATT in the Facilities Study report or update any previous identification of such Network Upgrade Facilities if the Facilities Study report is revised. In advance of finalizing the Facilities Study report or any update, the ISO shall consider any comments on such designations from the Transmission Developer and the Connecting Transmission Owner or Affected Transmission Owner that owns the existing facility(ies) to be upgraded by one or more of the Network Upgrade Facilities.

~~[2. TO must notify ISO if it declines to be act as the designated entity for the NUF Upgrades within 30 days.]~~

Each relevant Connecting Transmission Owner or Affected Transmission Owner must notify the ISO and the Transmission Developer in writing within 30 Calendar Days of the ISO issuing the final Facilities Study report, or any update to the Facilities Study report, if the Connecting Transmission Owner or Affected Transmission Owner declines the responsibility to build, own, and ~~finance~~ fund one or more Network Upgrade Facilities that satisfy the definition of upgrade under Section 31.6.4 of Attachment Y the ISO OATT.

~~[3. Absent a declination, TOs are responsible for building, owning and financing the NUF Upgrades and may use Schedule 10 cost allocation and recovery applicable to PPT projects. TO must enter into an ISO Development Agreement.]~~

In the absence of such declination notice, the Connecting Transmission Owner or the Affected Transmission Owner shall be the designated entity responsible to build, own, and ~~finance~~ fund such Network Upgrade Facilities (“Designated Network Upgrade Facilities”). The Connecting Transmission Owner or the Affected Transmission Owner shall be eligible to recover the costs of the Designated Network Upgrade Facilities ~~through~~ in the manner set forth in Attachment Y and Rate Schedule 10 of the ISO OATT. The Transmission Developer’s and Transmission Owner’s obligations and responsibilities will be documented in the Transmission Project Interconnection Agreement, as applicable, and the Transmission Owner will be required to comply with the requirements ~~for as~~ a Designated Entity under Attachment Y to the ISO OATT in building, owning, and recovering the costs of the Designated Network Upgrade Facilities, including, but not limited to, entering into or amending a Public Policy Transmission Planning Process Development Agreement.

~~[4. If TO declines to act as the Designated Entity for an NUF Upgrade, Developer posts security.]~~

If the Connecting Transmission Owner or Affected Transmission Owner provides timely notice declining the responsibility to build, own, and ~~finance fund~~ one or more Network Upgrade Facilities that meet the definition of upgrade under Section 31.6.4 of Attachment Y to the ISO OATT ~~or in the event that a Public Policy Transmission Planning Process Development Agreement that covers Designated Network Upgrade Facilities is terminated and such termination is related to a default by the Connecting Transmission Owner or Affected Transmission Owner in the development of Designated Network Facilities~~, then the Transmission Developer shall be responsible for ~~financing funding~~ and posting Security in accordance with Section 22.11.1 of this Attachment P for such Network Upgrade Facilities, ~~and as well as~~ other Network Upgrade Facilities that do not meet the definition of upgrade in Section 3.1.6.4 of the ISO OATT.

~~[5. TO and Developer may mutually agree on who shall build and pay for NUFs.]~~

The Connecting Transmission Owner or Affected Transmission Owner may mutually agree with the Transmission Developer for the Transmission Developer to build and/or own any of the Network Upgrade Facilities for which the Connecting Transmission Owner or Affected Transmission Owner declined to build, own, and ~~finance fund~~. Such rights and obligations will be documented in the Transmission Project Interconnection Agreement.

~~[6. Security for and payments of NUF costs are to be addressed in the Transmission Interconnection Agreement, as is the case today; and any disputes over designations of NUF Upgrades are subject to existing dispute resolutions procedures under OATT Attachment P.]~~

Security for the Network Upgrade Facilities shall be posted in accordance with Section 22.11.1 of this Attachment P. Any disputes concerning the classification of components of Network Upgrade Facilities as upgrades under Section 31.6.4 of Attachment Y of the ISO OATT shall be subject to dispute resolution under Section 22.13.5 of this Attachment P.

22.9.3 Scope of Facilities Study

~~[7. The Developer is not required to post security for NUFs for which a TO functions as the Designated Entity.]~~

The Facilities Study shall update and refine the description of Network Upgrade Facilities identified in the System Impact Study, including the equipment, work and related cost and time estimates necessary to construct the required Network Upgrade Facilities. Transmission Developer will be responsible for posting Security in the amount of the cost estimates for the Network Upgrade Facilities documented in the final Facilities Study report pursuant to Section 22.11.1 of this Attachment P, except that ~~s~~Security for Network Upgrade Facilities that are required under this Attachment P based on the final Facilities Study report and satisfy the definition of upgrade under Section 31.6.4 of Attachment Y to the ISO OATT ~~as identified in the Facilities Study Report [PPT NUF Upgrades]~~, shall not be required unless and until a Connecting

Transmission Owner or Affected Transmission Owner issues a timely declination notice pursuant to Section 22.9.6 of this Attachment P. The Facilities Study shall also contain a non-binding estimate as to the feasible TCCs resulting from the construction of the new facilities, as applicable.

22.11.1 Tender ~~{8. The Developer is not required to post security for NUFs for which a TO acts as the Designated Entity.}~~

After completion of the Facilities Study, the Transmission Developer may request the ISO tender a draft Transmission Project Interconnection Agreement together with draft appendices completed to the extent practicable; provided, however, that if a Transmission Developer's proposed Transmission Project is only interconnecting to its own, existing facilities, a Transmission Project Interconnection Agreement is not required. If a Transmission Project includes more than one Designated Public Policy Project as identified in accordance with Attachment Y to the ISO OATT, the ISO may treat each Designated Public Policy Project comprising the Transmission Project as a separate Transmission Project for purposes of this Section 22.11 and tender separate draft Transmission Project Interconnection Agreements together with draft appendices to each Designated Entity, as applicable. The draft Transmission Project Interconnection Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Appendix 6 to Attachment X of the OATT, modified to address a Transmission Project. The Transmission Project Interconnection Agreement shall provide the mechanism through which a Transmission Developer shall post Security for required Network Upgrade Facilities. A Transmission Developer will be required to post Security with the applicable Connecting Transmission Owner for Network Upgrade Facilities identified in the Facilities Study; provided however, (i) if the Transmission Developer and Connecting Transmission Owner are the same entity, the Transmission Developer need not post Security for Network Upgrade Facilities required on its own facilities; ~~and~~ or (ii) if the NYISO identifies any Network Upgrade Facilities that satisfy the definition of upgrade under Section 31.6.4 of Attachment Y to the ISO OATT in the Facilities Study, then the Transmission Developer shall not be obligated to post security for such Network Upgrade Facilities until the expiration of the deadline ~~has passed~~ for the applicable Transmission Owner to issue a timely declination notice in accordance with Section 22.9.6 of this Attachment P. Following such declination notice deadline, the Transmission Developer shall post Security as specified in the Transmission Project Interconnection Agreement for all Network Upgrade Facilities except Designated Network Upgrade Facilities as determined in accordance with Section 22.9.6 of this Attachment P.

Proposed Tariff Changes in OATT Attachment Y:

31.4.6.5.1 Identification of Public Policy Transmission Upgrades in Proposed Public Policy Transmission Projects ~~{9. The ISO shall post a non-binding list of NUFs identified by Developers}~~

31.4.6.5.1.1 At least 30 Calendar Days prior to the ISO's presentation of the initial draft of the Viability and Sufficiency Assessment, the ISO shall post a list of the facilities that make up the

Public Policy Transmission Projects (but not including potential interconnection facilities) that were evaluated in the Viability and Sufficiency Assessment. The list will identify which facilities are new transmission facilities and which facilities satisfy the definition of a Public Policy Transmission Upgrade. For those facilities that satisfy the definition of a Public Policy Transmission Upgrade, the list will also specify the Transmission Owner that owns the existing transmission facility that would be modified by an identified Public Policy Transmission Upgrade, to the extent such information is available. The ISO shall also include in the list, for informational purposes only, interconnection facilities identified in a proposal submitted by a Developer in accordance with Section 31.4.5.1.2 of this Attachment Y. any Network Upgrade Facilities identified by the ISO or Developer as referenced in Section 31.4.5.1.8.2 of Attachment Y. Such lists of Network Upgrade Facilities are not binding and are subject to revision in the ISO interconnection study process and pursuant to Section 22.9.6 of Attachment P to the OATT. The list of Public Policy Transmission Upgrades shall not identify any listed facility as associated with

[10. Developer “volunteered NUFs” are not binding; only NUFs as required in the Facilities Study report and associated updates are official.]

~~any specific Public Policy Transmission Project.~~ Any interested party may dispute the ISO’s determination to identify, or not identify, a facility as a Public Policy Transmission Upgrade by providing the ISO with written notice within 20 Calendar Days of the ISO’s posting of the list pursuant to this Section 31.4.6.5.1.1, which notice shall be posted on the ISO’s website. The ISO and the disputing party(ies) should attempt to resolve such dispute(s) through the ISO governance procedures in discussing the Viability and Sufficiency Assessment and as provided in Section 31.1.8.4 of this Attachment Y. The ISO shall post the final list pursuant to this Section 31.4.6.5.1.1 on or before the ISO’s filing of the Viability and Sufficiency Assessment at the NYPSC and shall note whether any of the facilities still have pending disputes at the time the list is posted and that any Network Upgrade Facilities identified by a Developer and not yet identified in the Facilities Study for a project are not to be confirmed, removed or modified as Network Upgrade Facilities until the Facilities Study for a project is completed and subject to the process contained in Section 22.9.6 of Attachment P of the OATT.

Proposed Tariff Changes in Schedule 10:

6.10.1.1 Eligible Projects

[11. Add Designated Network Upgrade Facilities so TOs can use Schedule 10 as they are already permitted for upgrades that are part of a Developer’s proposed PPT project.]

This Schedule establishes the Regulated Transmission Facilities Charge (“RTFC”) for the recovery of the costs of a regulated transmission project that is eligible for cost recovery in accordance with the Comprehensive System Planning Process requirements set forth in Attachment Y of the ISO OATT. A Transmission Owner, Unregulated Transmitting Utility, or Other Developer may recover through the RTFC the costs that it is eligible to recover pursuant to Attachment Y and Attachment P of the ISO OATT related to: (i) a regulated backstop

transmission solution...; (ii) an alternative regulated transmission solution that the ISO has selected pursuant to Section 31.2.6.5.2 of Attachment Y of the ISO OATT as the more efficient or cost-effective solution to a Reliability Need; or (iii) a regulated transmission Gap Solution...; (iv) an alternative regulated Transmission Gap Solution...; (v) a Regulated Economic Transmission Project...; (vi) a Designated Public Policy Project that is a Public Policy Transmission Project, or a part of a Public Policy Transmission Project, that the ISO has selected pursuant to Section 31.4.8.2 of Attachment Y of the ISO OATT as the more efficient or cost-effective solution to a Public Policy Transmission Need and/or associated Designated Network Upgrade Facilities designated pursuant identified in accordance with to Section 22.9.6 of Attachment P of the ISO OATT and associated with a Public Policy Transmission Project selected by the ISO as the more efficient or cost effective transmission solution to address a Public Policy Transmission Need; (vii) a Public Policy Transmission Project proposed by a Developer in response to a request by the NYPSC or Long Island Power Authority...

~~*[12. The NUF Upgrades need to be consistent with the Facilities Study and Transmission Interconnection Agreement.]*~~

6.10.4.2 The period for cost recovery will be determined by the Commission and will begin if and when the Eligible Project enters into service, is halted, or as otherwise determined by the Commission, including for the recovery of CWIP or other permissible cost recovery. The Transmission Owner/Other Developer, or, at its request, the ISO, shall either make a Section 205 filing with the Commission or make an informational filing under a formula rate to provide for the Commission’s review and approval or acceptance of the project cost and resulting revenue requirement to be recovered through the RTFC. The filing may include all reasonably incurred costs specified in Section 6.10.4.1 of this Schedule that are related to the Transmission Owner’s or the Other Developer’s undertaking an Eligible Project. The filing must be consistent with the Transmission Owner’s or the Other Developer’s project proposal made to and evaluated by the ISO pursuant to Attachment Y, or with respect to NUFs Designated Network Upgrade Facilities, any the applicable ISO-conducted Facilities Study and Interconnection Agreement requirements. If the Eligible Project is a Designated Public Policy Project for which the Developer proposed a Cost Cap, the Developer must also satisfy the requirements in Section 6.10.6 in its filing. The Transmission Owner or Other Developer shall bear the burden of resolving all concerns about the contents of its rate the filing that might be raised in such proceeding. The ISO will begin to calculate and bill the RTFC in accordance with the period for cost recovery determined by the Commission after the Commission has accepted or approved the filing or otherwise allowed the filing to go into effect pursuant to a formula rate.