

## **31.4 Public Policy Transmission Planning Process**

### **31.4.1 General**

The Public Policy Transmission Planning Process shall consist of three steps: (1) identification of Public Policy Transmission Needs; (2) requests for proposed Public Policy Transmission Projects and Other Public Policy Projects to address those Public Policy Transmission Needs and the evaluation of those projects; and (3) selection of the more efficient or cost-effective Public Policy Transmission Project, if any, to satisfy each Public Policy Transmission Need to be eligible for cost allocation under the ISO OATT and designation of the selected Public Policy Transmission Project to the Designated Entity or Designated Entities that shall be responsible for developing the Designated Public Policy Project(s). The Public Policy Transmission Planning Process will be conducted on a two-year cycle, unless requested by the NYPSC to be conducted out of that cycle. If the Public Policy Transmission Planning Process cannot be completed in the two-year cycle, the ISO will notify stakeholders and provide an estimated completion date and an explanation of the reasons the additional time is required. The NYPSC's issuance of a written statement pursuant to Section 31.4.2.1 below will occur after the draft RNA study results are posted.

### **31.4.2 Identification and Posting of Proposed Transmission Needs Driven by Public Policy Requirements**

At the start of each cycle for the Public Policy Transmission Planning Process, the ISO will provide a 60-day period, which time period may be extended by the ISO pursuant to Section 31.1.8.7, to allow any stakeholders or interested parties to submit to the ISO, or for the ISO on its own initiative to identify, any proposed transmission need(s) that it believes are being driven by Public Policy Requirement(s) and for which transmission solutions should be requested and

evaluated. Each submittal will identify the Public Policy Requirement(s) that the party believes is driving the need for transmission, propose criteria for the evaluation of transmission solutions to that need, and describe how the construction of transmission will fulfill the Public Policy Requirement(s).

For submittals to identify transmission needs pursuant to Section 31.4.2.1, the ISO will post all submittals on its website after the end of the needs solicitation period, and will submit to the NYPSC all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO. For submittals to identify transmission needs that require a physical modification to transmission facilities in the Long Island Transmission District pursuant to Section 31.4.2.3, the ISO will post all submittals on its website after the end of the needs solicitation period, and will provide to the NYPSC and the Long Island Power Authority all submittals proposed by stakeholders, other interested parties, and any additional transmission needs and criteria identified by the ISO.

#### **31.4.2.1 Identification and Determination of Transmission Needs Driven by Public Policy Requirements**

The NYPSC will review all proposed transmission need(s) and, with input from the ISO and interested parties, identify the transmission needs, if any, for which specific transmission solutions should be requested and evaluated. The NYPSC will maintain procedures to govern the process by which it will review proposed transmission need(s), which procedures shall: ensure that such process is open and transparent, provide the ISO and interested parties a meaningful opportunity to participate in such process, provide input regarding the NYPSC's considerations, and result in the development of a written determination as required by law, inclusive of the input provided by the ISO and interested parties. In addition, the NYPSC may,

on its own, identify a transmission need driven by a Public Policy Requirement. Any such transmission need identified by the NYPSC on its own shall be described by the NYPSC in accordance with the requirements for stakeholder submittals set forth in Section 31.4.2, and shall be identified and posted to the ISO's website prior to NYPSC's issuance of the required written statement discussed below in this Section 31.4.2.1 so as to provide the ISO and interested parties an opportunity to provide input to the NYPSC relating thereto.

The ISO shall assist the NYPSC in its analyses as requested. The NYPSC may also request that the ISO, pursuant to Section 3.8.1 of the ISO OATT, conduct an evaluation of alternative options to address the transmission needs.

The NYPSC shall issue a written statement that identifies the relevant Public Policy Requirements driving transmission needs and explains why it has identified the Public Policy Transmission Needs for which transmission solutions will be requested by the ISO. The statement shall also explain why transmission solutions to other suggested transmission needs should not be requested. The NYPSC's statement may also provide: (i) additional criteria for the evaluation of transmission solutions and non-transmission projects, (ii) the required timeframe, if any, for completion of the proposed solution, and (iii) the type of analyses that it will request from the ISO.

If the NYPSC does not identify any transmission needs driven by Public Policy Requirements, it will provide confirmation of that conclusion to the ISO, and the ISO shall not request solutions. The ISO shall post the NYPSC's statement on the ISO's website.

#### **31.4.2.2 Disputes of NYPSC Determinations**

In the event that a dispute is raised solely within the NYPSC's jurisdiction relating to any NYPSC decision to either accept or deny a proposed transmission need as one for which

transmission solutions should be requested, the dispute shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

**31.4.2.3 Identification and Determination of Transmission Needs Within the Long Island Transmission District Driven by Public Policy Requirements**

The Long Island Power Authority, pursuant to its jurisdiction under Title 1-A of Article 5 (§1020 et seq.) of the Public Authorities Law of the State of New York, shall identify and determine whether a Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. The identification and determination of such transmission needs shall be consistent with Section 31.4.2.1, as further supplemented by this Section 31.4.2.3. The Long Island Power Authority shall have no authority to identify a transmission need outside of the Long Island Transmission District.

Based on the information provided by the ISO pursuant to Section 31.4.2, the Long Island Power Authority shall review whether a proposed Public Policy Requirement drives the need for a physical modification to transmission facilities in the Long Island Transmission District. In addition, the following requirements shall apply to the Long Island Power Authority:

- (i) The Long Island Power Authority shall consult with the NYDPS on the identification of transmission needs driven by a Public Policy Requirement solely within the Long Island Transmission District;
- (ii) Upon completion of its review, the Long Island Power Authority shall issue a written statement explaining whether a Public Policy Requirement does or does not drive the need for a physical modification to transmission facilities solely

within the Long Island Transmission District, and describing the consultation undertaken with the NYDPS;

- (iii) In conjunction with the issuance of its written statement, the Long Island Power Authority shall transmit to the NYPSC and request that it review and determine whether a transmission need solely within the Long Island Transmission District identified by the Long Island Power Authority as being driven by a Public Policy Requirement should be considered a Public Policy Transmission Need for purposes of the evaluation of solutions by the ISO and the potential eligibility of transmission solutions for selection and regional cost allocation under the ISO OATT. Any transmission need within the Long Island Transmission District that has been identified by the Long Island Power Authority, but which the NYPSC has not determined to be a Public Policy Transmission Need that would be evaluated by the ISO, shall be addressed under the Long Island Power Authority's Local Transmission Plan.
- (iv) The determination of whether there is a transmission need solely within the Long Island Transmission District is the sole responsibility of the Long Island Power Authority;
- (v) The NYDPS and Long Island Power Authority shall consult and coordinate on procedures to be adopted by the NYPSC and Long Island Power Authority to ensure that their respective determinations under this Section 31.4.2.3, including any NYPSC determination that there is a Public Policy Transmission Need within the Long Island Transmission District for which solutions should be evaluated by the ISO, are completed, publicly posted and transmitted to the ISO at the same

time as the NYPSC makes its final determinations pursuant to Section 31.4.2.1;

and

- (vi) In the event that a dispute is raised solely within the Long Island Power Authority’s jurisdiction relating to a decision by the Long Island Power Authority to either accept or deny a proposed transmission need solely within the Long Island Transmission District, the dispute shall be addressed through judicial review in the courts of the State of New York pursuant to Article 78 of the New York Civil Practice Law and Rules.

### **31.4.3 Request for Proposed Solutions**

The ISO will request proposed Public Policy Transmission Projects, including Interregional Transmission Projects, to satisfy each Public Policy Transmission Need identified pursuant to Sections 31.4.2.1 through 31.4.2.3. An Interregional Transmission Project shall be: (i) evaluated in accordance with the applicable requirements of the Public Policy Transmission Planning Process of this Attachment Y, and (ii) jointly evaluated by the ISO and the relevant adjacent transmission planning region(s) in accordance with Section 7.3 of the Interregional Planning Protocol. The ISO shall also accept specific proposed Other Public Policy Projects to satisfy a Public Policy Transmission Need identified pursuant to Sections 31.4.2.1 through 31.4.2.3.

#### **31.4.3.1 ISO Request for Proposed Solutions**

Following posting of a determination pursuant to Sections 31.4.2.1 through 31.4.2.3, the ISO will request that Developers propose specific solutions, whether Public Policy Transmission Project(s) or Other Public Policy Project(s), to satisfy each identified Public Policy Transmission Need in accordance with the requirements set forth in Section 31.4.4.3. Any proposed

transmission needs that are under appeal pursuant to Section 31.4.2.2 or Section 31.4.2.3(vi) may be addressed with proposed solutions, if required, except where the NYPSC order has been stayed pending the resolution of that appeal.

#### **31.4.3.2 NYPSC and LIPA Requests for Solutions**

To ensure that there will be a response to a Public Policy Transmission Need, the NYPSC may request the appropriate Transmission Owner(s) or Other Developer, as identified by the NYPSC, to propose a Public Policy Transmission Project. With respect to a transmission need identified by the Long Island Power Authority and determined to be a Public Policy Transmission Need by the NYPSC pursuant to Section 31.4.2.3, the Long Island Power Authority’s Board of Trustees may request that an appropriate Transmission Owner(s) or Other Developer propose a Public Policy Transmission Project or Other Public Policy Project. A request for the provision of a Public Policy Transmission Project or Other Public Policy Project by either the NYPSC or the Long Island Power Authority’s Board of Trustees, pursuant to this section, is supplementary to, and not to the exclusion of, the submission of proposed projects pursuant to Section 31.4.3.1. Costs incurred by a Transmission Owner or Other Developer in preparing a proposed transmission solution in response to a request under this Section 31.4.3.2 will be recoverable under Section 31.5.6 and Rate Schedule 10 of the ISO OATT. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission.

#### **31.4.4 Eligibility and Qualification Criteria for Developers and Projects**

For purposes of fulfilling the requirements of the Developer qualification criteria in this Section 31.4.4 and its subsections, the term “Developer” includes Affiliates, as that term is defined in Section 2 of the ISO Services Tariff and Section 1 of the ISO OATT. To the extent

that a Developer relies on Affiliate(s) to satisfy any or all of the qualification criteria set forth in Section 31.4.4.1.1, the Affiliate(s) shall provide to the ISO: (i) the information required in Section 31.4.4.1.1 to demonstrate its capability to satisfy the applicable qualification criteria and (ii) a notarized officer's certificate, signed by an authorized officer of the Affiliate with signatory authority, in a form acceptable to the ISO, certifying that the Affiliate will participate in the Developer's project in the manner described by the Developer and will abide by the requirements set forth in this Attachment Y, the ISO Tariffs, and ISO Procedures, related and applicable to the Affiliate's participation.

#### **31.4.4.1 Developer Qualification and Timing**

The ISO shall provide each Developer with an opportunity to demonstrate that it has or can draw upon the financial resources, technical expertise, and experience needed to finance, develop, construct, operate, and maintain a Public Policy Transmission Project. The ISO shall consider the qualification of each Developer in an evenhanded and non-discriminatory manner, treating Transmission Owners and Other Developers alike.

##### **31.4.4.1.1 Developer Qualification Criteria**

The ISO shall make a determination on the qualification of a Developer to propose to develop a Public Policy Transmission Project based on the following criteria:

- 31.4.4.1.1.1 The technical and engineering qualifications and experience of the Developer relevant to the development, construction, operation and maintenance of a transmission facility, including evidence of the Developer's demonstrated capability to adhere to standardized construction, maintenance, and operating practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;



31.4.4.1.1.2 The current and expected capabilities of the Developer to develop and construct a transmission facility and to operate and maintain it for the life of the facility. If the Developer has previously developed, constructed, maintained or operated transmission facilities, the Developer shall provide the ISO a description of the transmission facilities (not to exceed ten) that the Developer has previously developed, constructed, maintained or operated and the status of those facilities, including whether the construction was completed, whether the facility entered into commercial operations, whether the facility has been suspended or terminated for any reason, and evidence demonstrating the ability of the Developer to address and timely remedy any operational failure of the facilities; and

31.4.4.1.1.3 The Developer's current and expected capability to finance, or its experience in arranging financing for, transmission facilities. For purposes of the ISO's determination, the Developer shall provide the ISO:

- (1) evidence of its demonstrated experience financing or arranging financing for transmission facilities, if any, including a description of such projects (not to exceed ten) over the previous ten years, the capital costs and financial structure of such projects, a description of any financing obtained for these projects through rates approved by the Commission or a state regulatory agency, the financing closing date of such projects, and whether any of the projects are in default;
- (2) its audited annual financial statements from the most recent three years and its most recent quarterly financial statement or equivalent information, if available;
- (3) its credit rating from Moody's Investor Services, Standard & Poor's, or Fitch or equivalent information, if available;

- (4) a description of any prior bankruptcy declarations, material defaults, dissolution, merger or acquisition by the Developer or its predecessors or subsidiaries occurring within the previous five years; and
- (5) such other evidence that demonstrates its current and expected capability to finance a project to solve a Public Policy Transmission Need.

31.4.4.1.1.4 A detailed plan describing how the Developer – in the absence of previous experience financing, developing, constructing, operating, or maintaining transmission facilities – will finance, develop, construct, operate, and maintain a transmission facility, including the financial, technical, and engineering qualifications and experience and capabilities of any third parties with which it will contract for these purposes.

#### **31.4.4.1.2 Developer Qualification Determination**

Any Developer seeking to be qualified may submit the required information, or update any previously submitted information, at any time. The ISO shall treat on a confidential basis in accordance with the requirements of its Code of Conduct in Attachment F of the ISO OATT any non-public financial qualification information that is submitted to the ISO by the Developer under Section 31.4.4.1.1.3 and is designated by the Developer as “Confidential Information.” The ISO shall within 15 days of a Developer’s submittal, notify the Developer if the information is incomplete. If the submittal is deemed incomplete, the Developer shall submit the additional information within 30 days of the ISO’s request. The ISO shall notify the Developer of its qualification status within 30 days of receiving all necessary information. A Developer shall retain its qualification status for a three-year period following the notification date; *provided, however*, that the ISO may revoke this status if it determines that there has been a material

change in the Developer’s qualifications and the Developer no longer meets the qualification requirements. A Developer that has been qualified shall inform the ISO within thirty days of any material change to the information it provided regarding its qualifications and shall submit to the ISO each year its most recent audited annual financial statement when available. At the conclusion of the three-year period or following the ISO’s revocation of a Developer’s qualification status, the Developer may re-apply for a qualification status under this section.

Any Developer determined by the ISO to be qualified under this section shall be eligible to propose a regulated Public Policy Transmission Project and shall be eligible to use the cost allocation and cost recovery mechanism for regulated Public Policy Transmission Projects set forth in Section 31.5 of this Attachment Y and the Rate Schedule 10 of the ISO OATT for any approved project.

**31.4.4.2 Reserved.**

**31.4.4.3 Submittal of Project Information and Developer Qualification Information and Opportunity to Provide Additional Information**

31.4.4.3.1 Following the posting of the NYPSC’s determination of a Public Policy Transmission Need in accordance with Sections 31.4.2.1 through 31.4.2.3 and before issuing a solicitation for solutions in accordance with Section 31.4.3, the ISO shall hold a technical conference with Developers and interested parties to obtain their input on the ISO’s application of the selection metrics set forth in Section 31.4.8.1 for purposes of soliciting solutions to the Public Policy Transmission Need. To the extent practicable, before issuing a solicitation for solutions in accordance with Section 31.4.3, the ISO will present to Developers and interested parties any contingency percentage and escalation factors that its

independent consultant will use in formulating capital cost estimates for proposed Public Policy Transmission Projects.

31.4.4.3.2 All Developers proposing Public Policy Transmission Projects or Other Public Policy Projects to satisfy a Public Policy Transmission Need shall submit to the ISO within 60 days of the ISO's request for solutions to a Public Policy Transmission Need, which time period may be extended by the ISO pursuant to Section 31.1.8.7, the project information required under Section 31.4.5. The only permitted alternatives within a proposed Public Policy Transmission Project are routing alternatives as provided in Section 31.4.5.1.3. Any other alternative must be submitted as a separate Public Policy Transmission Project.

31.4.4.3.3 If the Developer submits Confidential Information, as defined in Section 31.4.15, as part of its project information submitted pursuant to Section 31.4.4.3.2 or as part of its additional project information submitted pursuant to Section 31.4.4.3.5, the Developer shall submit redacted and un-redacted versions of this project information pursuant to Section 31.4.15.4.

31.4.4.3.4 The Developer of a Public Policy Transmission Project must also demonstrate to the ISO, simultaneous with its submission of project information, that it has submitted, as applicable, a new or revised Transmission Interconnection Application or Interconnection Request. The project information submitted by the Developer for its Public Policy Transmission Project in accordance with this Section 31.4.4.3 shall be the same as the Developer's proposed project in its Transmission Interconnection Application or Interconnection Request, as applicable, including the same electrical

characteristics, related modeling information, and contingency information necessary to perform all analyses, including thermal, voltage, stability, short circuit, and transfer limit analyses.

31.4.4.3.5 If: (i) the ISO determines that a Developer’s submission of its project information is incomplete, or (ii) the ISO determines at any time in the planning process that additional project information is required, the ISO shall request that the Developer provide additional project information within the timeframe set forth in Section 31.4.4.3.8. A Developer’s failure to provide the data requested by the ISO or to satisfy the other requirements in Sections 31.4.4.3 or 31.4.4.4 within the required timeframes shall result in the rejection of the Developer’s proposed Public Policy Transmission Project or Other Public Policy Project from further consideration during that planning cycle.

31.4.4.3.6 Any Developer that the ISO has determined under Section 31.4.4.1.2 of this Attachment Y to be qualified to propose to develop a transmission project as a transmission solution to a Public Policy Transmission Need may submit the required project information for its proposed Public Policy Transmission Project; *provided, however,* that based on the actual identified need that requires resolution, the ISO may request that the qualified Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.8.

31.4.4.3.7 Any Developer that has not been determined by the ISO to be qualified, but that wants to propose to develop a Public Policy Transmission Project, must submit to the ISO the information required for Developer qualification under

Section 31.4.4.1 within 30 days after a request for solutions is made by the ISO.

The ISO shall within 30 days of a Developer's submittal of its Developer qualification information, notify the Developer if this information is incomplete and request that the Developer provide additional Developer qualification information within the timeframe set forth in Section 31.4.4.3.8. The ISO shall notify a Developer that has submitted the requested Developer qualification information whether it is qualified to propose to develop a Public Policy Transmission Project to be considered in that planning cycle.

31.4.4.3.8 The Developer shall submit additional Developer qualification information or project information required by the ISO within 15 days of the ISO's request.

31.4.4.3.9 If a Developer fails to timely submit the additional Developer qualification information requested by the ISO, the Developer will not be eligible for its proposed Public Policy Transmission Project to be considered in that planning cycle.

31.4.4.3.10 Within five (5) business days of its receipt of proposed Public Policy Transmission Projects and Other Public Policy Projects pursuant to Section 31.4.4.3.2, the ISO shall publicly post a brief description of the project proposals in accordance with ISO Procedures, which description shall not include Critical Energy Infrastructure Information or Confidential Information, as defined in Section 31.4.15.

31.4.4.3.11 Following the ISO's determination that the project information submitted by the Developer for its proposed Public Policy Transmission Project pursuant to

Sections 31.4.4.3.2 and 31.4.4.3.5 is complete (provided that the ISO may request at any time additional information pursuant to Section 31.4.4.3.5) and at least 30 calendar days prior to the ISO's presentation of its Viability and Sufficiency Assessment pursuant to Section 31.4.6.5, the ISO shall make available upon request the redacted version of Developer's initial submission of project information required pursuant to Section 31.4.5 for its proposed Public Policy Transmission Project, subject to the requestor's compliance with the ISO's requirements concerning the disclosure of Critical Energy Infrastructure Information. Within thirty (30) days of the ISO's receipt of any additional project information submitted by the Developer for its proposed Public Policy Transmission Project pursuant to Section 31.4.4.3.5, the ISO shall make available to any requestor that requested the initial submission of project information or upon request from any other requestor the redacted version of the additional project information, subject to the requestor's compliance with the ISO's requirements concerning the disclosure of Critical Energy Infrastructure Information.

**31.4.4.4. Application Fee and Study Deposit for Proposed Regulated Public Policy Transmission Project**

All Developers that propose Public Policy Transmission Projects shall for each such project, at the same time that they provide project information pursuant to Section 31.4.4.3.2, (i) execute a study agreement with the ISO in the form set forth in Section 31.12 (Appendix I) of this Attachment Y for purposes of the ISO's evaluation of the proposed Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, 31.4.10, and 31.4.11, and (ii) submit

to the ISO: (A) a non-refundable application fee of \$10,000, and (B) a study deposit of \$100,000, which shall be applied to study costs and subject to refund as described in this Section 31.4.4.4. The study deposit shall be held in an interest-bearing account for which the interest earned will be associated with the Developer and shall be applied to study costs and subject to refund as described in this Section 31.4.4.4.

The ISO shall charge, and a Developer proposing a regulated Public Policy Transmission Project shall pay, the actual costs of the ISO's evaluation of the Developer's proposed Public Policy Transmission Project for purposes of the ISO's selection of the more efficient or cost effective Public Policy Transmission Project to satisfy a Public Policy Transmission Need for cost allocation purposes, including costs associated with the ISO's use of subcontractors. The ISO will track its staff and administrative costs, including any costs associated with using subcontractors, that it incurs in performing the evaluation of a Developer's proposed Public Policy Transmission Project under Sections 31.4.7, 31.4.8, 31.4.9, 31.4.10, and 31.4.11 and any supplemental evaluation or re-evaluation of the proposed Public Policy Transmission Project. If the ISO or its subcontractors perform study work for multiple proposed Public Policy Transmission Projects on a combined basis, the ISO will allocate the costs of the combined study work equally among the applicable Developers.

The ISO shall invoice the Developer monthly for study costs incurred by the ISO in evaluating the Developer's proposed Public Policy Transmission Projects as described above. Such invoice shall include a description and an accounting of the study costs incurred by the ISO and estimated subcontractor costs. The Developer shall pay the invoiced amount within thirty (30) calendar days of the ISO's issuance of the monthly invoice. The ISO shall continue to hold the full amount of the study deposit until settlement of the final monthly invoice; *provided,*



*however*, if a Developer: (i) does not pay its monthly invoice within the timeframe described above, or (ii) does not pay a disputed amount into an independent escrow account as described below, the ISO may draw upon the study deposit to recover the owed amount. If the ISO must draw on the study deposit, the ISO shall provide notice to the Developer, and the Developer shall within thirty (30) calendar days of such notice make payments to the ISO to restore the full study deposit amount. If the Developer fails to make such payments, the ISO may halt its evaluation of the Developer's proposed Public Policy Transmission Project and may disqualify the Developer's proposed Public Policy Transmission Project from further consideration. After the conclusion of the ISO's evaluation of the Developer's proposed Public Policy Transmission Project or if the Developer: (i) withdraws its proposed Public Policy Transmission Project or (ii) fails to pay an invoiced amount and the ISO halts its evaluation of the proposed Public Policy Transmission Project, the ISO shall issue a final invoice and refund to the Developer any portion of the Developer's study deposit submitted to the ISO under this Section 31.4.4.4 and any interest actually earned on the deposited amount that together exceeds the outstanding amounts that the ISO has incurred in evaluating that Developer's proposed Public Policy Transmission Project. The ISO shall refund the remaining portion within sixty (60) days of the ISO's receipt of all final invoices from its subcontractors and involved Transmission Owners.

In the event of a Developer's dispute over invoiced amounts, the Developer shall: (i) timely pay any undisputed amounts to the ISO, and (ii) pay into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Developer fails to meet these two requirements, then the ISO shall not be obligated to perform or continue to perform its evaluation of the Developer's proposed Public Policy Transmission Project. Disputes arising under this section shall be addressed through the Dispute Resolution Procedures

set forth in Section 2.16 of the ISO OATT and Section 11 of the ISO Services Tariff. Within thirty (30) Calendar Days after resolution of the dispute, the Developer will pay the ISO any amounts due with interest actually earned on such amounts.

### **31.4.5 Project Information Requirements**

#### **31.4.5.1 Requirements for Public Policy Transmission Projects**

31.4.5.1.1 In response to the ISO's solicitation for solutions pursuant to Section 31.4.4.3.2, a Developer proposing a Public Policy Transmission Project to satisfy a Public Policy Transmission Need must provide, at a minimum, the following details: (1) contact information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications as appropriate and Developer's identification of any Public Policy Transmission Upgrade(s) included as part of its project; (4) evidence of a commercially viable technology; (5) a detailed major milestone schedule and expected In-Service Date of the project, as well as identification of in-service dates for specific components (such as a Public Policy Transmission Upgrade) to properly sequence the project; (6) a schedule for obtaining any required permits and other certifications; (7) a transmission and substation routing study or studies and demonstration that the Developer already possesses the rights of way necessary to implement the project or has specified a detailed plan or approach and schedule for acquiring property rights; (8) status of any contracts (other than an interconnection agreement) that

are under negotiations or in place, including any contracts with third-party contractors; (9) a Transmission Interconnection Application or Interconnection Request, as applicable, as described in Section 31.4.4.3.4; (10) status of equipment availability and procurement; (11) evidence of financing or ability to finance the project; (12) capital cost estimates for the project; (13) any Cost Cap that the Developer voluntarily submits in accordance with Section 31.4.5.1.8; (14) a description of permitting requirements and other specific risks facing the project at the stage of project development, including any specific proposed mitigation to permitting risks, and evidence of the reasonableness of project capital cost estimates all based on the information available at the time of the submission; and (15) any other information required by ISO Procedures or requested by the ISO.

31.4.5.1.2 A Developer shall submit the following information to indicate its capital cost estimates for the project. The Developer shall provide the ISO with credible capital cost estimates for its proposed project, with itemized supporting work sheets that identify all material and labor cost assumptions, and related drawings to the extent applicable and available. The work sheets should include an estimated quantification of cost variance, providing an assumed plus/minus range around the capital cost estimate. The estimate shall include all components that are needed to meet the Public Policy Transmission Need. To the extent information is available, the Developer should itemize: material and labor cost by equipment, engineering and design work, permitting, site acquisition, procurement and construction work, and commissioning needed for the proposed project, all in accordance with Good Utility Practice. For each of these cost

categories, the Developer should specify the nature and estimated cost of all major project components and estimate the cost of the work to be done at each substation and/or on each feeder to physically and electrically connect each facility to the existing system. The work sheets should itemize to the extent applicable and available all equipment for: (i) the proposed project (separately identifying new transmission facilities and Public Policy Transmission Upgrades) and (ii) Network Upgrade Facilities, System Upgrade Facilities, System Deliverability Upgrades, Network Upgrades, Distribution Upgrades, and/or Attachment Facilities, as applicable, that: (a) the ISO has identified as required to interconnect the proposed project to the New York State Transmission System in compliance with the applicable interconnections standard in an interconnection study or transmission expansion study that is performed under Attachments P, S, or X of the ISO OATT or (b) the Developer voluntarily identifies as potentially necessary to reliably interconnect the proposed project (subject to modification based on ISO-conducted interconnection or transmission expansion studies, as applicable).

31.4.5.1.3 A completed transmission and substation routing study provided by the Developer shall: (i) identify a specific routing plan with alternatives, (ii) include a schedule indicating the timing for obtaining siting and permitting, and (iii) provide specific attention to sensitive areas (*e.g.*, wetlands, river crossings, protected areas, and schools).

31.4.5.1.4 A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to

its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of Section 31.4.15 and its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

31.4.5.1.5 A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.

31.4.5.1.6 A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) evidence of self-financing or project financing through approved rates or the ability to do so, (ii) copies of all loan commitment letter(s) and signed financing contract(s), or (iii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts or approved rates shall be submitted to the ISO when available.

31.4.5.1.7 Upon the completion of any interconnection study or transmission expansion study of a proposed Public Policy Transmission Project that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

31.4.5.1.8 A Developer may voluntarily submit with its project information a Cost Cap for its proposed Public Policy Transmission Project that covers its Included Capital Costs, as defined in Section 31.4.5.1.8.1, but not its Excluded Capital Costs, as defined in Section 31.4.5.1.8.2. The Developer must submit any Cost Cap in the form of a hard Cost Cap or a soft Cost Cap in accordance with Section 31.4.5.1.8.3. If the Developer's proposed Public Policy Transmission Project is selected by the ISO pursuant to Sections 31.4.8.2 and 31.4.11, the Developer shall include its proposed Cost Cap in its Development Agreement for its Designated Public Policy Project in accordance with Section 31.4.12.2. In accordance with Section 6.10.6 of the ISO OATT, the Developer of the selected Public Policy Transmission Project shall file its Cost Cap for its Designated Public Policy Project at the Commission and shall not seek to recover through its transmission rates or through any other means costs for the Included Capital Costs above its agreed-upon Cost Cap, except as permitted for excusing conditions in Section 6.10.6.2 of the ISO OATT. The Developer of the selected Public Policy Transmission Project may recover for its Designated Public Policy Project through Rate Schedule 10 of the ISO OATT, subject to the cost recovery

requirements in Section 6.10.4 or 6.10.5, as applicable, of the ISO OATT, the Included Capital Costs that do not exceed the amount in its Cost Cap, Excluded Capital Costs as defined in Section 31.4.5.1.8.2, and any Included Capital Costs permitted for excusing conditions as defined in Section 6.10.6.2 of the ISO OATT.

31.4.5.1.8.1 A Developer that elects to submit a Cost Cap for its proposed Public Policy Transmission Project must propose to contain all capital costs incurred by a Developer to plan for and construct a Public Policy Transmission Project, and to make it ready for its intended use (the “Included Capital Costs”), with the exception of the capital costs defined as Excluded Capital Costs in Section 31.4.5.1.8.2. Capital costs include the cost of contract work, labor, materials and supplies, transportation, special machine services, shop services, protection, injuries and damages, privileges and permits, engineering services, reasonably expected environmental site remediation and environmental mitigation costs as described in Section 31.4.5.1.8.1.1, general administration services, legal services, real estate and land rights, rents, studies, training, asset retirement, and taxes. At its option, a Developer may choose to include as Included Capital Costs real estate costs for existing rights-of-way that are part of the proposed Public Policy Transmission Project, but are not owned by the Developer (*e.g.*, existing utility rights-of-way).

31.4.5.1.8.1.1 For purposes of Section 31.4.5.1.8.1, the phrase “reasonably expected environmental site remediation and environmental mitigation costs” means any estimated site investigation and remediation costs to the extent they would arise in

the normal course of planning and constructing a Public Policy Transmission Project, which includes, but is not limited to, the following circumstances:

- (i) For project sites for which an environmental site assessment has already been conducted or environmental remediation or mitigation activities are ongoing, the Developer shall provide an estimate of any additional environmental site investigation, remediation, or mitigation that is known or reasonably anticipated at the time of submission.
- (ii) For project sites for which the Developer has no reason to believe any environmental remediation or mitigation is required without undertaking a site investigation, such as but not limited to any greenfield or undeveloped land, the Developer shall provide an estimate of the cost to perform a Phase I Environmental Site Assessment on a per mile basis.
- (iii) For project sites for which the Developer has reason to believe environmental site investigation, remediation, or mitigation may be required, the Developer shall provide an estimate of the cost to perform such environmental site investigation, remediation, or mitigation to the extent possible based upon the information reasonably available to the Developer at the time of submission.

31.4.5.1.8.2 A Developer may not include the “Excluded Capital Costs” of a proposed Public Policy Transmission Project in a Cost Cap submitted to the ISO. Excluded Capital Costs include the following categories of costs: (i) the cost of Public Policy Transmission Upgrade(s); (ii) the cost of upgrade facilities determined by the ISO that are necessary for the reliable interconnection of the proposed Public Policy Transmission Project in one of its transmission expansion or



interconnection processes; (iii) debt costs, allowance for funds used during construction (“AFUDC”), and other representations of the cost of financing the transmission project during the construction timeframe that may be included as part of the capital cost of the project when it enters into service or as otherwise determined by the Commission; (iv) unforeseeable environmental remediation and environmental mitigation costs as described in Section 31.4.5.1.8.2.1, and (v) real estate costs for existing rights-of-way that are part of the proposed Public Policy Transmission Project, but are not owned by the Developer, that Developer chooses not to include as Included Capital Costs pursuant to Section 31.4.5.1.8.1.

31.4.5.1.8.2.1 For purposes of Section 31.4.5.1.8.2, the phrase “unforeseeable environmental remediation and environmental mitigation costs” means any costs relating to environmental remediation and environmental mitigation that are not anticipated by the Developer or are otherwise indeterminable based upon information reasonably available to the Developer at the time of submission, including any environmental remediation or mitigation costs that cannot be estimated by the Developer without performing an environmental site assessment or investigation; *provided, however*, that the cost of conducting such environmental site assessment or investigation shall be considered an Included Capital Cost pursuant to Section 31.4.5.1.8.1. Costs attributable to environmental investigation, remediation, and mitigation that exceed the amount estimated in the Developer’s bid based on, among other things, changes in the extent of known contamination will be considered “unforeseeable environmental remediation and environmental mitigation costs” and Excluded Capital Costs.

31.4.5.1.8.3 A Developer may submit a Cost Cap for its proposed Public Policy Transmission Project in the form of a hard Cost Cap or a soft Cost Cap. A hard Cost Cap for Included Capital Costs is a dollar amount for those costs above which the Developer commits in its proposed Public Policy Transmission Project not to recover from ratepayers. A soft Cost Cap for Included Capital Costs is a dollar amount for those costs above which the Included Capital Costs are shared between the Developer and ratepayers based on a defined percentage. The Developer's percentage of cost sharing under a soft Cost Cap of Included Capital Costs shall be at least twenty (20) percent.

31.4.5.1.8.4 A Developer must include contingency percentage and escalation factors, if any, applicable to the Included Capital Costs in its Cost Cap provided to the ISO as part of its proposal.

31.4.5.1.8.5 If the ISO identifies a deficiency in a Developer's Cost Cap, such as a discrepancy resulting from the ISO determining that (i) a Public Policy Transmission Upgrade is included in the Included Capital Costs or (ii) a facility identified by a Developer as a Public Policy Transmission Upgrade is not a Public Policy Transmission Upgrade, the ISO shall request additional information from the Developer pursuant to Section 31.4.4.3.8, and the Developer may provide a revised Cost Cap that addresses the deficiency identified by the ISO.

### **31.4.5.2 Requirements for Other Public Policy Projects**

31.4.5.2.1 In response to the ISO's solicitation for solutions pursuant to Section 31.4.4.3.2, a Developer proposing an Other Public Policy Project to satisfy a Public Policy Transmission Need must provide, at a minimum: (1) contact

information; (2) the lead time necessary to complete the project, including, if available, the construction windows in which the Developer can perform construction and what, if any, outages may be required during these periods; (3) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings as appropriate; (4) evidence of a commercially viable technology; (5) a major milestone schedule; (6) a schedule for obtaining any required permits and other certifications, if available; (7) a demonstration of Site Control or a schedule for obtaining Site Control, as applicable; (8) the status of any contracts (other than an interconnection agreement) that are under negotiation or in place; (9) the status of ISO interconnection studies and interconnection agreement, as applicable and if available; (10) the status of equipment availability and procurement, as applicable and if available; (11) evidence of financing or ability to finance the project; and (12) any other information required by ISO Procedures or requested by the ISO.

31.4.5.2.2 A Developer shall submit the following information to indicate the status of any contracts: (i) copies of all final contracts the ISO determines are relevant to its consideration, or (ii) where one or more contracts are pending, a timeline on the status of discussions and negotiations with the relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available. The ISO shall treat on a confidential basis in accordance with the requirements of Section 31.4.15 and its Code of Conduct in Attachment F of the ISO OATT any contract that is submitted to the ISO and is designated by the Developer as “Confidential Information.”

- 31.4.5.2.3 A Developer shall submit the following information to indicate the status of any required permits: (i) copies of all final permits received that the ISO determines are relevant to its consideration, or (ii) where one or more permits are pending, the completed permit application(s) with information on what additional actions must be taken to meet the permit requirements and a timeline providing the expected timing for finalization and receipt of the final permit(s). The final permits shall be submitted to the ISO when available.
- 31.4.5.2.4 A Developer shall submit the following information, as appropriate, to indicate evidence of financing by it or any Affiliate upon which it is relying for financing: (i) copies of all loan commitment letter(s) and signed financing contract(s), or (ii) where such financing is pending, the status of the application for any relevant financing, including a timeline providing the status of discussions and negotiations of relevant documents and when the negotiations are expected to be completed. The final contracts shall be submitted to the ISO when available.
- 31.4.5.2.5 Upon the completion of any interconnection study or transmission expansion study of a proposed Other Public Policy Project that is performed under Sections 3.7 or 4.5 of the ISO OATT or Attachments P or X of the ISO OATT, the Developer of the proposed project shall notify the ISO that the study has been completed and, at the ISO's request, shall submit to the ISO any study report and related materials prepared in connection with the study.

### **31.4.6 ISO Evaluation of Proposed Solutions to Public Policy Transmission Needs**

#### **31.4.6.1 Evaluation Time Period**

The ISO will study proposed Public Policy Transmission Projects and Other Public Policy Projects using: (i) the most recent base case from the Reliability Planning Process, (ii) updates in accordance with ISO Procedures, and (iii) compensatory MWs as needed to resolve the Reliability Needs over the ten-year Study Period. The ISO will extend the most recent reliability and economic planning models for modeling solutions for Public Policy Transmission Needs by up to an additional twenty years following the Study Period, as appropriate based upon the Public Policy Requirement and the identified Public Policy Transmission Need.

#### **31.4.6.2 Comparable Evaluation of All Proposed Solutions**

The ISO shall evaluate any proposed Public Policy Transmission Project or Other Public Policy Project submitted by a Developer to a Public Policy Transmission Need. The ISO will evaluate whether each proposed solution is viable pursuant to Section 31.4.6.3 below and is sufficient to satisfy the Public Policy Transmission Need pursuant to Section 31.4.6.4. The proposed solution may include multiple components and resource types. When evaluating proposed solutions to a Public Policy Transmission Need from any Developer, the ISO shall consider all resource types – including generation, transmission, demand response, or a combination of these resource types – on a comparable basis as potential solutions. All solutions will be evaluated in the same general time frame.

#### **31.4.6.3 Evaluation of Viability of Proposed Solution**

The ISO will determine the viability of a Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of

these resource types – proposed to satisfy a Public Policy Transmission Need. For purposes of its analysis, the ISO will consider: (i) the Developer qualification data provided pursuant to Section 31.4.4 and the project information data provided under Section 31.4.5; (ii) whether the proposed solution is technically practicable; (iii) the Developer’s possession of, or approach for acquiring, any necessary rights-of-way, property, and facilities that will make the proposal reasonably feasible in the required timeframe; and (iv) whether the proposed solution can be completed in the required timeframe, if any. If the ISO determines that the proposed solution is not viable, the ISO shall reject the proposed solution from further consideration during that planning cycle.

#### **31.4.6.4 Evaluation of Sufficiency of Proposed Solution**

The ISO will perform a comparable analysis of each proposed Public Policy Transmission Project or Other Public Policy Project – whether transmission, generation, demand response, or a combination of these resource types – to confirm that the proposed solution satisfies the Public Policy Transmission Need. The ISO will evaluate each solution to measure the degree to which the proposed solution independently satisfies the Public Policy Transmission Need, including the evaluation criteria provided by the NYPSC. If the ISO determines that the proposed solution is not sufficient, the ISO shall reject the proposed solution from further consideration during that planning cycle.

#### **31.4.6.5 Viability and Sufficiency Assessment**

The ISO will present its Viability and Sufficiency Assessment to stakeholders, interested parties, and the NYDPS for comment. The Viability and Sufficiency Assessment shall identify the information and sources relied upon by the ISO, describe the ISO’s assumptions, inputs, methodologies, and state the results of its analyses. The ISO shall file the final Viability and

Sufficiency Assessment at the NYPSC. The ISO shall report in the Public Policy Transmission Planning Report the results of its evaluation under this Section 31.4.6 of whether each proposed Public Policy Transmission Project or Other Public Policy Project is viable and is sufficient to satisfy the identified Public Policy Transmission Need.

**31.4.6.5.1 Identification of Public Policy Transmission Upgrades in Proposed Public Policy Transmission Projects**

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 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.

31.4.6.5.1.2 For purposes of the ISO's ongoing solicitation as of October 12, 2021 of proposed solutions to address a Public Policy Transmission Need identified for the 2020-2021 planning cycle of the Public Policy Transmission Process, 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 in accordance with the requirements in Section 31.4.6.5.1.1; *provided, however*, that, if the Commission has not accepted this Section 31.4.6.5.1 as of 30 Calendar Days prior to the ISO's presentation of the initial draft of the Viability and Sufficiency Assessment, the ISO will: (i) post the list of facilities as soon as reasonably practicable following an order from the Commission accepting this Section 31.4.6.5.1 and (ii) specify at that time the date for its posting the final list of facilities, which shall not be more than 60 Calendar Days following the posting of the initial list. 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 initial list, 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 and as provided in Section 31.1.8.4 of this Attachment Y. The ISO shall post the final list under this Section 31.4.6.5.1.2 on or before the later date of: (i) the ISO's filing of the Viability and Sufficiency Assessment at the NYPSC, or (ii) the posting date specified by the ISO with its provision of the initial facilities list. The ISO shall note whether any of the facilities still have pending disputes at the time the list is posted.



#### **31.4.6.6 Developer’s Determination to Proceed**

Within 15 Calendar Days following the ISO’s filing of the Viability and Sufficiency Assessment at the NYPSC, which time period may be extended by the ISO pursuant to Section 31.1.8.7, all Developers of proposed Public Policy Transmission Projects that the ISO has determined satisfy the viability and sufficiency requirements in this Section 31.4.6 shall notify the ISO whether they intend for their projects to proceed to be evaluated by the ISO for purposes of the ISO’s selection of the more efficient or cost effective Public Policy Transmission Project to satisfy an identified Public Policy Transmission Need. To proceed, a Developer must include with its notification to the ISO under this Section 31.4.6.6 a demonstration that it has an executed System Impact Study Agreement or System Reliability Impact Study Agreement, as applicable. If a Developer: (i) notifies the ISO that it does not intend for its proposed Public Policy Transmission Project to proceed to be evaluated for purposes of the ISO’s selection, or (ii) does not provide the required notification to the ISO under this Section 31.4.6.6, the ISO will remove the project from further consideration during that planning cycle.

#### **31.4.6.7 NYPSC’s Modification or Elimination of a Public Policy Transmission Need**

31.4.6.7.1 If, at any time prior to the ISO’s selection of the more efficient or cost effective transmission solution pursuant to Section 31.4.11.2, the NYPSC issues an order, subject to and in accordance with the State Administrative Procedure Act, that determines that either: (i) there is no longer a transmission need driven by a Public Policy Requirement that requires the ISO’s evaluation of potential transmission solutions, or (ii) the transmission need should be modified, the ISO shall take the following action.

31.4.6.7.2 If the NYPSC determines that there is no longer a transmission need driven by a Public Policy Requirement in an order as set forth in Section 31.4.6.7.1, the ISO will not perform or complete, as applicable, an evaluation, or make a selection of, a more efficient or cost-effective transmission solution under Sections 31.4.7 through 31.4.11 for the Public Policy Transmission Need initially identified by the NYPSC for that planning cycle pursuant to Section 31.4.2.1.

31.4.6.7.3 If the NYPSC modifies the transmission need driven by a Public Policy Requirement in an order as set forth in Section 31.4.6.7.1, the ISO will re-start its Public Policy Transmission Planning Process as an out-of-cycle process to evaluate Public Policy Transmission Projects to address the modified Public Policy Transmission Need. This out-of-cycle process will begin with the ISO's solicitation for Public Policy Transmission Projects to address the modified Public Policy Transmission Need in accordance with Sections 31.4.3 and 31.4.4.3. The ISO shall then perform the remainder of the out-of-cycle Public Policy Transmission Planning Process in accordance with the process requirements in Section 31.4 that follow its solicitation for proposed solutions.

**31.4.7 Evaluation of Regional Public Policy Transmission Projects to Address Local and Regional Needs Driven by Public Policy Requirements More Efficiently or More Cost Effectively Than Local Transmission Solutions**

The ISO will review the LTPs as they relate to the BPTFs. The ISO will include the results of its analysis in its Public Policy Transmission Planning Report, as approved by the ISO Board.

**31.4.7.1 Evaluation of Regional Public Policy Transmission Projects to Address Local Needs Driven By Public Policy Requirements Identified in Local Transmission Plans More Efficiently or More Cost Effectively than Local Transmission Solutions**

The ISO, using engineering judgment, will determine whether any proposed regional Public Policy Transmission Project on the BPTFs more efficiently or cost-effectively satisfies any needs driven by a Public Policy Requirement identified in the LTPs. If the ISO identifies that a regional Public Policy Transmission Project has the potential to more efficiently or cost effectively satisfy the needs driven by a Public Policy Requirement identified in the LTPs, it will perform a sensitivity analysis to determine whether the proposed regional Public Policy Transmission Project on the BPTFs would satisfy the needs driven by a Public Policy Requirement identified in the LTPs. If the ISO determines that the proposed regional Public Policy Transmission Project would satisfy the need, the ISO will evaluate the proposed regional Public Policy Transmission Project using the metrics set forth in Section 31.4.8.1 below to determine whether it may be a more efficient or cost effective solution on the BPTFs to the needs driven by a Public Policy Requirement identified in the LTPs than the local solutions proposed in the LTPs.

**31.4.7.2 Evaluation of Regional Public Policy Transmission Project to Address Regional Public Policy Transmission Needs More Efficiently or More Cost Effectively than Local Transmission Solutions**

As referenced in Section 31.2.1.3, the ISO, using engineering judgment, will determine whether a regional Public Policy Transmission Project might more efficiently or more cost effectively satisfy an identified regional Public Policy Transmission Need on the BPTFs that impacts more than one Transmission District than any local transmission solutions identified by

the Transmission Owners in their LTPs in the event the LTPs specify that such transmission solutions are included to address local transmission needs driven by Public Policy Requirements.

**31.4.8 ISO Selection of More Efficient or Cost Effective Public Policy Transmission Project to Satisfy a Public Policy Transmission Need**

A proposed regulated Public Policy Transmission Project submitted by a Developer that the ISO has determined has provided the required notification to proceed under Section 31.4.6.6 shall be eligible under this Section 31.4.8 for selection in the Public Policy Transmission Planning Report for the purpose of cost allocation under the ISO Tariffs. The ISO shall evaluate any proposed regulated Public Policy Transmission Projects that are eligible for selection in the planning cycle of the Public Policy Transmission Planning Process using the metrics set forth in Section 31.4.8.1 below. For purposes of this evaluation, the ISO will review the information submitted by the Developer and determine whether it is reasonable and how such information should be used for purposes of the ISO evaluating each metric. In its review, the ISO will give due consideration to the status of, and any available results of, any applicable interconnection or transmission expansion studies concerning the proposed Public Policy Transmission Project performed in accordance with Sections 3.7 or 4.5 of the ISO OATT or Attachments X or P of the ISO OATT. The ISO may engage an independent consultant to review the reasonableness and comprehensiveness of the information submitted by the Developer and may rely on the independent consultant's analysis in evaluating each metric. In formulating the independent consultant's estimate for the total capital costs of a Public Policy Transmission Project, the ISO and its independent consultant may add appropriate contingency percentages and escalation factors. The ISO shall select in the Public Policy Transmission Planning Report for cost

allocation purposes the more efficient or cost effective transmission solution to satisfy a Public Policy Transmission Need in the manner set forth in Section 31.4.8.2 below.

**31.4.8.1 Metrics for Evaluating More Efficient or Cost Effective Regulated Public Policy Transmission Project to Satisfy Public Policy Transmission Need**

In determining which of the eligible proposed regulated Public Policy Transmission Projects is the more efficient or cost effective solution to satisfy a Public Policy Transmission Need, the ISO will consider, and will consult with the NYDPS regarding, the metrics set forth below in this Section 31.4.8.1 and rank each proposed project based on the quality of its satisfaction of these metrics:

31.4.8.1.1 The capital cost estimates for the proposed regulated Public Policy Transmission Project, including the accuracy of the proposed estimates and any Cost Cap voluntarily submitted by the Developer of the proposed Public Policy Transmission Project pursuant to Sections 31.4.5.1.1 and 31.4.5.1.8. For this evaluation, the ISO will apply an independent capital cost estimate, contingency percentage, and escalation factors for the Public Policy Transmission Upgrade components of a proposed regulated Public Policy Transmission Project.

31.4.8.1.2 A qualitative evaluation of any Cost Cap voluntarily submitted by the Developer of the proposed Public Policy Transmission Project as determined pursuant to Section 31.4.8.2.2.

31.4.8.1.3 The cost per MW ratio of the proposed regulated Public Policy Transmission Project. For this evaluation, the ISO will first determine the present worth, in dollars, of the total capital cost of the proposed project in current year dollars as determined by Section 31.4.8.1.1. The ISO will then determine the cost

per MW ratio by dividing the capital cost by the MW value of increased transfer capability.

31.4.8.1.4 The expandability of the proposed regulated Public Policy Transmission Project. The ISO will consider the impact of the proposed project on future construction. The ISO will also consider the extent to which any subsequent expansion will continue to use this proposed project within the context of system expansion.

31.4.8.1.5 The operability of the proposed regulated Public Policy Transmission Project. The ISO will consider how the proposed project may affect additional flexibility in operating the system, such as dispatch of generation, access to operating reserves, access to ancillary services, or ability to remove transmission for maintenance. The ISO will also consider how the proposed project may affect the cost of operating the system, such as how it may affect the need for operating generation out of merit for reliability needs, reducing the need to cycle generation, or providing more balance in the system to respond to system conditions that are more severe than design conditions.

31.4.8.1.6 The performance of the proposed regulated Public Policy Transmission Project. The ISO will consider how the proposed project may affect the utilization of the system (*e.g.*, interface flows, percent loading of facilities).

31.4.8.1.7 The extent to which the Developer of a proposed regulated Public Policy Transmission Project has the property rights, or ability to obtain the property rights, required to implement the project. The ISO will consider the completed transmission and substation routing studies, including identified routing

alternatives, and whether the Developer: (i) already possesses the rights of way necessary to implement the project; or (ii) has specified a plan or approach and schedule for determining routing and acquiring property rights.

31.4.8.1.8 The potential issues associated with delay in constructing the proposed regulated Public Policy Transmission Project consistent with the major milestone schedule and the schedule for obtaining any permits and other certifications as required to timely meet the need.

31.4.8.1.9 The ISO shall apply any criteria specified by the Public Policy Requirement or provided by the NYPSC and perform the analyses requested by the NYPSC, to the extent compliance with such criteria and analyses are feasible.

31.4.8.1.10 The ISO, in consultation with stakeholders, shall, as appropriate, consider other metrics in the context of the Public Policy Requirement, such as: change in production costs; LBMP; losses; emissions; ICAP; TCC; congestion; impact on transfer limits; and deliverability.

#### **31.4.8.2 Evaluation of Capital Cost and Cost Caps for Included Capital Costs**

The ISO will consider in its evaluation and selection of the more efficient or cost effective transmission solution any voluntary Cost Cap made by a Developer on a quantitative and qualitative basis as described in this Section 31.4.8.2. Any voluntarily submitted Cost Cap by the Developer under Section 31.4.5.1.8.5 will not be considered for purposes of the ISO's evaluation to the extent that the Cost Cap includes any Public Policy Transmission Upgrade as an Included Capital Cost.

31.4.8.2.1 Quantitative Evaluation of Cost Cap. The ISO will use the Developer's Cost Cap in the manner described in this Section 31.4.8.2.1 in estimating the total

capital costs for the transmission facilities that are part of the Included Capital Costs of the Developer's Public Policy Transmission Project for purposes of the ISO's evaluation of that project under the metrics set forth in Section 31.4.8.1. If the Developer elected to submit a Cost Cap, the ISO will calculate the total capital costs by estimating and adding the amount of Excluded Capital Costs for the Developer's proposed Public Policy Transmission Project, including costs of any Public Policy Transmission Upgrades, to the amount of Included Capital Costs for the Public Policy Transmission Project that is determined pursuant to Sections 31.4.8.2.1.1 or 31.4.8.2.1.2, as applicable. If the Developer elected not to submit a Cost Cap, the ISO will rely on its independent consultant to estimate the total capital cost of the Developer's Public Policy Transmission Project. For purposes of its calculation of the total capital costs of a Public Policy Transmission Project, the ISO will not estimate and will not add to the Excluded Capital Costs any costs concerning unforeseeable environmental mitigation or remediation costs set forth in Section 31.4.5.1.8.2(iii), or concerning the financing of the Public Policy Transmission Project set forth in Section 31.4.5.1.8.2(ii), including debt costs, AFUDC, and any other financing costs.

31.4.8.2.1.1 If the Developer submits a hard Cost Cap for the Included Capital Costs of its proposed Public Policy Transmission Project, the ISO will use the amount of the Developer's Cost Cap as the amount for Included Capital Costs.

31.4.8.2.1.2 If the Developer submits a soft Cost Cap for the Included Capital Costs of its proposed Public Policy Transmission Project, the ISO will calculate the Included Capital Costs amount for that project as follows. If the Developer's soft



Cost Cap for the Included Capital Costs is above the amount estimated by the ISO's independent consultant, the ISO will rely on the Developer's amount for the Included Capital Costs to calculate the total capital cost of the Developer's Public Policy Transmission Project. If the Developer's soft Cost Cap for the Included Capital Costs is below the amount estimated by the ISO's independent consultant, the ISO will calculate an adjusted value for the Included Capital Costs. The ISO will calculate the adjusted value of the Included Capital Costs by: (i) multiplying the difference between (a) the independent consultant's cost estimate for Included Capital Costs and (b) the Developer's Included Capital Costs amount, by (c) the risk percentage assumed by ratepayers, and (ii) adding that amount to the Developer's Included Capital Costs amount. The ISO will use the adjusted value for the Included Capital Costs to estimate the total capital cost of the Developer's Public Policy Transmission Project.

31.4.8.2.2 Qualitative Evaluation of Cost Cap. For purposes of the ISO's evaluation of a proposed Public Policy Transmission Project under the metric in Section 31.4.8.1.2, the ISO will evaluate on a qualitative basis a Developer's proposed Cost Cap for Included Capital Costs and assess the proposed project based upon the following criteria:

- (i) The effectiveness of the proposed Cost Cap in providing an incentive to the Developer to contain its Included Capital Costs, *i.e.*, how aligned is the Developer's incentive to maximize its profits by avoiding cost overruns compared to the level of risk exposure to consumers, and what degree of risk is the Developer assuming to pay for cost overruns;

- (ii) The effectiveness of the proposed Cost Cap in protecting ratepayers from Included Capital Cost overruns;
- (iii) The magnitude of the difference between the Cost Cap and the independent cost estimate as described below;
  - a. If the Developer’s proposed Cost Cap is below the ISO’s independent consultant’s cost estimate for Included Capital Costs, the ISO will assess how close (*i.e.*, how far below) is the Developer’s proposed Cost Cap for Included Capital Costs to the ISO’s independent cost estimate, considering the Developer’s financial and technical qualifications, and considering the likelihood that the project could be constructed at the Cost Cap amount;
  - b. If the Developer’s proposed Cost Cap is above the ISO’s independent consultant’s cost estimate for Included Capital Costs, the ISO will assess (a) how close (*i.e.*, how far above) is the Developer’s proposed Cost Cap for Included Capital Costs to the ISO’s independent cost estimate; (b) whether the Cost Cap is so significantly above the ISO independent consultant’s cost estimate that it is unlikely to bind the Developer and provide benefit to ratepayers; and (c) whether the Cost Cap exceeds the ISO’s independent cost estimate by only a small amount, such that the Cost Cap could protect ratepayers from cost overruns.

In conducting the evaluation in this Section 31.4.8.2.2, the ISO may request from the Developer additional project information pursuant to Section 31.4.4.3.5 and Developer financial qualification information pursuant to Section 31.4.4.3.6.

**31.4.8.3 ISO Selection of More Efficient or Cost Effective Regulated Public Policy Transmission Project to Satisfy a Public Policy Transmission Need**

31.4.8.3.1 The ISO shall identify under this Section 31.4.8 the proposed regulated Public Policy Transmission Project, if any, that is the more efficient or cost effective transmission solution proposed in the planning cycle for the Public Policy Transmission Planning Process to satisfy a Public Policy Transmission Need. The ISO shall include the more efficient or cost effective transmission solution in the Public Policy Transmission Planning Report.

31.4.8.3.2 The ISO shall also preliminarily identify in the Public Policy Transmission Planning Report the Designated Public Policy Project(s) that compose the more efficient or cost effective Public Policy Transmission Project and shall identify the Designated Entity that will be responsible for and have the right to build, own, and recover the costs of each Designated Public Policy Project. The ISO shall finalize the list of Designated Public Policy Project(s) that compose the selected Public Policy Transmission Project and the Designated Entity responsible for each Designated Public Policy Project in accordance with Section 31.4.11 of this Attachment Y.

31.4.8.3.3 The Designated Entity responsible for a Designated Public Policy Project or Designated Network Upgrade Facilities designated to the Designated Entity in accordance with Section 22.9.6 of Attachment P to the ISO OATT, if applicable, shall be eligible to recover costs for those facilities only if the underlying Public Policy Transmission Project is selected by the ISO, except as otherwise provided in Section 31.4.3.2 or as otherwise determined by the Commission. Costs will be recovered when the Designated Public Policy Project or Designated Network Upgrade Facilities, as applicable, enter into service, are halted, or as otherwise determined by the Commission in accordance with the cost recovery requirements set forth in Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT. Actual project cost

recovery, including any issues related to cost recovery and project cost overruns, will be submitted to and decided by the Commission; *provided, however*, that when the Developer that submitted the Public Policy Transmission Project is the Designated Entity for a resulting Designated Public Policy Project, it: (i) shall include in the Development Agreement for its Designated Public Policy Project in accordance with Section 31.4.12.2 any Cost Cap proposed under Section 31.4.5.1 and (ii) shall agree in the Development Agreement that it shall not seek to recover through its transmission rates or through any other means costs for the Included Capital Costs for its Designated Public Policy Project above its agreed-upon Cost Cap in accordance with Section 6.10.6 of the ISO OATT, except as permitted for excusing conditions in Section 6.10.6.2 of the ISO OATT.

31.4.8.3.4 Any selection of a Public Policy Transmission Project by the ISO under Section 31.4.8, including but not limited to the selection of a project that involves the physical modification of facilities within the Long Island Transmission District, shall not affect the obligation and responsibility of the Designated Entity to apply for, and receive, all necessary authorizations or permits required by federal or state law for its Designated Public Policy Project.

### **31.4.9 Consequences for Other Regions**

The ISO will coordinate with the ISO/RTO Regions to identify the consequences of a transmission solution driven by Public Policy Requirements on neighboring ISO/RTO Regions using the respective planning criteria of such ISO/RTO Regions. The ISO shall report the results in its Public Policy Transmission Planning Report. The ISO shall not bear the costs of required upgrades in another region.

#### **31.4.10 Evaluation of Impact of Proposed Public Policy Transmission Project on ISO Wholesale Electricity Markets**

The ISO shall evaluate using the metrics set forth in Section 31.4.8.1.9 the impacts on the ISO-administered wholesale electricity markets of a proposed Public Policy Transmission Project that the ISO has determined under Section 31.4.6 is viable and sufficient. The ISO shall include the results of its analysis in the Public Policy Transmission Planning Report.

#### **31.4.11 Public Policy Transmission Planning Report**

Following the ISO's evaluation of the proposed solutions to Public Policy Transmission Need(s), the ISO will prepare a draft Public Policy Transmission Planning Report that identifies the information and sources relied upon by the ISO, describes the ISO's assumptions, inputs, methodologies, and states the results of its analyses. The draft Public Policy Transmission Planning Report will reflect any input from the NYDPS.

Except as otherwise provided in the confidentiality requirements in Section 31.4.15, the ISO will include in the draft Public Policy Transmission Planning Report: (i) the list of Developers and their proposed Public Policy Transmission Projects and Other Public Policy Projects that qualify pursuant to Sections 31.4.4 and 31.4.5; (ii) the proposed Public Policy Transmission Projects and Other Public Policy Projects that the ISO has determined under Section 31.4.6 are viable and sufficient to satisfy the identified Public Policy Transmission Need(s); (iii) the list of facilities that the ISO posted pursuant to Section 31.4.6.5.1; (iv) the total amount of Included Capital Costs and any cost sharing percentage contained in any Cost Cap proposed by a Developer that has determined to proceed with a viable and sufficient project under Section 31.4.6.6; and (v) the regulated Public Policy Transmission Project, if any, that the ISO staff recommends for selection for cost allocation purposes pursuant to Section 31.4.8 as the

more efficient or cost effective transmission solution to satisfy each identified Public Policy Transmission Need. The draft Public Policy Transmission Planning Report shall include a breakdown of the new transmission facilities and Public Policy Transmission Upgrades that compose the regulated Public Policy Transmission Project that the ISO staff recommends for selection. The draft report shall preliminarily identify the Designated Public Policy Project(s) that compose the recommended Public Policy Transmission Project and the Designated Entity responsible for each Designated Public Policy Project, which designations will be finalized in accordance with Section 31.4.11.3 of this Attachment Y. A Designated Public Policy Project will contain all of the facilities that the ISO preliminarily identifies as being designated to a particular Designated Entity. For purposes of this preliminary designation, the Developer that proposed the regulated Public Policy Transmission Project will be identified by the ISO as the Designated Entity for those facilities of its Public Policy Transmission Project that do not meet the definition of Public Policy Transmission Upgrades, which facilities shall constitute a Designated Public Policy Project. If more than one Developer jointly proposed the regulated Public Policy Transmission Project, then they will collectively be the Designated Entity and jointly and severally responsible for the completion of the Designated Public Policy Project. If any facilities of the Public Policy Transmission Project meet the definition of Public Policy Transmission Upgrade, the Transmission Owner owning the existing transmission facility(ies) to be upgraded will be identified by the ISO as the Designated Entity for the Public Policy Transmission Upgrade(s), which Public Policy Transmission Upgrade(s) shall constitute a separate Designated Public Policy Project.

The draft Public Policy Transmission Planning Report will also include the results of the ISO's analysis of the LTPs consistent with Section 31.4.7.

The draft Public Policy Transmission Planning Report shall also indicate the date by which the Public Policy Transmission Project must be in-service to address the Public Policy Transmission Need. The in-service date for the Public Policy Transmission Project shall be: (i) the date prescribed by the NYPSC in its order identifying the Public Policy Transmission Need as described in Section 31.4.2.1 or in a subsequent order, or (ii) if the NYPSC has not prescribed a date, the date proposed by the Developer for its proposed Public Policy Transmission Project and reviewed and accepted by the ISO, which date may be either: (A) the in-service date included in the Developer’s project proposal, or (B) such other date accepted by the ISO as reasonable in light of the Public Policy Transmission Need. The in-service date for the selected Public Policy Transmission Project shall apply to all Designated Public Policy Projects that compose the selected Public Policy Transmission Project regardless of the Designated Entity; *provided, however*, the draft Public Policy Transmission Planning Report may also include specific dates by which one or more of the Designated Public Policy Projects must be in service in order for the selected Public Policy Transmission Project to meet the overall in-service date.

The draft Public Policy Transmission Planning Report shall include a comparison of a proposed Public Policy Transmission Project to an Interregional Transmission Project proposed in the Public Policy Transmission Planning Process, if any, identified and evaluated under the “Analysis and Consideration of Interregional Transmission Projects” section of the Interregional Planning Protocol. An Interregional Transmission Project proposed in the ISO’s Public Policy Transmission Planning Process may be selected as a regulated Public Policy Transmission Project under the provisions of this process.

#### **31.4.11.1 Collaborative Governance Process**

The draft Public Policy Transmission Planning Report shall be submitted to both TPAS and the ESPWG for review and comment. Concurrently, the draft report will be provided to the Market Monitoring Unit for its review and consideration. The Market Monitoring Unit's evaluation will be provided to the Management Committee prior to the Management Committee's advisory vote. The ISO shall make available to any interested party sufficient information to replicate the results of the draft Public Policy Transmission Planning Report. The information made available will be electronically masked and made available pursuant to a process that the ISO reasonably determines is necessary to prevent the disclosure of any Confidential Information or Critical Energy Infrastructure Information contained in the information made available. Following completion of that review, the draft report reflecting the revisions resulting from the TPAS and ESPWG review shall be forwarded to the Business Issues Committee and the Management Committee for discussion and an advisory vote.

#### **31.4.11.2 Board Review, Consideration, and Approval of Public Policy Transmission Planning Report**

Following the Management Committee vote, the draft Public Policy Transmission Planning Report, with Business Issues Committee and Management Committee input, will be forwarded to the ISO Board for review and action. Concurrently, the Market Monitoring Unit's evaluation will be provided to the Board. The Board may approve the Public Policy Transmission Planning Report as submitted or propose modifications on its own motion, including a determination not to select a Public Policy Transmission Project to satisfy a Public Policy Transmission Need. If any changes are proposed by the Board, the revised report shall be returned to the Management Committee for comment. The Board shall not make a final



determination on a revised report until it has reviewed the Management Committee comments, including comments regarding the Market Monitoring Unit’s evaluation. Upon approval by the Board, the ISO shall issue the report to the marketplace by posting it on its website. If the ISO Board determines not to select a Public Policy Transmission Project under this Section 31.4.11.2, the Board shall state the reasons for its determination.

The responsibilities of the Market Monitoring Unit that are addressed in the above Section of Attachment Y to the ISO OATT are also addressed in Section 30.4.6.8.5 of the Market Monitoring Plan, Attachment O to the ISO Services Tariff.

### **31.4.11.3 Transmission Owner’s Responsibility to Notify the ISO**

Within 30 Calendar Days following the posting of a Public Policy Transmission Planning Report approved by the ISO Board that selects a regulated Public Policy Transmission Project pursuant to this Section 31.4.11, a Transmission Owner that has been identified as a Designated Entity for a Designated Public Policy Project that contains Public Policy Transmission Upgrades proposed by another Developer shall provide notice to the ISO if the Transmission Owner does not intend to exercise the right under Section 31.6.4 of this Attachment Y to build, own, and recover the cost of the Public Policy Transmission Upgrades and serve as the Designated Entity for the Designated Public Policy Project identified for the Transmission Owner in the Public Policy Transmission Planning Report. If the Transmission Owner notifies the ISO of its rejection to be the Designated Entity for one or more Public Policy Transmission Upgrades identified for its Designated Public Policy Project, the Developer that proposed the Public Policy Transmission Project shall be the Designated Entity for such Public Policy Transmission Upgrades, which shall be incorporated into the Developer’s Designated Public Policy Project. If the Transmission Owner does not take action within the 30 Calendar Days with regard to one or

more Public Policy Transmission Upgrades identified for its Designated Public Policy Project, the Transmission Owner shall be the Designated Entity concerning such Public Policy Transmission Upgrade(s) and shall be responsible for constructing and placing the Public Policy Transmission Upgrades in service by the in-service date for the Designated Public Policy Project identified in the Public Policy Transmission Planning Report.

The ISO shall post on its website a list of the Designated Entities and associated Designated Public Policy Projects identified in the final Public Policy Transmission Planning Report at the conclusion of the notification period.

### **31.4.12 Designated Entity’s Responsibilities Following Selection of a Public Policy Transmission Project**

#### **31.4.12.1 Designated Entity’s Responsibility to Obtain Necessary Approvals and Authorizations**

Upon the ISO’s posting of a list of Designated Entities and Designated Public Policy Projects pursuant to Section 31.4.11.3 or following the expiration of the deadline for a Transmission Owner to decline to be a Designated Entity for Designated Network Upgrade Facilities in accordance with Section 22.9.6 of Attachment P to the ISO OATT, the ISO will inform each Designated Entity that it should submit its Designated Public Policy Project and/or Designated Network Upgrade Facilities to the appropriate governmental agency(ies) and/or authority(ies) to begin the necessary approval process to site, construct, and operate the facilities. In response to the ISO’s request, the Designated Entity shall make such a submission to the appropriate governmental agency(ies) and/or authority(ies) to the extent such authorization has not already been requested or obtained.

If the appropriate federal, state or local agency(ies) either rejects a necessary authorization, or approves and later withdraws authorization, for the Designated Public Policy

Project or Designated Network Upgrade Facilities, the Designated Entity may recover all of the necessary and reasonable costs incurred and commitments made up to the final federal, state or local regulatory decision, including reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission in accordance with its regulations on abandoned plant recovery. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission. The ISO shall recover such costs in accordance with Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT.

When the Designated Entity is a Transmission Owner, the Developer that proposed the Public Policy Transmission Project is not required to provide any additional information or resources other than the information that was included in the redacted project proposal submitted in accordance with Sections 31.4.4.3.3 and 31.4.15.4.

#### **31.4.12.2 Development Agreement**

As soon as reasonably practicable following the ISO's posting of a list of Designated Entities and Designated Public Policy Projects pursuant to Section 31.4.11.3 or the expiration of the deadline for a Transmission Owner to decline to be a Designated Entity for Designated Network Upgrade Facilities in accordance with Section 22.9.6 of Attachment P to the ISO OATT, the ISO shall tender to each Designated Entity of a Designated Public Policy Project and/or Designated Network Upgrade Facilities a draft Development Agreement, or draft amended Development Agreement, with draft appendices completed by the ISO to the extent practicable for review and completion by the Designated Entity. The draft Development Agreement shall be in the form of the ISO's Commission-approved Development Agreement, which is in Appendix D in Section 31.7 of this Attachment Y. Each Designated Entity will

receive a separate draft Development Agreement. If the Designated Entity originally submitted the Public Policy Transmission Project and submitted a Cost Cap for its Public Policy Transmission Project selected by the ISO, its Development Agreement for that its Designated Public Policy Project shall contain the Cost Cap.

The ISO and each Designated Entity, as applicable, shall finalize a Development Agreement and appendices and negotiate concerning any disputed provisions. For purposes of finalizing the Development Agreement, the ISO and Designated Entity shall develop the description and dates for the milestones necessary to develop and construct the Designated Public Policy Project by the required in-service date for the Designated Public Policy Project identified in the Public Policy Transmission Planning Report, including the milestones for obtaining all necessary authorizations, and in coordination with the Designated Entities for other Designated Public Policy Projects for the selected Public Policy Transmission Project to the extent feasible. The ISO and Designated Entity shall also develop, as applicable, the description and date for the milestones necessary to develop and construct Designated Network Upgrade Facilities designated to the Designated Entity pursuant to Section 22.9.6 of Attachment P to the ISO OATT by the Project Required In-Service Date identified in the Public Policy Transmission Planning Report, including the milestones for obtaining all necessary authorizations, and in coordination with the Designated Entities for other Designated Public Policy Projects for the selected Public Policy Transmission Project to the extent feasible. Any milestone that requires action by another Designated Entity or a Connecting Transmission Owner or Affected System Operator identified pursuant to Attachment P of the ISO OATT to complete must be included as an Advisory Milestone, as that term is defined in the Development Agreement.

Unless otherwise agreed by the ISO and the Designated Entity, the Designated Entity must execute the Development Agreement within three (3) months of the ISO's tendering of the draft Development Agreement; *provided, however*, if, during the negotiation period, the ISO or the Designated Entity determines that negotiations are at an impasse, the ISO may file the Development Agreement in unexecuted form with the Commission on its own or following the Designated Entity's request in writing that the agreement be filed unexecuted. If the Development Agreement resulting from the negotiation between the ISO and the Designated Entity does not conform with the Commission-approved standard form in Appendix D in Section 31.7 of this Attachment Y, the ISO shall file the agreement with the Commission for its acceptance within thirty (30) Business Days after the execution of the Development Agreement by both parties. If the Designated Entity requests that the Development Agreement be filed unexecuted, the ISO shall file the agreement at the Commission within thirty (30) Business Days of receipt of the request from the Designated Entity. The ISO will draft to the extent practicable the portions of the Development Agreement and appendices that are in dispute and will provide an explanation to the Commission of any matters as to which the parties disagree. The Designated Entity will provide in a separate filing any comments that it has on the unexecuted agreement, including any alternative positions it may have with respect to the disputed provisions. Upon the ISO's and the Designated Entity's execution of the Development Agreement or the ISO's filing of an unexecuted Development Agreement with the Commission, the ISO and the Designated Entity shall perform their respective obligations in accordance with the terms of the Development Agreement that are not in dispute, subject to modification by the Commission. The Connecting Transmission Owner(s) and Affected System Operator(s) that are identified in Attachment P of the ISO OATT in connection with the Designated Public Policy

Transmission Project shall act in good faith in timely performing their obligations that are required for the Designated Entity to satisfy its obligations under the Development Agreement.

**31.4.12.3 Process for Addressing Inability of Designated Entity to Complete Designated Public Policy Project**

31.4.12.3.1 The ISO may take the actions described in Sections 31.4.12.3.1.1 through 31.4.12.3.1.3 as soon as practicable if one of the following events occur: (i) a Designated Entity that is required to execute the Development Agreement for its Designated Public Policy Project pursuant to Section 31.4.12.2 does not execute the Development Agreement, or does not request that it be filed unexecuted with the Commission, within the timeframes set forth in Section 31.4.12.2, or (ii) the ISO determines that an effective Development Agreement for a Designated Public Policy Project may be terminated or terminates the Development Agreement under the terms of the agreement prior to the completion of the term of the agreement.

31.4.12.3.1.1 If the Development Agreement has been filed with and accepted by the Commission and is terminated under the terms of the agreement, the ISO shall, upon terminating the Development Agreement file a notice of termination with the Commission.

31.4.12.3.1.2 The ISO may take one or more of the following actions to address a Public Policy Transmission Need based on the particular circumstances: (i) address the Public Policy Transmission Need in the subsequent planning cycle or, if requested by the NYPSC pursuant to Section 31.4.1, in an out-of-cycle process; (ii) direct the Designated Entity to continue with the development of its Designated Public

Policy Project for completion beyond the in-service date required to address the Public Policy Transmission Need; (iii) solicit bids from qualified Developers to complete the Designated Public Policy Project in accordance with Section 31.4.12.3.1.3; or (iv) offer the Developer that originally submitted the Public Policy Transmission Project the opportunity to be the Designated Entity of the Designated Public Policy Project in accordance with Section 31.4.12.3.1.4.

31.4.12.3.1.3 If the ISO determines in accordance with Section 31.4.12.3.1.2 that an alternative Developer should be designated to complete a Designated Public Policy Project and the original Developer that proposed the Public Policy Transmission Project rejects the offer to be designated to complete the Designated Public Policy Project pursuant to Section 31.4.12.3.1.4, the ISO shall solicit bids from Developers to finance and complete the development and construction of the Designated Public Policy Project to bring it into service. Any Developer that is qualified at the time of the ISO's solicitation to propose a Public Policy Transmission Project may submit a proposal to complete the Designated Public Policy Project. The ISO will specify in its solicitation for bids by Developers those categories of project information described in Section 31.4.5.1.1 that the Developer must submit and will identify the metrics in Section 31.4.8 that the ISO will use to select among the bidding Developers. The ISO will determine the appropriate project information and metrics based on the current status of development of the Designated Public Policy Project. The ISO will make any selection of an alternative Developer using the selection metrics identified in its solicitation for bids and consistent with the selection processes set forth in

Sections 31.4.8 and 31.4.11, including issuing an updated Public Policy Transmission Planning Report. The ISO shall charge, and a Developer bidding for the Designated Public Policy Project shall pay, the actual costs of the ISO's evaluation of its bid for purposes of selecting a Developer to complete the project consistent with Section 31.4.4.4. Each bidding Developer will reimburse the ISO for its actual study costs consistent with the requirements in Section 31.4.4.4. The selected alternative Designated Entity must enter into a Development Agreement for the Designated Public Policy Project with the ISO in accordance with the requirements in Section 31.4.12.2. The selected alternative Designated Entity will be eligible for cost allocation under the ISO OATT for its development and construction of the Designated Public Policy Project. The selected alternative Designated Entity and the Designated Entity that the ISO initially identified to be responsible for the Designated Public Policy Project shall work cooperatively with each other to implement the transition, including negotiating in good faith with each other to transfer the project; *provided, however*, that the transfer is subject to: (i) any required approvals by the appropriate governmental agency(ies) and/or authority(ies), (ii) any requirements or restrictions on the transfer of Developer's rights-of-way under federal or state law, regulation, or contract (including mortgage trust indentures or debt instruments), and (iii) if the Developer is a New York public authority, any requirements or restrictions on the transfer under the New York Public Authorities Law; *provided, further*, that the selected alternative Designated Entity and the initial Designated Entity will



address any disputes regarding the transfer of the project in accordance with the dispute resolution provisions in Article 11 of the ISO Services Tariff.

31.4.12.3.1.4 If the ISO determines in accordance with Section 31.4.12.3.1.2 that an alternative Developer should be designated to complete a Designated Public Policy Project that was initially designated to the owner of the impacted transmission facility, the ISO shall first offer the Developer that originally proposed the Public Policy Transmission Project the opportunity to be the Designated Entity of that Designated Public Policy Project to finance and complete the development and construction of the project to bring it into service. The alternative Designated Entity shall have 30 Calendar Days from the ISO tendering its offer to accept the Designated Public Policy Project. Thereupon, the alternative Designated Entity must enter into a Development Agreement or amend an existing Development Agreement with the ISO related to fulfillment of the same Public Policy Transmission Need in accordance with the requirements in Section 31.4.12.3. The alternative Designated Entity will be eligible for cost allocation and cost recovery under the ISO OATT for its development and construction of the Designated Public Policy Project. The alternative Designated Entity and the original Designated Entity of the Designated Public Policy Project shall work cooperatively with each other to implement the transition, including negotiating in good faith with each other to transfer the project; *provided, however,* that the transfer is subject to: (i) any required approvals by the appropriate governmental agency(ies) and/or authority(ies), (ii) any requirements or restrictions on the transfer of rights-of-way under federal or state law,

regulation, or contract (including mortgage trust indentures or debt instruments), and (iii) if the original Designated Entity of the Designated Public Policy Project is a New York public authority, any requirements or restrictions on the transfer under the New York Public Authorities Law; *provided, further*, that the alternative Designated Entity and the original Designated Entity of the Designated Public Policy Project will address any disputes regarding the transfer of the project in accordance with the dispute resolution provisions in Article 11 of the ISO Services Tariff.

31.4.12.3.1.5 If the ISO elects to terminate the Development Agreement for a Designated Entity’s Designated Public Policy Project because (i) another Designated Entity defaulted on the development of a separate Designated Public Policy Project that is a component of the same selected Public Policy Transmission Project and (ii) the ISO determined to address the underlying Public Policy Transmission Need in a future planning cycle pursuant to Section 31.4.12.3.1.2 of Attachment Y of the ISO OATT, the Designated Entity may recover all of the necessary and reasonable costs incurred and commitments made up to the notice of termination of the Development Agreement from the ISO, including reasonable and necessary expenses incurred to implement an orderly termination of the project, to the extent permitted by the Commission in accordance with its regulations on abandoned plant recovery. The ISO shall allocate these costs among Load Serving Entities in accordance with Section 31.5.5.4.3, except as otherwise determined by the Commission. The ISO shall

recover such costs in accordance with Section 31.5.6 of this Attachment Y and Rate Schedule 10 of the ISO OATT.

#### **31.4.12.4 Execution of ISO/TO Agreement or Comparable Agreement**

The Designated Entity of a Designated Public Policy Project of a selected Public Policy Transmission Project shall execute the ISO/TO Agreement or an Operating Agreement in accordance with Section 31.1.7 of this Attachment Y prior to energizing the Public Policy Transmission Project.

#### **31.4.13 ISO Monitoring of Designated Public Policy Projects**

The ISO shall monitor the Designated Public Policy Projects and Designated Network Upgrade Facilities, if applicable, to confirm that they continue to develop consistent with the conditions, actions, or schedules for the projects.

#### **31.4.14 Posting of Approved Solutions**

The ISO shall post on its website a list of all entities that have accepted the terms and conditions of an Article VII certificate under the New York Public Service Law, or any successor statute, or any other applicable permits to build a Designated Public Policy Project in response to a need driven by a Public Policy Requirement.

#### **31.4.15 Confidentiality of Solutions**

31.4.15.1 The ISO shall treat Confidential Information, as defined in Section 31.4.15.2, that is submitted to the ISO by the Developer of a proposed Public Policy Transmission Project or Other Public Policy Project in accordance with the requirements for the treatment of Confidential Information in Section 12.4 of its Code of Conduct in Attachment F of the ISO OATT. The ISO shall treat Critical

Energy Infrastructure Information submitted to the ISO by the Developer of a proposed Public Policy Transmission Project in accordance with ISO Procedures.

31.4.15.2 For purposes of this Section 31.4, the term “Confidential Information” shall only include the following non-public information submitted by the Developer and labeled as Confidential Information as part of its submission to satisfy its Developer qualification requirements pursuant to Section 31.4.4 or part of its submission of the project information requirements described in Section 31.4.5 for its Public Policy Transmission Project or Other Public Policy Project to satisfy its project information requirements pursuant to Sections 31.4.4.3.2 and 31.4.4.3.5: (i) all project cost information; (ii) all details of the Developer’s financing arrangements; (iii) any non-public financial qualification information submitted pursuant to Section 31.4.4.1.2; and (iv) any contracts provided under Sections 31.4.5.1.4 or 31.4.5.2.2; *provided, however*, that the total amount of Included Capital Costs and any cost sharing percentage contained in any Cost Cap proposed by a Developer that are included in the draft Public Policy Transmission Planning Report pursuant to Section 31.4.11 shall, upon the posting of the draft report, not be treated or designated as Confidential Information for purposes of this Section 31.4 and Attachment F of the ISO OATT.

31.4.15.3 All other project information submitted by a Developer of a Public Policy Transmission Project or an Other Public Policy Project shall not be treated or designated as Confidential Information for purposes of this Section 31.4 and Attachment F of the ISO OATT.

31.4.15.4 If a Developer of a Public Policy Transmission Project intends for the ISO to maintain certain project information as Confidential Information, the Developer shall submit both an un-redacted and a redacted version of the project information required pursuant to Section 31.4.5.1 for its proposed Public Policy Transmission Project. The Developer shall label the material in the un-redacted version that it deems to be “Confidential Information” and shall not include this material in the redacted version. The ISO may review the Developer’s proposed redactions to ensure that the redacted information is consistent with the ISO’s requirements for Confidential Information in this Section 31.4.15. Based on its review, the ISO may require additional redactions or require the disclosure of redacted information.

31.4.15.5 Regardless of whether the information is requested pursuant to Section 31.4.4.3.11, the ISO may disclose any information submitted by the Developer that is not Confidential Information, as defined in this Section 31.4.15, to the extent required to administer its Public Policy Transmission Planning Process or interconnection process, including, but not limited to, using such information in its Viability and Sufficiency Assessment and its Public Policy Transmission Planning Report.