

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on March 15, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair  
Gregg C. Sayre  
Diane X. Burman  
James S. Alesi

CASE 16-E-0558 - In the Matter of New York Independent System  
Operator, Inc.'s Proposed Public Policy  
Transmission Needs for Consideration for 2016.

ORDER ADDRESSING PUBLIC POLICY REQUIREMENTS  
FOR TRANSMISSION PLANNING PURPOSES

(Issued and Effective March 16, 2018)

BY THE COMMISSION:

INTRODUCTION

Pursuant to the New York Independent System Operator, Inc.'s (NYISO) Public Policy Transmission Planning Process, the NYISO is required to periodically solicit input from interested entities as to whether there may be transmission needs driven by public policies.<sup>1</sup> The NYISO's OATT, approved by the Federal Energy Regulatory Commission (FERC), establishes that the Public Service Commission (Commission) may identify which public policies, if any, constitute Public Policy Requirements. In the event the Commission identifies a Public Policy Requirement, the

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<sup>1</sup> The NYISO's Public Policy Transmission Planning Process is prescribed under its Open Access Transmission Tariff (OATT). See, OATT, Attachment Y, §31.4, et seq.

NYISO will solicit and evaluate proposed solutions to the need, referred to as a Public Policy Transmission Need.

On October 3, 2016, the NYISO filed, for the Commission's consideration, the proposed Public Policy Requirements it received from twelve entities. As discussed below, the Commission declines to identify and refer any Public Policy Requirements to the NYISO at this time. Although the Commission recognizes that there are certain regions, such as the northern and southwestern parts of the State, where additional transmission facilities may support the deployment of renewable resources, the extent and magnitude of such needs requires further consideration. Therefore, we direct Department of Public Service Staff (DPS Staff) to work with the NYISO and the New York Transmission Owners (NYTOs) to identify potential transmission constraints on the bulk and non-bulk systems that may warrant the future identification of a Public Policy Requirement, considering current and projected resources.<sup>2</sup> This information should ensure a comprehensive and objective assessment of long term system-wide needs that will allow us to provide transparent guidance and will assist in our future deliberations and decision-making.

#### BACKGROUND

The NYISO's Public Policy Transmission Planning Process was developed to comply FERC's Order No. 1000, which

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<sup>2</sup> The NYTOs include Central Hudson Gas & Electric Corporation (CHG&E), Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Long Island Power Authority (LIPA), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), New York State Electric & Gas Corporation (NYSEG), Rochester Gas and Electric Corporation (RG&E), and the New York Power Authority (NYPA).

required, in part, the development of a planning process for the consideration of public policy-driven transmission needs.<sup>3</sup> The NYISO and NYTOs have made several compliance filings with FERC to amend the NYISO's OATT to incorporate this new planning process. While the NYISO and NYTOs' compliance filings are currently on-going in FERC's Docket No. ER13-102, they do not affect the action taken in this order.

As approved by FERC, the NYISO's Public Policy Transmission Planning Process which is conducted on a two-year cycle, and commences with a 60-day solicitation period for any interested entities to identify proposed transmission needs that are potentially driven by Public Policy Requirements. The NYISO posts all submittals on its website and forwards them for the Commission's consideration. The Commission is assigned the role of identifying any Public Policy Requirements that may be driving the need for transmission facilities.<sup>4</sup> The NYISO OATT defines a Public Policy Requirement as:

[a] federal or New York State statute or regulation, including [an order issued by the Commission] adopting a rule or regulation subject to and in accordance with the State Administrative Procedure Act, any successor statute, or any duly enacted law or regulation passed by a local governmental entity in New York State, that may relate to transmission planning on the [Bulk Power Transmission Facilities].<sup>5</sup>

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<sup>3</sup> See Docket No. RM10-23-000, Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities, Order No. 1000 (issued July 21, 2011), reh'g denied, Order No. 1000-A (issued May 17, 2012), reh'g denied, Order No. 1000-B (issued October 18, 2012).

<sup>4</sup> The Long Island Power Authority (LIPA) is responsible for identifying transmission needs driven by Public Policy Requirements within the Long Island Transmission District.

<sup>5</sup> NYISO OATT, Attachment Y, §31.1.1.

In August 2014, the Commission issued a Policy Statement on Transmission Planning for Public Policy Purposes, which established the procedures for identifying any Public Policy Requirements that warrant the NYISO soliciting solutions for evaluation.<sup>6</sup> These procedures include:

- (1) the NYISO submitting the proposed Public Policy Requirements that interested entities have identified regarding potential transmission needs, which the Commission will post on its website;
- (2) the Commission issuing a notice in the State Register, pursuant to State Administrative Procedure Act (SAPA), inviting comments on any proposals posted in Step 1, along with any subsequent additions identified by the Commission, and any proposed evaluation criteria the NYISO should apply and analyses it should perform;
- (3) DPS Staff posting, when deemed appropriate, preliminary comments for interested parties to review and comment upon, addressing why any proposed Public Policy Requirements warrant, or do not warrant, the NYISO soliciting projects for evaluation;
- (4) the Commission issuing an order identifying the potential transmission needs, based on Public Policy Requirements, that warrant the NYISO soliciting solutions (along with an explanation of proposed Public Policy Requirements that do not warrant referral to the NYISO), and an identification of any proposed evaluation criteria the NYISO should apply and analyses it should perform;<sup>7</sup> and,

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<sup>6</sup> Case 14-E-0068, Policies and Procedures Regarding Transmission Planning for Public Policy Purposes, Policy Statement on Transmission Planning for Public Policy Purposes (issued August 15, 2014) (August 2014 Policy Statement).

<sup>7</sup> The Commission may also find that none of the suggested policies constitute Public Policy Requirements, or that transmission is not needed to address them.

- (5) the Commission posting the Order, issued under Step 4, on its website and providing it to the NYISO.<sup>8</sup>

Following these steps, the NYISO undertakes a second 60-day solicitation for proposed solutions to any Public Policy Transmission Needs. The NYISO then conducts a preliminary analysis regarding whether each proposed solution is viable and sufficient to meet the Public Policy Transmission Need. When evaluating proposed solutions to a Public Policy Transmission Need, the NYISO considers, on a comparable basis, all resource types, including generation, transmission, demand response, or a combination of these resource types.

The NYISO presents the results of its Viability and Sufficiency Assessment to stakeholders, interested parties, and the Commission for review and comment. Under the sixth and final step identified in the August 2014 Policy Statement, the Commission determines, after reviewing the NYISO's Viability and Sufficiency Assessment of any proposed solutions, whether a transmission solution should or should not be pursued further. If the Commission concludes that non-transmission solutions should be pursued, it will indicate that there is no longer a transmission need being driven by a Public Policy Requirement that requires the NYISO's evaluation of potential transmission solutions. Similarly, the Commission may determine an appropriate course of action where a suitable solution has not been presented to meet the identified Public Policy Requirement.

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<sup>8</sup> The NYISO's OATT indicates that the Commission's procedures should "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." NYISO OATT, Attachment Y, §31.4.2.1.

Assuming the Commission determines to pursue a transmission solution, the process specified under the NYISO OATT requires the NYISO to prepare further detailed analyses. The NYISO provides its analyses in a Public Policy Transmission Planning Report, in which it may select the more efficient or cost-effective transmission solution to the identified Public Policy Transmission Need, based on various metrics specified under its OATT.<sup>9</sup> The NYISO will also include, to the extent it is feasible, any criteria or analyses specified by the Commission or contained within the Public Policy Requirement. Transmission projects selected by the NYISO are eligible for cost allocation and recovery under the NYISO's OATT.

To date, the Commission has designated two Public Policy Requirements driving the need for additional transmission facilities. The first one involved congestion in western New York (NY) that was limiting the output from NYPA's Niagara hydroelectric generating facility and imports or renewables from Canada.<sup>10</sup> The NYISO selected NextEra Energy Transmission New York, Inc. as the winning bidder that is currently proceeding to

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<sup>9</sup> In determining which transmission solution is the more efficient or cost-effective, the NYISO considers several metrics, including: cost estimates, cost per MW ratio, expandability of the project, flexibility in operating the system (such as generation dispatch, access to operating reserves and ancillary services, or ability to remove transmission for maintenance), utilization of the system (such as interface flows or percent loading of facilities), a developer's property rights, potential construction delays, and impacts on NYISO-administered markets.

<sup>10</sup> See, Case 14-E-0454, New York Independent System Operator, Inc. - Public Policy Transmission Needs, Order Addressing Public Policy Need for Western New York (issued October 13, 2016).

the Public Service Law (PSL) Article VII sitting process.<sup>11</sup> The second one involved congestion relief over the Central East and Upstate NY/Downstate NY electrical interfaces (commonly referred to as the AC Transmission Upgrades), and is presently awaiting a selection by the NYISO of a winning bidder.<sup>12</sup>

#### PROPOSED PUBLIC POLICY REQUIREMENTS

On October 3, 2016, the NYISO filed the proposed Public Policy Transmission Needs it received from twelve entities, including: (i) AVANGRID Networks, Inc. (Avangrid); (ii) City of New York (NYC or the City); (iii) H.Q. Energy Services (U.S.) Inc. (HQ); (iv) Invenergy LLC (Invenergy); (v) NYPA, National Grid, and CHG&E (collectively, Respondent Transmission Owners); (vi) the NY Investor Owned Utilities (IOUs)<sup>13</sup>; (vii) New York Transco LLC (NY Transco)<sup>14</sup>; (viii) NextEra Energy Transmission New York, Inc. (NextEra); (ix) North America Transmission (NAT); (x) Poseidon Transmission 1, LLC (Poseidon); (xi) PPL Translink, Inc. (PPL); and, (xii) PSEG Long Island (PSEG LI).

#### Avangrid

Avangrid proposes several Public Policy Requirements associated with the Commission's Clean Energy Standard (CES),

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<sup>11</sup> See, NYISO's Western New York Public Policy Transmission Planning Report, dated October 17, 2017.

<sup>12</sup> See, Case 14-E-0454, New York Independent System Operator, Inc. - Public Policy Transmission Needs, Order Addressing Public Policy Need for AC Transmission Upgrades (issued January 24, 2017).

<sup>13</sup> The IOUs are a subset of NYTOs that does not include LIPA and NYPA.

<sup>14</sup> NY Transco was established as a limited liability corporation in 2014 and is owned by affiliates of the IOUs.

Clean Energy Fund, and Reforming the Energy Vision (REV), as well as the New York State Energy Plan, the U.S. Environmental Protection Agency's (EPA) Clean Power Plan,<sup>15</sup> and the NYISO's 2010 Wind Generation Study/New York State Transmission Assessment and Reliability Study (STARS). Avangrid focuses on allowing renewable resources that are likely to be built in western and northern NYS and suggests transmission should be built so that it can reach downstate load centers.

NYC

The City requests that transmission improvements in northern NY State be identified as a need driven by a Public Policy Requirement. The City identifies the CES and EPA's Clean Power Plan as examples of policies driving the need for more renewables and transmission. The criteria for evaluation of solutions, according to NYC, should include the extent to which the project allows downstate load centers to access the renewables resources in northern NY, along with the costs of the project relative to other alternatives.

In addition, NYC suggests that a new and more comprehensive approach to transmission planning for public policy purposes is needed. In particular, the City requests that the Commission adopt a holistic, comprehensive approach to addressing the State's future transmission needs to accommodate PPRs. The City recommends that the NYISO and the Commission broadly examine how to move large quantities of power from the locations of renewable resources (mostly rural areas or offshore) to the State's load centers both downstate and upstate. In its view, a single transmission line or segment is insufficient to achieve the state's public policy goals, and

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<sup>15</sup> As noted below, the EPA is currently soliciting comments on the repeal of the Clean Power Plan.



such a piecemeal approach could effectively prevent timely achievement of those goals. Therefore, NYC maintains that a portfolio, or multi-faceted solution is needed and should be the focus of the process.

HQ

HQ recommends that a Public Policy Requirement be identified for the purposes of delivering incremental renewable supply onto the NY grid and for relieving transmission congestion for full delivery of existing renewables from northern NY to downstate load centers. HQ points to the CES goals as driving the need for new transmission between Quebec and NY and relieving transmission constraints.

Invenergy

Invenergy highlights the CES targets calling for 50% renewables by 2030, and suggests that the NYISO evaluate the number of potential wind MWs that could be built in an area. Once these areas are identified, Invenergy proposes that the NYISO assign the potential wind projects to certain transmission lines, evaluate whether upgrades would be needed to accommodate the expected capacity, and estimate the cost of the upgrades.

Respondent Transmission Owners

The Respondent Transmission Owners maintain that transmission needs are being driven by CES, REV, Regional Greenhouse Gas Initiative (RGGI), and the Clean Power Plan. They point to a need to mitigate transmission constraints affecting northern NY, which would also further the objective of the Power Authority Act to utilize hydroelectric power such as the St. Lawrence facility. The Respondent Transmission Owners relay that the transmission system in northern NY is currently constrained under certain system configuration and cannot fully support the deliverability of renewable imports from Canada and

the full output of NYPA's St. Lawrence facility or additional wind projects. The results of NYPA's internal analysis show that, under current system conditions, "minor renewable generation bottling occurs in Zone D." They conclude by seeking a Commission determination that there is a need for transmission to address potentially constrained regions.

IOUs

The IOUs contend that new transmission facilities would be necessary to achieve the State's public policy objectives, including the CES, NYS Energy Plan, and Clean Power Plan, as well as NYC's objectives to reduce carbon dioxide emissions by 80% by 2050, with a 35% reduction by 2025. They support identifying the policies as a Public Policy Requirements, and aver that the specific areas where transmission is needed will become evident as future studies and reports examining the impact of a significant penetration of intermittent renewable energy resources become available.

NY Transco

NY Transco cites the CES as driving the need for transmission and highlights the NYISO 2010 wind study findings that the full energy output from wind facilities in Jefferson County and in the southwestern NY regions, such as Steuben County, would require transmission upgrades to deliver the output throughout NY.

NextEra

NextEra agrees with the NYISO's comments that new or upgraded transmission facilities will be required on both the bulk system and sub-transmission systems to deliver power from

renewable resources necessary to meet the CES goal.<sup>16</sup> In evaluating the potential solutions, NextEra suggests that ROW ownership should not be a distinguishing factor, and any consideration of secondary upgrades on the non-bulk system should be excluded. NextEra prefers that the process commence from a common set of assumptions regarding the location and capacity of assumed renewables.

The NYISO, according to NextEra, should evaluate the potential to accommodate additional renewables on proposed transmission lines to identify the route with the highest use potential. In addition, NextEra proposes that the NYISO identify the cost impact on customers, including consideration of cost contained bids. Lastly, they recommend that the NYISO identify the extent to which a project will enable and enhance future renewable competition.

NAT

According to NAT, three elements of the CES may give rise to a Public Policy Transmission Need, including Tier 1 renewable resources, offshore wind, and nuclear retirements. Although NAT believes CES is the most significant policy driving the need for transmission, it also points to the NYISO's 2015 Congestion Assessment and Resource Integration Study Phase 1 study to support a need to resolve the congestion between Dunwoodie and Long Island. Moreover, NAT suggests that new transmission may be needed to eliminate the need for a new Installed Capacity zone.

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<sup>16</sup> See, Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, NYISO Comments (filed July 8, 2016), p. 4.

Poseidon

Poseidon points to the CES as driving the need for added transmission capacity between Zones J and K and the neighboring control region operated by PJM Interconnection, LLC. Poseidon proffers various criteria for evaluating solutions, namely the ability to access renewable resources, ensure deliverability into NY such that the associated Renewable Energy Credits may contribute toward the CES goal, and that the developer has relevant experience and has presented a project that is viable for construction.

PPL

PPL asserts that CES creates a significant need for new transmission capacity linking the New York Control Area (NYCA) to neighboring regions. According to PPL, incremental transmission ties to Quebec, Ontario, and Pennsylvania will enable renewable resources in those areas to contribute to meeting the CES goal.

PSEG LI

PSEG LI notes that the CES established an objective to maximize the potential for offshore wind resources, and requests the evaluation of potential transmission solutions associated with such resources. PSEG LI suggests that the solutions should be evaluated to ensure compliance with all reliability criteria, and to maximize carbon emissions reductions.

NOTICE OF PROPOSED RULEMAKING

Pursuant to SAPA §202(1) and the Commission's August 2014 Policy Statement, a Notice of Proposed Rulemaking (Notice) was published in the State Register on October 19, 2016 [SAPA No. 16-E-0558SP1]. The SAPA §202(1)(a) period for submitting comments in response to the Notice expired on December 5, 2016.

The comments received in response to the notice are summarized and discussed below.

COMMENTS

Alliance for Clean Energy New York, Environmental Advocates of New York, Natural Resources Defense Council, Pace Energy and Climate Center, and Sierra Club (collectively, Joint Parties)

The Joint Parties support the need for transmission upgrades to ensure that customers throughout the state can take advantage of renewable resources located in northern and western NY. In addition, the Joint Parties maintain that transmission expansion will be needed to supply renewable resources, including offshore wind, to help meet the CES goal.

The Joint Parties also suggest that the criteria for selecting a transmission project should include environmental protection and leverage existing rights of way to minimize environmental impacts. They further suggest that the NYISO should evaluate projects on their ability to facilitate the interconnection and deployment of renewables and quantify each project by its ability to contribute to achieving the CES goals, at least cost. Finally, the Joint Parties suggest establishing pre-screened resource zones for renewable energy and transmission developments, such as has been developed in Texas (CREZ).

oneGRID Corp. (OneGrid)

OneGRID supports the proposed Public Policy Requirements that were submitted to the NYISO and the Commission and outlines specific evaluation criteria and suggested cost allocation principles for the Commission's consideration. OneGRID agrees with the proposals submitted that suggest the transfer capability from northern and western NY, where new renewable generation is likely to be built, are not adequate to

move the amount of renewable energy contemplated in the CES to downstate load centers. OneGRID points to NAT's response which explains that the energy market can be used to procure renewables in the amounts and locations best suited to meet the CES, but that procurement without new transmission will be subject to limitations of the existing transmission system resulting in inefficiencies, higher costs and possible curtailment.

OneGRID suggests certain evaluation criteria for consideration in review of project proposals. Specifically, it recommends consideration of deliverability of upstate renewable generation and zero-emission energy to downstate loads, and low environmental and visual impacts. Finally, OneGRID suggests that the Commission consider establishing cost allocation principles that ensure those who benefit the most from the development of new transmission projects to access location-constrained, in-state renewable generation are responsible for their costs.

OneGRID notes that it is currently developing the Empire State Connector, a 1,000 MW high-voltage HVDC line between the Marcy substation to the Gowanus substation, which it maintains is uniquely qualified to meet the transmission needs necessitated by the CES and that its development as a merchant transmission option will prove to be the most efficient and economical solution.

PPL TransLink, Inc. (PPL)

PPL urges the Commission to identify expanded transmission capacity both within NY and into neighboring control areas as a need driven by the CES. PPL notes that the eligibility for REC payments requires that energy be consumed by NY retail customers and that the eligibility of a renewable

generating facility's output for RECs under the CES requires that there is sufficient transmission capacity to enable the seller and buyer of RECs to demonstrate that the electricity is consumed within NY. PPL argues that downstate LSEs would likely not be able to demonstrate this eligibility requirement under the present transmission system.

PPL also suggests that the state should facilitate wind and other renewables located in PJM and Canada to participate in NY's clean energy market and contribute toward the CES goal, and that additional transmission and interties would be necessary. PPL suggests the Commission should identify a transmission need driven by the CES and to "cast a broad net, not limiting that need to only a few, identified transmission paths or identified points of congestion or to only AC or DC facilities."

NextEra Energy Transmission New York, Inc. (NextEra)

NextEra reaffirms its comments filed in the NYISO's solicitation, indicating that there is a need for transmission upgrades driven by the CES. NextEra suggests that, in order for NY to meet its goals, it will need to quickly find mechanisms to develop renewable generation projects and deliver the associated energy. Specifically, NextEra notes the transfer capability in northern and western NY, where future renewable energy projects are likely to be developed, is inadequate. According to NextEra, a significant build-out of renewable resources will require new or upgraded transmission facilities on both the bulk power system and the sub-transmission systems to deliver the output of these new resources to the southern and eastern portions of NY. Moreover, it asserts that NY will need to develop substantial bulk power transmission beyond the needs identified in the western NY and AC Transmission Public Policy

Transmission Needs to deliver renewable energy from remote NY location to load centers.

City of New York (NYC or City)

The City requests that the Commission find an immediate need for transmission upgrades in northern NY driven by the CES. The City suggests that transmission bottlenecks exist in northern NY, and that there are opportunities for renewable generation, such as wind in northern NY and hydropower and wind from Canada, which could be used to help meet the State's and City's public policy goals, but are not being used due to insufficient transmission capacity in the area, especially within NYCA Zone J. This, NYC contends, will lessen the reliance on the fleet of inefficient generating facilities within New York City, which are more than 40 years old. Further reductions in output from those facilities will improve local and regional air quality and contribute to compliance with the National Ambient Air Quality Standards.

NYISO

The NYISO suggests that achieving the public policy objectives of the CES will require additional transmission capacity in NY to deliver renewable resources from upstate NY and northern regions to consumers in downstate NY. They also suggest the potential development of offshore wind resources off the Long Island coast could drive the need for on-shore transmission upgrades to deliver off-shore wind energy to Long Island and New York City. Given the long lead time necessary for transmission development, the NYISO supports the Commission finding a need for transmission to achieve the CES in this cycle of the PPTPP.

The NYISO points to a DPS Staff White Paper in the CES case which stated that the CES program will require an



additional 33,700 GWh of renewable energy to meet the 50% by 2030 mandate, and suggests that new transmission will be required to support this significant amount of new renewable resources. The NYISO suggests that even with statewide load forecasted to decrease, cross-state energy transfers will increase due to more upstate renewable generation serving downstate load.

The NYISO's 2010 Wind Study found that as renewable penetration in upstate regions exceed the load in those regions, curtailment of renewable generation may be necessary to maintain transmission system reliability. Accordingly, the NYISO posits that transmission upgrades will be needed to relieve the curtailment of wind generation and to achieve the deliverability of wind energy to downstate NY.

The NYISO suggests the Commission adopt a PPTN for expansion of the transmission system in the St. Lawrence to Marcy corridor to allow developers of renewable resource to provide additional output onto the high-voltage system. The NYISO proffers that high-voltage transmission in the northern corridor would unbottle hydro capacity from St. Lawrence, allowing it to operate at full output while simultaneously delivering other renewable resources from the region. Further, the NYISO explains that new transmission capacity in the St. Lawrence to Marcy corridor could allow developers to explore sites that are attractive for wind and solar resources but underserved by the existing transmission system.

Finally, the NYISO recommends that the Commission identify a general need for transmission and allow developers to propose projects to fulfill that need, rather than pointing to a need for a specific transmission line. The NYISO maintains that

this will allow the greatest potential for developers to offer creative and innovative solutions.

Independent Power Producers of New York, Inc. (IPPNY)

IPPNY comments on proposals submitted by the City of NY, HQUS, NYPA, National Grid, and Central Hudson, which request the Commission identify acquiring imports from hydro generating facilities in Canada as a transmission need driven by a PPR. IPPNY argues that large-scale hydroelectric facilities do not currently qualify under the CES. IPPNY points out that HQUS has a request for rehearing before the Commission challenging such ruling.<sup>17</sup> IPPNY argues that existing and new large-scale hydro that relies on storage impoundment should be prohibited as a Tier 1 resource. IPPNY maintains that requiring NY ratepayers to socialize the costs of transmission to allow Canadian government-owned resources to export power to NY so that they can compete in the CES program would significantly skew the playing field and disadvantage private competitive merchant projects in NY.

IPPNY suggests that the Commission define transmission needs broadly enough to ensure all proposed transmission projects, including ones that enhance transmission capability for renewable facilities located in NY, can fairly compete to satisfy the CES at the lowest cost to the State's ratepayers. In addition, IPPNY suggests that the Commission should consider the difference between alternating current and direct current transmission technologies with respect to how these different technologies either help or hinder open access to transmission

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<sup>17</sup> See, Case 15-E-0302, Large-Scale Renewable Program and a Clean Energy Standard, Petition for Rehearing of H.Q. Energy Services (U.S.) Inc. (filed August 30, 2016).

for various competitive renewable resources from diverse locations.

NYS Legislature

Several Senators and Assembly Members submitted comments which urge the Commission to develop a transmission policy that recognizes the continuing public policy need for transmission additions from upstate to downstate, and encourages solutions that allow underground transmission as an alternative to above ground installations.<sup>18</sup> The Commission, they maintain, should also continue to encourage projects that can be built in existing ROWs when undergrounding is not feasible, and taking local community concerns into account. Transmission upgrades, they assert, are necessary for continued reliability and economic viability of NY.

Further, Assemblyman Steven F. Mclaughlin maintains that underground electric lines are superior to overhead lines due to less resistance from communities and citizens and that they provide greater reliability while maintaining aesthetics of the area where they are located. Senator Patty Ritchie and an additional 221 elected officials and community leaders express their continued strong support for the Clean Energy Standard, and add that Upstate nuclear power facilities play a vital role

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<sup>18</sup> The elected official include: William A. Barclay, Assemblyman, 120<sup>th</sup> District; Neil D. Breslin, Senator, 44<sup>th</sup> District; Catharine M. Young, Senator, 57<sup>th</sup> District; Robert G. Ortt, Senator, 62<sup>nd</sup> District; George A. Amedore, Jr., Senator, 46<sup>th</sup> District; James L. Seward, Senator, 51<sup>st</sup> District; Sue Serino, Senator, 41<sup>st</sup> District; Clifford W. Crouch, Assemblyman, 122<sup>nd</sup> District; Anthony Brindisi, Assemblyman, 119<sup>th</sup> District; Jack M. Martins, Senator, 7<sup>th</sup> District; Gary D. Finch, Assemblyman, 126<sup>th</sup> District, Assistant Minority Leader; Marc W. Butler, Assemblyman, 118<sup>th</sup> District; Kemp Hannon, Senator, 6<sup>th</sup> District; Patricia A. Fahy, Assemblyman, 109<sup>th</sup> District; and, Phil Steck, Assemblyman, 110<sup>th</sup> District.

in building a healthy environment, building the economy, and a reliable energy grid.

AVANGRID Networks, Inc. (Avangrid)

Avangrid supports the Commission finding there is a PPTN for transmission upgrades to serve upstate renewable resources driven by the CES. Avangrid has developed a proposal for a 1,000 MW underground HVDC interconnection (in two alternative configurations) joining the renewable energy-rich areas upstate with the load centers downstate. Avangrid emphasizes that the Commission should identify evaluation criteria in which to promote the selection and development of efficient, cost effective, environmentally sensitive and creative transmission solutions that satisfy the identified Public Policy transmission need and public policy requirements. I.B.E.W., New York State Utility Labor Council (Labor Council)

The Labor Council concurs with the comments of the Joint Parties concerning the length of time necessary to accomplish major transmission investments. The Labor Council supports a thorough review of needs created through the CES.

Mohawk Valley EDGE

Mohawk Valley EDGE is a regional not for profit corporation that serves the economic development needs in Oneida and Herkimer Counties. It maintains that the key areas of opposition that many Upstate NY communities have against transmission projects are both visual and environmental. They also note opposition to projects that do not serve Upstate needs and shift more power from Upstate to Downstate, and will raise Upstate energy costs. Mohawk Valley Edge opposes overhead transmission and suggests that underground lines will reduce the resistance to projects. Further, it asks the Commission to consider policies that will not lead to increases in energy

costs for existing and prospective upstate businesses and that are integral to the State's upstate economic development strategy.

#### LEGAL AUTHORITY

The Commission has authority under the PSL to pursue transmission planning efforts for public policy purposes, independent of FERC's Order No. 1000. In particular, PSL §5(2) establishes the authority to "encourage all persons and corporations subject to [the Commission's] jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."<sup>19</sup> The broad language of PSL §5(2) extends to requiring electric utilities, which include the NYISO and NY IOUs, to study various alternatives for meeting future electric system needs, whether through transmission, generation, and demand-side management options.

Moreover, Section 66(5) of the PSL provides the Commission with authority to prescribe the "safe, efficient and adequate property, equipment and appliances thereafter to be

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<sup>19</sup> PSL §5(2) has been held to confer "broad discretion" to promote energy conservation. See *Multiple Intervenors v. NYPSC*, 166 A.D.2d 140 (3rd Dept. 1991). Furthermore, PSL §5(2) was determined to provide the Commission with jurisdiction to require utilities to file plans outlining how they would adapt to a competitive electric industry. See *Energy Association of New York State v. NYPSC*, 169 Misc. 2d 924 (Supreme Ct. 1996) (noting that PSL §5(2) transformed "the traditional role of the Commission from that of an instrument for a simple case-by-case consideration of rates requested by utilities to one charged with the duty of long-range planning for the public benefit").

used," whenever the Commission determines that the utility's existing equipment is "unsafe, inefficient or inadequate."<sup>20</sup> The Commission also has authority to "order reasonable improvements and extensions of the works, wires, poles, lines, conduits, ducts and other reasonable devices, apparatus and property of...electric corporations and municipalities."<sup>21</sup> Other provisions of the PSL provide jurisdiction over transmission planning and siting by the Commission.<sup>22</sup>

The NYISO's Public Policy Transmission Planning Process, as authorized in the OATT, establishes that the Commission may identify any Public Policy Requirements that may be driving the need for transmission facilities. The NYISO OATT provides, in part, that:

[the Commission] 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 [Commission's] statement may also provide additional criteria for the evaluation of transmission solutions and

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<sup>20</sup> PSL §66(5). "Electric corporations" are required to provide "such service, instrumentalities and facilities as shall be safe and adequate." PSL §66(1).

<sup>21</sup> PSL §66(2). The Commission has continuing jurisdiction over the "construction, operation and maintenance of all utility transmission lines." See Matter of Stannard v. Axelrod, 100 Misc.2d 702 (Sup. Ct. Broome Co. 1979) (dismissing petition challenging the Commission's Order approving a 345 kilovolt transmission line).

<sup>22</sup> See PSL §126(1) (providing that before the Commission may site a major electric utility transmission facility, the Commission must find and determine, in relevant part, the basis of the need for the facility, that such facility "will serve the interests of electric system economy and reliability," and that the facility will serve the "public interest, convenience, and necessity").

non-transmission projects, and the type of analyses that it will request from the ISO.<sup>23</sup>

#### DISCUSSION

In accordance with the NYISO's OATT and the Commission's August 2014 Policy Statement, this Order addresses the proposed Public Policy Requirements submitted by the NYISO on October 3, 2016, and the comments received in response to the Notice. The proposals present various federal and state energy and environmental public policies that are claimed to warrant designation as Public Policy Requirements. Some of the policies identified would look very broadly at whether additional transmission facilities are needed across the entire state, while others point to specific regions where transmission constraints currently exist under certain conditions, or are likely to occur in the future.

With respect to the State's policy initiative to develop wind resources offshore from Long Island, several commenters suggested that a Public Policy Requirement should be identified driving the need for additional transmission facilities. However, a technical feasibility study that was conducted by the NYISO on behalf of DPS Staff and NYSERDA was released earlier this year, and found that it is feasible to inject 2.4 GW of offshore wind through as few as seven substations into NYCA Zones J (New York City) and K (Long Island) without thermal violations under both peak and light load scenarios. Because the assessment did not identify any bulk transmission upgrades necessary to inject 2.4 GW of offshore wind without thermal overloads, the Commission declines to designate Offshore wind as a Public Policy Requirement. It

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<sup>23</sup> NYISO OATT, Attachment Y, §31.4.2.1.

should be noted, however, that additional analyses will need to be conducted to meet the NYISO's interconnection requirements for specific projects.

While the Commission is not deciding upon the merits of the other policies identified by interested entities (i.e., the Commission's CES, Clean Energy Fund, and REV, as well as the New York State Energy Plan, RGGI, and the EPA's Clean Power Plan),<sup>24</sup> we find that further work is needed before determining that a Public Policy Requirement should be identified. The Commission is cognizant of the long lead-times in analyzing, selecting, siting, and constructing new transmission facilities, but is confident that this groundwork will not unduly delay any such transmission needs or achieving important public policies. Although the Commission may refer a Public Policy Requirement to the NYISO at any point, we anticipate that the NYISO will be providing the results of its next solicitation for stakeholder input on proposed Public Policy Requirements in October of this year. This will afford an opportunity for the Commission to consider the latest information on transmission congestion in certain regions, such as the northern and southwestern parts of the State, where additional transmission facilities may support the deployment of renewable resources needed to further the Commission's CES objectives of ensuring that 50% of all electricity consumed in NY by 2030 will be generated by renewable resources. The Commission also anticipates that the NYISO's upcoming Congestion Assessment and Resource Integration Study, which is expected later this year, will provide valuable information.

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<sup>24</sup> The EPA is currently soliciting comments on the repeal of the Clean Power Plan. See, 83 Fed. Reg. 4620 (Feb. 1, 2018).



To ensure the Commission remains fully informed and is prepared to act on a timely-basis, we direct DPS Staff to work with the NYISO and the NYTOs to identify potential transmission constraints on the bulk and non-bulk systems, considering current and projected resources. As some commenters, such as NAT acknowledge, new generation resources may or may not need additional bulk power transmission upgrades, depending on the size and location of new resources relative to the existing system and retiring resources. Therefore, the extent and magnitude of additional transmission needs requires further consideration and a more holistic approach. This effort should consider all relevant possible changes in resources, including centralized generation and local resources, and load.

To better inform the potential need for additional transmission facilities throughout the State in a least-cost manner, DPS Staff should collaborate with the NYISO and NYTOs in undertaking a comprehensive system review, building upon its initial State Resource Planning Analysis. This review should result in an objective long-term assessment that will assist the Commission in being transparent in identifying any Public Policy Requirements that warrant referral to the NYISO to solicit and evaluate potential solutions. For the forgoing reasons, we decline to identify, at this time, any further Public Policy Requirements.

#### CONCLUSION

The Commission declines to identify any Public Policy Requirements that should currently be referred to the NYISO. We direct DPS Staff, however, to collaborate with the NYISO and NYTOs to identify potential transmission constraints on the bulk and non-bulk systems that may be driven by Public Policy

Requirements. This information should inform the Commission's subsequent review and determination as to whether the public policies discussed herein, or others, may warrant designation as a Public Policy Requirement.

The Commission orders:

1. As discussed in the body of this Order, the proposals filed by the New York Independent System Operator, Inc. on October 3, 2016, shall not be considered Public Policy Requirements.

2. This proceeding is closed.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary