

# Mechanism to Implement Transmission Owners' ROFR for Upgrades: Reliability and Economic Processes

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# Agenda

- **Background**
- **Proposed ROFR Mechanisms for Upgrades**
  - Proposed Reliability Planning Process Mechanism
  - Proposed Short-Term Reliability Process Mechanism
  - Proposed Economic Planning Process Mechanism
- **Proposed Alignment of Designated NUFs**
- **Next Steps**

# Background

# Background

- On April 15, 2021, the Commission issued a declaratory order finding that the Transmission Owners in New York possess a federal ROFR for upgrades to their own existing transmission facilities, including upgrades that are part of another Developer's proposed transmission project that the NYISO selects in one of its competitive transmission planning processes.
- NYISO developed a mechanism to effectuate the Transmission Owners' reserved rights and filed the revisions to the OATT under Section 206 of the Federal Power Act ("FPA"), which the Commission accepted as just and reasonable in March 11, 2022.
- The findings in the 2021 declaratory order regarding the Transmission Owners' reserved rights to their existing facilities was not limited to the transmission facilities selected in the Public Policy Transmission Planning Process ("Public Policy Process").

# Background

- In 2023, the incumbent Transmission Owners commenced an initiative to revise the tariff to align the funding and cost recovery of Network Upgrade Facilities (“NUF”) that are identified for a selected Public Policy Transmission Project and that meet the definition of upgrade with the selected project.
- Following approval by the Committees and the Board of Directors, NYISO filed the revisions under Section 205 of the PA, which revisions were accepted by the Commission in Docket No. ER23-1151-000.

# Background

- The reliability and economic planning processes also result in regulated transmission solutions being triggered or selected by the NYISO or approved by identified beneficiaries for inclusion in NYISO's regional transmission plan for purposes of cost allocation and recovery under the OATT.
- However, there is no defined mechanism that implements the Transmission Owners' rights related to upgrades to their existing facilities in the reliability and economic planning processes.

# Background

- Under the current initiative, NYISO discussed proposed revisions to effectuate the rights of Transmission Owners for and enable the efficient handling of a regulated transmission solution that is identified through the reliability and economic transmission planning processes and that contains an upgrade to a Transmission Owner's existing transmission facility.
- NYISO proposes revisions to Attachments Y and FF, as well as Attachment P, to:
  1. Establish a mechanism to effectuate the right of Transmission Owners related to upgrades in the Reliability Planning Process ("RPP"), Short-Term Reliability Process ("STRP"), and Economic Planning Process ("EPP"); and
  2. Expand the mechanism in Attachment P that designates eligible NUFs to Transmission Owners to include NUFs identified for triggered, selected, or voted on regulated transmission solutions resulting from the RPP, STRP, and EPP.

# Previous Stakeholder Discussions

Date	Working Group	Discussion points and links to materials
1-21-2025	TPAS/ESPGW	Initial Discussion on Mechanisms to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes
2-20-2025	TPAS/ESPGW	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes
3-27-2025	ESPGW/TPAS	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes and presentation of draft tariff revisions
5-6-2025	TPAS/ESPGW	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes and presentation of draft tariff revisions
5-21-2025	ESPGW/TPAS	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes and presentation of draft tariff revisions
6-17-2025	BIC	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes and presentation of draft tariff revisions
6-20-2025	OC	Mechanism to Implement Transmission Owners' ROFR over Upgrades: Reliability and Economic Processes and presentation of draft tariff revisions



# Proposed ROFR Mechanisms for Upgrades

# Proposed ROFR Mechanism

- **Similar to the Public Policy Process, the proposed revisions relate to the inclusion of a mechanism in the RPP, EPP, and STRP to implement the Transmission Owners' rights related to upgrades contained in a regulated transmission solution. The mechanism in each process contains the following elements:**
  1. Obligation of qualified transmission developer to identify in its submittal the components of its proposed transmission solution as either new facilities or “upgrades” based on the definition in Section 31.6.4 of the OATT
  2. Characterization of the components of a proposed transmission solution by NYISO as either a new facility or an “upgrade”
  3. Opportunity for interested parties to submit comments on the characterization of the components of proposed transmission solutions
  4. Designation of the components of a triggered, selected, or approved regulated transmission solution to the applicable Designated Entity(ies) in the appropriate report/analysis
  5. Opportunity for applicable Transmission Owners to decline its designation to develop, own, and recover the cost of upgrade components under the NYISO OATT and procedures to address such declination
  6. Post-designation responsibilities of a Designated Entity, including, but limited to, entering into a development agreement
- **While each planning process will contain the above elements, the timing, the defined terms, and other details will differ to account for the specifics of each process.**

# Proposed ROFR Mechanism (cont.)

- **Obligation of qualified transmission developer to identify in its submittal the components of its proposed regulated transmission solution as either new facilities or “upgrades” based on the definition in Section 31.6.4 of the OATT**
  - Similar to the mechanism in the Public Policy Process and in addition to the existing information requirements in the OATT and applicable process manual, a Developer submitting a proposed regulated transmission solution will be required to provide the following information:
    - 1) Identification of transmission facilities contained in its project that it believes satisfies the definition of upgrade in Section 31.6.4 of the OATT,
    - 2) interconnection-related facilities that either (a) NYISO has identified as required to interconnect the proposed project through a NYISO-conducted study or (b) the Developer submitting the proposed regulated transmission solution voluntarily identifies as potentially necessary to reliably interconnect the proposed project (subject to modification based on a NYISO-conducted study), and
    - 3) a major milestone schedule, including the identification of any in-service dates for specific components (such as an upgrade to existing transmission facility) to properly sequence the project to meet the overall in-service date.
  - Following submission, NYISO will review the proposed regulated transmission solutions, including facility characterizations for transmission components submitted by the sponsoring Developer, using existing provisions to seek additional information.

# Proposed ROFR Mechanism (cont.)

- **NYISO characterizes the components of a proposed regulated transmission solution as either a new facility or an “upgrade”**
  - During NYISO’s evaluation of regulated transmission solutions and prior to a specific time prescribed for each process, NYISO will provide an initial list that characterizes the transmission facilities making up the regulated transmission solutions.
    - List will distinguish between new facilities and upgrades and specify the Transmission Owner that owns the existing facility to be upgraded, to the extent the information is available.
    - In a separate list for informational purposes only, NYISO will also identify interconnection facilities identified by the sponsoring developer (e.g., potential interconnection facilities) but will not characterize them.
    - Parties will have 20 calendar days to provide comments on or dispute the draft list of transmission facility characterizations.
    - Disputes will be attempted to be resolved as provided in Section 31.1.8.4 of the OATT.
  - NYISO shall provide the final list characterizing the facilities in a regulated transmission solution on or before a defined point in each process.

# Proposed ROFR Mechanism (cont.)

- **Identification of the Designated Entity(ies) Responsible for a Designated Transmission Project(s)**
  - Prior to a specific defined point in each process, NYISO will prepare and make available a preliminary list of Designated Entities and designated transmission projects.
    - Designated transmission projects will be designated as follows:
      - New transmission facilities will be designated to the entity that proposed the regulated transmission project
      - Upgrades will be designated to the Transmission Owner owning the existing facility to be upgraded
  - The designated transmission project(s) will contain all of the facilities that are designated to a particular Designated Entity.

# Proposed ROFR Mechanism (cont.)

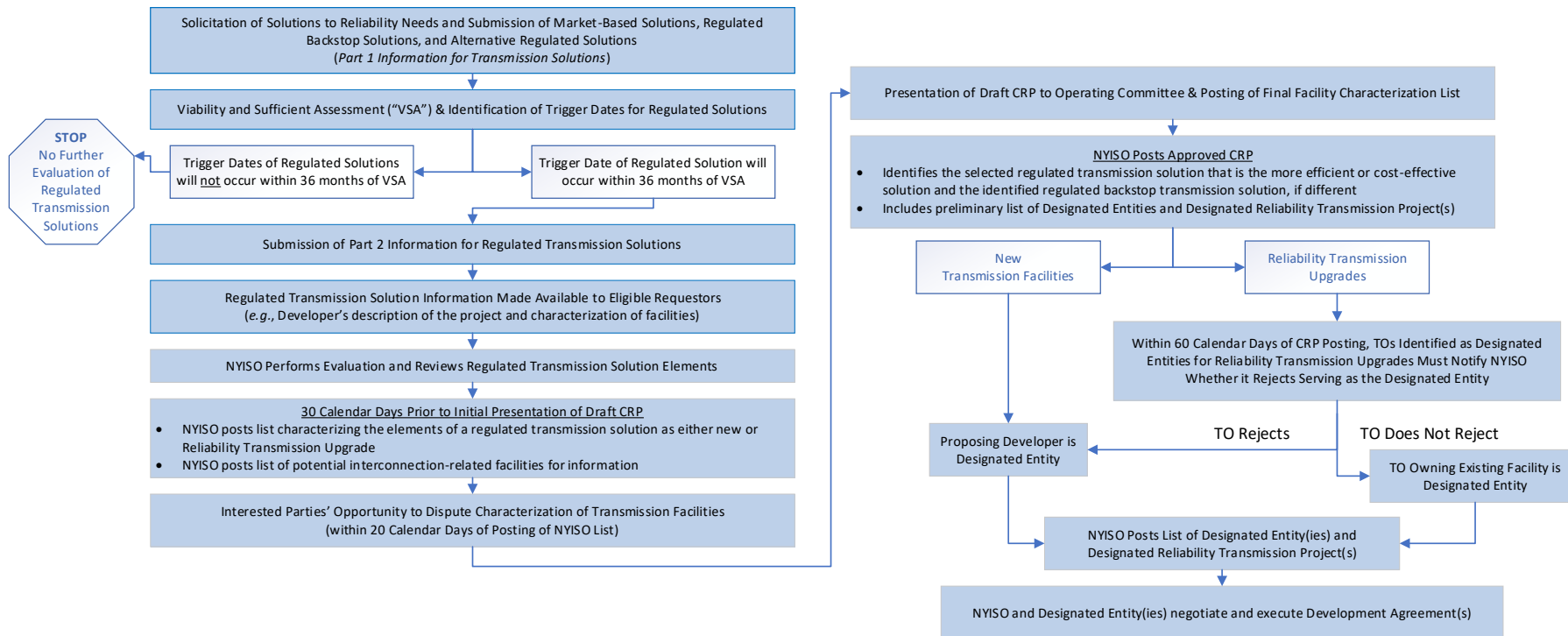
- **Exercise of Right of First Refusal for a Designated Transmission Project Consisting of Upgrades**
  - Within the prescribed time period for the specific planning process (i.e., 60 calendar days for RPP and EPP and 30 calendar days for STRP), any Transmission Owner that is identified as a Designated Entity must notify NYISO if it rejects the obligation to build, own, and recover the costs of one or more facilities contained in its designated transmission project that is comprised of upgrades.
  - Similar to the Public Policy Process mechanism, the following would occur:
    - If a Transmission Owner does not reject (either through an affirmative communication or no response), the Transmission Owner will be responsible for the designated transmission project consisting of upgrades, or
    - If a Transmission Owner rejects one or more of the components of its designated transmission project consisting of upgrades, then the developer that proposed the solution will be responsible for the rejected upgrades.

# Proposed ROFR Mechanism (cont.)

- **Post-Evaluation Responsibilities of a Designated Entity for a Designated Transmission Project**
  - Following the expiration of the period for the applicable Transmission Owner to provide notice whether it rejects a designated transmission project that is comprised of upgrades, the Designated Entity(ies) shall have the following responsibilities:
    - Obtain necessary approvals and authorizations for its designated transmission project
    - Enter into a Development Agreement for its designated transmission project in the form contained in Section 31.7 of the OATT for the specific process
    - Complete the applicable interconnection process for its designated transmission project, and
      - Consistent the existing rules in Attachment P for designated transmission project, proposed revisions would allow a Designated Entity of a designated transmission project to elect to join an existing TIP application with the permission of the Transmission Developer or initiate a new TIP application for the designated transmission project.
    - Eligibility to recover the costs of a designated transmission project under Rate Schedule 10 for solutions identified in RPP and EPP or Rate Schedule 16 for solutions identified in STRP.

# Reliability Process Mechanism

## Overview of Proposed Reliability Planning Process With a Mechanism to Implement NYTOs' ROFR Rights





# Reliability Process Mechanism (cont.)

- **In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the RPP:**
  - Subject to a requestor's compliance with NYISO's requirements concerning the disclosure of Critical Energy Infrastructure Information, interested parties may request certain information related to a proposed regulated transmission solution after the "second-part" submission of information in accordance with Section 31.2.6.1 of the OATT, which includes:
    - 1) sponsoring entity's identification of any Reliability Transmission Upgrade(s) included as part of its proposed solution, and
    - 2) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings
  - The proposed revisions to the RPP also clarify the confidentiality of proposed regulated solutions and the availability of information to facilitate parties' review of the facility characterizations, which tracks the provisions contained in the Public Policy Process.

# Reliability Process Mechanism (cont.)

- In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the RPP :
  - Revisions to the current *pro forma* Reliability Planning Process Development Agreement in Appendix B of Section 31.7 of the OATT to incorporate the responsibilities of a Designated Entity for a Designated Reliability Transmission Project, which are similar to those included in the *pro forma* Public Policy Transmission Planning Process Development Agreement with differences to account for the Reliability Planning Process.
  - In addition to the existing remedies under Section 31.2.10 of the OATT if a selected or triggered solution is unable to complete, proposed revisions address (a) the remedies related to the inability for a Designated Reliability Transmission Project comprised of Reliability Transmission Upgrades to complete and (b) the potential impact on other Designated Reliability Transmission Projects that are components of the same regulated transmission solution to a Reliability Need.

# Reliability Process Mechanism (cont.)

## Proposed Tariff Revisions Related to the RPP:

- Tariff modifications related to submission requirements and review of submissions are contained in the following sections:
  - Section 31.2.4.4.1
  - Section 31.2.4.4.2.2
  - Section 31.2.4.8.1
  - Section 31.2.4.8.2
- Tariff modifications for the availability of information for transmission projects are contained the following sections:
  - Section 31.2.5.1.3
  - Section 31.2.12.2
  - Section 31.2.12.3
  - Section 31.2.12.4
- Tariff modifications related to preparing and posting the list characterizing transmission facilities are contained in the following sections:
  - Section 31.1 (addition of “Reliability Transmission Upgrades” definition)
  - Section 31.5.6.5.2
  - Section 31.5.6.5.3
- Tariff modifications related to identifying the Designated Entity(ies) for a Designated Reliability Transmission Project(s) are contained in the following sections:
  - Section 31.1
  - Section 31.2.7
  - Section 31.2.7.3

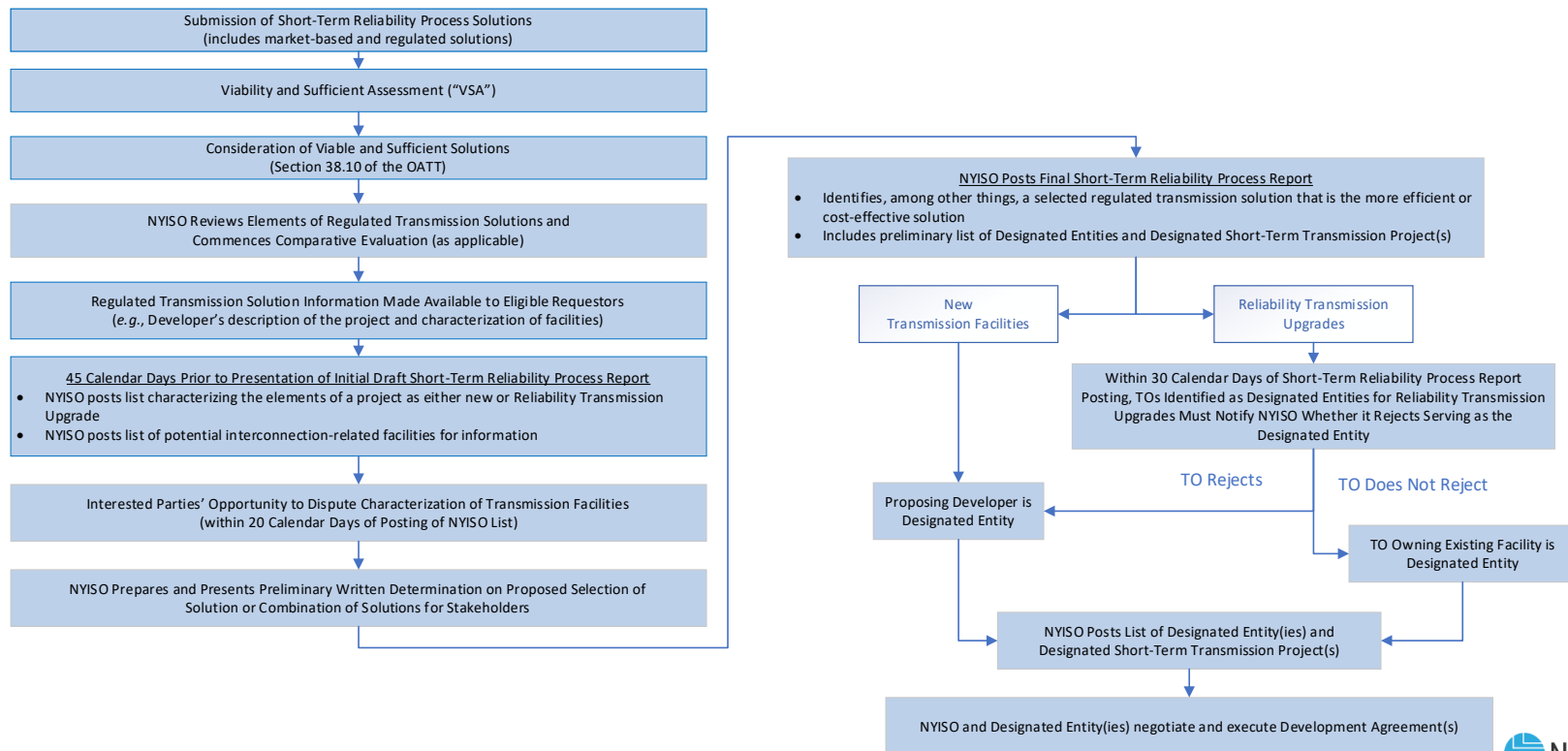
# Reliability Process Mechanism (cont.)

## Proposed Tariff Revisions Related to the RPP :

- Tariff modifications related to the exercise of right of first refusal for a Designated Reliability Transmission Upgrade are contained in the following sections:
  - Section 31.1
  - Section 31.2.7
  - Section 31.2.7.3
  - Section 31.2.7.5
- Tariff modifications related to the responsibilities of a Designated Entity for a Designated Reliability Transmission Project are contained in the following sections:
  - Section 6.10
  - Section 31.2.8
  - Section 31.2.9
  - Section 31.2.10.1
  - Section 31.2.10.2
  - New Section 31.2.10.3
  - Section 31.5.1
  - Section 31.5.3
  - Section 31.5.6.1
  - Section 31.7 (Appendix C – *pro forma* Development Agreement)

# Short-Term Process Mechanism

## Overview of Proposed Short-Term Reliability Process With a Mechanism to Implement NYTOs' ROFR Rights



# Short-Term Process Mechanism (cont.)

- **In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the STRP:**
  - Subject to a requestor's compliance with NYISO's requirements concerning the disclosure of Critical Energy Infrastructure Information Interested parties may request certain information related to a proposed regulated transmission solution, which includes:
    - 1) sponsoring entity's identification of any Reliability Transmission Upgrade(s) included as part of its proposed solution, and
    - 2) a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings
  - In addition to the existing remedies under Section 38.12.4.3 of the OATT if a solution is unable to complete, proposed revisions address (a) the remedies related to the inability for a Designated Reliability Transmission Project comprised of Reliability Transmission Upgrades to complete and (b) the potential impact on other Designated Reliability Transmission Projects that are components of the same regulated transmission solution to a Reliability Need.

# Short-Term Process Mechanism (cont.)

## Proposed Tariff Revisions:

- Tariff modifications related to submission requirements and review of submissions are proposed in the following sections:
  - Section 31.2.4.4.1
  - Section 31.2.4.4.2.2
  - Section 31.2.4.8.1
  - Section 31.2.4.8.2
- Tariff modifications for the availability of information for transmission projects are proposed the following sections:
  - Section 38.4.6
- Tariff modifications related to preparing and posting the list characterizing transmission facilities are proposed in the following sections:
  - Section 31.1 (addition of “Reliability Transmission Upgrades” definition)
  - Section 31.2.4.4 (by reference)
  - Section 31.2.4.8 (by reference)
  - Section 38.1 (addition of “Reliability Transmission Upgrades” definition)
  - Section 38.10.2.1.2
- Tariff modifications related to identifying the Designated Entity(ies) for a Designated Short-Term Transmission Project(s) are proposed in the following sections:
  - Section 31.1
  - Section 31.2.7
  - Section 38.1
  - Section 38.10.2.1.2
  - Section 38.10.2.1.3

# Short-Term Process Mechanism (cont.)

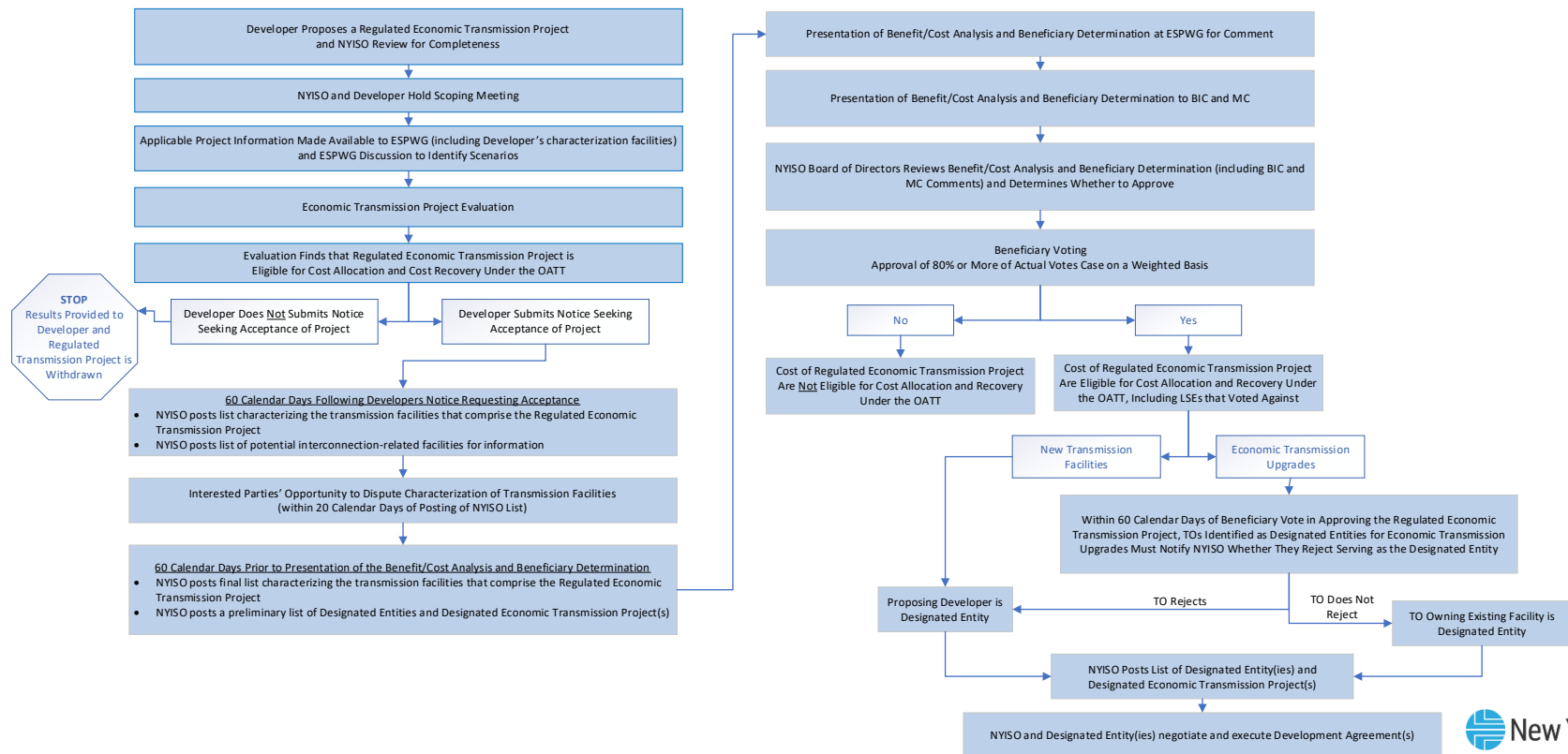
## Proposed Tariff Revisions:

- Tariff modifications related to the exercise of right of first refusal for a Reliability Transmission Upgrade are contained in the following sections:
  - Section 38.1
  - Section 38.10.6
- Tariff modifications related to the responsibilities of a Designated Entity for a Designated Reliability Transmission Project are contained in the following sections:
  - Section 6.16
  - Section 38.12.2
  - Section 38.12.3
  - Section 38.12.4
  - Section 38.12.4.1
  - Section 38.12.4.3
  - Section 38.12.4.4
  - Section 38.12.4.5
  - Section 38.22
  - Section 38.23



# Economic Proposed Mechanism

Overview of Proposed Economic Planning Process  
With a Mechanism to Implement NYTOs' ROFR Rights



# Economic Process Mechanism (cont.)

- **In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the EPP:**
  - Information related to the Regulated Economic Transmission Project will be made available in accordance with the process contained in the Economic Planning Process Manual, which will be updated following acceptance of these proposed, as necessary, to include:
    - a description of the project, including type, size, and geographic and electrical location, as well as planning and engineering specifications and drawings, and
    - sponsoring Developer's identification of any Economic Transmission Upgrade(s) included as part of its proposed Regulated Economic Transmission Project.
  - Similar to the Public Policy Process and following the NYISO's finalization of its characterization of facilities, the revisions would allow a Developer to update its capital cost estimate or its identification of permitting or other risks facing the project (i.e., risk profile) if NYISO's facility characterization determination differs from the Developer's characterizations of its proposed project.

# Economic Process Mechanism (cont.)

- In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the EPP:
  - While the RPP, STRP, and Public Policy Process had existing provisions to address post-approval processes, the tariff currently does not contain specific provisions addressing the inability to complete an approved Regulated Economic Transmission Project or a *pro forma* Development Agreement. As a result, the proposed revisions to the EPP also include:
    - A *pro forma* Development Agreement contained in a new Appendix E of Section 31.7 of the OATT, which is substantially modeled on the *pro forma* Public Policy Transmission Planning Process Development Agreement but adapted for the EPP.
    - Rules governing changes to a Designated Economic Transmission Project, which provides for a vote for the “continued implementation of a Regulated Economic Transmission Project” when a Designated Entity seeks a modification to the in-service date or a “Significant Modification” of the project, as defined in the *pro forma* Development Agreement.
      - A “Significant Modification” includes: “a Designated Entity’s proposed modification to its Designated Project that: (i) could impair the Transmission Project’s or Designated Project’s ability to achieve the benefit/cost ratio provided to the Identified Project Beneficiaries pursuant to Section 31.5.4.5.2 of Attachment Y of the OATT, (ii) could delay the In-Service Date of the Transmission Project or Designated Project beyond the Required Transmission Project In-Service Date or Required Designated Project In-Service Date, respectively, or (iii) would constitute a material change to the project information submitted by the Developer under Attachment Y of the OATT for use in evaluating and approving the Transmission Project”

# Economic Process Mechanism (cont.)

- **In addition to the elements of the mechanism discussed above, the proposed revisions also include the following related to the EPP:**

- As a result, the proposed revisions to the EPP also include: (cont.)
  - The proposed tariff provisions will also provide actions that may be taken to address the inability of a Designated Entity to complete a Designated Economic Transmission Project, while also addressing the recovery of costs if a Designated Economic Transmission Project cannot be completed or is halted but tailored the rules to the nature of the Economic Planning Process. Such actions include:
    - Offer the original Developer to be the Designated Entity of a Designated Economic Transmission Project that was initially designated to the owner of the impacted, existing transmission facility and, if accepted, inform the Load Serving Entity(ies) that voted to approve the Regulated Economic Transmission Project.
    - Where the original Developer is unable to complete its Designated Economic Transmission Project, advise the other Designated Entity(ies) with a Designated Economic Transmission Project(s) that is a part of the same Regulated Economic Transmission Project to halt its respective Designated Economic Transmission Project and inform the Load Serving Entity(ies) that approved the Regulated Economic Transmission Project.
  - Revisions clarify that any cost sharing proposal submitted by a Developer shall not apply to a Designated Entity, which is designated a Designated Economic Transmission Project due to the Transmission Owner owning the transmission facility to be upgraded, unless the Transmission Owner otherwise agrees to be so responsible.

# Economic Process Mechanism (cont.)

## Proposed Tariff Revisions:

- Tariff modifications related to submission requirements and review of submissions are proposed in the following sections:
  - Section 31.3.2.3
- Tariff modifications related to preparing and posting the list characterizing transmission facilities are proposed in the following sections:
  - Section 31.1
  - Section 31.3.2.3.7
  - Section 31.3.2.4.1
  - Section 31.3.2.4.2
- Tariff modifications related to identifying the Designated Entity(ies) for a Designated Economic Transmission Project(s) are proposed in the following sections:
  - Section 31.1
  - Section 31.3.2.4.2
- Tariff modifications related to the exercise of right of first refusal for an Economic Transmission Upgrade are contained in the following sections:
  - Section 31.1
  - Section 31.3.2.4.3
  - Section 31.3.2.5
- Tariff modifications related to the responsibilities of a Designated Entity for a Designated Economic Transmission Project are contained in the following sections:
  - Section 6.10
  - Section 31.3.2.6
  - Section 31.3.2.6.1
  - Section 31.3.2.6.2
  - Section 31.5.4.6.6
  - Section 31.5.4.7
  - Section 31.5.6.2
  - Section 31.7 (Appendix E – *pro forma* Development Agreement)

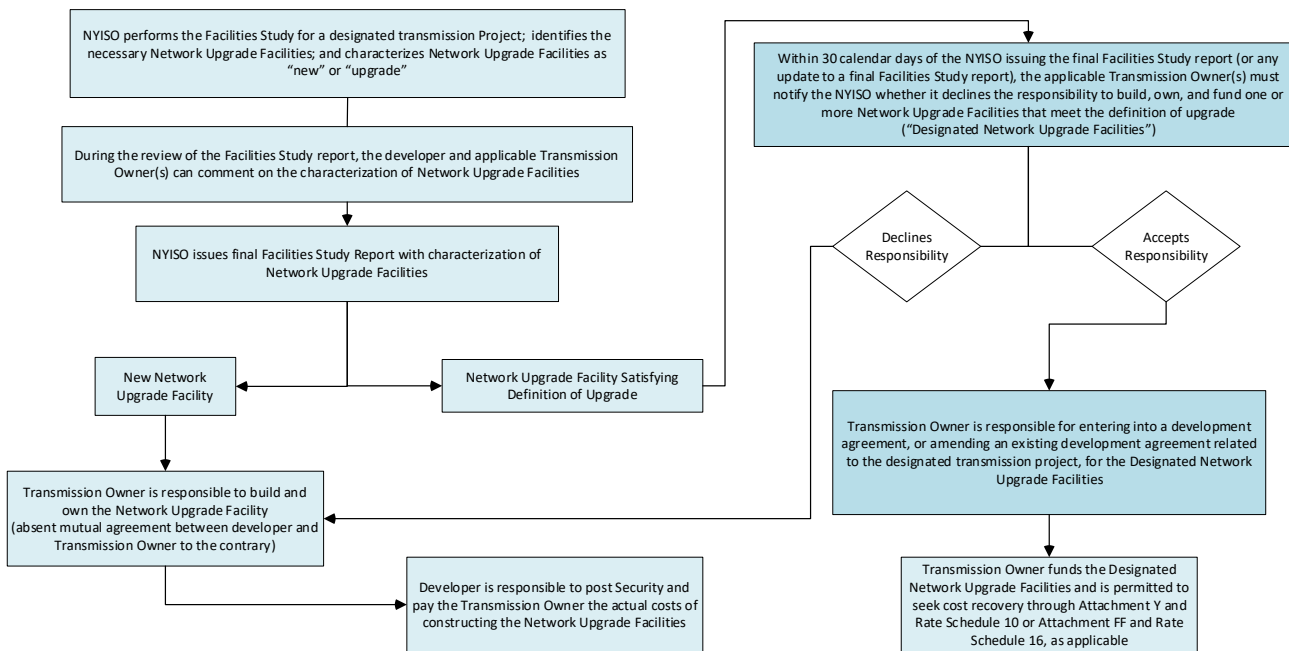
# Proposed Alignment of Designated NUFs

# Proposed Alignment of Designated NUFs

- In 2023, incumbent New York Transmission Owners commenced an initiative to revise the tariff to align the funding and cost recovery NUFs that are identified for a selected Public Policy Transmission Project and that meet the definition of upgrade in Section 31.6.4 of the OATT with the selected project.
- Consistent with the revisions accepted by the Commission for the designation of these NUFs, NYISO seeks to align the funding responsibilities and cost recovery of eligible NUFs identified in the Transmission Interconnection Procedures for regulated transmission projects selected, triggered, or voted on:
  - Designated Reliability Transmission Project
  - Designated Short-Term Transmission Project
  - Designated Economic Transmission Project

# Proposed Alignment of Designated NUFs (cont.)

## Overview of Designation Decision for Network Upgrade Facilities for a Designated Transmission Project





# Proposed Alignment of Designated NUFs (cont.)

## ■ Proposed revisions include:

- Adjustments to the terminology in Attachment P associated with a Designated NUF to not only include eligible NUFs identified for Designated Public Policy Projects but also those identified for:
  - Designated Reliability Transmission Projects,
  - Designated Short-Term Transmission Projects, and
  - Designated Economic Transmission Projects.
- Conforming changes in Sections 6.10, 6.16, 31.5, 38.22 and 38.23 of the OATT
  - Eligibility for the recovery of costs for Designated NUFs identified for Designated Reliability Transmission Projects, Designated Short-Term Transmission Projects, and Designated Economic Transmission Projects.
  - Cost allocation for Designated NUFs will be consistent with the method for the associated Designated Reliability Transmission Project, Designated Short-Term Transmission Project, Designated Economic Transmission Project, and Designated Public Policy Project.
- Conforming changes or inclusions in the *pro forma* Development Agreements for the Reliability Planning Process and the proposed *pro forma* Development Agreement for the Economic Planning Process.

# Proposed Alignment of Designated NUFs (cont.)

## ■ Proposed Tariff Revisions:

- Section 6.10
- Section 6.16
- Section 22.1
- Section 22.4.1
- Section 22.4.2.4
- Section 22.5.4.2
- Section 22.9.6
- Section 22.11.1
- Section 22.11.2
- Section 22.11.3
- Section 31.7, Appendices C and E
- Section 38.22
- Section 38.23

# Conforming & Ministerial Tariff Revisions

- NYISO proposes conforming revisions based on the additional definitions and the proposed mechanisms to effectuate the Transmission Owners' rights related to upgrades to their existing transmission facilities.
- NYISO proposes to update the list of Transmission Owners in Section 31.1.7.6 of the OATT to include NextEra Energy Transmission New York, Inc. and LS Power Grid New York Corporation I.
- NYISO also proposes ministerial and clean-up revisions discovered in its review of the relevant tariff provisions and *pro forma* development agreements.

# Next Steps

# Next Steps

- **NYISO targets a filing under Section 205 of the FPA in or around July 2025 following authorization by the Board of Directors.**
  - **Effective Date:** Filing will seek the revisions to be effective following the statutory sixty-day notice period under Section 205 of the FPA.

# Our Mission & Vision



## Mission

Ensure power system reliability  
and competitive markets for New  
York in a clean energy future



## Vision

Working together with stakeholders  
to build the cleanest, most reliable  
electric system in the nation