

**Comments of LS Power Grid New York, LLC on
Updated Straw Proposal to Address Upgrades
in the Public Policy Transmission Planning Process**
September 5, 2019

LS Power Grid New York, LLC (“LS Power”) offers the following comments in response to the Updated Straw Proposal to Address Upgrades in the Public Policy Transmission Planning Process (“Straw Proposal”) as discussed at the August 20, 2019 joint meeting of the Transmission Planning Advisory Subcommittee (“TPAS”) and Electric System Planning Working Group (“ESPWG”).

As observed by many participants at the August 20 meeting, the Straw Proposal as presented would have a significant negative impact on competitive transmission in New York State. Given the state’s preference for use of existing rights-of-way, and the fact that most existing rights-of-way are occupied, it is likely that a future PPTPP would involve removing an existing transmission line and replacing it with a new transmission line of a higher voltage. The NYISO proposal to exclude the majority of such proposals from competition by adding a right-of-first-refusal for an existing transmission owner would significantly curtail participation by non-incumbent developers.

I. Definition of Upgrade in Section 31.6.4

Section 31.6.4 has a complex history. It was first proposed in NYISO’s Order 1000 compliance filing on October 11, 2012 with the clearly stated purpose related solely to an incumbent’s Local Transmission Plan (“LTP”):

“The Filing Parties, therefore, propose to modify Attachment Y to explicitly provide that incumbent TOs have the right to make upgrades to their own facilities or use existing ROWs *to meet their local system needs.*” (emphasis added)

FERC partially accepted the provision in its April 18, 2013 Order, but required the definition of “upgrade” to comply with the definition under Order No. 1000-A. There four separate compliance filings to satisfy this requirement (October 15, 2013, September 15, 2014, and September 13, 2016, and March 19, 2018) as the filing parties continued to make changes to broaden the scope of Section 31.6.4. At all times, however, the definition of “upgrades” under the Section 31.6.4 was required by FERC to be consistent with Order No. 1000-A: “an improvement to, addition to, or replacement of a part of an existing transmission facility and shall not refer to an entirely new transmission facility.”

Yet again NYISO and the transmission owners are trying to expand the interpretation of this provision to include an entirely new transmission facility as an “upgrade”, contradicting its plain language. “[A]n entirely new transmission facility” is not an upgrade under Order No. 1000-A or Section 31.6.4. The Straw Proposal inappropriately expands the definition of “upgrade” under Section 31.6.4 and also makes reference to irrelevant provisions of other RTOs/ISOs. As with many provisions of the NYISO tariff, the definition of “upgrade” under Section 31.6.4 is not related in any way to the definition of “upgrade” in another RTO or ISO, which all have different planning processes including different Order No 1000 competitive processes.

In addition to quoting Section 31.6.4, the Straw Proposal provides an expanded definition of “Upgrade” on Slide 14:

▪ **“Upgrade” includes:**

- any improvement to an existing transmission facility,
- addition to an existing transmission facility,
- replacement of a part of an existing transmission facility,
- relocation of an existing transmission facility, or
- decommission of an existing transmission facility;

provided, however, that the proposal is not an expansion of the New York State Transmission System that adds a new electrical pathway(s) or functionality that did not exist prior to the expansion or that functions electrically independent from existing transmission facilities.

This expanded definition is not appropriate. The first 3 bullets are consistent with the language of Section 31.6.4. The fourth and fifth bullets could capture “an entirely new facility”, contrary to Section 31.6.4.

The fourth bullet could contradict the definition of upgrade under Section 31.6.4. A relocation of an existing transmission facility is a subset of a replacement. If the relocation is of a part of an existing facility, it could properly be considered an upgrade under Section 31.6.4. However, a relocation of an entire facility would be an entirely new facility and is not an upgrade under Section 31.6.4. The specific addition of the fourth bullet, “relocation of an existing transmission facility”, is unnecessary and could contradict Section 31.6.4, depending on the facts.

The fifth bullet could contradict the definition of upgrade under Section 31.6.4. Removal of a facility is not an “improvement”, “addition”, or “replacement”. As stated above, the standard for an upgrade under Section 31.6.4 is if the action is related to a part of a facility, in which case removal of a facility would be an upgrade, or related to an entire facility, in which case removal and decommissioning would not be an upgrade under Section 31.6.4.

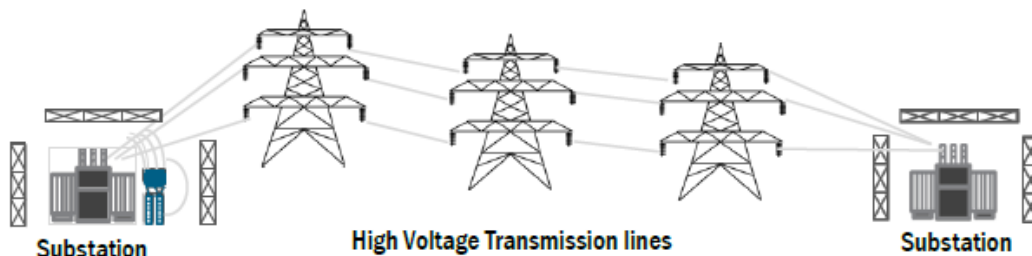
The addition of the proviso that an element that “adds a new electrical pathway or functionality that did not exist prior to the expansion or that functions electrically independent” does provide helpful guidance. From a planning perspective, this implies a rule of thumb that a change to an existing element (such as a re-rating due to reconductor or replacement) is an upgrade (under 31.6.4), but a new element (such as a new transmission line, transformer) is not an upgrade (under 31.6.4). This makes sense from a planning perspective: an idev (that makes changes to a PSSE load flow file) that changes the rating of an existing line/branch/element would be an upgrade; but an idev that adds a new line/branch/element would not be an upgrade. However, this addition also creates a potential contradiction of a rebuild of a facility that is an entirely new facility, and therefore not an “upgrade” under Section 31.6.4 but does not add a new electrical pathway or functionality. It is not necessary to add this concept to the definition, but helpful to provide guidance like this to stakeholders.

The expanded definition on slide 14 is missing the language from Section 31.6.4 that an upgrade “shall not refer to an entirely new transmission facility.”

There is another specific circumstance where a proposal should not be considered an upgrade under Section 31.6.4. In the event where the PSC explicitly defines the competitive PPTN as requirement replacement of an existing transmission line, there should not be a right-of-first-refusal for that portion of a proposal. In such case, the NYISO process should recognize there is not a right of first refusal including under Section 31.6.4 for such elements of any participants proposal.

As discussed below, many of the examples that follow in the presentation are not consistent with the definition of “upgrade” in Section 31.6.4 or the expanded definition on Slide 14. Each of the examples from the August 20, 2019 presentation are repeated below, followed by a discussion.

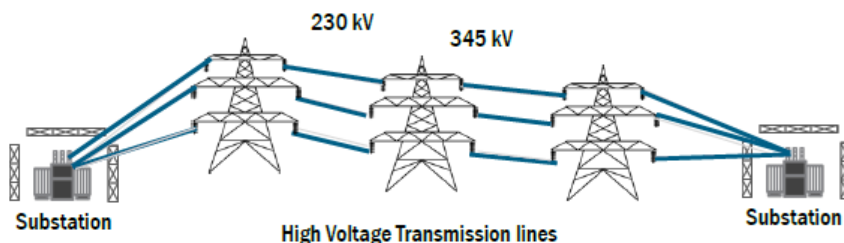
Example 1: Increase the rating of a 345 kV line by replacing an existing wavetrap



Upgrade, as it is an improvement to an existing transmission facility or a replacement of a part of an existing transmission facility

This example would be an upgrade under Section 31.6.4 as it represents an improvement to an existing transmission and does not add a new electrical pathway or functionality, or function electrically independent.

Example 2: Reconductor an existing 230 kV transmission line with a 345 kV conductor on the existing structures with same substations

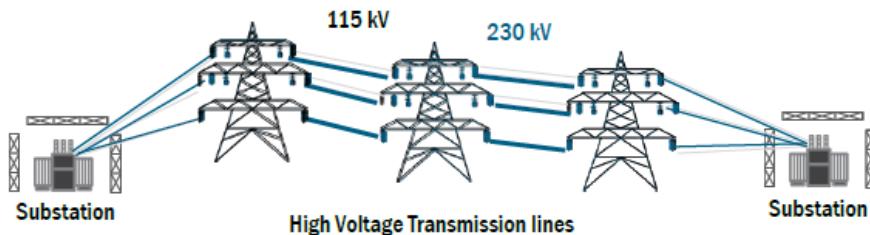


Upgrade, as this is an improvement to an existing transmission facility by increasing the nominal voltage

This example requires some additional information in order to reach a conclusion. The description in the upper text implies only a change in conductor, while the lower text describes a change in voltage. For the purposes of the discussion, we assume the example intends only a reconductor to a 345 kV capable conductor, without a change in voltage.

A scenario where an existing 230 kV transmission line is reconducted on the existing structures would be an upgrade under Section 31.6.4. This would represent an improvement to an existing transmission and does not add a new electrical pathway or functionality, or function electrically independent.

Example 3: Replace an existing 115kV transmission line with a 230 kV transmission line by removing the existing 115 kV line and rebuilding a 230 kV line on new structures, new insulators, etc. in the same right-of-way with same substations

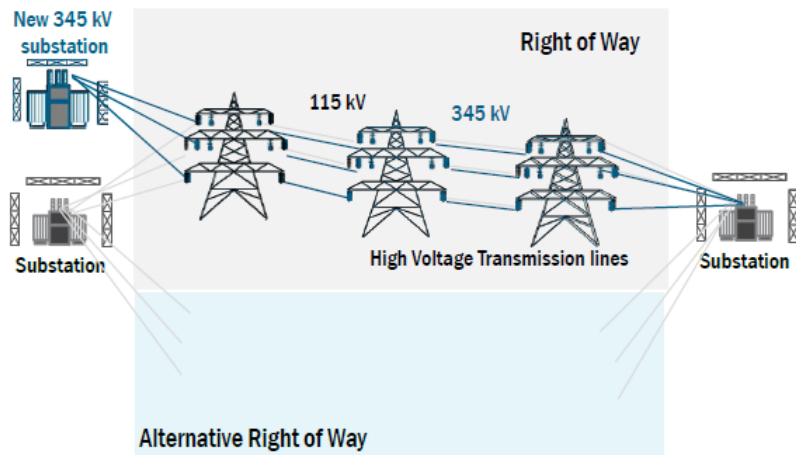


Upgrade, as this is an improvement to an existing transmission facility by increasing the nominal voltage

This example is electrically impossible, since a 230 kV transmission line cannot connect to the same 115 kV substations. It is possible that the 115 kV substations also have facilities at 230 kV, but the 230 kV bus would be considered to be a different terminal from a transmission planning perspective, with a different bus number. A line between the 230 kV busses would represent a new electrical pathway. More likely this scenario would require one or more new 230/115 kV transformers in order to be implemented, which would also represent a new electrical pathway, and function electrically independent.

In either case, with or without new 230/115 kV transformers, this example would not be an “upgrade”. The new 230 kV transmission line is an “entirely new facility” and therefore not an upgrade under FERC Order No. 1000-A or Section 31.6.4. Furthermore, the new 230 kV transmission line would add a new electrical pathway that did not exist prior to the expansion. The system topology would be significantly different with a higher voltage transmission line. If new 230/115 kV transformers were added, they would function independently from existing transmission facilities. Each of these facts would not be an upgrade under the guidance on Slide 14. The conclusion in the presentation that Example 3 would represent an upgrade under Section 31.6.4 is not consistent with the plain language of Section 31.6.4 or with the interpretation of Slide 14.

Example 4: Relocate an existing 115 kV transmission line to alternative right-of-way (ROW) in order to accommodate a new 345 kV transmission line originating from a new substation



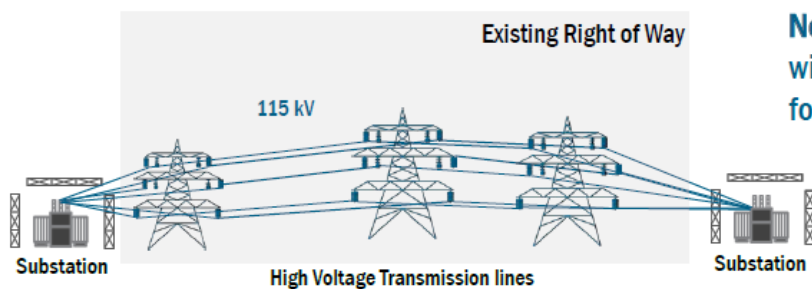
New Facility = new 345 kV line, towers, and substation, and Developer will need to negotiate with TO for ROW use

Upgrade = relocated 115 kV as well as any added ROW to accommodate facility



As discussed above, a relocation of an entire transmission line represents an entirely new facility, which would not be an upgrade under FERC Order No. 1000-A or the plain language of Section 31.6.4. LS Power would note that a relocation of an entire transmission line does not seem likely. It is more likely that only a portion of a transmission line would require relocation, which would be an upgrade.

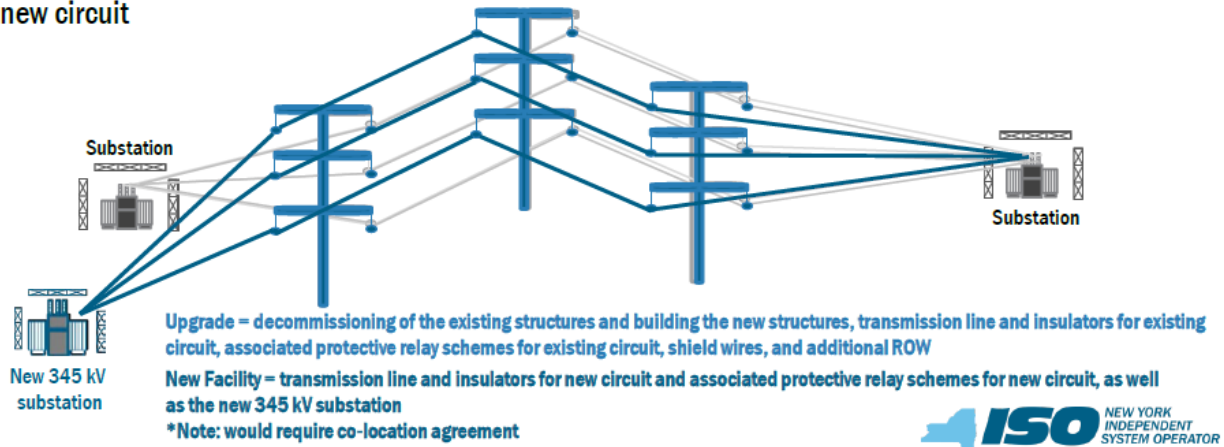
Example 5: Build a new 115 kV transmission line and new structures in an existing ROW



New Facility, and Developer will need to negotiate with TO for ROW use

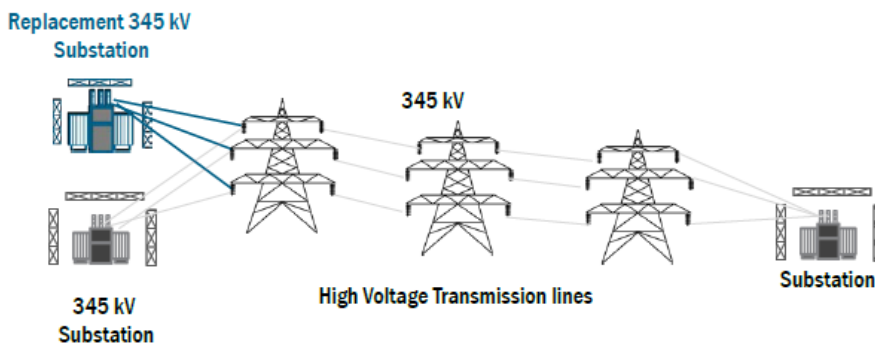
This scenario does not represent an upgrade under Section 31.6.4. It represents both an “entirely new facility” under FERC Order No. 1000-A and Section 31.6.4 and adds a new electrical pathway under the guidance on Slide 14, in each case not qualifying as an upgrade.

Example 6: Co-locate a new 345 kV circuit originating from a new substation on an existing single-circuit transmission line with structures that cannot be expanded to accommodate the new circuit



LS Power understands that this example constitutes an entire rebuild of all structures with new conductor. Assuming that is the case, this example does not represent an upgrade under FERC Order No. 1000-A or Section 31.6.4. It represents both an “entirely new facility” under Section 31.6.4 and adds a new electrical pathway under the guidance on Slide 14, in each case not qualifying as an upgrade.

Example 7: Relocate an existing substation to accommodate a proposed project by building a new 345 kV substation near the existing substation and routing all transmission circuits from the existing substation into the replacement substation and removing the existing substation

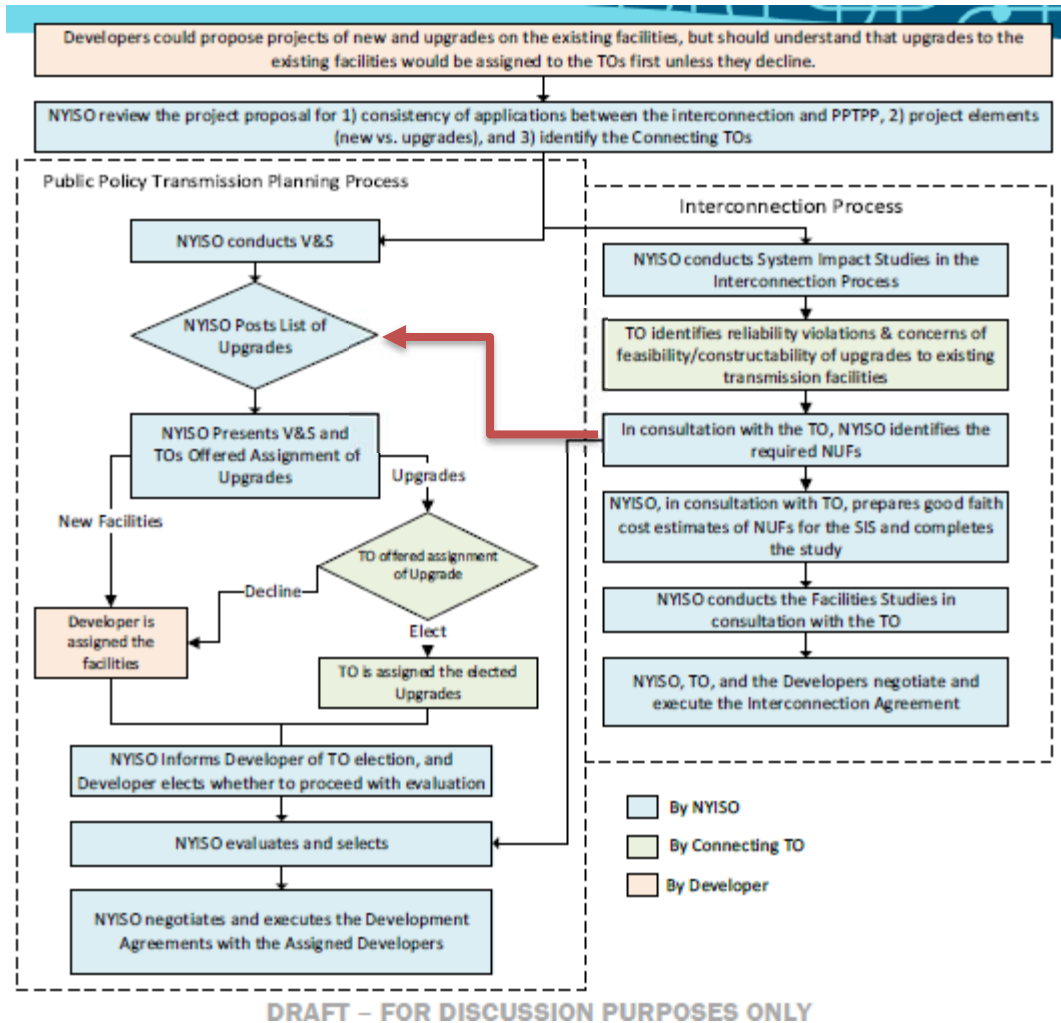


Upgrade = relocated 345 kV substation and removal of existing substation

As discussed above, a relocation of an entire substation would represent an entirely new facility, and would not be considered an upgrade under FERC Order No. 1000-A or Section 31.6.4.

II. Process Comments

A key goal of the PPTPP lessons learned processes was to streamline the PPTPP process. The Straw Proposal reverses progress made in those efforts and instead significantly lengthens the PPTPP. The flowchart from slide 10 of the Straw Proposal is shown below, with one addition. A thick red arrow has been added to represent a dependency that is not properly identified. The first step after NYISO completes V&S is “NYISO Posts List of Upgrades”. This step cannot be completed until after “In consultation with the TO, NYISO identifies the required NUFs” in the Interconnection Process. This has the potential for significant delay. The next several steps in the PPTPP process have also been added, where TOs are offered assignment of upgrades, then the developer is notified of the election and elects whether to proceed with the evaluation. All of these steps have been added prior to NYISO beginning the full comparative evaluation in the PPTPP process, again causing significant unnecessary delay.



The Straw Proposal provides that a Developer can elect to withdraw a proposal in the event the incumbent transmission owner elects a significant ownership amount of the Developer’s proposal.

This is hardly reasonable recourse after investing significant time, effort, and resources into a proposal that has been largely co-opted by another party.

Finally, the Straw Proposal conflates the issue of ownership of upgrades with cost responsibility for upgrades. As discussed above, LS Power agrees that the incumbent transmission owner could have the right to own certain transmission facilities defined as upgrades under Section 31.6.4. However, as discussed in our June 3, 2019 comments on this same topic, incumbent ownership of upgrades does not necessarily mean cost responsibility for upgrades, and does not mean the incumbent has the right to recover costs under Rate Schedule 10. Attachment Y is clear that only the Developer shall be eligible to recover costs under Rate Schedule 10.¹ As with the interconnection process for generators, transmission developers would be responsible for the cost of all connection facilities and network upgrade facilities. Transmission owners would be paid for all costs for interconnection facilities and network upgrade facilities from the interconnection customer, in this case the Developer, and would not recover such costs in rates. The Developer would in turn recover the costs related to interconnection facilities and network upgrade facilities in its rates under Rate Schedule 10. The proposal to add the TO as a co-developer goes far beyond the intent of Section 31.6.4 to “meet ... local system needs”.

The addition in the Straw Proposal that the incumbent transmission owner will become “co-sponsoring Transmission Developer” and have the opportunity to recover costs under Rate Schedule 10 is a significant departure from the existing process and will deter participation from non-incumbent developers.

III. Conclusion

The prior draft of the Straw Proposal has the stated goal of establishing a procedure to “Administer Section 31.6.4 of Attachment Y”. No tariff changes are required to implement Section 31.6.4. Better defining what is considered an upgrade under Section 31.6.4 is helpful, but does not require any changes to the tariff. Having the selected developer pay for any such upgrades, and recover its costs under Rate Schedule 10 does not require any changes to the tariff. No changes are required to the PPTPP flowchart in order to clarify the administration of Section 31.6.4 as described herein.

¹ 31.4.8.2 **ISO Selection of More Efficient or Cost Effective Regulated Public Policy Transmission Project to Satisfy a Public Policy Transmission Need.** 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. The Developer of a regulated Public Policy Transmission Project shall be eligible to recover costs for the project only if the 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 project is completed pursuant to a rate schedule filed with and accepted by the Commission in accordance with the cost recovery requirements set forth in Section 31.5.6.5, or as otherwise determined by the Commission. Actual project cost recovery, including any issues related to cost recovery and project cost overruns, will be submitted to and decided by the Commission.