August 16, 2019

Ms. Yachi Lin, Senior Manager, Transmission Planning
New York Independent System Operator
10 Krey Boulevard
Rensselaer, NY 12144

Sent Via Email to Public Policy Planning Mailbox

RE: NYISO Proposal for Cost Containment

Dear Ms. Lin:

NEETNY ("NextEra Energy Transmission New York") greatly appreciates the time and effort that the NYISO ("New York Independent System Operator") has put into developing a comprehensive cost containment proposal for stakeholders. NEETNY is supportive of NYISO's cost containment proposal, which offers flexibility to developers and provides an effective methodology to compare different solutions on a qualitative and quantitative basis. NEETNY offers the following limited comments for NYISO's consideration.

1. *NYISO should not adopt the Alternative Adjustment proposal from the August 6th ESPWG presentation*

In its August 6, 2019 presentation, NYISO staff offered an alternative methodology to adjust project costs for risk-sharing proposals for evaluation purposes only when they differ from NYISO's independent project cost estimate. NYISO mathematically determined that there is a "break point" for customers benefit from cost contained bids offering at least a 20% risk share. However, the proposed adjustment of cost contained bids versus independent estimates using a "divide by 2" was not based on any sort of mathematical calculation, but was based on an arbitrary value to incentivize developers to propose at least a 20% risk share. NEETNY agrees that this approach does incentivize developers to propose at least a 20% risk share, but NEETNY also believes this approach penalizes developers from proposing anything greater than a 20% risk share under NYISO's quantitative comparison of cost contained bids. This occurs because NYISO's proposed "divide by 2" narrows the gap quantitatively between an 20% risk share proposal versus a 100% risk share proposal.

Instead, if NYISO wishes to incentivize developers to propose at least a 20% risk share, NYISO should just simply state that for the purposes of evaluating proposals, it will treat risk share proposals of less than 20% the same as proposals with no cost containment. This approach incentivizes developers to propose 20% risk share, but does not penalize them for proposing more aggressive cost contained proposals.

2. *NYISO should solicit additional information from developers when cost contained proposal costs differ significantly from NYISO's independent estimate*

NEETNY appreciates that NYISO wants to ensure that developers offering cost contained bids can deliver projects at those costs. However, the NYISO proposed language is vague and does not provide the clarity for developers to effectively take into consideration the qualitative factors in their bid. Per NYISO's draft tariff language, it is implied that developers who submit cost contained estimates which differ significantly from the NYISO independent consultant estimate may be penalized in the evaluation. NEETNY cautions the NYISO that an overreliance on the independent consultant's estimate may discount the experiences developers bring to the process such as innovative construction methods, experience with different technologies, and relationships with suppliers/contractors that enable them to leverage more competitive pricing. Although a significant difference between a developers proposed estimate and the independent consultants estimate may be reason to provide greater scrutiny, it should not be a reason to penalize the proposal as can be inferred from the proposed tariff language. One of the strengths of this NYISO competitive process is the diversity in experience and expertise brought by the participating developers. This diversity may bring innovations driving a strong cost containment proposal. Therefore, if during the evaluation process, the NYISO has concerns with a developers' cost contained proposal, the NYISO should solicit additional supporting information from the developer and provide the developer the opportunity to address those concerns. A developer may then be able to demonstrate its unique experience and expertise by providing supporting engineering materials or a financial guarantee that will provide the NYISO confidence in that cost contained proposal and not unnecessarily penalize an attractive, innovative proposal.

3. *NEETNY proposal in response to NYISO's proposed tariff changes*

Additionally, during the August 6, 2019 ESPWG ("Electric System Planning Working Group"), NYISO presented proposed tariff changes consistent with NYISO's proposals. NEETNY has attached its markup of those tariff changes which are consistent with these comments. NEETNY offers the following proposed changes to the NYISO draft tariff:

- 31.4.5.1.8.2. – NEETNY added in language excluding from the cost cap system upgrades identified by the developer that are to be constructed by the transmission owner.

- 31.4.5.1.8.5. – NEETNY added in excusing conditions from the cost cap that were addressed at the May 31, 2019 ESPWG meeting. Such excusing conditions include: 1) changes or delays caused by NYISO or the transmission owners, 2) instances of Force Majeure, 3) changes in law or regulation, 4) material modifications to the scope or routing of the project pursuant to the Article VII or siting process, and 5) any actions or inactions of regulatory or government entities or court orders.

- 31.4.8.2.1.1. – NEETNY made it a little clearer that NYISO will use the developer's hard cost cap for purposes of the NYISO qualitative analysis when it differs from the independent evaluator's estimate.

- 31.4.8.2.2. – NEETNY attempted to simplify NYISO's quantitative analysis. Under NEETNY's proposal, NYISO will consider: 1) whether or not there is a cost contained proposal, 2) whether it is hard or soft, 3) what is the risk sharing percentage, and 4) if the cap is significantly above or below the independent estimate. In this last instance, NYISO will consult with the developer to better understand why there is such a discrepancy prior to the issuance of the draft report.

NEETNY looks forward to discussing these comments with NYISO and other interested stakeholders at the August 20, 2019 ESPWG meeting.

Sincerely yours,

Stephen Gibelli
Senior Director, Regulatory Affairs and Strategy
NextEra Energy Resources

Richard Allen
President
NextEra Energy Transmission New York