

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

July 3, 2023

In Reply Refer To:  
New York Independent System  
Operator, Inc.  
Docket No. ER23-1839-000

New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
Attention: Sara B. Keegan, Esq.

New York Power Authority  
30 South Pearl Street  
Albany, NY 12207  
Attention: Nathan D. Markey, Esq.

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
Room 18-834  
New York, NY 10003  
Attention: Paul A. Savage, Esq.

Dear Sara Keegan, Nathan Markey, and Paul Savage:

1. On May 5, 2023, pursuant to section 205 of the Federal Power Act<sup>1</sup> (FPA) and section 35.13 of the Commission's regulations,<sup>2</sup> the New York Independent System Operator, Inc. (NYISO), Consolidated Edison Company of New York, Inc. (Con Edison), and New York Power Authority (NYPA) (collectively, Joint Filing Parties) filed an executed Transmission Facility Interconnection Agreement for the Astoria-Rainey Cable and upgrades concerning the Champlain Hudson Power Express project (Interconnection Agreement) among the Joint Filing Parties and CHPE LLC (Champlain) as the Developer. We accept the Interconnection Agreement, effective April 21, 2023, as requested, as discussed below.

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2022).

2. The Joint Filing Parties state that the Interconnection Agreement, designated as Service Agreement No. 2772 under the NYISO's Open Access Transmission Tariff (OATT),<sup>3</sup> governs the interconnection of Champlain's proposed merchant transmission facility, a 1,250 MW high voltage direct current transmission facility that will run from the United States and Canada border to NYPA's Astoria Annex 345 kV Substation in Astoria, Queens, New York.<sup>4</sup> Champlain's merchant transmission facility participated in NYISO's Class Year Interconnection Facilities Study (Class Year Study) for Class Year 2021 and is also subject to an interconnection agreement among NYISO, NYPA, and Champlain that was filed with and accepted by the Commission (the Merchant Transmission Facility Interconnection Agreement).<sup>5</sup>

3. The Joint Parties state that the Interconnection Agreement also governs certain facility upgrades identified in the Class Year Study for Class Year 2021 including: (1) a 345 kV cable running from NYPA's Astoria Annex Substation to Con Edison's Rainey Substation (Astoria-Rainey Cable) that, after construction and transfer consistent with the Merchant Transmission Facility Interconnection Agreement, will be owned by NYPA, with related System Upgrade Facilities at the Rainey Substation; (2) reconductoring the overhead 138 kV portion of Con Edison's Feeder # 34091; and (3) upgrades to Con Edison's Rainey Substation needed to address impacts on Con Edison's transmission system as an Affected System (collectively, the Upgrades).<sup>6</sup>

4. The Joint Filing Parties state that the Interconnection Agreement substantially conforms to the language in the *pro forma* Large Generator Interconnection Agreement (LGIA) contained in Attachment X to the NYISO OATT, with limited exceptions.<sup>7</sup> The Joint Filing Parties state that they have modified NYISO's *pro forma* LGIA to apply to a transmission project instead of a generating facility. The Joint Filing Parties assert that therefore unique circumstances require a non-conforming agreement, satisfying the Commission's standard for variation from the *pro forma* LGIA.<sup>8</sup>

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<sup>3</sup> New York Independent System Operator, Inc., NYISO Agreements, Agreement No. 2772, TFIA among NYISO, Con Ed, NYPA, and CHPE for Astoria Rainey (0.0.0) (Interconnection Agreement).

<sup>4</sup> Filing, Transmittal Letter at 2.

<sup>5</sup> *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,105 (2022)).

<sup>6</sup> *Id.* at 2-3.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* (citing *PJM Interconnection, LLC*, 111 FERC ¶ 61,163, at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005)).

5. Specifically, the Joint Filing Parties explain that they have modified the *pro forma* LGIA in the Interconnection Agreement to reflect that the Interconnection Agreement is a four-party agreement that addresses both the interconnection of Con Edison's and NYPA's transmission facilities and Champlain's payment obligations for the engineering, procurement, and construction of certain transmission facilities and Upgrades. The changes deviate from the *pro forma* LGIA to: (1) reflect terminology concerning the transmission project in place of terminology concerning generating facilities; (2) reflect that the Astoria-Rainey Cable is a transmission facility; (3) address the use of Upgrades in place of Attachment Facilities, System Upgrade Facilities, and System Deliverability Upgrades; (4) specify the parties' design, procurement, construction, operation, and maintenance responsibilities; (5) reflect that Champlain will only be a party to the Interconnection Agreement while the engineering, procurement, and construction services are being completed; (6) replace the *pro forma* LGIA metering requirements with the clarification that NYPA will provide operational metering information to Con Edison; (7) revise the communication and operating requirements to address NYPA's responsibilities under the applicable NYISO tariffs, procedures, and agreements; (8) modify the tax provisions applicable to Con Edison and Champlain to apply to the Upgrades; (9) modify the invoice provisions to provide for a prepayment approach; (10) clarify Champlain's security requirements; (11) account for the Astoria-Rainey Cable work being performed under the Merchant Transmission Facility Interconnection Agreement, including testing rules and information sharing; (12) clarify the applicable Con Edison standards and specifications that will apply to the work under the agreement consistent with NYISO tariff requirements; (13) provide that the terms and conditions of the Appendices shall take precedence over the provisions of the cover agreement in case of a discrepancy or conflict between or among the terms and conditions of same; (14) note that, with respect to Con Edison, NYPA, and Champlain's other agreements associated with the work addressed in the Interconnection Agreement: (a) NYISO is not a party to, has no responsibility under, and shall have no liability in connection with the additional agreements; (b) Con Edison, NYPA, and Champlain believe that their existing agreements do not conflict with the Interconnection Agreement; and (c) if Con Edison, NYPA, or Champlain discover a conflict, it will notify the other parties promptly; and (15) other minor clean-ups and revisions.<sup>9</sup>

6. The Joint Filing Parties request that the Commission waive its prior notice requirement to permit an Interconnection Agreement effective date of April 21, 2023, to align with its execution date.<sup>10</sup> They assert that the Commission has previously permitted interconnection agreements to become effective upon the date of execution.<sup>11</sup>

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<sup>9</sup> *Id.* at 3-6.

<sup>10</sup> *Id.* at 2, 7.

<sup>11</sup> *Id.* at 7 (citing *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER11-2953-000

7. Notice of the filing was published in the *Federal Register*, 88 Fed. Reg. 30,737 (May 12, 2023), with interventions and protests due on or before May 26, 2023. Champlain filed a timely motion to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2022), Champlain's timely, unopposed motion to intervene serves to make it a party to this proceeding.

8. We accept the Interconnection Agreement for filing and grant the requested waiver of the prior notice requirement to permit an effective date of April 21, 2023.<sup>12</sup> As the Commission has previously stated, the Commission may recognize deviations from *pro forma* interconnection agreements as "may be necessary for a small number of interconnections with specific reliability concerns, novel legal issues, or other unique factors."<sup>13</sup> The Commission analyzes such non-conforming filings to ensure that operational or other reasons necessitate the non-conforming agreement.<sup>14</sup> A transmission provider seeking a case-by-case specific deviation from a *pro forma* interconnection agreement bears a high burden, and it must explain what makes the interconnection unique and what operational concerns or other reasons necessitate the change.<sup>15</sup> We find that the Joint Filing Parties have described the non-conforming provisions contained in the Interconnection Agreement and justified why unique factors necessitate these non-conforming provisions. Specifically, we find that the non-conforming provisions are

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(April 7, 2011) (delegated order); *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER08-985-000 (June 26, 2008) (delegated order); *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER08-861-000 (May 27, 2008) (delegated order); *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER08-699-000 (May 16, 2008) (delegated order)).

<sup>12</sup> 18 C.F.R. § 35.3(a)(2) (2022). *See Prior Notice & Filing Requirements Under Part II of the Fed. Power Act*, 64 FERC ¶ 61,139, at 61,983-84, *order on reh'g*, 65 FERC ¶ 61,081 (1993) (the Commission will grant waiver of the 60-day prior notice requirement "if service agreements are filed within 30 days after service commences."); *see also N.Y. Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,105 at P 10; *N.Y. Indep. Sys. Operator, Inc.*, 175 FERC ¶ 61,105, at P 4 (2021).

<sup>13</sup> *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,163 at P 10 (citing *Standardization of Generator Interconnection Agreements & Proc.*, Order No. 2003, 104 FERC ¶ 61,103, at PP 913-915 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287, at P 140 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007)).

<sup>14</sup> *See* Order No. 2003, 104 FERC ¶ 61,103 at P 915; Order No. 2003-B, 109 FERC ¶ 61,287 at P 140.

<sup>15</sup> *See PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,098, at P 9 (2005).

necessitated by (1) the *pro forma* LGIA's lack of provisions governing the interconnection and construction of merchant transmission facilities such as Champlain's proposed facility<sup>16</sup> and (2) the circumstances of the parties to the agreement.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>16</sup> See *N.Y. Indep. Sys. Operator, Inc.*, 180 FERC ¶ 61,105 at P 10, n.22 (accepting a non-conforming interconnection agreement for Champlain's proposed merchant transmission facility, noting that "[w]hile there are no formal provisions in the current NYISO *pro forma* LGIA, the Commission has previously accepted NYISO's proposal that controllable transmission lines for which the proposing entity is seeking Capacity Resource Interconnection Service will be evaluated in the interconnection process in Attachments X and S of the NYISO OATT, the same as any other project seeking Capacity Resource Interconnection Service.") (citing *N.Y. Indep. Sys. Operator, Inc.*, 162 FERC ¶ 61,107, at PP 23, 35 (2018)).