

June 30, 2015

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Filing of an Executed Engineering, Procurement, and Construction Agreement Among the New York Independent System Operator, Inc., New York State Electric & Gas Corporation, and CPV Valley, LLC; and Request for Waiver of the 60-Day Notice Period; Docket No. ER15-____000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.12 of the Commission's regulations,² the New York Independent System Operator, Inc. ("NYISO") and New York State Electric & Gas Corporation ("NYSEG") (together, the "Joint Filing Parties") hereby tender for filing an executed engineering, procurement, and construction agreement ("EPC Agreement") among the NYISO, NYSEG, and CPV Valley, LLC ("CPV"). The EPC Agreement is labeled as Service Agreement No. 2215.

CPV is developing a nominal 680 MW combined-cycle generating facility ("Facility") that will interconnect with the transmission facilities of the New York Power Authority ("NYPA"). The NYISO's Class Year 2011 Interconnection Facilities Study ("Facilities Study") determined that this interconnection will also have impacts on NYSEG's transmission system, which is part of the New York State Transmission System.³ The Facilities Study identified certain System Upgrade Facilities that are required on NYSEG's system for the Facility to interconnect reliably to the New York State Transmission System. The EPC Agreement governs the rates, terms, and conditions regarding the engineering, procurement, and construction of the System Upgrade Facilities on NYSEG's transmission system. The EPC Agreement is based on and generally conforms with the *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") contained in Attachment X to the NYISO Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the EPC Agreement for filing. Further, as described in Part III of this letter, the Joint Filing Parties

¹ 16 U.S.C. § 824d (2014).

² 18 C.F.R. § 35.12 (2014).

³ Capitalized terms that are not otherwise defined in this filing shall have the meaning specified in Attachments X and S of the NYISO OATT, and if not defined therein, in Section 1 of the NYISO OATT.

respectfully request a waiver of the Commission's prior notice requirements⁴ to make the EPC Agreement effective as of the June 9, 2015, which is the date of its execution.

I. **BACKGROUND**

CPV is developing a nominal 680 MW combined-cycle generating facility that will be located in Orange County, New York. The Facility will interconnect to certain transmission facilities of NYPA that are part of the New York State Transmission System. CPV's Facility was included in and studied as part of the Class Year 2011 Facilities Study. The Facilities Study determined that the interconnection of the Facility will have certain impacts on the transmission system of NYSEG and identified NYSEG as an Affected Transmission Owner.⁵ The Facilities Study identified certain System Upgrade Facilities that must be constructed on NYSEG's system to provide for the reliable interconnection of the Facility to the New York State Transmission System ("Affected System Upgrade Facilities"). CPV accepted and provided security to NYSEG to cover the costs identified in the Facilities Study for the construction of the Affected System Upgrade Facilities.

The NYISO and NYPA, as the Connecting Transmission Owner, have jointly filed an executed Large Generator Interconnection Agreement among the NYISO, NYPA, and CPV for the interconnection of the Facility to the transmission facilities of NYPA ("CPV LGIA").⁶ In the CPV LGIA, the parties indicated that the construction of the Affected System Upgrade Facilities on NYSEG's system would be addressed through a separate EPC Agreement among the NYISO, NYSEG, and CPV. Consistent with Commission precedent and NYISO practice, the parties developed and executed the EPC Agreement for the construction of the Affected System Upgrade Facilities using the Pro Forma LGIA as a template.⁷

⁴ See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

⁵ The Facilities Study also identified that the interconnection of the Facility will have certain impacts on the transmission system of Central Hudson Gas & Electric Corporation ("Central Hudson") and identified Central Hudson as an Affected Transmission Owner as well. The NYISO is separately filing an EPC Agreement among the NYISO, Central Hudson, and CPV for the engineering, procurement, and construction of the System Upgrade Facilities that are required on Central Hudson's system for the Facility to interconnect reliably to the New York State Transmission System.

⁶ *New York Independent System Operator, Inc. and New York Power Authority*, Filing of Executed Large Generator Interconnection Agreement Among the New York Independent System Operator, Inc., the New York Power Authority, and CPV Valley, LLC; Request for Waiver of 60-Day Notice Period; and Request for Critical Energy Infrastructure Information Designation, Docket No. ER15-1895-000 (June 10, 2015).

⁷ There is no *pro forma* EPC Agreement in the NYISO OATT. The parties have based the EPC Agreement on the Pro Forma LGIA, consistent with Commission precedent. See *New York Independent System Operator, Inc., and Niagara Mohawk Power Corporation*, Ltr. Order, Docket No. ER08-230-000 (December 18, 2007); see also *Midwest Independent Transmission System Operator, Inc.*, 113 FERC ¶ 61,048 (2005); *Duke Electric Transmission, a Division of Duke Energy Corp.*, 113 FERC ¶ 61,139 (2005).

II. DESCRIPTION OF THE EPC AGREEMENT

NYSEG, as the Affected Transmission Owner, will engineer, procure, and construct the Affected System Upgrade Facilities in accordance with the terms of the EPC Agreement (“EPC Services”). CPV has posted security to NYSEG to cover the costs of constructing these facilities identified in the Facilities Study in accordance with the requirements in Attachment S of the NYISO OATT. Any differences in cost between the posted security and the final cost of constructing the facilities will be allocated in accordance with the tariff requirements for addressing such differences in Section 25.8.6 of Attachment S of the NYISO OATT. The NYISO’s role in the EPC Agreement will be limited to certain oversight rights and responsibilities.

The EPC Agreement is based on the Pro Forma LGIA, as modified: (i) to reflect the different purpose of the agreement, (ii) to allocate the parties’ responsibilities for the performance of the EPC Services and the payment for such performance, and (iii) to set forth the scope of work, cost estimate, and milestone schedule for the construction of the Affected System Upgrade Facilities.

The EPC Agreement varies from the Pro Forma LGIA primarily as follows, consistent with the approach the Commission approved with regard to a similar EPC agreement in 2007:⁸

- The EPC Agreement governs only the performance of the EPC Services and terminates upon the completion of the Affected System Upgrade Facilities and the payment of related invoices. For this reason, the EPC Agreement does not include the provisions of the Pro Forma LGIA that govern the ongoing operation or maintenance of the constructed facilities.⁹
- The EPC Agreement is limited to the activities required to construct and place in service the Affected System Upgrade Facilities. For this reason, the EPC Agreement does not include the provisions of the Pro Forma LGIA that govern the activities required to construct and place in service the Large Generating Facility, the Attachment Facilities, other System Upgrade Facilities, or System Deliverability Upgrades. These requirements are addressed under the CPV LGIA among the NYISO, NYPA, and CPV.
- The EPC Agreement does not include the provisions of the Pro Forma LGIA that govern the NYISO’s provision of interconnection service to CPV, which is addressed under the CPV LGIA among the NYISO, NYPA, and CPV.

⁸ See *New York Independent System Operator, Inc., and Niagara Mohawk Power Corporation*, Ltr. Order, Docket No. ER08-230-000 (December 18, 2007).

⁹ Once completed, NYSEG will own the Affected System Upgrade Facilities and be responsible for their operation and maintenance. The requirements for the ongoing operation and maintenance of the Facility are set forth in the CPV LGIA among the NYISO, NYPA, and CPV.

- As NYSEG will perform the EPC Services, the EPC Agreement does not include the provisions of the Pro Forma LGIA that address the developer's options and responsibilities for performing such work.
- As the parties have already completed the interconnection studies necessary to determine the impact of the interconnection, the EPC Agreement does not include the provisions of the Pro Forma LGIA that address such studies.
- The EPC Agreement replaces the use of the term "Connecting Transmission Owner" (*i.e.*, NYPA) with "Affected Transmission Owner" (*i.e.*, NYSEG), except where the language is referring to the interconnection of CPV's Facility with NYPA's transmission facilities.
- The EPC Agreement also includes minor clean-ups and revisions agreed upon among the NYISO, NYSEG, and CPV as consistent with the terms of the EPC Agreement.

The Joint Filing Parties provide in Attachment I of this filing letter a matrix that describes in greater detail the differences between the EPC Agreement and the Pro Forma LGIA.¹⁰

III. EFFECTIVE DATE AND REQUEST FOR WAIVER

The Joint Filing Parties request an effective date of June 9, 2015, for the EPC Agreement, which is the date of its execution. The Joint Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted similar agreements to become effective upon the date of execution.¹¹

¹⁰ As described in this filing letter, the Joint Filing Parties have replaced "Connecting Transmission Owner" with "Affected Transmission Owner" throughout the EPC Agreement with limited exceptions. The Joint Filing Parties have not highlighted this change, which applies in most provisions of the EPC Agreement, in the matrix in Attachment I.

¹¹ See, e.g., *New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Docket No. ER11-2953-000 (April 7, 2011) (accepting interconnection agreement effective as of date of execution); see also *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp., Letter Order*, Docket No. ER08-985-000 (June 26, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-699-000 (May 16, 2008) (same).

IV. COMMUNICATIONS AND CORRESPONDENCE

Communications regarding this filing should be directed to:

For the NYISO¹²

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V. DOCUMENTS SUBMITTED

The NYISO submits the following documents:

- this filing letter;

¹² The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2014) to permit service on counsel in both Washington, D.C. and Richmond, VA.

- the matrix describing the differences between the EPC Agreement and the Pro Forma LGIA (Attachment I);
- a clean version of the EPC Agreement (Attachment II);
- a blacklined version of the EPC Agreement showing the changes from the body of the Pro Forma LGIA (Attachment III); and
- the signature pages for the EPC Agreement (Attachment IV).

VI. SERVICE

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, a complete copy of the Public documents included with this filing will be posted on the NYISO's website at www.nyiso.com.

VII. CONCLUSION

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the EPC Agreement for filing with an effective date of June 9, 2015.

Respectfully submitted,

/s/ Sara B. Keegan

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/s/ Jeffrey A. Rosenbloom

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