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SERVICE AGREEMENT NO. 2472

SERVICE AGREEMENT NO. 2472
AMENDED AND RESTATED
TRANSMISSION PROJECT
INTERCONNECTION AGREEMENT
AMONG THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
AND
NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID
AND
H.Q. ENERGY SERVICES (U.S.) INC.
Dated as of October 16, 2019

(Cedar Rapids Transmission Intertie Expansion Project)

SERVICE AGREEMENT NO. 2472

TABLE OF CONTENTS

	Page Number
ARTICLE 1. DEFINITIONS	2
ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION	8
2.1 Effective Date	8
2.2 Term of Agreement	8
2.3 Termination	9
2.4 Termination Costs	9
2.5 Reserved	10
2.6 Survival	10
ARTICLE 3. REGULATORY FILINGS	10
ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE	10
4.1 Provision of Service	10
4.2 No Transmission Delivery Service	11
4.3 No Other Services	11
ARTICLE 5. TRANSMISSION PROJECT AND NETWORK UPGRADE FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION	11
5.1 Transmission Project and Network Upgrade Facilities	11
5.2 Reserved	11
5.3 Reserved	11
5.4 Reserved	11
5.5 Design and Engineering	11
5.6 Equipment Procurement and Construction Commencement	12
5.7 Work Progress	12
5.8 Information Exchange	12
5.9 Reserved	13
5.10 Reserved	13
5.11 Reserved	13
5.12 Access Rights	13
5.13 Lands of Other Property Owners	13
5.14 Permits	13
5.15 Reserved	14
5.16 Suspension	14
5.17 Taxes	14
5.18 Tax Status; Non-Jurisdictional Entities	18
5.19 Modification	18
ARTICLE 6. TESTING AND INSPECTION	18
6.1 Pre-In-Service Date Testing and Modifications	18
6.2 Post-In-Service Date Testing and Modifications	19
6.3 Right to Observe Testing	19
6.4 Right to Inspect	19
ARTICLE 7. METERING	19
7.1 General	19

7.2	Reserved	20
7.3	Standards	20

SERVICE AGREEMENT NO. 2472

7.4	Testing of Metering Equipment.....	20
7.5	Metering Data	20
ARTICLE 8. COMMUNICATIONS		20
8.1	Connecting Transmission Owner Obligations	20
8.2	Remote Terminal Unit.....	21
8.3	No Annexation.....	21
ARTICLE 9. OPERATIONS		21
9.1	General	21
9.2	NYISO and Connecting Transmission Owner Obligations.....	21
9.3	Operating and Maintenance Expenses.....	22
9.4	Start-Up and Synchronization	22
9.5	Reserved	22
9.6	Reserved	22
9.7	Reserved	23
9.8	Reserved	23
9.9	Disturbance Analysis Data Exchange.....	23
9.10	Reserved	23
ARTICLE 10. MAINTENANCE.....		23
10.1	Connecting Transmission Owner Obligations	23
10.2	Reserved	24
10.3	Reserved	24
10.4	Reserved	24
10.5	Reserved	24
ARTICLE 11. PERFORMANCE OBLIGATION		24
11.1	Reserved	24
11.2	Reserved	24
11.3	Transmission Project and Network Upgrade Facilities	24
11.4	Special Provisions for Affected Systems	24
11.5	Provision of Security.....	24
11.6	Forfeiture of Security	25
11.7	Capped Network Upgrade Costs	25
ARTICLE 12. INVOICE		26
12.1	General	26
12.2	Final Invoice	26
12.3	Payment	26
12.4	Disputes	27
ARTICLE 13. EMERGENCIES		27
13.1	Obligations.....	27
13.2	Reserved	27
13.3	Reserved	27
13.4	NYISO and Connecting Transmission Owner Authority.....	27
13.5	Reserved	28
13.6	Limited Liability	28
ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW		28
14.1	Regulatory Requirements.....	28

14.2	Governing Law	28
------	---------------------	----

SERVICE AGREEMENT NO. 2472

ARTICLE 15. NOTICES	28
15.1 General	28
15.2 Billings and Payments	29
15.3 Alternative Forms of Notice	29
15.4 Operations and Maintenance Notice	29
ARTICLE 16. FORCE MAJEURE	29
ARTICLE 17. DEFAULT	29
17.1 General	29
17.2 Right to Terminate	30
ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE	30
18.1 Indemnity	30
18.2 No Consequential Damages	31
18.3 Insurance	32
ARTICLE 19. ASSIGNMENT	34
ARTICLE 20. SEVERABILITY	34
ARTICLE 21. COMPARABILITY	35
ARTICLE 22. CONFIDENTIALITY	35
22.1 Confidentiality	35
22.2 Term	35
22.3 Confidential Information	35
22.4 Scope	35
22.5 Release of Confidential Information	36
22.6 Rights	36
22.7 No Warranties	36
22.8 Standard of Care	36
22.9 Order of Disclosure	36
22.10 Termination of Agreement	37
22.11 Remedies	37
22.12 Disclosure to FERC, its Staff, or a State	37
22.13 Required Notices Upon Requests or Demands for Confidential Information ..	38
ARTICLE 23. TRANSMISSION DEVELOPER AND CONNECTING TRANSMISSION OWNER NOTICES OF ENVIRONMENTAL RELEASES	38
ARTICLE 24. RESERVED	38
24.1 Reserved	38
24.2 Reserved	38
24.3 Reserved	38
24.4 Reserved	38
ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS	38
25.1 Information Access	38
25.2 Reporting of Non-Force Majeure Events	39
25.3 Audit Rights	39
25.4 Audit Rights Periods	39
25.5 Audit Results	40
ARTICLE 26. SUBCONTRACTORS	40
26.1 General	40

26.2	Responsibility of Principal	40
------	-----------------------------------	----

SERVICE AGREEMENT NO. 2472

26.3	No Limitation by Insurance.....	40
ARTICLE 27. DISPUTES		40
27.1	Submission.....	40
27.2	External Arbitration Procedures	41
27.3	Arbitration Decisions	41
27.4	Costs	41
27.5	Termination	41
ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS		41
28.1	General	41
ARTICLE 29. MISCELLANEOUS.....		42
29.1	Binding Effect.....	42
29.2	Conflicts.....	42
29.3	Rules of Interpretation.....	43
29.4	Compliance	43
29.5	Joint and Several Obligations.....	43
29.6	Entire Agreement	43
29.7	No Third Party Beneficiaries.....	44
29.8	Waiver	44
29.9	Headings	44
29.10	Multiple Counterparts	44
29.11	Amendment	44
29.12	Modification by the Parties	44
29.13	Reservation of Rights.....	44
29.14	No Partnership	45
29.15	Other Transmission Rights.....	45

Appendices

SERVICE AGREEMENT NO. 2472

AMENDED AND RESTATED TRANSMISSION PROJECT INTERCONNECTION AGREEMENT

THIS AMENDED AND RESTATED TRANSMISSION PROJECT

INTERCONNECTION AGREEMENT (“Agreement”) is made and entered into this 16th day of October, 2019, by and among H.Q. Energy Services (U.S.) Inc., a corporation organized and existing under the laws of the State of Delaware (“Transmission Developer” with a Transmission Project), the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”), and Niagara Mohawk Power Corporation d/b/a Niagara Mohawk a corporation organized and existing under the laws of the State of New York (“Connecting Transmission Owner”). Transmission Developer, the NYISO, or Connecting Transmission Owner each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, NYISO operates the New York State Transmission System and Connecting Transmission Owner owns certain facilities included in the New York State Transmission System;

WHEREAS, Transmission Developer has developed the Transmission Project identified in Appendix A to this Agreement that shall result in an 80 MW increase in transmission capacity on the Cedar Rapids Transmission Intertie between the province of Québec and the NYISO’s Rest of State Capacity Region and maintained the Transmission Project in the NYISO’s Interconnection Queue as Queue Number 430;

WHEREAS, Connecting Transmission Owner will construct, own, and operate certain facilities of the Transmission Project identified in Section 1 of Appendix A to this Agreement and certain Network Upgrade Facilities identified in Section 2 of Appendix A to this Agreement;

WHEREAS, Alcoa Power Generating Inc.’s Long Sault Division (“APGI”) will construct, own, and operate certain facilities of the Transmission Project and certain Network Upgrade Facilities pursuant to a separate Engineering, Procurement, and Construction Agreement among the NYISO, the Transmission Developer, and APGI;

WHEREAS, Transmission Developer will be responsible for the costs of the Transmission Project and Network Upgrade Facilities;

WHEREAS, Transmission Developer will retain the Capacity Resource Interconnection Service rights associated with the incremental transmission capability created by the Transmission Project and Network Upgrade Facilities;

WHEREAS, Transmission Developer, NYISO, and Connecting Transmission Owner have agreed to enter into this Agreement for the purpose of interconnecting the Transmission Project with the New York State Transmission System;

SERVICE AGREEMENT NO. 2472

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 1 of the ISO OATT, Section 22.1 of Attachment P of the ISO OATT, Section 25.1.2 of Attachment S of the ISO OATT, the body of the Transmission Interconnection Procedures, or the body of this Agreement.

Affected System shall mean an electric system other than the transmission system owned, controlled or operated by the Connecting Transmission Owner that may be affected by the proposed interconnection.

Affected System Operator shall mean the entity that operates an Affected System.

Affected Transmission Owner shall mean the New York public utility or authority (or its designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Deliverability Upgrades, System Upgrade Facilities, or Network Upgrade Facilities are or will be installed pursuant to Attachment P, Attachment X, Attachment Z, or Attachment S to the ISO OATT.

Affiliate shall mean, with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term “control” shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

Ancillary Services shall mean those services that are necessary to support the transmission of Capacity and Energy from resources to Loads while maintaining reliable operation of the New York State Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to Environmental Law.

Applicable Reliability Councils shall mean the NERC, the NPCC and the NYSRC.

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District to which the Transmission Project is directly interconnected, as those requirements and guidelines are amended and modified and in effect

from time to time; provided that no Party shall waive its right to challenge the applicability or validity of any requirement or guideline as applied to it in the context of this Agreement.

SERVICE AGREEMENT NO. 2472

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Transmission Interconnection Studies by the NYISO, Connecting Transmission Owner, or the Transmission Developer, as described in Section 22.6.1 of the Transmission Interconnection Procedures.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Byway shall mean all transmission facilities comprising the New York State Transmission System that are neither Highways nor Other Interfaces. All transmission facilities in Zone J and Zone K are Byways.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Capacity Region shall mean one of four subsets of the Installed Capacity statewide markets comprised of (1) Rest of State (*i.e.*, Load Zones A through F); (2) Lower Hudson Valley (*i.e.*, Load Zones G, H and I); (3) New York City (*i.e.*, Load Zone J); and (4) Long Island (*i.e.*, Load Zone K).

Capacity Resource Interconnection Service (“CRIS”) shall mean the service provided by NYISO to Transmission Developers that satisfy the NYISO Deliverability Interconnection Standard or that are otherwise eligible to receive CRIS in accordance with Attachment S to the ISO OATT; such service being one of the eligibility requirements for participation as a NYISO Installed Capacity Supplier.

Class Year Deliverability Study shall mean an assessment, conducted by the NYISO staff in cooperation with Market Participants, to determine whether System Deliverability Upgrades are required for Class Year CRIS Projects under the NYISO Deliverability Interconnection Standard.

Class Year Interconnection Facilities Study shall mean a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Connecting Transmission Owner’s Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility with the New York State Transmission System or with the Distribution System. The scope of the study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures.

Confidential Information shall mean any information that is defined as confidential by Article 22 of this Agreement.

Connecting Transmission Owner shall mean the New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise

SERVICE AGREEMENT NO. 2472

possesses an interest in the portion of the New York State Transmission System modified by the Transmission Project, and (iii) is a Party to this Agreement.

Control Area shall mean an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to: (1) match, at all times, the power output of the Generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the Load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and (4) provide sufficient generating capacity to maintain Operating Reserves in accordance with Good Utility Practice. A Control Area must be certified by the NPCC.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 17 of this Agreement.

Effective Date shall mean the date on which this Agreement becomes effective upon execution by the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Environmental Law shall mean Applicable Laws and Regulations relating to pollution or protection of the environment or natural resources.

Facilities Study shall mean the study conducted pursuant to Section 22.9 of Attachment P of the NYISO OATT to determine a list of facilities required to reliably interconnect the Transmission Project (including Network Upgrade Facilities) as identified in the System Impact Study, the cost of those facilities, and the time required to interconnect the Transmission Project with the New York State Transmission System.

Facilities Study Agreement shall mean the agreement described in Section 22.9.1 of Attachment P of the NYISO OATT for conducting the Facilities Study.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et seq.* (“FPA”).

FERC shall mean the Federal Energy Regulatory Commission (“Commission”) or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the

practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired

SERVICE AGREEMENT NO. 2472

result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Transmission Developer, NYISO, Affected Transmission Owner, Connecting Transmission Owner, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Highway shall mean 115 kV and higher transmission facilities that comprise the following NYCA interfaces: Dysinger East, West Central, Volney East, Moses South, Central East/Total East, and UPNY-ConEd, and their immediately connected, in series, bulk power system facilities in New York State. Each interface shall be evaluated to determine additional “in series” facilities, defined as any transmission facility higher than 115 kV that (a) is located in an upstream or downstream zone adjacent to the interface and (b) has a power transfer distribution factor (DFAX) equal to or greater than five percent when the aggregate of generation in zones or systems adjacent to the upstream zone or zones that define the interface is shifted to the aggregate of generation in zones or systems adjacent to the downstream zone or zones that define the interface. In determining “in series” facilities for Dysinger East and West Central interfaces, the 115 kV and 230 kV tie lines between NYCA and PJM located in LBMP Zones A and B shall not participate in the transfer. Highway transmission facilities are listed in ISO Procedures.

Initial Synchronization Date shall mean the date upon which the Transmission Project and Network Upgrade Facilities are initially synchronized with the New York State Transmission System and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Transmission Project and Network Upgrade Facilities are energized consistent with the provisions of this Agreement and available to provide Transmission Service under the NYISO’s Tariffs, notice of which shall be provided by Connecting Transmission Owner in the form of Appendix E to this Agreement.

IRS shall mean the Internal Revenue Service.

SERVICE AGREEMENT NO. 2472

Loss shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Indemnified Party's performance or non-performance of its obligations under this Agreement on behalf of the Indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

Metering Equipment shall mean all metering equipment installed or to be installed in connection with the Transmission Project, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

NERC shall mean the North American Electric Reliability Council or its successor organization.

Network Upgrade Facilities shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to the New York State Transmission System that are required for the proposed Transmission Project to connect reliably to the system in a manner that meets the NYISO Transmission Interconnection Standard. For purposes of this Agreement, the Network Upgrade Facilities are described in Section 2 of Appendix A of this Agreement.

New York State Transmission System shall mean the entire New York State electric transmission system, which includes (i) the Transmission Facilities Under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with this Agreement or its performance.

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.

NYISO Deliverability Interconnection Standard - The standard that must be met, unless otherwise provided for by Attachment S to the ISO OATT, by (i) any generation facility larger than 2MW in order for that facility to obtain CRIS; (ii) any Class Year Transmission Project; (iii) any entity requesting External CRIS Rights, and (iv) any entity requesting a CRIS transfer pursuant to Section 25.9.5 of Attachment S to the ISO OATT. To meet the NYISO Deliverability Interconnection Standard, the Transmission Developer must, in accordance with the rules in Attachment S to the ISO OATT, fund or commit to fund any System Deliverability Upgrades identified for its project in the Class Year Deliverability Study.

NYISO Transmission Interconnection Standard shall mean the reliability standard that must be met by any Transmission Project proposing to connect to the New York State Transmission System. The standard is designed to ensure reliable access by the proposed project to the New York State Transmission System.

NYSRC shall mean the New York State Reliability Council or its successor organization.

SERVICE AGREEMENT NO. 2472

Other Interfaces shall mean the following interfaces into Capacity Regions: Lower Hudson Valley [*i.e.*, Rest of State (Load Zones A-F) to Lower Hudson Valley (Load Zones G, H and I)]; New York City [*i.e.*, Lower Hudson Valley (Load Zones G, H and I) to New York City (Load Zone J)]; and Long Island [*i.e.*, Lower Hudson Valley (Load Zones G, H and I) to Long Island (Load Zone K)], and the following Interfaces between the NYCA and adjacent Control Areas: PJM to NYISO, ISO-NE to NYISO, Hydro-Quebec to NYISO, and Norwalk Harbor (Connecticut) to Northport (Long Island) Cable.

Party or Parties shall mean NYISO, Connecting Transmission Owner, or Transmission Developer or any combination of the above.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

Security shall mean a bond, irrevocable letter of credit, parent company guarantee or other form of security from an entity with an investment grade rating, executed for the benefit of the Connecting Transmission Owner, meeting the commercially reasonable requirements of the Connecting Transmission Owner with which it is required to be posted pursuant to Article 11.5, and consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1 of this Agreement.

Services Tariff shall mean the NYISO Market Administration and Control Area Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

System Deliverability Upgrades shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to Byways and Highways and Other Interfaces on the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard at the requested level of Capacity Resource Interconnection Service.

System Impact Study shall mean the study conducted pursuant to Section 22.8 of Attachment P of the NYISO OATT that evaluates the impact of the proposed Transmission Project on the safety and reliability of the New York State Transmission System and, if applicable, and Affected System, to determine what Network Upgrade Facilities are needed for the proposed Transmission Project to connect reliably to the New York State Transmission System in a manner that meets the NYISO Transmission Interconnection Standard.

System Impact Study Agreement shall mean the agreement described in Section 22.8.1 of Attachment P of the NYISO OATT for conducting the System Impact Study.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, required to (1) protect the New York State Transmission System

from faults or other electrical disturbances occurring at the Transmission Project and (2) protect the Transmission Project from faults or other electrical system disturbances occurring on the

SERVICE AGREEMENT NO. 2472

New York State Transmission System or on other delivery systems or other generating systems to which the New York State Transmission System is directly connected.

Tariff shall mean the NYISO Open Access Transmission Tariff (“OATT”), as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff.

Transmission Developer shall mean an entity that proposes to interconnect its Transmission Project to the New York State Transmission System in compliance with the NYISO Transmission Interconnection Standard.

Transmission Interconnection Application shall mean the Transmission Developer’s request, in the form of Appendix 1 to the Transmission Interconnection Procedures, to interconnect a Transmission Project to the New York State Transmission System.

Transmission Interconnection Procedures (“TIP”) shall mean the interconnection procedures applicable to a Transmission Interconnection Application pertaining to a Transmission Project that are included in Attachment P of the NYISO OATT.

Transmission Interconnection Study shall mean any of the following studies: the Optional Feasibility Study, the System Impact Study, and the Facilities Study described in the Transmission Interconnection Procedures.

Transmission Project shall mean the Transmission Developer’s proposed transmission facility or facilities that are subject to this Agreement. For purposes of this Agreement, the Transmission Project is described in Section 1 of Appendix A of this Agreement.

Transmission Project Interconnection Agreement shall mean this interconnection agreement applicable to the interconnection of the Transmission Project to the New York State Transmission System.

Trial Operation shall mean the period during which Connecting Transmission Owner is engaged in on-site test operations and commissioning of the Transmission Project and Network Upgrade Facilities prior to the In-Service Date.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date.

This Agreement shall become effective upon execution by the Parties, subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC. The NYISO and Connecting Transmission Owner shall promptly file this Agreement with FERC upon execution in accordance with Article 3.

2.2 Term of Agreement.

Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of ten (10) years from the Effective Date and shall be automatically renewed for each successive one-year period thereafter.

SERVICE AGREEMENT NO. 2472

2.3 Termination.

Written Notice.

This Agreement may be terminated: (i) by the Transmission Developer after giving the NYISO and Connecting Transmission Owner ninety (90) Calendar Days advance written notice, or (ii) by the NYISO and Connecting Transmission Owner at any time following their receipt of notice from the Transmission Developer indicating its intent not to proceed with the Transmission Project and Network Upgrade Facilities.

Default.

Any Party may terminate this Agreement in accordance with Article 17.

Compliance.

Notwithstanding Articles 2.3.1 and 2.3.2, no termination of this Agreement shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs.

If a Party elects to terminate this Agreement prior to the In-Service Date pursuant to Article 2.3.1 above, the Transmission Developer shall be responsible for all costs that are the responsibility of the Transmission Developer under this Agreement that are incurred by the Transmission Developer or the other Parties through the date of the other Parties' receipt of the Transmission Developer's notice of termination or notice of its intent not to proceed with the Transmission Project. Such costs include any cancellation costs relating to orders or contracts. In the event of termination by the Transmission Developer, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or approved by FERC:

With respect to any portion of the Network Upgrade Facilities that have not yet been constructed or installed, but that is being relied upon by other projects in the manner described in Article 11.6 of this Agreement, Transmission Developer shall forfeit any remaining Security in accordance with the requirements in Article 11.6.

With respect to any portion of the Transmission Project or Network Upgrade Facilities that has not yet been constructed or installed and is not being relied upon by other projects in the manner described in Article 11.6 of this Agreement, the Connecting Transmission Owner shall to the extent possible and with Transmission Developer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Transmission Developer elects not to authorize such

cancellation, Transmission Developer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Connecting Transmission Owner shall deliver such

SERVICE AGREEMENT NO. 2472

material and equipment, and, if necessary, assign such contracts, to Transmission Developer as soon as practicable, at Transmission Developer's expense. To the extent that Transmission Developer has already paid Connecting Transmission Owner for any or all such costs of materials or equipment not taken by Transmission Developer, Connecting Transmission Owner shall promptly refund such amounts to Transmission Developer, less any costs, including penalties incurred by the Connecting Transmission Owner to cancel any pending orders of or return such materials, equipment, or contracts.

Connecting Transmission Owner may, at its option, retain any portion of such materials, equipment, or facilities that Transmission Developer chooses not to accept delivery of, in which case Connecting Transmission Owner shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

With respect to any portion of the Transmission Project or Network Upgrade Facilities already installed or constructed pursuant to the terms of this Agreement, Transmission Developer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Reserved.

2.6 Survival.

This Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder; including billings and payments pursuant to this Agreement; and to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect.

ARTICLE 3. REGULATORY FILINGS

NYISO and Connecting Transmission Owner shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information related to studies for interconnection asserted by Transmission Developer to contain Confidential Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the ISO OATT. If the Transmission Developer has executed this Agreement, or any amendment thereto, the Transmission Developer shall reasonably cooperate with NYISO and Connecting Transmission Owner with respect to such filing and to provide any information reasonably requested by NYISO and Connecting Transmission Owner needed to comply with Applicable Laws and Regulations.

ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE

4.1 Provision of Service.

Product.

Transmission Developer is eligible for Capacity Resource Interconnection Service as described in Section 1 of Appendix C of this Agreement.

SERVICE AGREEMENT NO. 2472

4.2 No Transmission Delivery Service.

The execution of this Agreement does not constitute a request for, nor agreement to provide, any Transmission Service under the ISO OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery. If Transmission Developer wishes to obtain Transmission Service on the New York State Transmission System, then Transmission Developer must request such Transmission Service in accordance with the provisions of the ISO OATT.

4.3 No Other Services.

The execution of this Agreement does not constitute a request for, nor agreement to provide Energy, any Ancillary Services or Installed Capacity under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff"). If Transmission Developer wishes to supply Energy, Installed Capacity or Ancillary Services, then Transmission Developer will make application to do so in accordance with the NYISO Services Tariff.

ARTICLE 5. TRANSMISSION PROJECT AND NETWORK UPGRADE FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

5.1 Transmission Project and Network Upgrade Facilities.

Unless otherwise mutually agreed to by Transmission Developer and Connecting Transmission Owner, Transmission Developer shall select the In-Service Date and Initial Synchronization Date for the Transmission Project, and such dates shall be set forth in Appendix B hereto.

The Connecting Transmission Owner shall design, procure, construct, install, and own the Transmission Project and Network Upgrade Facilities, using Reasonable Efforts to complete them by the dates set forth in Appendix B hereto. The Connecting Transmission Owner shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Connecting Transmission Owner reasonably expects that it will not be able to complete the Transmission Project and Network Upgrade Facilities by the specified dates, the Connecting Transmission Owner shall promptly provide written notice to the Transmission Developer and NYISO, and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.2 Reserved.

5.3 Reserved.

5.4 Reserved.

5.5 Design and Engineering.

The Connecting Transmission Owner shall commence design and engineering of the Transmission Project and Network Upgrade Facilities as soon as practicable after all of the

SERVICE AGREEMENT NO. 2472

following conditions are satisfied, unless the Transmission Developer and Connecting Transmission Owner otherwise agree in writing:

NYISO and Connecting Transmission Owner have completed the Facilities Study pursuant to the Facilities Study Agreement;

The NYISO has completed the required cost allocation analyses, and Transmission Developer has provided Security to the Connecting Transmission Owner in accordance with Article 11.5 by the date specified in Appendix B hereto; and

The Connecting Transmission Owner has received written authorization to proceed with design and engineering from the Transmission Developer by the date specified in Appendix B hereto.

5.6 Equipment Procurement and Construction Commencement.

The Connecting Transmission Owner shall procure necessary equipment and commence construction of the Transmission Project and Network Upgrade Facilities as soon as practicable after the following additional conditions are satisfied:

Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Transmission Project and Network Upgrade Facilities;

The Connecting Transmission Owner has received written authorization to proceed with procurement and construction from the Transmission Developer by the date specified in Appendix B hereto; and

The Transmission Developer has provided Security to the Connecting Transmission Owner in accordance with Article 11.5 by the dates specified in Appendix B hereto.

5.7 Work Progress.

The Connecting Transmission Owner will keep the Transmission Developer and NYISO advised periodically as to the progress of its design, procurement and construction efforts. The Transmission Developer or NYISO may, at any time, request a progress report from the Connecting Transmission Owner.

5.8 Information Exchange.

As soon as reasonably practicable after the Effective Date, the Transmission Developer and Connecting Transmission Owner shall exchange information, and provide NYISO the same information, regarding the design of the Transmission Project and the Network Upgrade

SERVICE AGREEMENT NO. 2472

Facilities and compatibility of the Transmission Project and Network Upgrade Facilities with the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 Reserved.

5.10 Reserved.

5.11 Reserved.

5.12 Access Rights.

Upon reasonable notice and supervision by the Connecting Transmission Owner, and subject to any required or necessary regulatory approvals, the Connecting Transmission Owner (“Granting Party”) shall furnish to the other Parties (“Access Party”) at no cost any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain the ingress and egress required to test (or witness testing) or to inspect the Transmission Project and Network Upgrade Facilities in accordance with this Agreement. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party’s business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party. The Access Party shall indemnify the Granting Party against all claims of injury or damage from third parties resulting from the exercise of the access rights provided for herein.

5.13 Lands of Other Property Owners.

If any part of the Transmission Project or Network Upgrade Facilities is to be installed on property owned by persons other than Connecting Transmission Owner, the Connecting Transmission Owner shall at Transmission Developer’s expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation or transmission, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Transmission Project and Network Upgrade Facilities upon such property.

5.14 Permits.

NYISO, Connecting Transmission Owner and the Transmission Developer shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, Connecting Transmission Owner shall use efforts to obtain permits, licenses, and authorizations, similar in nature and extent to those that it typically undertakes for its own, or an Affiliate’s generation or transmission facilities, if any.

SERVICE AGREEMENT NO. 2472

5.15 Reserved.

5.16 Suspension.

Transmission Developer reserves the right, upon written notice to Connecting Transmission Owner and NYISO, to suspend at any time all work by Connecting Transmission Owner associated with the construction and installation of the Transmission Project and Network Upgrade Facilities required for only that Transmission Developer under this Agreement with the condition that the New York State Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the safety and reliability criteria of Connecting Transmission Owner and NYISO. In such event, Transmission Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with the OATT and the Facilities Study report including those which Connecting Transmission Owner (i) has incurred pursuant to this Agreement prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the New York State Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Connecting Transmission Owner cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Connecting Transmission Owner shall obtain Transmission Developer's authorization to do so.

Connecting Transmission Owner shall invoice Transmission Developer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Transmission Developer suspends work by Connecting Transmission Owner required under this Agreement pursuant to this Article 5.16, and has not requested Connecting Transmission Owner to recommence the work required under this Agreement on or before the expiration of three (3) years following commencement of such suspension, this Agreement shall be deemed terminated. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to Connecting Transmission Owner and NYISO, if no effective date is specified.

5.17 Taxes.

Reserved.

Reserved.

Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Connecting Transmission Owner.

Transmission Developer shall protect, indemnify and hold harmless Connecting Transmission Owner from the cost consequences of any current tax liability imposed against Connecting Transmission Owner as the result of payments or property transfers made by Transmission Developer to Connecting Transmission Owner with respect to the Transmission Project and Network Upgrade Facilities under this Agreement, as well as any interest and

NYISO Agreements --> Service Agreements --> Joint IA Among NYISO, NMPC and HQUS re: Cedar Rapids
penalties, other than interest and penalties attributable to any delay caused by Connecting
Transmission Owner.

SERVICE AGREEMENT NO. 2472

Connecting Transmission Owner shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Transmission Developer under this Agreement until and unless (i) Connecting Transmission Owner has determined, in good faith, that the payments or property transfers made by Transmission Developer to Connecting Transmission Owner should be reported as income subject to taxation or (ii) any Governmental Authority directs Connecting Transmission Owner to report payments or property as income subject to taxation; provided, however, that Connecting Transmission Owner may require Transmission Developer to provide security, in a form reasonably acceptable to Connecting Transmission Owner (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. Transmission Developer shall reimburse Connecting Transmission Owner for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from Connecting Transmission Owner of the amount due, including detail about how the amount was calculated.

This indemnification obligation shall terminate at the earlier of (1) the expiration of the ten-year testing period and the applicable statute of limitation, as it may be extended by the Connecting Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

Tax Gross-Up Amount.

Transmission Developer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that Transmission Developer will pay Connecting Transmission Owner, in addition to the amount paid for the Transmission Project and Network Upgrade Facilities, an amount equal to (1) the current taxes imposed on Connecting Transmission Owner ("Current Taxes") on the excess of (a) the gross income realized by Connecting Transmission Owner as a result of payments or property transfers made by Transmission Developer to Connecting Transmission Owner under this Agreement (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Connecting Transmission Owner to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Connecting Transmission Owner's composite federal and state tax rates at the time the payments or property transfers are received and Connecting Transmission Owner will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Connecting Transmission Owner's

anticipated tax depreciation deductions as a result of such payments or property transfers by Connecting Transmission Owner's current weighted average cost of capital. Thus, the formula

SERVICE AGREEMENT NO. 2472

for calculating Transmission Developer's liability to Connecting Transmission Owner pursuant to this Article 5.17.4 can be expressed as follows: $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value Depreciation Amount})) / (1 - \text{Current Tax Rate})$. Transmission Developer's estimated tax liability in the event taxes are imposed shall be stated in Section 6 of Appendix A, Transmission Project and Network Upgrade Facilities.

Private Letter Ruling or Change or Clarification of Law.

At Transmission Developer's request and expense, Connecting Transmission Owner shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by Transmission Developer to Connecting Transmission Owner under this Agreement are subject to federal income taxation. Transmission Developer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of Transmission Developer's knowledge. Connecting Transmission Owner shall cooperate in good faith with Transmission Developer with respect to the submission of such request.

Connecting Transmission Owner shall keep Transmission Developer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes Transmission Developer to participate in all discussions with the IRS regarding such request for a private letter ruling. Connecting Transmission Owner shall allow Transmission Developer to attend all meetings with IRS officials about the request and shall permit Transmission Developer to prepare the initial drafts of any follow-up letters in connection with the request.

Reserved.

Reserved.

Refund.

In the event that (a) a private letter ruling is issued to Connecting Transmission Owner which holds that any amount paid or the value of any property transferred by Transmission Developer to Connecting Transmission Owner under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Connecting Transmission Owner in good faith that any amount paid or the value of any property transferred by Transmission Developer to Connecting Transmission Owner under the terms of this Agreement is not taxable to Connecting Transmission Owner, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by Transmission Developer to Connecting Transmission Owner are not subject to federal income tax, or (d) if Connecting Transmission Owner receives a refund from any Governmental Authority for any overpayment of tax attributable to any payment or property transfer made by Transmission Developer to Connecting Transmission Owner pursuant to this Agreement, Connecting Transmission Owner shall promptly refund to Transmission Developer the following:

SERVICE AGREEMENT NO. 2472

(i) Any payment made by Transmission Developer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Transmission Developer to Connecting Transmission Owner for such taxes which Connecting Transmission Owner did not submit to the Governmental Authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by Transmission Developer to the date Connecting Transmission Owner refunds such payment to Transmission Developer, and

(iii) With respect to any such taxes paid by Connecting Transmission Owner, any refund or credit Connecting Transmission Owner receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Connecting Transmission Owner for such overpayment of taxes (including any reduction in interest otherwise payable by Connecting Transmission Owner to any Governmental Authority resulting from an offset or credit); provided, however, that Connecting Transmission Owner will remit such amount promptly to Transmission Developer only after and to the extent that Connecting Transmission Owner has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Transmission Project or Network Upgrade Facilities.

The intent of this provision is to leave both the Transmission Developer and Connecting Transmission Owner, to the extent practicable, in the event that no taxes are due with respect to any payment for the Transmission Project and the Network Upgrade Facilities hereunder, in the same position they would have been in had no such tax payments been made.

Taxes Other Than Income Taxes.

Upon the timely request by Transmission Developer, and at Transmission Developer's sole expense, Connecting Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against Connecting Transmission Owner for which Transmission Developer may be required to reimburse Connecting Transmission Owner under the terms of this Agreement. Transmission Developer shall pay to Connecting Transmission Owner on a periodic basis, as invoiced by Connecting Transmission Owner, Connecting Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Transmission Developer and Connecting Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Transmission Developer to Connecting Transmission Owner for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Transmission Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by Connecting Transmission Owner.

SERVICE AGREEMENT NO. 2472

5.18 Tax Status; Non-Jurisdictional Entities.

Tax Status.

Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the tax status of any Party including the status of NYISO, or the status of any Connecting Transmission Owner with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.19 Modification.

General.

If, prior to the In-Service Date, either the Transmission Developer or Connecting Transmission Owner proposes to modify the Transmission Project or Network Upgrade Facilities, they must inform the other Parties of the proposed modification and must satisfy the requirements in Section 22.5.4 of Attachment P to the NYISO OATT that the modifications are not Material Modifications. The Transmission Developer shall be responsible for the cost of any such additional modifications, including the cost of studying the materiality and impact of the modification. Subject to Articles 9 and 10, following the In-Service Date, the Connecting Transmission Owner may undertake modifications to its facilities covered by this Agreement.

Standards.

Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this Agreement, NYISO requirements and Good Utility Practice.

Modification Costs.

Transmission Developer shall not be assigned the costs of any additions, modifications, or replacements that Connecting Transmission Owner makes to the New York State Transmission System to facilitate the interconnection of a third party to the New York State Transmission System, or to provide Transmission Service to a third party under the ISO OATT, except in accordance with the cost allocation procedures in Attachment S of the ISO OATT.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-In-Service Date Testing and Modifications.

Prior to the In-Service Date, the Connecting Transmission Owner shall test the Transmission Project and Network Upgrade Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Connecting Transmission Owner shall make any modifications to its facilities that are found to be necessary as a result of such testing. Transmission Developer shall bear the cost of all such testing and modifications. Connecting

Transmission Owner shall transmit test energy over the Transmission Project only if it has arranged for the injection of such test energy in accordance with NYISO procedures.

SERVICE AGREEMENT NO. 2472

6.2 Post-In-Service Date Testing and Modifications.

Connecting Transmission Owner shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice and Applicable Reliability Standards as may be necessary to ensure their operation in a safe and reliable manner.

6.3 Right to Observe Testing.

Prior to the In-Service Date, Connecting Transmission Owner shall notify Transmission Developer and the NYISO in advance of its performance of tests of the Transmission Project and the Network Upgrade Facilities. Transmission Developer and the NYISO shall each have the right, at its own expense, to observe such testing.

6.4 Right to Inspect.

Transmission Developer shall have the right, but shall have no obligation to: (i) observe the Connecting Transmission Owner's tests and/or inspection of any of its System Protection Facilities and other protective equipment; (ii) review the settings of Connecting Transmission Owner's System Protection Facilities and other protective equipment; and (iii) review Connecting Transmission Owner's maintenance records relative to the System Protection Facilities and other protective equipment. NYISO shall have these same rights of inspection as to the facilities and equipment of Connecting Transmission Owner. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be treated in accordance with Article 22 of this Agreement and Attachment F to the ISO OATT.

ARTICLE 7. METERING

7.1 General.

Connecting Transmission Owner shall comply with applicable requirements of NYISO and the New York Public Service Commission when exercising its rights and fulfilling its responsibilities under this Article 7. The Connecting Transmission Owner shall confirm to the other Parties prior to the In-Service Date that it owns, operates, tests, and maintains Metering Equipment from lines CD1 and CD2 ("Metering Points") at the Dennison Substation. The associated proxy bus is modeled by a generator/load pair and is currently represented by NYISO as CEDARSHQ_Gen (PTID 323590) and CEDARSHQ_LOAD (PTID 355586). Net power flows including MW and MVAR, MWHR, if applicable, shall be measured at the Metering Points. Connecting Transmission Owner shall provide metering quantities, in analog and/or digital form, as required, to Transmission Developer or NYISO upon request. Transmission Developer shall bear all reasonable documented costs, if applicable, associated with the purchase, installation, and testing of the Metering Equipment.

SERVICE AGREEMENT NO. 2472

7.2 Reserved.

7.3 Standards.

Connecting Transmission Owner shall confirm to the other Parties prior to the In-Service Date the adequacy of the existing metering at the Metering Points, and, if applicable, shall install, calibrate, and test revenue quality Metering Equipment including potential transformers and current transformers in accordance with applicable ANSI and PSC standards as detailed in the NYISO Control Center Communications Manual and in the NYISO Revenue Metering Requirements Manual.

7.4 Testing of Metering Equipment.

Connecting Transmission Owner shall inspect and test all of its Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by NYISO or Transmission Developer, Connecting Transmission Owner shall, at Transmission Developer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Connecting Transmission Owner shall give reasonable notice of the time when any inspection or test shall take place, and Transmission Developer and NYISO may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Transmission Developer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Connecting Transmission Owner's failure to maintain, then Connecting Transmission Owner shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Connecting Transmission Owner shall adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment. The NYISO shall reserve the right to review all associated metering equipment installation on the Transmission Developer's or Connecting Transmission Owner's property at any time.

7.5 Metering Data.

The metered data at the Metering Points shall be telemetered to one or more locations as currently designated by the Connecting Transmission Owner and the NYISO. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered at the Metering Points.

ARTICLE 8. COMMUNICATIONS

8.1 Connecting Transmission Owner Obligations.

In accordance with applicable NYISO requirements, Connecting Transmission Owner shall maintain satisfactory operating communications with NYISO. Connecting Transmission Owner shall utilize voice line, dedicated voice line and facsimile communications at its existing

control room, central dispatch or scheduling facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system.

SERVICE AGREEMENT NO. 2472

Connecting Transmission Owner shall also provide the dedicated data circuit(s) necessary to provide its data to NYISO as set forth in Appendix D hereto. The data circuit(s) shall extend from the Transmission Project to the location(s) specified by NYISO. Any required maintenance of such communications equipment shall be performed by Connecting Transmission Owner. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit.

Connecting Transmission Owner shall confirm to the other Parties prior to the In-Service Date the existence of a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, to gather accumulated and instantaneous data associated with the Transmission Project to be telemetered to the location(s) designated by NYISO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1. The communication protocol for the data circuit(s) shall be specified by NYISO. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the location(s) specified by NYISO.

Each Party will promptly advise the appropriate other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by that other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation.

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Party providing such equipment and the Party receiving such equipment.

ARTICLE 9. OPERATIONS

9.1 General.

Each Party shall comply with Applicable Laws and Regulations and Applicable Reliability Standards. Each Party shall provide to the other Parties all information that may reasonably be required by the other Parties to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 NYISO and Connecting Transmission Owner Obligations.

Connecting Transmission Owner and NYISO shall cause the New York State Transmission System, including the Transmission Project and Network Upgrade Facilities, to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs.

SERVICE AGREEMENT NO. 2472

9.3 Operating and Maintenance Expenses

Connecting Transmission Owner shall be responsible for all reasonable expenses including overheads, associated with owning, operating, maintaining, repairing, and future replacement of the Transmission Project and Network Upgrade Facilities (including the Metering Equipment).

9.4 Start-Up and Synchronization.

Connecting Transmission Owner is responsible for the proper synchronization of the Transmission Project and Network Upgrade Facilities to the New York State Transmission System in accordance with its and NYISO's procedures and requirements.

9.5 Reserved.

9.6 Reserved.

System Protection and Other Control Requirements.

9.6.1.1 System Protection Facilities. Connecting Transmission Owner shall install, at Transmission Developer's expense, and shall operate and maintain any System Protection Facilities as a part of the Transmission Project required on the New York State Transmission System as a result of the interconnection of the Transmission Project.

9.6.1.2 The protection facilities of the Connecting Transmission Owner shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.

9.6.1.3 The Connecting Transmission Owner shall be responsible for protection of its respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.

9.6.1.4 The protective relay design of the Connecting Transmission Owner shall incorporate the necessary test switches to perform the tests required in Article 6 of this Agreement. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Transmission Project.

9.6.1.5 The Connecting Transmission Owner will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice, NERC and NPCC criteria.

9.6.1.6 Prior to the In-Service Date, Connecting Transmission Owner shall perform, or its agents shall perform, a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, Connecting Transmission Owner shall

perform calibration and functional trip tests of the System Protection Facilities in a manner and at intervals consistent with Connecting Transmission Owner's standard practice for performing

SERVICE AGREEMENT NO. 2472

such tests. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

Requirements for Protection.

In compliance with NPCC requirements and Good Utility Practice, Connecting Transmission Owner shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Transmission Project to any short circuit occurring on the New York State Transmission System not otherwise isolated by Connecting Transmission Owner's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the New York State Transmission System. Connecting Transmission Owner shall be solely responsible to disconnect the Transmission Project and its other equipment if conditions on the New York State Transmission System could adversely affect the Transmission Project.

Power Quality.

The facilities of Connecting Transmission Owner shall not cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

9.7 Reserved.

9.8 Reserved.

9.9 Disturbance Analysis Data Exchange.

The Parties will cooperate with one another and the NYISO in the analysis of disturbances to either the Transmission Project or the New York State Transmission System by gathering and providing access to any information relating to any disturbance, including information from disturbance recording equipment, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

9.10 Reserved.

ARTICLE 10. MAINTENANCE

10.1 Connecting Transmission Owner Obligations.

Connecting Transmission Owner shall maintain its transmission facilities in a safe and reliable manner and in accordance with this Agreement.

SERVICE AGREEMENT NO. 2472

10.2 Reserved.

10.3 Reserved.

10.4 Reserved.

10.5 Reserved.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Reserved.

11.2 Reserved.

11.3 Transmission Project and Network Upgrade Facilities.

Connecting Transmission Owner shall design, procure, construct, install, and own the Transmission Project described in Section 1 of Appendix A hereto and the Network Upgrade Facilities described in Section 2 of Appendix A hereto.

11.4 Special Provisions for Affected Systems.

For the re-payment of amounts advanced to Affected System Operator for Network Upgrade Facilities, the Transmission Developer and Affected System Operator shall enter into an agreement that provides for such re-payment, but only if responsibility for the cost of such Network Upgrade Facilities is not to be allocated in accordance with the Facilities Study report. The agreement shall specify the terms governing payments to be made by the Transmission Developer to the Affected System Operator as well as the re-payment by the Affected System Operator.

11.5 Provision of Security.

Within thirty (30) Calendar Days of the Effective Date of this Agreement, Transmission Developer shall provide Connecting Transmission Owner with Security in the amount of the cost estimate for the Connecting Transmission Owner's portion of the Network Upgrade Facilities, in accordance with Section 22.9.3 of Attachment P of the ISO OATT, and the Transmission Project, both documented in the Facilities Study report. This amount is set forth in Appendix A of this Agreement. If the Transmission Developer: (i) does not pay an invoice issued by the Connecting Transmission Owner pursuant to Article 12.1 within the timeframe set forth in Article 12.3 or (ii) does not pay any disputed amount into an independent escrow account pursuant to Article 12.4, the Connecting Transmission Owner may draw upon Transmission Developer's Security to recover such payment. The Security shall be reduced on a dollar-for-dollar basis for payments made to Connecting Transmission Owner for the purpose of constructing, procuring, and installing the Transmission Project and Network Upgrade Facilities.

In addition:

SERVICE AGREEMENT NO. 2472

11.5.1 The guarantee must be made by an entity that meets the commercially reasonable creditworthiness requirements of Connecting Transmission Owner, and contains terms and conditions that guarantee payment of any amount that may be due from Transmission Developer, up to an agreed-to maximum amount.

11.5.2 The letter of credit must be issued by a financial institution reasonably acceptable to Connecting Transmission Owner and must specify a reasonable expiration date.

11.5.3 The surety bond must be issued by an insurer reasonably acceptable to Connecting Transmission Owner and must specify a reasonable expiration date.

11.6 Forfeiture of Security.

The Security the Transmission Developer provides Connecting Transmission Owner in accordance with Article 11.5 of this Agreement shall be irrevocable and shall be subject to forfeiture in the event that the Transmission Developer subsequently terminates or abandons development of the Transmission Project. Any Security provided by the Transmission Developer shall be subject to forfeiture to the extent necessary to defray the cost of: (1) Network Upgrade Facilities required for other Transmission Developers whose Transmission Project interconnection studies included the Transmission Developer's Transmission Project and Network Upgrade Facilities in their base cases; and (2) System Upgrade Facilities and System Deliverability Upgrade Facilities required for projects for which the Transmission Project and Network Upgrade Facilities were included in their Annual Transmission Reliability Assessment and/or Class Year Deliverability Study, as applicable.

11.7 Capped Network Upgrade Costs

The amount of Security that Transmission Developer provides Connecting Transmission Owner for the Network Upgrade Facilities in accordance with Article 11.5 of this Agreement, as set forth in Appendix A of this Agreement, caps the Transmission Developer's maximum potential responsibility for the cost of Network Upgrade Facilities required for its project, except as discussed below.

If the actual cost of Transmission Developer's Network Upgrade Facilities is less than the agreed-to and secured amount, Transmission Developer is responsible only for the actual cost figure.

If the actual cost of Transmission Developer's Network Upgrade Facilities is greater than the agreed-to and secured amount because other projects have been expanded, accelerated, otherwise modified or terminated, Transmission Developer is responsible only for the agreed-to and secured amount for the Network Upgrade Facilities. The additional cost is covered by the developers of the modified projects, or by the drawing on the cash that has been paid and the Security that has been posted for terminated projects, depending on the factors that caused the additional cost. Such forfeitable Security from other developers will be drawn on only as needed for this purpose, and only to the extent that the terminated project associated with that Security has caused additional cost.

SERVICE AGREEMENT NO. 2472

If the actual cost of Transmission Developer's Network Upgrade Facilities is greater than the agreed-to and secured amount because of circumstances that are not within the control of the Connecting Transmission Owner (such as, for example: (i) changes to the design or operating characteristics of the Transmission Project that impact the scope or cost of related Network Upgrade Facilities; (ii) any costs that were not within the scope of the Transmission Developer's Facilities Study that subsequently become known as part of the final construction design; or (iii) cost escalation of materials or labor, or changes in the commercial availability of physical components required for construction), Transmission Developer's cost cap shall be adjusted by any such amount, and Transmission Developer will pay the additional costs to the Connecting Transmission Owner as such costs are incurred by each of them. However, to the extent that some or all of the excess cost is due to factors within the control of the Connecting Transmission Owner (such as, for example, additional construction man-hours due to Connecting Transmission Owner management, or correcting equipment scope deficiencies due to Connecting Transmission Owner oversights), then that portion of the excess cost will be borne by the Connecting Transmission Owner. Disputes between Transmission Developer and Connecting Transmission Owner concerning costs in excess of the agreed-to and secured amount will be resolved by the parties in accordance with the terms and conditions of Article 27.

ARTICLE 12. INVOICE

12.1 General.

The Transmission Developer and Connecting Transmission Owner shall each submit to the other Party, on a monthly basis, invoices of amounts due for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Transmission Developer and Connecting Transmission Owner may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts one Party owes to the other Party under this Agreement, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

12.2 Final Invoice.

Within six months after completion of the construction of the Transmission Project and Network Upgrade Facilities, Connecting Transmission Owner shall provide an invoice of the final cost of the construction of the Transmission Project and Network Upgrade Facilities and shall set forth such costs in sufficient detail to enable Transmission Developer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Connecting Transmission Owner shall refund to Transmission Developer any amount by which the actual payment by Transmission Developer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

12.3 Payment.

Invoices shall be rendered to the paying Party at the address specified in Appendix F

hereto. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party,

SERVICE AGREEMENT NO. 2472

or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

12.4 Disputes.

In the event of a billing dispute between Connecting Transmission Owner and Transmission Developer, Connecting Transmission Owner shall continue to perform under this Agreement as long as Transmission Developer: (i) continues to make all payments not in dispute; and (ii) pays to Connecting Transmission Owner or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Transmission Developer fails to meet these two requirements for continuation of service, then Connecting Transmission Owner may provide notice to Transmission Developer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii).

ARTICLE 13. EMERGENCIES

13.1 Obligations.

Each Party shall comply with the Emergency State procedures of NYISO, the applicable Reliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed to by the NYISO Operating Committee.

13.2 Reserved.

13.3 Reserved.

13.4 NYISO and Connecting Transmission Owner Authority.

General.

NYISO or Connecting Transmission Owner may take whatever actions with regard to the New York State Transmission System it deems necessary during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the New York State Transmission System, (iii) limit or prevent damage, and (iv) expedite restoration of service.

Reduction

NYISO or Connecting Transmission Owner may reduce Capacity Resource Interconnection Service, when such reduction is necessary under Good Utility Practice due to an Emergency State. These rights are separate and distinct from any right of Curtailment of NYISO pursuant to the ISO OATT. When NYISO or Connecting Transmission Owner can schedule the reduction in advance, NYISO or Connecting Transmission Owner shall notify Transmission Developer of the reasons, timing and expected duration of the reduction. NYISO or Connecting

Transmission Owner shall coordinate with the Transmission Developer using Good Utility Practice to schedule the reduction during periods of least impact to the Transmission Developer

SERVICE AGREEMENT NO. 2472

and the New York State Transmission System. Any reduction shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the New York State Transmission System to its normal operating state as soon as practicable consistent with Good Utility Practice.

13.5 Reserved.

13.6 Limited Liability

No Party shall be liable to another Party for any action it takes in responding to an Emergency State so long as such action is made in good faith and is consistent with Good Utility Practice and the NYISO Tariffs.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW

14.1 Regulatory Requirements.

Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require Transmission Developer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 2005 or the Public Utility Regulatory Policies Act of 1978, as amended.

14.2 Governing Law.

The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of New York, without regard to its conflicts of law principles.

This Agreement is subject to all Applicable Laws and Regulations.

Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 15. NOTICES

15.1 General.

Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by a Party to the other Parties and any instrument required or permitted to be tendered or delivered by a Party in writing to the other Parties shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by

SERVICE AGREEMENT NO. 2472

certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F hereto.

A Party may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

15.2 Billings and Payments.

Billings and payments shall be sent to the addresses set out in Appendix F hereto.

15.3 Alternative Forms of Notice.

Any notice or request required or permitted to be given by a Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F hereto.

15.4 Operations and Maintenance Notice.

Transmission Developer and Connecting Transmission Owner shall each notify the other Party, and NYISO, in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Article 9 and Article 10 of this Agreement.

ARTICLE 16. FORCE MAJEURE

16.1 Economic hardship is not considered a Force Majeure event.

16.2 A Party shall not be responsible or liable, or deemed, in Default with respect to any obligation hereunder, (including obligations under Article 4 of this Agreement), other than the obligation to pay money when due, to the extent the Party is prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Parties in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

ARTICLE 17. DEFAULT

17.1 General.

No Breach shall exist where such failure to discharge an obligation (other than the

payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give written notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days

SERVICE AGREEMENT NO. 2472

from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.2 Right to Terminate.

If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching Parties acting together shall thereafter have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not those Parties terminate this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

18.1 Indemnity.

Each Party (the “Indemnifying Party”) shall at all times indemnify, defend, and save harmless, as applicable, the other Parties (each an “Indemnified Party”) from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, the alleged violation of any Environmental Law, or the release or threatened release of any Hazardous Substance, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from (i) the Indemnified Party’s performance of its obligations under this Agreement on behalf of the Indemnifying Party, except in cases where the Indemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by the gross negligence or intentional wrongdoing of the Indemnified Party or (ii) the violation by the Indemnifying Party of any Environmental Law or the release by the Indemnifying Party of any Hazardous Substance.

Indemnified Party.

If a Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1.3, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

Indemnifying Party.

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party’s actual Loss, net of any insurance or other recovery.

SERVICE AGREEMENT NO. 2472

Indemnity Procedures.

Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

18.2 No Consequential Damages.

Other than the liquidated damages heretofore described and the indemnity obligations set forth in Article 18.1, in no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

SERVICE AGREEMENT NO. 2472

18.3 Insurance.

Connecting Transmission Owner shall, at its own expense, procure and maintain in force throughout the period of this Agreement and until released by the other Parties, the following minimum insurance coverages, with insurance companies licensed to write insurance or approved eligible surplus lines carriers in the state of New York with a minimum A.M. Best rating of **A-** or better for financial strength, and an A.M. Best financial size category of VIII or better:

██████████ Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of New York State.

Commercial General Liability ("CGL") Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available using Insurance Services Office, Inc. Commercial General Liability Coverage ("ISO CG") Form CG 00 01 04 13 or a form equivalent to or better than CG 00 01 04 13, with minimum limits of Two Million Dollars (**██████████**,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum **██████████** combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

If applicable, the Commercial General Liability and Comprehensive Automobile Liability Insurance policies should include contractual liability for work in connection **██████████** with constructions or demolition work on or within 50 feet of a railroad, or a separate Railroad Protective Liability Policy should be provided.

Excess Liability Insurance over and above the Employers' Liability, Commercial General Liability and Comprehensive Automobile Liability Insurance coverages, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence and Twenty **██████████** Million Dollars (\$20,000,000) aggregate. The Excess policies should contain the same extensions listed under the Primary policies.

The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Liability Insurance policies of Connecting Transmission Owner shall name the Transmission Developer, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insureds using ISO CG Endorsements: CG 20 33 04 13, and CG 20 37 04 13 or CG 20 10 04 13 and CG

20 37 04 13 or equivalent to or better forms. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Calendar days advance written notice to

SERVICE AGREEMENT NO. 2472

the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Connecting Transmission Owner shall be responsible for its respective deductibles or retentions.

The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for at least three (3) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Transmission Developer and Connecting Transmission Owner.

If applicable, Pollution Liability Insurance in an amount no less than \$7,500,000 per occurrence and \$7,500,000 in the aggregate. The policy will provide coverage for claims resulting from pollution or other environmental impairment arising out of or in connection with work performed on the premises by the other party, its contractors and and/or subcontractors. Such insurance is to include coverage for, but not be limited to, cleanup, third party bodily injury and property damage and remediation and will be written on an occurrence basis. The policy shall name the Other Party Group as additional insureds, be primary and contain a waiver of subrogation.

The requirements contained herein as to the types and limits of all insurance to be maintained by the Connecting Transmission Owner are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.

Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, Connecting Transmission Owner shall provide certificate of insurance for all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

Notwithstanding the foregoing, Connecting Transmission Owner may self-insure to meet the minimum insurance requirements of Articles 18.3.1 through 18.3.9 to the extent it maintains a self-insurance program; provided that, such Party's senior debt is rated at investment grade, or better, by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.1 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.12, it shall notify the other Party that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Articles 18.3.1 through 18.3.9 and provide evidence of such coverages. For any period of time that a Party's senior debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's,

SERVICE AGREEMENT NO. 2472

such Party shall comply with the insurance requirements applicable to it under Articles 18.3.1 through 18.3.9.

Transmission Developer and Connecting Transmission Owner agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

Subcontractors of Connecting Transmission Owner must maintain the same insurance requirements stated under Articles 18.3.1 through 18.3.9 and comply with the Additional Insured requirements herein. In addition, their policies must state that they are primary and non-contributory and contain a waiver of subrogation.

ARTICLE 19. ASSIGNMENT

This Agreement may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this Agreement without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; provided further that a Party may assign this Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial portion or all of its assets so long as the assignee in such a transaction directly assumes in writing all rights, duties and obligations arising under this Agreement; and provided further that the Transmission Developer shall have the right to assign this Agreement, without the consent of the NYISO or Connecting Transmission Owner, for collateral security purposes to aid in providing financing for the Transmission Project, provided that the Transmission Developer will promptly notify the NYISO and Connecting Transmission Owner of any such assignment. Any financing arrangement entered into by the Transmission Developer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the NYISO and Connecting Transmission Owner of the date and particulars of any such exercise of assignment right(s) and will provide the NYISO and Connecting Transmission Owner with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

ARTICLE 20. SEVERABILITY

If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement.

SERVICE AGREEMENT NO. 2472

ARTICLE 21. COMPARABILITY

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 22. CONFIDENTIALITY

22.1 Confidentiality.

Certain information exchanged by the Parties during the term of this Agreement shall constitute confidential information ("Confidential Information") and shall be subject to this Article 22.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

22.2 Term.

During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.3 Confidential Information.

The following shall constitute Confidential Information: (1) any non-public information that is treated as confidential by the disclosing Party and which the disclosing Party identifies as Confidential Information in writing at the time, or promptly after the time, of disclosure; or (2) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F to the ISO OATT.

22.4 Scope.

Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.9 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any

legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information will no longer be deemed confidential if the Party that

SERVICE AGREEMENT NO. 2472

designated the information as confidential notifies the other Party that it no longer is confidential.

22.5 Release of Confidential Information.

No Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be considering providing financing to or equity participation with Transmission Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

22.6 Rights.

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by any Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.7 No Warranties.

By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.8 Standard of Care.

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements, including the ISO OATT and NYISO Services Tariff. The NYISO shall, in all cases, treat the information it receives in accordance with the requirements of Attachment F to the ISO OATT.

22.9 Order of Disclosure.

If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive

compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its

SERVICE AGREEMENT NO. 2472

counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

22.10 Termination of Agreement.

Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Parties, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Parties) or return to the other Parties, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Parties pursuant to this Agreement.

22.11 Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.12 Disclosure to FERC, its Staff, or a State.

Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement or the ISO OATT, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to the Commission or its staff. The Party shall notify the other Parties to the Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time the Parties may respond before such information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations. A Party shall not be liable for any losses, consequential or otherwise,

NYISO Agreements --> Service Agreements --> Joint IA Among NYISO, NMPC and HQUS re: Cedar Rapids
resulting from that Party divulging Confidential Information pursuant to a FERC or state
regulatory body request under this paragraph.

SERVICE AGREEMENT NO. 2472

22.13 Required Notices Upon Requests or Demands for Confidential Information

Except as otherwise expressly provided herein, no Party shall disclose Confidential Information to any person not employed or retained by the Party possessing the Confidential Information, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement, the ISO OATT or the NYISO Services Tariff. Prior to any disclosures of a Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. TRANSMISSION DEVELOPER AND CONNECTING TRANSMISSION OWNER NOTICES OF ENVIRONMENTAL RELEASES

Connecting Transmission Owner shall notify Transmission Developer, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Transmission Project or Network Upgrade Facilities, each of which may reasonably be expected to affect the Transmission Developer. The Connecting Transmission Owner shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. RESERVED

24.1 Reserved.

24.2 Reserved.

24.3 Reserved.

24.4 Reserved.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

25.1 Information Access.

Each Party ("Disclosing Party") shall make available to another Party ("Requesting Party") information that is in the possession of the Disclosing Party and is necessary in order for the Requesting Party to: (i) verify the costs incurred by the Disclosing Party for which the

Requesting Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes

SERVICE AGREEMENT NO. 2472

other than those set forth in this Article 25.1 of this Agreement and to enforce their rights under this Agreement.

25.2 Reporting of Non-Force Majeure Events.

Each Party (the “Notifying Party”) shall notify the other Parties when the Notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.

25.3 Audit Rights.

Subject to the requirements of confidentiality under Article 22 of this Agreement, each Party shall have the right, during normal business hours, and upon prior reasonable notice to another Party, to audit at its own expense the other Party’s accounts and records pertaining to the other Party’s performance or satisfaction of its obligations under this Agreement. Such audit rights shall include audits of the other Party’s costs, calculation of invoiced amounts, and each Party’s actions in an Emergency State. Any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to the Party’s performance and satisfaction of obligations under this Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4 of this Agreement.

25.4 Audit Rights Periods.

Audit Rights Period for Construction-Related Accounts and Records.

Accounts and records related to the design, engineering, procurement, and construction of the Transmission Project and Network Upgrade Facilities shall be subject to audit for a period of twenty-four months following Connecting Transmission Owner’s issuance of a final invoice in accordance with Article 12.2 of this Agreement.

Audit Rights Period for All Other Accounts and Records.

Accounts and records related to a Party’s performance or satisfaction of its obligations under this Agreement other than those described in Article 25.4.1 of this Agreement shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party’s receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

SERVICE AGREEMENT NO. 2472

25.5 Audit Results.

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

ARTICLE 26. SUBCONTRACTORS

26.1 General.

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

26.2 Responsibility of Principal.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the NYISO or Connecting Transmission Owner be liable for the actions or inactions of the Transmission Developer or its subcontractors with respect to obligations of the Transmission Developer under Article 5 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance.

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

27.1 Submission.

In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance (a "Dispute"), such Party shall provide the other Parties with written notice of the Dispute ("Notice of Dispute"). Such Dispute shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated representatives are unable to resolve the Dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Parties' receipt of the Notice of Dispute, such Dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such Dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.

SERVICE AGREEMENT NO. 2472

27.2 External Arbitration Procedures.

Any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the Dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. In each case, the arbitrator(s) shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“Arbitration Rules”) and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions.

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, the Transmission Project, or the Network Upgrade Facilities.

27.4 Costs.

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel; or (2) one-third the cost of the single arbitrator jointly chosen by the Parties.

27.5 Termination.

Notwithstanding the provisions of this Article 27, any Party may terminate this Agreement in accordance with its provisions or pursuant to an action at law or equity. The issue of whether such a termination is proper shall not be considered a Dispute hereunder.

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 General.

Each Party makes the following representations, warranties and covenants:

SERVICE AGREEMENT NO. 2472

Good Standing.

Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Transmission Project and Network Upgrade Facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

Authority.

Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

No Conflict.

The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

Consent and Approval.

Such Party has sought or obtained, or, in accordance with this Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

ARTICLE 29. MISCELLANEOUS

29.1 Binding Effect.

This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

29.2 Conflicts.

If there is a discrepancy or conflict between or among the terms and conditions of this cover agreement and the Appendices hereto, the terms and conditions of this cover agreement

shall be given precedence over the Appendices, except as otherwise expressly agreed to in writing by the Parties.

SERVICE AGREEMENT NO. 2472

29.3 Rules of Interpretation.

This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this Agreement or such Appendix to this Agreement, or such Section to the Transmission Interconnection Procedures or such Appendix to the Transmission Interconnection Procedures, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

29.4 Compliance.

Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the ISO OATT and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its compliance therewith. When any Party becomes aware of such a situation, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that is appropriate under the circumstances.

29.5 Joint and Several Obligations.

Except as otherwise stated herein, the obligations of NYISO, Transmission Developer and Connecting Transmission Owner are several, and are neither joint nor joint and several.

29.6 Entire Agreement.

This Agreement, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

SERVICE AGREEMENT NO. 2472

29.7 No Third Party Beneficiaries.

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and permitted their assigns.

29.8 Waiver.

The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by the Transmission Developer shall not constitute a waiver of the Transmission Developer's legal rights to obtain Capacity Resource Interconnection Service and Energy Resource Interconnection Service from the NYISO and Connecting Transmission Owner in accordance with the provisions of the ISO OATT. Any waiver of this Agreement shall, if requested, be provided in writing.

29.9 Headings.

The descriptive headings of the various Articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

29.10 Multiple Counterparts.

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

29.11 Amendment.

The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all three of the Parties.

29.12 Modification by the Parties.

The Parties may by mutual agreement amend the Appendices to this Agreement, by a written instrument duly executed by all three of the Parties. Such an amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.

29.13 Reservation of Rights.

NYISO and Connecting Transmission Owner shall have the right to make unilateral filings with FERC to modify this Agreement with respect to any rates, terms and conditions,

NYISO Agreements --> Service Agreements --> Joint IA Among NYISO, NMPC and HQUS re: Cedar Rapids
charges, classifications of service, rule or regulation under section 205 or any other applicable
provision of the Federal Power Act and FERC's rules and regulations thereunder, and

SERVICE AGREEMENT NO. 2472

Transmission Developer shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

29.14 No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

29.15 Other Transmission Rights.

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, or transmission congestion rights that the Transmission Developer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Transmission Project and Network Upgrade Facilities.

SERVICE AGREEMENT NO. 2472

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

New York Independent System Operator, Inc.

By:

Title:

Date:

Niagara Mohawk Power Corporation d/b/a National Grid

By:

Title:

Date:

H.Q. Energy Services (U.S.) Inc.

By:

Title:

Date:

SERVICE AGREEMENT NO. 2472

APPENDICES

Appendix A

Transmission Project and Network Upgrade Facilities

Appendix B

Milestones

Appendix C

Interconnection Details

Appendix D

Security Arrangements Details

Appendix E

In-Service Date

Appendix F

Addresses for Delivery of Notices and Billings

SERVICE AGREEMENT NO. 2472

APPENDIX A

TRANSMISSION PROJECT AND NETWORK UPGRADE FACILITIES

1. Transmission Project

The Transmission Project provides for the expansion of the Cedar Rapids Intertie, located in St. Lawrence County, New York, to increase the imports from the Quebec Control Area to New York. Specifically, the Transmission Project includes the following:

A. Reconductoring the Alcoa-Dennison Line 12

The 115kV Alcoa-Dennison Line 12 must be reconducted to accommodate the expansion of the Cedar Rapids Intertie. Line 12 is approximately 3.1 miles long, originating at Connecting Transmission Owner's Alcoa Substation and terminating at its Dennison Substation. The line is supported by a combination of square base steel towers, steel flex towers, and wood pole structures.

A portion of the structures is owned by the Connecting Transmission Owner and another portion is owned by Alcoa Power Generating, Inc. ("APGI"). Specifically, the section of the line from Alcoa Substation to structure 24 (twenty-five (25) structures numbered 1 to 24, including 4.5) is single circuit (Line 12 only) and is owned by Connecting Transmission Owner. After structure 24 the structure numbering changes and counts down from structure 138 to structure 132. Structures 138 to 132 are double circuit structures owned by APGI along with APGI's Line 10 tie line, which is also located on these structures. The last structure before Dennison Station is structure 131 and is owned by Connecting Transmission Owner. Some structures have a 24-strand all-dielectric self-supporting ("ADSS") conductor strung at 600 lbs. NESC Heavy Tension underbuilt.

i. Connecting Transmission Owner's Reconductoring Work

For the Transmission Project, all of Line 12 will be reconducted with 1192.5 kcmil ACSR 45/7 Bunting conductor, and all of the Connecting Transmission Owner's structures (*i.e.*, structures 1-24 and structure 131) will be replaced with standard wood pole H-frame structures.

The Connecting Transmission Owner shall perform the following work for the Line 12 reconductoring:

- Removal of:
 - Three (3) dead end square base steel towers;
 - Three (3) flex towers;
 - One (1) single wood pole angle dead end;
 - Fourteen (14) H-frame wood poles;
 - Five (5) wood three-pole angle dead end;
 - ~3.05 circuit miles of transmission conductor; and

NYISO Agreements --> Service Agreements --> Joint IA Among NYISO, NMPC and HQUS re: Cedar Rapids

- ~2.23 linear miles of 1-3/8" EHS steel shield wire.
- Installation of:

A-1

SERVICE AGREEMENT NO. 2472

- Seventeen (17) wood H-Frame, single shield wire, two-pole suspension, tangent structures;
- Nine (9) wood H-Frame, single shield wire, three-pole dead end angle structures;
- ~3.05 circuit miles of 1192.5 kcmil ACSR 45/7 Bunting conductor; and
- ~2.23 linear miles of 1-3/8" EHS steel shield wire.
- Transfer of:
 - ADSS to eighteen (18) structures.

ii. APCI's Reconductoring Work

As an Affected System, APCI will separately perform work associated with the reconductoring of Line 12. This work includes replacement of seven towers (structures 132-138), including removal of the existing latticed towers, removal of the existing wire and hardware, and installation of new foundations, poles, hardware, conductor, shield wire, and optical ground wire.

This work will be performed in accordance with the terms of an engineering, procurement, and construction agreement by and among the NYISO, Transmission Developer, Connecting Transmission Owner, and APCI. The Connecting Transmission Owner shall coordinate with APCI concerning the performance of the work concerning the reconductoring of Line 12, including sharing tower design information with APCI, providing APCI with information regarding the subcontractor elected by the Connecting Transmission Owner so that APCI may also engage the same subcontractor, and coordinating outage requirements with APCI.

B. Installation of Capacitor Bank at Dennison Substation

The Connecting Transmission Owner shall install a 25 MVAR rack mounted capacitor bank at the Dennison Substation, and associated foundation on the 115 kV Bus A side (with current and potential transformers for protection schemes), which will also require:

- Three (3) single phase 115 kV, 0.5 mh reactors;
- One (1) 115 kV, 3000A, SF6 independent single pole synchronous closing breaker, including foundation;
- One (1) 115 kV, 3000A, 550 kV BIL, motor-operated ganged disconnect switch, including associated steel support structure and foundation;
- Three (3) 115 kV Coupling Capacitor Voltage Transformers ("CCVTs"), including associated steel support structure and foundation, to the capacitor bank branch;
- Installation of:
 - One (1) SEL 487V relay to provide primary capacitor bank protection;
 - One (1) SEL 351-6 relay to provide secondary capacitor bank protection;
 - Two (2) Electrosch 86 lockout relays for the new capacitor breaker; and
- Extension of the existing bus differential wiring to include the new capacitor breaker.

The control and integration related modifications required for the capacitor bank include:

A-2

SERVICE AGREEMENT NO. 2472

- A new communications processor and ethernet switch will be installed to interface the microprocessor relays with the RTU and to allow for remote retrieval of fault records.
- A GPS satellite clock will be installed to provide IRIG-B time synchronization for sequence of events to the microprocessor relays and RTU.
- A digital panel meter will be required to provide analog telemetry to the new capacitor bank.
- Since the new circuit breaker will be an Independent Pole Operation (“IPO”), separate trip coil monitoring devices will be installed.
- An automatic capacitor control will be installed for the capacitor bank to monitor the reactive losses and operate based on predetermined set points.
- Two (2) RE-01 control handles capable of remote operation shall be installed for the new motor-operated disconnect switch and circuit breaker to allow for manual trip/close operation.

2. Network Upgrade Facilities

Network Upgrade Facilities are required at the Connecting Transmission Owner’s Dennison Substation and Alcoa Substation to address the higher thermal limits that result from the Transmission Project. The Connecting Transmission Owner shall design, procure, construct, install, and own the following Network Upgrade Facilities.

(a) Dennison Substation

As depicted in Figure A-1, the Network Upgrade Facilities at Connecting Transmission Owner’s Dennison Substation include the following major electrical and physical equipment:

- Replacement of the conductor from the overhead incoming line to disconnect switch 123 (DS123) with 1192 ACSR 45/7 Bunting conductor (or two (2) 795 MCM cables for ease of installation);
- Replacement of the incoming line connections to disconnect switches 13 and 23 (DS13 and DS23) with 1192 ACSR 45/7 Bunting conductor (or two (2) 795 MCM cables for ease of installation);
- Upgrade of the wave traps on Line 2 and Line 12 from 1200A to 1600A, and replacement of the associated coupling capacitors;

The system protection modifications at the Dennison Substation include:

Special Protection Scheme (“SPS”)

- Installation of:
 - An Alstom DIP 5000 relay for the SPS;
 - Two (2) SEL 351-6 relays (one on breaker R10 and one on breaker R20) to provide the primary SPS input to the DIP 5000; and
 - Two (2) ERLPhase F-Pro-4000 relays (one on breaker R10 and one on breaker R20) to provide the secondary SPS input to the DIP 5000.

A-3

SERVICE AGREEMENT NO. 2472

- Modification of the SPS logic at Dennison Substation to treat separately the opening of R10 and R20 and the opening of R120 or Alcoa's Substation's circuit breaker R8105.

Line Reconductoring

- Update Line 12 step-distance relay settings.

(b) Connecting Transmission Owner's Alcoa Substation

As depicted in Figure A-2, the Network Upgrade Facilities at Connecting Transmission Owner's Alcoa Substation include the following major electrical and physical equipment:

- Replacement of all existing station conductors that are either 795 or 636 ACSR with two (2) 795 ACSR Drake conductors (excluding the 115 kV Lines 3 and 13 branches of the station);
- Upgrade the wave trap on Line 12 from 1200A to 1600A, and replace the associated coupling capacitor;
- Replace three (3) existing single-phase strain bus surge arresters with new station class, 96 kV, 76 kV MCOV arresters (modification of the associated steel support structure may be required); and
- Replacement of the 1200A disconnect switch DS8107 with one (1) 115 kV, 2000A, 550 kV BIL, ganged disconnect switch (modification of the associated steel support structure may be required).

The system protection modifications at the Alcoa Substation include:

Line Reconductoring

- Update Line 12 step-distance relay settings; and
- Add a tele-rejection signal for the circuit breaker R8105 to the Cedar generation rejection keying.

(c) APCI's Alcoa Substation

As an Affected System, APCI will separately perform the following work associated with the electrical and structural modifications of the APCI-owned Alcoa Substation:

- Replacement of 1033.5 MCM ACSR strain bus rated 208 MVA within the east yard of the APCI's Alcoa Substation with either 1590 MCM AAC conductor rated 267 MVA or a 1510.5 MCM AAC rated 259 MVA which will be marginally sufficient or an electrically equivalent ACCR conductor, subject to a NYISO determination that an alternative conductor does not constitute a material modification.
- Replacement of 1192.5 MCM ACSR tie rated 227 MVA between the west yard of

Connecting Transmission Owner's Alcoa Substation and the east yard of APCI's Alcoa Substation with either 1590 MCM AAC conductor rated 267 MVA or a 1510.5 MCM AAC rated 259 MVA which will be marginally sufficient or an electrically equivalent

A-4

SERVICE AGREEMENT NO. 2472

ACCR conductor, subject to a NYISO determination that an alternative conductor does not constitute a material modification.

- The proposed structural modification consists of new structural frames detached from the existing substation structure which will support the new electrical equipment and conductors. The new frames will be constructed beside each of the existing substation bays and will be built from steel HSS members to minimize the surface area from wind action and ice accumulation.

3. Estimated Costs

The total estimated costs (+30%/-15%) of the work associated with the facilities of the Transmission Project and Network Upgrade Facilities to be owned by the Connecting Transmission Owner are presented in the table below. These exclude the costs for the Transmission Project and the Network Upgrade Facilities owned by APGI and for other upgrades on Affected Systems.

TRANSMISSION PROJECT LINE 12 RECONDUCTING		TRANSMISSION PROJECT & NETWORK UPGRADE FACILITIES DENNISON SUBSTATION		NETWORK UPGRADE FACILITIES ALCOA (NGRID) SUBSTATION	
Estimate		Estimate		Estimate	
Labor & Fringes		Labor & Fringes		Labor & Fringes	
Project Management	\$140,100	Project Management	\$60,800	Project Management	\$34,600
Engineering/Design	\$22,700	Engineering/Design	\$162,800	Engineering/Design	\$85,300
Construction	\$1,724,900	Construction	\$664,800	Construction	\$185,400
Subtotal	\$1,887,700	Subtotal	\$888,400	Subtotal	\$305,300
Materials & Handling		Materials & Handling		Materials & Handling	
Direct Purchase	\$77,000	Direct Purchase	\$631,500	Direct Purchase	\$95,200
Stores Material w/ handling	\$700,700	Stores Material w/ handling	\$75,800	Stores Material w/ handling	\$24,900
Subtotal	\$777,700	Subtotal	\$707,300	Subtotal	\$120,100
Consultants/Contractors		Consultants/Contractors		Consultants/Contractors	
Project Management	\$0	Project Management	\$0	Project Management	\$0
Engineering/Design	\$104,000	Engineering/Design	\$13,000	Engineering/Design	\$6,500
Construction	\$560,500	Construction	\$0	Construction	\$0
Subtotal	\$664,500	Subtotal	\$13,000	Subtotal	\$6,500
Other		Other		Other	
Transportation	\$282,000	Transportation	\$107,300	Transportation	\$29,800
Rents	\$531,000	Rents	\$67,100	Rents	\$35,200
Overheads (A&G and CAD)	\$1,283,100	Overheads (A&G and CAD)	\$572,000	Overheads (A&G and CAD)	\$157,100
AFUDC	\$0	AFUDC	\$0	AFUDC	\$0
Subtotal	\$2,096,100	Subtotal	\$746,400	Subtotal	\$222,100
TOTAL	\$5,426,000	TOTAL	\$2,355,100	TOTAL	\$654,000

The estimates provided herein exclude the following, as applicable:

- discussions of issued interconnection study,

- negotiation and execution of the Interconnection Agreement and/or Cost Reimbursement

A-5

SERVICE AGREEMENT NO. 2472

Agreement,

- application fees,
- applicable surcharges,
- overall project sales tax,
- property acquisition,
- property taxes,
- permitting, access, and/or costs associated with a Superfund site,
- FAA permitting,
- recurring monthly communications circuits' charges, if any, responsible by the Transmission Developer to the communications utility,
- allowance for funds used during construction (AFUDC) assuming Transmission Developer upfront payment,
- adverse field conditions such as rock, water, weather, and Transmission Developer electrical equipment obstructions,
- extended engineering and/or construction hours to minimize outage time or National Grid's public duty to serve, or
- the cost of any temporary construction service.

Cost adders estimated for overtime would be based on 1.5 and 2 times labor rates if required for work beyond normal business hours. Meals and equipment are also extra costs incurred for overtime labor.

4. Security

Pursuant to Article 11.5 of this Agreement, Transmission Developer shall provide Connecting Transmission Owner with Security in the amount of \$8,435,100 within thirty (30) Calendar Days of the Effective Date of this Agreement. Of this amount, \$7,474,900 is associated with the Transmission Project, and \$960,200 is associated with the Network Upgrade Facilities for the purposes of Articles 11.6 and 11.7 of this Agreement.

5. Other Upgrades on Affected Systems

Hydro-Québec TransÉnergie has determined that a special protection scheme is required to accommodate the increase in transfer limit capacity associated with the Transmission Project and the related exports from the Quebec Control Area to New York of 80 MW. The required upgrades include:

- Installation of DIP5000 telecommunication devices at Les Cèdres substation and Boundary Substation;
- Modification of the logic of the generation rejection SPS and modify the settings; and
- Modification of the minimum quantity of generation rejection.

A-6

SERVICE AGREEMENT NO. 2472

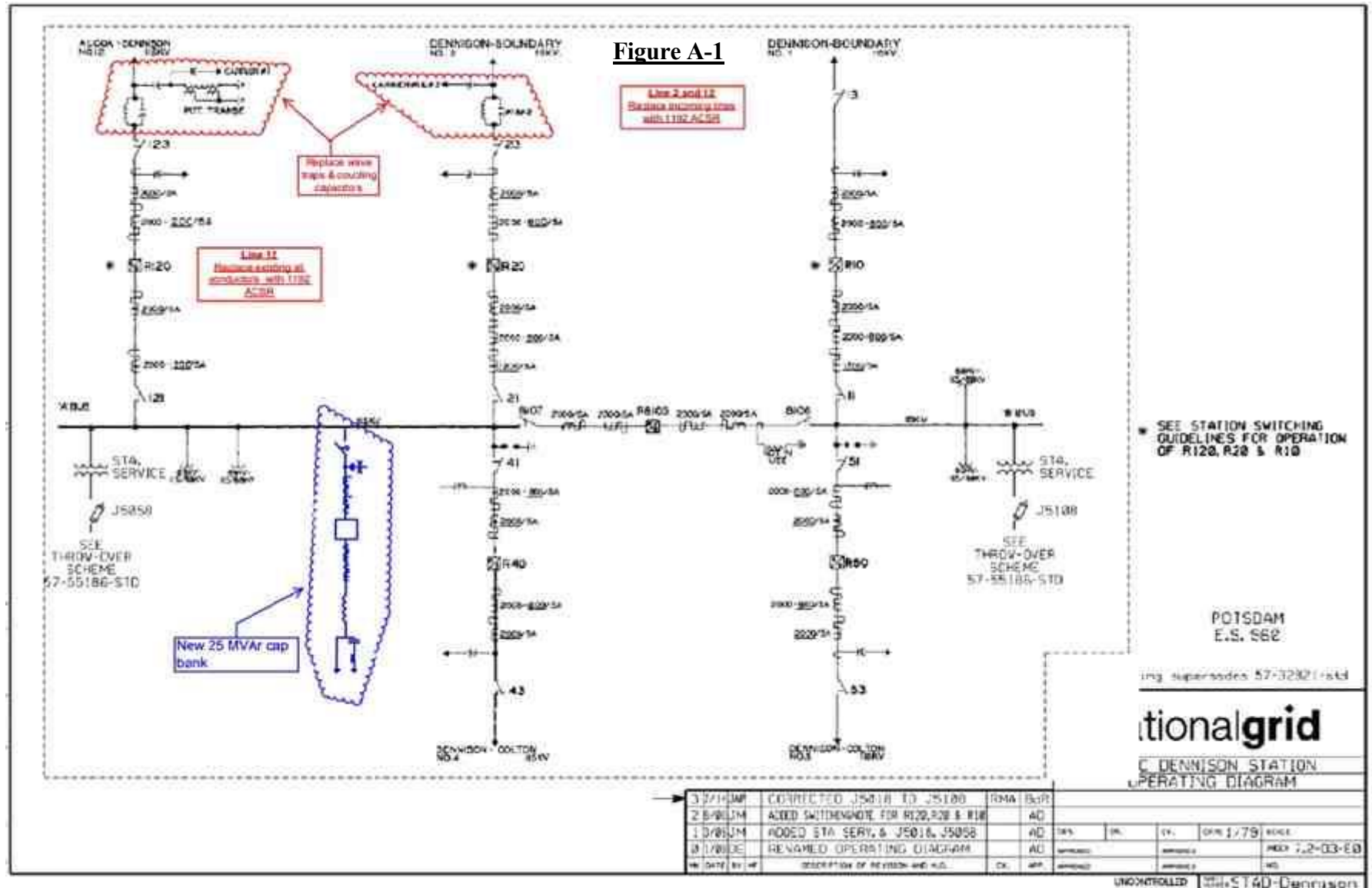
The required upgrades will be addressed pursuant to a separate agreement by and among Hydro-Québec TransÉnergie, its subsidiary Cedars Rapids Transmission Co., and the Connecting Transmission Owner.

6. Income Tax Gross-Up

Pursuant to Article 5.17.4 of this Agreement, Transmission Developer shall provide Connecting Transmission Owner with an income tax gross-up for contribution in aid of construction in the estimated amount of \$668,000 within thirty (30) days of acceptance of this Agreement by FERC.

A-7

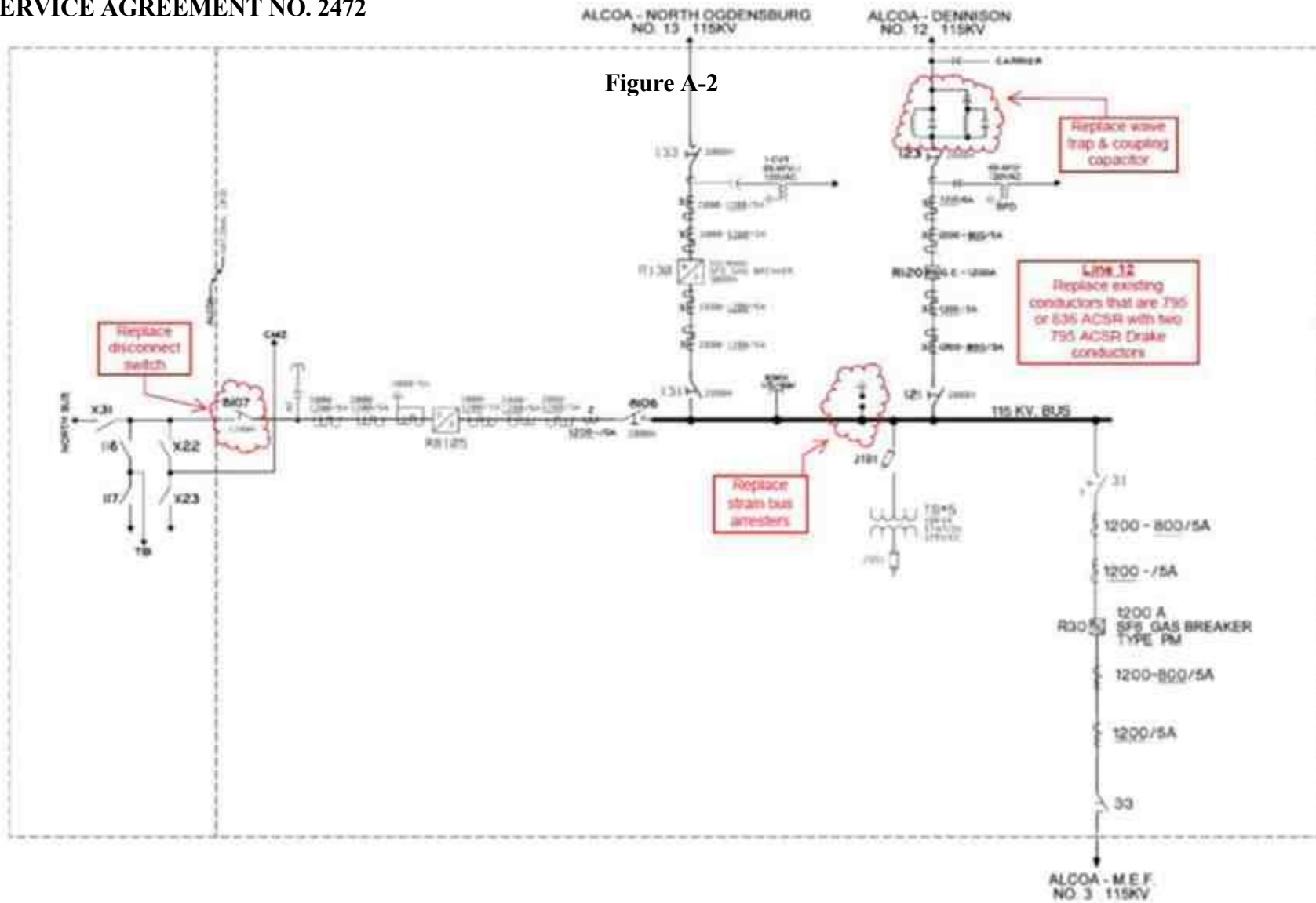
SERVICE AGREEMENT NO. 2472



A-8

SERVICE AGREEMENT NO. 2472

Figure A-2



A-9

SERVICE AGREEMENT NO. 2472

APPENDIX B

MILESTONES

1. Milestones

	Milestone	Date	Responsible Party
1.	Execute Interconnection Agreement	Completed	Connecting Transmission Owner/Transmission Developer/ NYISO
2.	Provide Security pursuant to Interconnection Agreement	Completed	Transmission Developer
3.	Issue written authorization to proceed with engineering	October 2019	Transmission Developer
4.	Start engineering	October 2019	Connecting Transmission Owner
5.	Issue written authorization to proceed with procurement and construction	February 2020	Transmission Developer
6.	Start procurement	March 2020	Connecting Transmission Owner
7.	Complete engineering	September 2020	Connecting Transmission Owner
8.	Complete procurement	January 2021	Connecting Transmission Owner
9.	Start construction	March 2021	Connecting Transmission Owner
10.	Complete construction	October 2021	Connecting Transmission Owner
11.	Complete testing and commissioning (Initial Synchronization Date)	October 2021	Connecting Transmission Owner
12.	In-Service Date; issue written notification of In-Service Date	October 2021	Connecting Transmission Owner

B-1

SERVICE AGREEMENT NO. 2472

- | | | | |
|-----|---------------------------------------|--------------|----------------------------------|
| 13. | Complete As BUILTs | January 2022 | Connecting
Transmission Owner |
| 14. | Complete closeout and final invoicing | March 2022 | Connecting
Transmission Owner |

This milestone schedule is contingent upon, but not limited to, outage scheduling, and the Transmission Developer's successful compliance with the requirements and timely completion of its obligations under this Agreement.

	B-2		

SERVICE AGREEMENT NO. 2472

APPENDIX C

INTERCONNECTION DETAILS

1. CRIS Rights

On January 31, 2017, FERC granted a limited one-time waiver in Docket No. ER17-505-000 to Transmission Developer's request to waive certain provisions of the NYISO OATT and Services Tariff to allow the Transmission Developer to enter the NYISO's 2017 Class Year Interconnection Facilities Study for the deliverability evaluation of the Transmission Project's requested CRIS. Transmission Developer participated in the 2017 Class Year Interconnection Facilities Study as a Class Year Transmission Project for purposes of evaluating the deliverability of the CRIS corresponding to the incremental transmission capacity created by the Transmission Project and its Network Upgrade Facilities. Transmission Developer's requested 80 MW of CRIS was determined to be fully deliverable, and the Transmission Developer accepted its deliverable MW and completed Class Year 2017 as part of Class Year 2017-1. Transmission Developer is, therefore, eligible to receive External-to-ROS Deliverability Rights corresponding to its 80 MW of deliverable CRIS, subject to the eligibility requirements in the ISO Procedures.

2. Outage Requirements

Specific outage requirements shall be identified, and detailed outage plans developed, during final engineering. For purposes of coordinating the outages required to perform the work under this Agreement, the Connecting Transmission Owner provides the following information:

For the Alcoa-Dennison Line 12 reconductoring, an outage on Line 12 and APGI's Line 10 will be required.

To complete the Network Upgrade Facilities at Dennison Substation, the following outages may be required:

- Dennison-Boundary Line 1 outage to replace the incoming conductors;
- Dennison-Boundary Line 2 outage to replace the two wave traps/coupling capacitors and incoming conductor;
- Alcoa-Dennison Line 12 outage to replace incoming conductor and the incoming wave trap/coupling capacitor.

To complete the Network Upgrade Facilities at Alcoa Substation, the following outages may be required:

- Alcoa-Dennison Line 12 outage to complete station reconductoring;
- Tie bus breaker R8105 and the Alcoa owned station end will need to be out of service to replace disconnect switch DS8107;
- Alcoa-Dennison Line 12 outage to complete wave trap replacement; and

- Bus outage to replace surge arresters.

C-1

SERVICE AGREEMENT NO. 2472

Load at risk is not a concern for the Line 12 outages. However, short outage durations (3 days or less) of Line 12 and Alcoa switch DS8107 are preferred for system stability.

- Outages shall comply with the Connecting Transmission Owner's Transmission Control Center's Application of Reliability Rules Policy (PCP&P 7.1).

C-2

SERVICE AGREEMENT NO. 2472

APPENDIX D

SECURITY ARRANGEMENTS DETAILS

Infrastructure security of New York State Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day New York State Transmission System reliability and operational security. The Commission will expect the NYISO, all Transmission Owners, all Developers and all other Market Participants to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

D-1

SERVICE AGREEMENT NO. 2472

APPENDIX E

IN-SERVICE DATE

[Date]

New York Independent System Operator, Inc.
Attn: Vice President, Operations
10 Krey Boulevard
Rensselaer, NY 12144

Re: _____ Transmission Project

Dear _____:

On **[Date]** **[Connecting Transmission Owner]** has completed Trial Operation of [Describe Transmission Project/Network Upgrade Facilities]. This letter confirms that [describe Transmission Project/Network Upgrade Facilities] has commenced service, effective as of **[Date plus one day]**.

Thank you.

[Signature]

[Connecting Transmission Owner Representative]

CC:

H.Q. Energy Services (U.S.) Inc.
Attn: General Manager
75, René-Lévesque Boulevard West, 18th Floor
Montréal (Québec) Canada H2Z 1A4
Phone: (514) 289-6978
Fax: (514) 289- 6756
Email: bergevin.simon@hydro.qc.ca

E-1

SERVICE AGREEMENT NO. 2472

APPENDIX F

ADDRESSES FOR DELIVERY OF NOTICES AND BILLINGS

Notices:

NYISO:

Before In-Service Date of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

After In-Service Date of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, Operations
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid
Attn: Director, Transmission Commercial Services
40 Sylvan Road
Waltham, MA 02541-1120
Phone: (781) 907-2422
Fax: (315) 428-5114

Transmission Developer:

H.Q. Energy Services (U.S.) Inc.
Attn: General Manager
75, René-Lévesque Boulevard West, 18th Floor
Montréal (Québec) Canada H2Z 1A4
Phone: (514) 289-6978
Fax: (514) 289- 6756
Email: bergevin.simon@hydro.qc.ca

Billings and Payments:

F-1

SERVICE AGREEMENT NO. 2472

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid
Attn: Director, Transmission Commercial Services
40 Sylvan Road
Waltham, MA 02541-1120
Phone: (781) 907-2422
Fax: (315) 428-5114

Transmission Developer:

H.Q. Energy Services (U.S.) Inc.
Attn: General Manager
75, René-Lévesque Boulevard West, 18th Floor
Montréal (Québec) Canada H2Z 1A4
Phone: (514) 289-6978
Fax: (514) 289- 6756
Email: bergevin.simon@hydro.qc.ca

Alternative Forms of Delivery of Notices (telephone, facsimile or email):

NYISO:

Before In-Service Date of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

After In-Service Date of the Transmission Project:

New York Independent System Operator, Inc.
Attn: Vice President, Operations
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

Connecting Transmission Owner:

Niagara Mohawk Power Corporation d/b/a National Grid
Attn: Director, Transmission Commercial Services

F-2

SERVICE AGREEMENT NO. 2472

Waltham, MA 02541-1120

Phone: (781) 907-2422

Fax: (315) 428-5114

Transmission Developer:

H.Q. Energy Services (U.S.) Inc.

Attn: General Manager

75, René-Lévesque Boulevard West, 18th Floor

Montréal (Québec) Canada H2Z 1A4

Phone: (514) 289-6978

Fax: (514) 289- 6756

Email: bergevin.simon@hydro.qc.ca

F-3