

THIS FILING LETTER DOES NOT CONTAIN ANY CEII. ATTACHMENTS I, II, AND IV DO NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT III INCLUDES A ONE-LINE SCHEMATIC FOR WHICH CEII DESIGNATION IS REQUESTED IN PART III BELOW, AND IS SUBMITTED SEPARATELY.

September 13, 2021

By Electronic Delivery

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

Re: Joint Filing of an Executed Small Generator Interconnection Agreement for the North Country Energy Storage Project Among the New York Independent System Operator, Inc. and New York Power Authority; Request for Critical Energy Infrastructure Information Designation; Request for Waiver of the 60-Day Notice Period; Docket No. ER21-____-000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.13 of the Commission's regulations,² the New York Independent System Operator, Inc. ("NYISO") and New York Power Authority ("NYPA") (together, the "Joint Filing Parties") hereby tender for filing an executed two-party Small Generator Interconnection Agreement for the North Country Energy Storage project (NYISO Queue No. 769) entered into by the NYISO and NYPA, with NYPA as both the Connecting Transmission Owner and Interconnection Customer (the "Interconnection Agreement").³ The Interconnection Agreement is labeled as Service Agreement No. 2648 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing. As described in Part I of this letter, the Interconnection Agreement is based upon the NYISO's three-party, *pro forma* Small Generator Interconnection Agreement ("Pro Forma SGIA") that is contained in Attachment Z to the OATT as modified to reflect that there are only two parties to the Interconnection Agreement. Further, as described in

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2021).

³ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachments S, X, or Z of the NYISO OATT, and if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

Part II of this letter, the Joint Filing Parties respectfully request a waiver of the Commission's prior notice requirements⁴ to make the Interconnection Agreement effective as of August 27, 2021, which is the date of its full execution. Finally, as described in Part III of this letter, NYPA requests that the one-line diagram included in the Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information.

I. Discussion

A. Background

NYPA is constructing a 20 MW energy storage facility located in the town of Burke in Franklin County, NY (the "Facility"). Additional details concerning the Facility can be found in Attachment 2 of the Interconnection Agreement.

The Facility will interconnect to NYPA's transmission facilities that are part of the New York State Transmission System. The Point of Interconnection for the Facility is NYPA's Willis 115 kV Substation. Attachment 3 of the Interconnection Agreement includes a one-line diagram showing the Point of Interconnection.

B. The Interconnection Agreement Closely Conforms to the Pro Forma SGIA Contained in Attachment Z of the NYISO OATT

The Interconnection Agreement was fully executed on August 27, 2021, by the NYISO and NYPA. The Interconnection Agreement largely conforms to the language in the Pro Forma SGIA contained in Attachment Z of the NYISO OATT with the exceptions described below in this Part I.B. The Joint Filing Parties submit that the changes specified below satisfy the Commission's standard for variations from the Pro Forma SGIA, because unique circumstances exist that require a non-conforming agreement.⁵ Therefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement with the non-conforming changes.

1. Modifications Required to Reflect NYPA as Both the Connecting Transmission Owner and Interconnection Customer

The Pro Forma SGIA is a standard form of agreement that provides for three parties to the agreement, *i.e.*, the NYISO, Connecting Transmission Owner, and Interconnection Customer. In this instance, NYPA owns and operates both the Facility and the transmission facility to which the Facility connects. Thus, NYPA is both the Connecting Transmission Owner and the Interconnection Customer. Therefore, the NYISO and NYPA modified the three-party Pro Forma SGIA into a two-party agreement.

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

⁵ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005).

The Joint Filing Parties made three types of modifications to the Pro Forma SGIA to create the two-party Interconnection Agreement. As described below, the Joint Filing Parties: (A) deleted or modified terms appropriate for a three-party agreement and replaced them with terms appropriate for a two-party agreement; (B) replaced all references to “Connecting Transmission Owner” and “Interconnection Customer” with “NYPA”; and (C) eliminated or modified those provisions in the Pro Forma SGIA that define the contractual relationship between the Connecting Transmission Owner and the Interconnection Customer, as they are the same entity here. The Commission has previously accepted similar changes to the Pro Forma LGIA where a two-party agreement was needed.⁶

a. Modifications to reflect that there are only two Parties

The Joint Filing Parties have modified several provisions of the Pro Forma SGIA to reflect the fact that there are only two parties to the Interconnection Agreement. For example, the Joint Filing Parties deleted terms like “any Party” and “all Parties” and replaced them with terms appropriate for a two-part agreement like “either Party” and “the other Party.” Such modifications substitute terms applicable to three-party agreements with terms suitable for a two-party agreement. These modifications appear throughout the Interconnection Agreement.

The Joint Filing Parties also modified requirements specific to three parties so that they function for two parties. For example, the dispute provisions in Article 10.5 of the Pro Forma SGIA provide for each party to the agreement to be responsible for one-third of the costs of neutral third party. As the Interconnection Agreement will only have two parties, the Joint Filing Parties agreed to modify Article 10.5 to provide for each party to be responsible for one half of such costs.

b. Modifications that replace the terms “Connecting Transmission Owner” and “Interconnection Customer” with the term “NYPA”

The Joint Filing Parties deleted references to “Connecting Transmission Owner” and “Interconnection Customer” and replaced those with the term “NYPA.” These modifications appear throughout the Interconnection Agreement.

⁶ See *New York Independent System Operator, Inc. and Rochester Gas and Electric Corporation*, Letter Order, Docket No. ER12-1086-000 (March 22, 2012) (accepting a modified two-party version of the NYISO’s *pro forma* Small Generator Interconnection Agreement for filing); see also *New York Independent System Operator, Inc. and Consolidated Edison Company of New York, Inc.*, Letter Order, Docket No. ER20-1526-000 (June 5, 2020) (accepting a modified two-party version of the NYISO’s *pro forma* Large Generator Interconnection Agreement); *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER09-1372-000 (August 24, 2009) (same).

c. Deletions or modifications of provisions in the Pro Forma SGIA that define the contractual relationship between a Connecting Transmission Owner and Interconnection Customer that are separate legal entities

Many of the provisions of the Pro Forma SGIA create rights and obligations between the Connecting Transmission Owner and the Interconnection Customer or outline terms between the Connecting Transmission Owner and Interconnection Customer that are no longer required with NYPA being both the Interconnection Customer and Connecting Transmission Owner. For example, Articles 6.1 and 6.3 of the Pro Forma SGIA establishes the billing and payment and the financial security provisions between the Connecting Transmission Owner and Interconnection Customer, which requirements are not needed in this Interconnection Agreement with NYPA performing both roles. Similarly, the NYISO and NYPA have stricken several Pro Forma SGIA provisions that are inapplicable as the Connecting Transmission Owner and the Interconnection Customer are the same party. For example, Article 2.1.1 of the Pro Forma SGIA establishes that the Connecting Transmission Owner may send personnel to the Interconnection Customer's Small Generating Facility to observe testing, which requirement is not necessary in this Interconnection Agreement as NYPA is both the Connecting Transmission Owner and Interconnection Customer.

2. Modifications to reflect NYPA Insurance Requirements

As NYPA is both Interconnection Customer and Connecting Transmission Owner, the NYISO and NYPA agreed to modify the insurance requirements in Article 8.1 of the Pro Forma SGIA to provide in the Interconnection Agreement that NYPA will maintain insurance in the types and amounts consistent with its existing commercial practice for the generating facilities that it operates and Good Utility Practice.

II. Proposed Effective Date and Request for Waiver of the 60-Day Notice Period

The Joint Filing Parties request an effective date of August 27, 2021, for the Interconnection Agreement, which is the date of its full execution. The Joint Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted interconnection agreements to become effective upon the date of execution.⁷

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

III. Request for CEII Treatment

Pursuant to Sections 388.112 and 388.113 of the Commission's regulations,⁸ NYPA requests that the one-line diagram included in Attachment 3 of the Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information ("CEII").⁹ The diagram contains detailed, one-line schematics of NYPA's facilities that, if disclosed, could pose a threat to the security and the reliability of the New York State bulk power system. The diagram provides more than simply the general location of critical infrastructure. Unlike publicly available maps of power transmission lines and generation and substation facilities, the schematics show the exact nature and specific location of facilities used to maintain the reliability of the New York State bulk power system.

The diagram, in NYPA's assessment, reveals such critical information related to the facilities depicted therein that, if disclosed, could be useful to a person seeking to disable the power grid. Therefore, the disclosure of the CEII diagram would pose a threat to the reliability of the New York State bulk power system and the health and safety of New York residents. Moreover, the information revealed in this schematic reveals CEII, which the Commission has determined to be exempt from mandatory disclosure under 5 U.S.C. § 552(b)(7)(F). The diagrams have been omitted from the Public version of the Interconnection Agreement included in this filing.

The Joint Filing Parties are electronically submitting a non-public version of this filing. The diagram is included only in the non-public version of the Interconnection Agreement. The non-public diagram is marked: "**FIGURE CONTAINS CEII – DO NOT RELEASE PURSUANT TO 18 C.F.R. §§ 388.112 and 388.113.**" The non-public diagram should be treated as CEII reviewable by Commission Staff. In accordance with the Commission's April 14, 2017 notice on labeling of non-public information, each page of the non-public version of the filing is marked "**CUI//CEII.**"¹⁰ A placeholder has been included in place of the non-public diagram in the public version of the Interconnection Agreement.

⁸ 18 C.F.R. §§ 388.112 and 388.113 (2021).

⁹ As required by Section 388.113(d)(1)(i) of the Commission's regulations, NYPA has described in the filing letter how the one-line diagram in Attachment 3 satisfies the definition of critical energy infrastructure information as that term is defined in Section 388.113(c)(1). In addition, as required by Section 388.113(d)(1)(ii) the cover page of the filing letter and the relevant page of the Interconnection Agreement that contains critical energy infrastructure information is labelled as including CEII and marked DO NOT RELEASE, and a Public and CEII version of the Interconnection Agreement are being filed with this letter. The CEII material is redacted in the Public version. Finally, as required by Section 388.113(d)(1)(i), NYPA requests that the Commission designate the CEII material submitted on September 13, 2021, with the full five-year CEII designation provided for in Section 388.113(e)(1) as the information provided in the one-line diagrams will continue to satisfy the definition of critical energy infrastructure information for this entire period.

¹⁰ See Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff (Apr. 14, 2017) (unreported).

All communications relating to this request for privileged and confidential treatment should be addressed to NYPA's Counsel listed below.

IV. Communications and Correspondence

All communications and service in this proceeding should be directed to:

For the NYISO¹¹

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¹¹ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2019) to permit service on counsel in both Washington, D.C. and Richmond, VA.

V. Documents Submitted

The Joint Filing Parties submit the following documents with this filing letter:

- A clean Public version of the Interconnection Agreement (Attachment I);
- A blacklined Public version of the Interconnection Agreement showing the changes from the Pro Forma SGIA (Attachment II);
- A clean CEII version of the Interconnection Agreement (Attachment III); and
- The signature pages for the Interconnection Agreement (Attachment IV).

VI. Service

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

VII. Conclusion

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing with an effective date of August 27, 2021.

Respectfully submitted,

/s/ Sara B. Keegan _____

Sara B. Keegan

Counsel for the

New York Independent System Operator, Inc.

/s/ Javier E. Bucobo _____

Javier E. Bucobo

Assistant General Counsel for New York Power

Authority

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