

February 14, 2012

VIA ELECTRONIC FILING

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

Re: Filing of an Executed Small Generator Interconnection Agreement between the New York Independent System Operator, Inc. and the Rochester Gas and Electric Corporation, Docket No. ER12-____-000,

Dear Secretary Bose,

Pursuant to Section 205 of the Federal Power Act (“FPA”)¹ and Part 35 of the Commission’s regulations,² the New York Independent System Operator, Inc. (“NYISO”) and Rochester Gas and Electric Corporation (“RG&E”) (collectively “Joint Filing Parties”), respectfully submit for filing an executed Small Generator Interconnection Agreement (“Agreement”) by and between the NYISO and RG&E as Service Agreement No. 1829. With the exceptions noted in Section II of this letter, the Agreement conforms to the NYISO’s *pro forma* Small Generator Interconnection Agreement (“SGIA”) that is contained in Attachment Z of the NYISO’s Open Access Transmission Tariff (“OATT”).

The Joint Filing Parties request a January 27, 2012 effective date for the Agreement and further request waiver of the normal 60-day notice period, as discussed below.

I. Background

The Small Generating Facility that is the subject of this Agreement is a hydropower plant located at High Falls on the Genesee River in Rochester, New York. RG&E has operated the facility since at least 1960 at a capacity of 6.5 MW. RG&E has recently made modifications to the facility to increase its capacity to 8.5 MW. The Agreement authorizes the interconnection and operation of the full 8.5 MW. Because the plant was already in operation at the time the NYISO was formed, there is no pre-existing interconnection agreement between the parties.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

The Agreement substantially conforms to the NYISO's *pro forma* SGIA.³ The *pro forma* document is structured as a three-party agreement among the NYISO, the Interconnection Customer, and the Connecting Transmission Owner. In this case, RG&E is both owner and operator of the generation facility that is the subject of the present Agreement, and for this reason undertakes the responsibilities assigned to both an Interconnection Customer and the Connecting Transmission Owner under the *pro forma* SGIA. The NYISO and RG&E have modified the *pro forma* SGIA to reflect this fact, and respectfully request that the Commission accept these modifications. For ease of reference, the Joint Filing Parties have included a blackline of the Interconnection Agreement against the NYISO's *pro forma* SGIA to highlight these changes.

II. Changes from the Pro Forma SGIA

As noted above, the Agreement is based on the NYISO's *pro forma* SGIA; however, the Parties have agreed to make a limited set of modifications to the *pro forma* agreement. These modifications are described below and are necessary to reflect the fact that RG&E is both the Connecting Transmission Owner and Interconnection Customer for this facility.

In various orders, the Commission has provided guidance regarding deviations from the applicable standard form of interconnection agreement. Specifically, the Commission has stated that where a case-specific deviation from a *pro forma* interconnection agreement is sought, the filing parties must produce justification explaining what makes the interconnection unique and what operational concerns or other factors necessitate the changes, including reliability concerns, novel legal issues, or other unique circumstances.⁴ In the present case, RG&E's status as the owner of the Small Generating Facility is a specific circumstance that requires modification of the *pro forma* SGIA.

The Commission has accepted changes to the *pro forma* Interconnection Agreement terms where, as here, there are unique circumstances associated with the interconnection, including "reliability concerns, novel legal issues or other unique factors."⁵ In fact, many of the modifications to the *pro forma* SGIA in this Agreement are substantially similar or identical to those previously accepted by the Commission.⁶ The NYISO respectfully requests that the

³ Capitalized terms not defined in this letter shall have the meanings ascribed to them in the NYISO OATT and Market Services Tariff.

⁴ See Order No. 2006 at P 562. See also *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,421 at P 11 (2005) (citing Order No. 2003 at PP 913-15).

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

⁶ The Commission has previously accepted similar non-conforming provisions to *pro forma* interconnection agreements to accommodate unique ownership structures. The Commission accepted non-conforming provisions to an ISO's *pro forma* LGIA to reflect a two-party agreement because the Interconnection Customer was the same entity as the Transmission Owner. See *ISO New England Inc.*, Docket No. ER09-420-000, letter order issued February 3, 2009; *ISO New England Inc.*, 125 FERC ¶ 61,224 (2008). See also *Midwest Independent Transmission System Operator, Inc.*, 120 FERC ¶ 61,238 at P 7 (2009) (accepting "non-conforming provisions to SGIA's to accommodate . . . [unique] ownership structure, including provisions that establish the relationship between the

Commission accept these modifications in light of the unique factors and novel legal issues explained below.

A. Modifications Required to Reflect the Unique Position of RG&E as Both the Connecting Transmission Owner and Interconnection Customer

The majority of the modifications to the *pro forma* SGIA are necessary to create a two-party agreement out of the three-party structure contemplated in the *pro forma* SGIA.⁷ Here, the Interconnection Customer is the same entity as the Connecting Transmission Owner. Thus, certain nonconforming provisions are necessary to create a two-party agreement, and other inapplicable provisions are omitted.

The modifications fall into four categories: (1) modified terms appropriate for a two-party agreement where the wording of the *pro forma* assumes three parties; (2) replacement of “Connecting Transmission Owner” and most references to “Interconnection Customer” with “RG&E;” (3) replacement of “Interconnection Customer” with the term “Small Generating Facility” as needed; and (4) elimination of certain provisions relevant only to the contractual relationship between a Connecting Transmission Owner and an Interconnection Customer, when those parties are separate legal entities. These categories of changes are discussed below.

1. Modifications to reflect that there are only two parties

The NYISO and RG&E modified certain provisions of the *pro forma* SGIA to reflect the fact that there are only two parties to the Agreement. Such modifications substitute terms applicable to three-party agreements with terms suitable for a two-party agreement.⁸ Included in such modifications were corresponding changes to the following definitions: “Connecting Transmission Owner,” “Distribution System,” “Distribution Upgrades,” “Energy Resource Interconnection Service,” “Party or Parties,” “Small Generating Facility,” and “Upgrades.”⁹

2. Modifications to replace the terms “Connecting Transmission Owner” and “Interconnection Customer” with the term “RG&E”

The NYISO and RG&E deleted references to “Connecting Transmission Owner” and “Interconnection Customer” and replaced these with the term “RG&E.” These modifications

Interconnection Customer and the wind generation facilities, as well as requiring that the Interconnection Customer ‘cause’ the Generating Companies to take a required action.”); *Midwest Independent Transmission System Operator, Inc.*, 117 FERC 61,229 at PP 10-11 (2006).

⁷ Order No. 2006 at P 349 (requiring “three-party agreements in areas where the Transmission Provider and Transmission Operator are different entities”).

⁸ See Agreement, *passim*.

⁹ See Agreement at § 1.

appear throughout the Agreement – in the recitals, signature lines, definitions, and various sections of the Agreement.¹⁰

3. Modifications that replace the term “Interconnection Customer” with the term “Small Generating Facility”

In a few instances, the NYISO and RG&E did not replace “Interconnection Customer” with “RG&E,” but rather, replaced “Interconnection Customer” with the term “Small Generating Facility.” In those provisions, use of the term “RG&E” would be over broad and the term “Small Generating Facility” is more appropriate.¹¹

4. Modifications to provisions only applicable where the Connecting Transmission Owner and Interconnection Customer are separate legal entities

Many provisions in the *pro forma* SGIA create rights and obligations that apply only to the Connecting Transmission Owner and the Interconnection Customer and do not involve the NYISO. These provisions have generally been deleted in their entirety, because they are inapplicable in an agreement where the Connecting Transmission Owner and Interconnection Customer are the same entity.

Other language in the *pro forma* creates rights that the NYISO and the Connecting Transmission Owner share with respect to an Interconnection Customer, or contemplate situations where either the Connecting Transmission Owner or the NYISO may perform certain actions. The Agreement alters these *pro forma* SGIA provisions by deleting references to the Connecting Transmission Owner’s rights and obligations, but preserving the rights and obligations of the NYISO with respect to the Small Generating Facility.

a. Modifications to provisions that govern the interactions between the Connecting Transmission Owner and the Interconnection Customer

As this is a two-party agreement, where RG&E is both the Connecting Transmission Owner and Interconnection Customer, *pro forma* terms governing the interactions between a Connecting Transmission Owner and an Interconnection Customer are inapplicable. Therefore, the NYISO and RG&E have modified the Agreement accordingly.¹² Additionally, for clarification, the term “[omitted]” was added to Article 6 wherever large sections of inapplicable text were deleted.

¹⁰ See Agreement, *passim*.

¹¹ See Agreement §§ 2.3.1 and 2.3.2 (“Right of Access”); §3.4.3 (“Forced Outages”); and §5.2 (“System Upgrades”).

¹² See Agreement, *passim*.

b. Modifications to provisions in the *pro forma* SGIA concerning shared rights and obligations of the Connecting Transmission Owner and the NYISO

The NYISO and RG&E have modified certain provisions of the *pro forma* SGIA which create rights that the NYISO and the Connecting Transmission Owner share with respect to the Interconnection Customer. They have also modified provisions which create alternatives, where either the Connecting Transmission Owner or the NYISO may undertake certain obligations. Most of these changes required deletion of the phrases “and Connecting Transmission Owner” or “or Connecting Transmission Owner” from the *pro forma* SGIA provisions. However, the parties also deleted other phrases, such as “in consultation with the Connecting Transmission Owner,” where appropriate.¹³

B. Additional Modifications

In addition to the above changes to the *pro forma* SGIA, the Parties have also made changes that are intended simply to enhance the Agreement’s clarity and completeness. These modifications do not substantively affect the Agreement. The changes include the following:

- Section 1.3.1 – modification to clarify that Capacity Resource Interconnection Service is provided subject to the limitations set forth in Attachment 5.
- Section 1.8. -- modification to specify reactive power requirements, adding “4.11 MVARS leading and lagging,” the precise range established by RG&E.
- Sections 1.9 and 7.5.1, and Base Case definition -- modifications to correct cross-references to other sections of the OATT.

III. Effective Date

The Parties request an effective date of January 27, 2012, the date of execution of the Agreement. The Commission has allowed interconnection agreements to become effective on the date of execution, even when that date precedes the date that an interconnection agreement is filed. Accordingly, the Parties request that the Commission grant a waiver of its prior notice requirements to the extent necessary to accommodate this requested effective date.

IV. Communications and Correspondence

Communications regarding this filing should be directed to:

For the NYISO:

Robert E. Fernandez, General Counsel
Karen Georgenson Gach, Deputy General Counsel
*Sara B. Keegan, Senior Attorney

¹³ See Agreement, *passim*.

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V. Documents Submitted

The NYISO submits the following documents:

1. The filing letter;
2. A clean version of the Agreement (“Attachment I”); and
3. A black-lined version of the Agreement showing the changes from the body of the NYISO’s *pro forma* SGIA (“Attachment II”).

VI. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public

Service Commission, and the New Jersey Board of Public Utilities. In addition, a version of this filing will be posted on the NYISO's website at www.nyiso.com.

VII. Conclusion

Wherefore, the NYISO and RG&E respectfully requests that the Commission accept the attached Agreement effective January 27, 2012.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan
Counsel for the
New York Independent System Operator, Inc.

/s/ Jeffrey A. Rosenbloom

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