

May 18, 2023

**By Electronic Delivery**

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

Re: Notice of Cancellation of Service Agreement No. 2535 to the New York Independent System Operator, Inc.'s Open Access Transmission Tariff, Docket No. ER23-\_\_\_\_\_

Dear Ms. Bose:

Pursuant to Section 205(d) of the Federal Power Act<sup>1</sup> and Sections 35.9 and 35.15 of the Commission's regulations,<sup>2</sup> the New York Independent System Operator, Inc. ("NYISO") hereby tenders for filing and acceptance a Notice of Cancellation of the Second Amended and Restated Large Generator Interconnection Agreement ("Second Amended Agreement") for the Berrians East Replacement project (NYISO Queue Position No. 393) among the NYISO, Consolidated Edison Company of New York, Inc. ("Con Edison"), as the Connecting Transmission Owner, and NRG Berrians East Development LLC ("NRG") as the Developer. The Second Amended Agreement is designated as Service Agreement No. 2535 under the NYISO's Open Access Transmission Tariff ("OATT"). Con Edison and NRG have indicated to the NYISO that neither party opposes this filing.

**I. Background**

NRG owns a generating facility in Astoria, in Queens County, New York that entered commercial operation in 1970 ("Existing Facility"). The Existing Facility was initially owned by Con Edison and was subsequently sold by Con Edison to NRG Energy, Inc., in 1999. There is no pre-existing interconnection agreement for the Existing Facility, which pre-dated the Commission's Order No. 2003 and was not subject to the requirement to enter into an interconnection agreement with the NYISO under the transition rules adopted by the NYISO to implement the Order No. 2003 requirements.

NRG proposed the Berrians East Replacement project to replace twelve gas turbine generators at the Existing Facility, which currently interconnects with Con Edison's 138 kV Astoria East Substation that is part of the New York State Transmission System, with a new Large Generating Facility consisting of one simple cycle unit ("New Facility"). For purposes of this project, the NYISO, Con Edison, and NRG entered into a Large Generating Interconnection

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. §§ 35.9, 35.15 (2022).

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Agreement for the New Facility (“Original Agreement”) with NYISO OATT Service Agreement No. 2535.

The Original Agreement was executed by the parties on June 4, 2020, filed with the Commission on June 18, 2020, and accepted by the Commission on August 14, 2020.<sup>3</sup> The parties subsequently amended and restated the Original Agreement twice – the “First Amended Agreement” - to address changes to the proposed New Facility’s reactive power capability<sup>4</sup> and – the Second Amended Agreement - to update the proposed In-Service Date and Commercial Operation Date of the New Facility.<sup>5</sup>

## II. Notice of Cancellation

Article 2.3.1 of the Second Amended Agreement provides that the agreement “may be terminated by the Developer after giving the NYISO and Connecting Transmission Owner ninety (90) Calendar Days advance written notice.” Article 2.3.3 further provides that the termination of the agreement will not be 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.”

On January 10, 2023, NRG provided written notice to the NYISO and Con Edison that it was acting pursuant to Article 2.3.1 to terminate the Second Amended Agreement (“Termination Notice”). This ninety day period was completed on April 10, 2023, and the parties have confirmed that there are no remaining obligations under the Second Amended Agreement.

Therefore, pursuant to Articles 2.3.1 and 2.3.3 of the Second Amended Agreement, the Second Amended Agreement is terminated, subject to the Commission accepting this notice terminating the agreement. Accordingly, the NYISO hereby submits this Notice of Cancellation of Service Agreement No. 2535 of the NYISO OATT for the Commission’s acceptance.

## III. Requested Effective Date

The NYISO respectfully requests that the proposed Services Tariff revisions become effective on July 18, 2023 (*i.e.*, the day after the end of the statutory 60-day notice period).

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<sup>3</sup> *New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER20-2090-000 (Aug. 14, 2020) (accepting filing of Original Agreement).

<sup>4</sup> *New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER21-1101-000 (Apr. 8, 2021) (accepting filing of First Amended Agreement).

<sup>5</sup> *New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER22-198-000 (Dec. 22, 2021) (accepting filing of Second Amended Agreement).

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**IV. Documents Submitted**

The NYISO submits the following document with this filing letter:

- NRG's January 10, 2023 Termination Notice (Attachment I).

**V. Communications and Correspondence**

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

**For the NYISO**

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**VI. Service**

A complete copy of this filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). The NYISO will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees. In addition, the NYISO will send an electronic copy of this filing to the New York Public Service Commission and to the New Jersey Board of Public Utilities.

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**VII. Conclusion**

Wherefore, the NYISO respectfully requests that the Commission accept this Notice of Cancellation.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan, Assistant General Counsel  
New York Independent System Operator, Inc.

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