

**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.**

January 4, 2024

**By Electronic Delivery**

Honorable Debbie-Anne A. Reese, Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Joint Filing of an Executed Large Generator Interconnection Agreement for the Empire Wind 1 Project (Queue Position No. 737) Among the New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc., and Empire Offshore Wind LLC; Request for Critical Energy Infrastructure Information Designation; and Request for Waiver of the 60-Day Notice Period; Docket No. ER24-\_\_\_\_-000

Dear Ms. Reese:

Pursuant to Section 205 of the Federal Power Act<sup>1</sup> and Section 35.13 of the Commission's regulations,<sup>2</sup> the New York Independent System Operator, Inc. ("NYISO") and Consolidated Edison Company of New York, Inc. ("Con Edison") (together, the "Joint Filing Parties") hereby tender for filing an executed Large Generator Interconnection Agreement for the Empire Wind 1 project (NYISO Queue Position No. 737) entered into by the NYISO, Con Edison, as the Connecting Transmission Owner, and Empire Offshore Wind LLC ("Empire"), as the Developer (the "Interconnection Agreement").<sup>3</sup> The Interconnection Agreement is labeled as Service Agreement No. 2811 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing. With the limited exceptions described in Part I of this letter, the Interconnection Agreement conforms to the NYISO's *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the OATT. Further, as described in Part II of this letter, the Joint Filing Parties respectfully request a

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2022).

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

waiver of the Commission's prior notice requirements<sup>4</sup> to make the Interconnection Agreement effective as of December 19, 2023, which is the date of its full execution. Finally, as described in Part III of this letter, Con Edison requests that the one-line diagram included in the Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information.

## **I. Discussion**

### **A. Background**

Empire is constructing an 810 MW offshore wind generating facility that will be located approximately 14 statute miles south of Long Island, New York, and 19.5 miles east of Long Branch New Jersey (the "Facility"). Additional details regarding the Facility can be found in Appendix C of the Interconnection Agreement. The Facility will interconnect to certain facilities of Con Edison that are part of the New York State Transmission System. The Point of Interconnection will be at Con Edison's Gowanus 345 kV Substation. Figure A-1 of Appendix A of the Interconnection Agreement provides a one-line diagram showing the Point of Interconnection.

### **B. The Interconnection Agreement Closely Conforms to the Pro Forma LGIA Contained in Attachment X of the NYISO OATT**

The Interconnection Agreement was fully executed on December 19, 2023, by the NYISO, Con Edison, and Empire. The Interconnection Agreement largely conforms to the language in the Pro Forma LGIA contained in Attachment X 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 LGIA, because unique circumstances exist that require a non-conforming agreement.<sup>5</sup> Therefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement with the non-conforming changes.

#### **1. Modification to Address Phasor Measurement Unit Requirements**

Article 9.10 of the Pro Forma LGIA requires Developers to install, at their expense, a phasor measurement unit ("PMU") on the low side of the step-up transformer, along with related PMU equipment, and to collect and transmit PMU data to the NYISO and to the Connecting Transmission Owner. The NYISO introduced the PMU requirements in the Pro Forma LGIA in 2017 to enhance the NYISO's ability to monitor the transmission grid for the New York Control

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

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

Area and to determine real-time grid stability margins.<sup>6</sup>

The PMU requirements require a Developer to install a PMU on the low side of the transformer and then transmit the PMU data via the Connecting Transmission Owner's system. Con Edison, however, does not currently possess the capability to obtain the data from Empire or to transmit the data to the NYISO, and the NYISO is unable at this time to accept PMU data directly from Empire. The parties therefore agreed to reserve Article 9.10 and not apply the PMU requirements to the Interconnection Agreement. The Commission has previously accepted this change to NYISO's interconnection agreements.<sup>7</sup>

## **2. Modifications for Billing Arrangements**

Empire and Con Edison have agreed to an alternative billing arrangement for Empire to make advanced payments to Con Edison for Con Edison's work performed under this agreement. Accordingly, the parties have agreed to modify Article 12.1 of the Interconnection Agreement to reference the details of the alternative billing arrangement, which is set forth in Section 4 of Appendix B of the Interconnection Agreement. The Commission has previously accepted this change to NYISO's interconnection agreements.<sup>8</sup>

## **3. Modifications Related to the Offshore Location of the Facility**

As the Facility will be located offshore, the parties agreed to make the following modifications in the Interconnection Agreement to address the unique circumstances of the Facility's offshore location and the work being performed offshore:

- Article 18.3.2 of the Pro Forma LGIA establishes the insurance requirements in the agreement. The parties agreed to amend these requirements to account for offshore work not contemplated in the *pro forma* requirements. For example, the revised insurance requirements account for work that must be performed by watercraft or aircraft, address coverages that may be required under Marine Employer's Liability, the Jones Act, and/or Longshore & Harbor Workers Compensation Act, and provide for similar requirements for contractors.
- Article 28.1.1 of the Pro Forma LGIA requires Developer to represent that it is qualified to do business in the state in which the Facility, among other things, is located. The parties have agreed to modify Article 28.1.1 of the Interconnection Agreement to reflect that such representation should be made with respect to the

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<sup>6</sup> See *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER18-80-000 (Dec. 7, 2017) (accepting NYISO's tariff revisions to improve its interconnection process, including the insertion of PMU requirements in Article 9.10 of the Pro Forma LGIA).

<sup>7</sup> See, e.g., *New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER23-78-000 (Dec. 6, 2022) (accepting non-conforming revisions to reserve phasor measurement unit requirements).

<sup>8</sup> See, e.g., *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER22-1887-000 (July 14, 2022) (accepting non-conforming revisions for alternative billing arrangement with other project).

State of New York, which is the state in which the interconnection is located, because the Facility is located offshore.

The Commission has previously accepted changes to the insurance and representation requirements in the NYISO's Pro Forma LGIA to accommodate facilities located offshore.<sup>9</sup>

#### **4. Con Edison's Construction of Certain Developer's Attachment Facilities**

The Point of Interconnection and Point of Change of Ownership for the interconnection of the Facility will be located at the same point within Con Edison's Gowanus 345 kV Substation. For this reason, certain of the Developer's Attachment Facilities will be located within the footprint of the Gowanus 345 kV Substation. Con Edison and Empire agreed that Con Edison would perform certain work for the Developer's Attachment Facilities that are located within its substation footprint. Accordingly, the parties agreed to modify Articles 5.10 and 11.1 of the Interconnection Agreement to clarify that Con Edison would perform such Developer's Attachment Facilities work, which work is detailed in Appendix A to the agreement.

#### **5. Deviations Expressly Contemplated by the Pro Forma LGIA**

Article 29.2 of the Pro Forma LGIA provides for discrepancies or conflicts between or among terms and conditions of the cover agreement and its Appendices. The language of this article specifically provides that the terms and conditions of the cover agreement shall be given precedence over the Appendices, "except as otherwise expressly agreed in writing by the Parties." Exercising the rights afforded to them by this last clause, the parties added a provision to this article expressly agreeing that the terms and conditions of the Appendices shall take precedence over the provisions of the cover agreement in case of a discrepancy or conflict between or among the terms and conditions of same. The Commission has previously accepted this change to the Pro Forma LGIA.<sup>10</sup>

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

The Joint Filing Parties request an effective date of December 19, 2023, 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.<sup>11</sup>

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<sup>9</sup> See *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER22-752-000 (Feb. 25, 2022) (accepting non-conforming revisions required for offshore wind facility).

<sup>10</sup> See, e.g., *New York Independent System Operator, Inc., et al.*, Docket No. ER17-467-000 (Jan. 23, 2017) (accepting revision to Article 29.2 to reflect precedence of the terms and conditions in Appendices); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2199-000 (December 28, 2010) (same)

<sup>11</sup> See, e.g., *New York Independent System Operator, Inc., et al.*, 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., et al.*, Letter Order, Docket No. ER08-985-000 (June 26, 2008) (same); *New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER08-861-000 (May 27, 2008) (same);

### **III. Request for CEII Treatment**

Pursuant to Sections 388.112 and 388.113 of the Commission’s regulations,<sup>12</sup> Con Edison requests that the one-line diagram included as the figure in Appendix A of the Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information (“CEII”).<sup>13</sup> The diagram contains detailed, one-line schematics of Con Edison’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 schematic shows the exact nature and specific location of facilities used to maintain the reliability of the New York State bulk power system.

The diagram, in Con Edison’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 diagram has 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 in the filing. 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.**”<sup>14</sup> A placeholder has been included in place of the non-public diagram in the public version of the Interconnection Agreement.

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*New York Independent System Operator, Inc., et al.*, Letter Order, Docket No. ER08-699-000 (May 16, 2008) (same).

<sup>12</sup> 18 C.F.R. §§ 388.112 and 388.113 (2022).

<sup>13</sup> As required by Section 388.113(d)(1)(i) of the Commission’s regulations, Con Edison has described in the filing letter how the one-line diagram in Appendix A 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), Con Edison requests that the Commission designate the CEII material submitted on January 4, 2023, 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.

<sup>14</sup> 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 Con Edison's Counsel listed below.

**IV. Communications and Correspondence**

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

**For the NYISO<sup>15</sup>**

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<sup>15</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2022) 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 LGIA (Attachment II);
- A clean CEII version of the Interconnection Agreement (Attachment III); and
- The signature pages for the Interconnection Agreement (Attachment IV).

**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.

**VII. Conclusion**

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing with an effective date of December 19, 2023.

Respectfully submitted,

*/s/ Sara B. Keegan*

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

*/s/ Paul A. Savage*

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Paul A. Savage  
*Counsel for  
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cc: Janel Burdick Jette Gebhart David Morenoff  
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