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**LARGE GENERATOR INTERCONNECTION AGREEMENT WITH**

**STERLING POWER PARTNERS, L.P. (ALLIANCE ENERGY)**

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**AMENDED AND RESTATED LARGE GENERATOR INTERCONNECTION**

**AGREEMENT**

**THIS LARGE GENERATOR INTERCONNECTION AGREEMENT** (“Agreement”) is

made and entered into this 1st day of November, 2024 by and among STERLING POWER

PARTNERS L.P. (ALLIANCE ENERGY) (“Developer” with a Large Generating Facility) and

Niagara Mohawk Power Corporation d/b/a National Grid, a corporation organized and existing

under the laws of the State of New York (“Connecting Transmission Owner”). Developer or

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 Transmission System; and

**WHEREAS**, Developer intends to own, lease and/or control and operate the Generating Facility

identified as a Large Generating Facility in Appendix C to this Agreement; and,

**WHEREAS**, Developer and Connecting Transmission Owner have agreed to enter into this

Agreement for the purpose of interconnecting the Large Generating Facility with the New York

State Transmission System;

**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 I shall have the meanings specified in Section 1 of the ISO OATT,

Section 30.1 of Attachment X of the ISO OATT, Section 25.1.2 of Attachment S of the ISO

OATT, the body of the LFIP or the body of this Agreement.

**Affected System** shall mean an electric system other than the transmission system owned,

controlled or operated by the NYISO or 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.

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**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 ERO, 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 Developer’s Large Generating

Facility 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.

**Attachment Facilities** shall mean the Connecting Transmission Owner’s Attachment Facilities

and the Developer’s Attachment Facilities. Collectively, Attachment Facilities include all

facilities and equipment between the Large Generating Facility and the Point of Interconnection,

including any modification, additions or upgrades that are necessary to physically and

electrically interconnect the Large Generating Facility to the New York State Transmission

System. Attachment Facilities are sole use facilities and shall not include Stand Alone System

Upgrade Facilities, Distribution Upgrades, or System Upgrade Facilities or System Deliverability

Upgrades.

**Balancing Authority** shall mean an entity that integrates resource plans ahead of time, maintains

demand and resource balance within a Balancing Authority Area, and supports interconnection

frequency in real time.

**Balancing Authority Area** shall mean the collection of generation, transmission, and loads

within the metered boundaries of the Balancing Authority. The Balancing Authority maintains

load-resource balance within this area.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used for

the Interconnection Studies by NYISO, Connecting Transmission Owner or Developer;

described in Section 30 of the Standard Large Facility Interconnection Procedures.

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

this Agreement.

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**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), except for Class Year Interconnection Facility Studies conducted prior to Class Year

2012, for which “Capacity Region” shall be defined as set forth in Section 25.7.3 of Attachment

S to the ISO OATT.

**Capacity Resource** Interconnection Service (“CRIS”) shall mean the service provided by

NYISO to 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.

**Commercial Operation** shall mean the status of a Large Generating Facility that has

commenced generating electricity for sale, excluding electricity generated during Trial

Operation.

**Commercial Operation Date** of a unit shall mean the date on which the Large Generating

Facility commences Commercial Operation as agreed to by the Parties, notice of which must be

provided pursuant to the NYISO in the form of Appendix E-2 to this Agreement.

**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

possesses an interest in the portion of the New York State Transmission System or Distribution

System at the Point of Interconnection, and (iii) is a Party to this Agreement.

**Connecting Transmission Owner’s Attachment Facilities** shall mean all facilities and

equipment owned, controlled or operated by the Connecting Transmission Owner from the Point

of Change of Ownership to the Point of Interconnection as identified in Appendix A to the

Standard Large Generator Interconnection Agreement, including any modifications, additions or

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upgrades to such facilities and equipment. Connecting Transmission Owner’s Attachment

Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities,

System Upgrade Facilities, or System Deliverability Upgrades.

**Contingent Facilities** shall mean those Attachment Facilities and System Upgrade Facilities

and/or System Deliverability Upgrades associated with Class Year Projects upon which the

Large Facility’s Class Year Project Cost Allocations are dependent, and if delayed or not built,

could impact the actual costs and timing of the Large Facility’s Project Cost Allocation for

System Upgrade Facilities or System Deliverability Upgrades.

**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.

**Developer** shall mean an Eligible Customer developing a Large Generating Facility, proposing

to connect to the New York State Transmission System, in compliance with the NYISO

Minimum Interconnection Standard.

**Developer’s Attachment Facilities** shall mean all facilities and equipment, as identified in

Appendix A of this Agreement, that are located between the Large Generating Facility and the

Point of Change of Ownership, including any modification, addition, or upgrades to such

facilities and equipment necessary to physically and electrically interconnect the Large

Generating Facility to the New York State Transmission System. Developer’s Attachment

Facilities are sole use facilities.

**Distribution System** shall mean the Connecting Transmission Owner’s facilities and equipment

used to distribute electricity that are subject to FERC jurisdiction, and are subject to the

NYISO’s Large Facility Interconnection Procedures in Attachment X to the ISO OATT or Small

Generator Interconnection Procedures in Attachment Z to the ISO OATT under FERC Order

Nos. 2003 and/or 2006. The term Distribution System shall not include LIPA’s distribution

facilities.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Connecting

Transmission Owner’s Distribution System at or beyond the Point of Interconnection to facilitate

interconnection of a Large Facility or Small Generating Facility and render the transmission

service necessary to affect the Developer’s wholesale sale of electricity in interstate commerce.

Distribution Upgrades do not include Attachment Facilities, System Upgrade Facilities, or

System Deliverability Upgrades. Distribution Upgrades are sole use facilities and shall not

include Stand Alone System Upgrade Facilities, System Upgrade Facilities, or System

Deliverability Upgrades.

**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.

**Electric Reliability Organization (“ERO”)** shall mean the North American Electric Reliability

Corporation or its successor organization.

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**Emergency State** shall mean the condition or state that the New York State Power System is in

when an abnormal condition occurs that requires automatic or immediate manual action to

prevent or limit loss of the New York State Transmission System or Generators that could

adversely affect the reliability of the New York State Power System.

**Energy Resource Interconnection Service (“ERIS”)** shall mean the service provided by

NYISO to interconnect the Developer’s Large Generating Facility to the New York State

Transmission System or to the Distribution System in accordance with the NYISO Minimum

Interconnection Standard, to enable the New York State Transmission System to receive Energy

and Ancillary Services from the Large Generating Facility, pursuant to the terms of the ISO

OATT.

**Environmental Law** shall mean Applicable Laws and/or Regulations relating to pollution or

protection of the environment or natural resources.

**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.

**Generating Facility** shall mean Developer’s device for the production and/or storage for later

injection of electricity identified in the Interconnection Request, but shall not include the

Developer’s Attachment Facilities or Distribution Upgrades.

**Generating Facility Capacity** shall mean the net seasonal capacity of the Generating Facility

and the aggregate net seasonal capacity of the Generating Facility where it includes multiple

energy production devices.

**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

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

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provide, and exercising or entitled to exercise any administrative, executive, police, or taxing

authority or power; provided, however, that such term does not include 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 Large Generating Facility is

initially synchronized and upon which Trial Operation begins, notice of which must be provided

to the NYISO in the form of Appendix E-1.

**In-Service Date** shall mean the date upon which the Developer reasonably expects it will be

ready to begin use of the Connecting Transmission Owner’s Attachment Facilities to obtain back

feed power.

**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, and 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.

**Interconnection Facilities Study Agreement (“Class Year Study Agreement”)** shall mean the

form of agreement contained in Appendix 2 of the Standard Large Facility Interconnection

Procedures for conducting the Interconnection Facilities Study.

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**Interconnection Request** shall mean a Developer’s request, in the form of Appendix 1 to the

Standard Large Facility Interconnection Procedures, in accordance with the Tariff, to

interconnect a new Large Generating Facility to the New York State Transmission System or to

the Distribution System, or to materially increase the capacity of, or make a material

modification to the operating characteristics of, an existing Large Generating Facility that is

interconnected with the New York State Transmission System or with the Distribution System.

**Interconnection Study** shall mean any of the following studies: the Optional Interconnection

Feasibility Study, the Interconnection System Reliability Impact Study, and the Interconnection

Facilities Study described in the Standard Large Facility Interconnection Procedures.

**Interconnection System Reliability Impact Study (“SRIS”)** shall mean an engineering study,

conducted in accordance with Section 30.7 of the Standard Large Facility Interconnection

Procedures, that evaluates the impact of the proposed Large Generating Facility on the safety and

reliability of the New York State Transmission System and, if applicable, an Affected System, to

determine what Attachment Facilities, Distribution Upgrades and System Upgrade Facilities are

needed for the proposed Large Generating Facility of the Developer to connect reliably to the

New York State Transmission System or to the Distribution System in a manner that meets the

NYISO Minimum Interconnection Standard in Attachment X to the ISO OATT.

**IRS** shall mean the Internal Revenue Service.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility

Capacity of more than 20 MW.

**Material Modification** shall mean those modifications that have a material impact on the cost or

timing of any Interconnection Request with a later queue priority date.

**Metering Equipment** shall mean all metering equipment installed or to be installed at the Large

Generating Facility pursuant to this Agreement at the metering points, including but not limited

to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote

terminal unit, communications equipment, phone lines, and fiber optics.

**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

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Deliverability Interconnection Standard, the 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 Minimum Interconnection Standard** – The reliability standard that must be met by

any generation facility or Class Year Transmission Project that is subject to NYISO’s Large

Facility Interconnection Procedures in Attachment X to the ISO OATT or the NYISO’s Small

Generator Interconnection Procedures in Attachment Z, that is proposing to connect to the New

York State Transmission System or Distribution System, to obtain ERIS. The Minimum

Interconnection Standard is designed to ensure reliable access by the proposed project to the

New York State Transmission System or to the Distribution System. The Minimum

Interconnection Standard does not impose any deliverability test or deliverability requirement on

the proposed interconnection.

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

**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 Connecting Transmission Owner, or Developer or any combination

of the above.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to this

Agreement, where the Developer’s Attachment Facilities connect to the Connecting

Transmission Owner’s Attachment Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to this Agreement,

where the Attachment Facilities connect to the New York State Transmission System or to the

Distribution System.

**Provisional Interconnection Service** shall mean interconnection service provided by the ISO

associated with interconnecting the Developer’s Large Facility to the New York State

Transmission System (or Distribution System as applicable) and enabling the transmission

system to receive electric energy from the Large Facility at the Point of Interconnection,

pursuant to the terms of the Provisional Large Facility Interconnection Agreement and, if

applicable, the ISO OATT.

**Provisional Large Facility Interconnection Agreement** shall mean the interconnection

agreement for Provisional Interconnection Service established between the ISO, Connecting

Transmission Owner(s) and the Developer. This agreement shall take the form of the Large

Generator Interconnection Agreement, modified for provisional purposes and type of facility.

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**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.

**Retired:** A Generator that has permanently ceased operating on or after May 1, 2015 either: i)

pursuant to applicable notice; or ii) as a result of the expiration of its Mothball Outage or its

ICAP Ineligible Forced Outage.

**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.

**Stand Alone System Upgrade Facilities** shall mean System Upgrade Facilities that are not part

of an Affected System that a Developer may construct without affecting day-to-day operations of

the New York State Transmission System during their construction. Connecting Transmission

Owner and the Developer must agree as to what constitutes Stand Alone System Upgrade

Facilities and identify them in Appendix A to this Agreement. If Connecting Transmission

Owner and the Developer disagree about whether a particular System Upgrade Facility is a

Stand Alone System Upgrade Facility, NYISO and the Connecting Transmission Owner must

provide the Developer a written technical explanation outlining why NYISO and the

Connecting Transmission Owner does not consider the System Upgrade Facility to be a Stand

Alone System Upgrade Facility within fifteen (15) Business Days of its determination.

**Standard Large Facility Interconnection Procedures (“Large Facility Interconnection**

**Procedures” or “LFIP”)** shall mean the interconnection procedures applicable to an

Interconnection Request pertaining to a Large Generating Facility that are included in

Attachment X of the ISO OATT.

**Standard Large Generator Interconnection Agreement (“LGIA”)** shall mean this

Agreement, which is the form of interconnection agreement applicable to an Interconnection

Request pertaining to a Large Generating Facility, that is included in Appendix 4 to Attachment

X of the ISO OATT.

**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 and Distribution 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 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 Large Generating Facility and

(2) protect the Large Generating Facility from faults or other electrical system disturbances

occurring on the 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.

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**System 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 to the existing transmission

system that are required to maintain system reliability due to: (i) changes in the system, including

such changes as load growth and changes in load pattern, to be addressed in the form of generic

generation or transmission projects; and (ii) proposed interconnections. In the case of proposed

interconnection projects, System Upgrade Facilities are the modifications or additions to 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 Minimum Interconnection

Standard.

**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.

**Trial Operation** shall mean the period during which Developer is engaged in on-site test

operations and commissioning of the Large Generating Facility prior to Commercial Operation.

**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. Connecting

Transmission Owner shall promptly file this Agreement with FERC upon execution in

accordance with Article 3.1.

**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 or such other longer period as the Developer may

request (Term to be specified in Individual Agreements) and shall be automatically renewed for

each successive one-year period thereafter.

**2.3**

**Termination.**

**2.3.1 Written Notice.**

This Agreement may be terminated by the Developer after giving Connecting

Transmission Owner ninety (90) Calendar Days advance written notice, or by Connecting

Transmission Owner notifying FERC after the Large Generating Facility is Retired.

**2.3.2 Default.**

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

**2.3.3 Compliance.**

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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 pursuant to Article 2.3.1 above, the

terminating Party shall pay all costs incurred (including any cancellation costs relating to orders

or contracts for Attachment Facilities and equipment) or charges assessed by the other Parties, as

of the date of the other Parties’ receipt of such notice of termination, that are the responsibility of

the terminating Party under this Agreement. In the event of termination by a Party, 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:

**2.4.1** With respect to any portion of the Connecting Transmission Owner’s Attachment

Facilities that have not yet been constructed or installed, the Connecting Transmission Owner

shall to the extent possible and with 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 Developer elects not to authorize such cancellation, Developer shall assume all

payment obligations with respect to such materials, equipment, and contracts, and the

Connecting Transmission Owner shall deliver such material and equipment, and, if necessary,

assign such contracts, to Developer as soon as practicable, at Developer’s expense. To the extent

that Developer has already paid Connecting Transmission Owner for any or all such costs of

materials or equipment not taken by Developer, Connecting Transmission Owner shall promptly

refund such amounts to 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.

If Developer terminates this Agreement, it shall be responsible for all costs incurred in

association with Developer’s interconnection, including any cancellation costs relating to orders

or contracts for Attachment Facilities and equipment, and other expenses including any System

Upgrade Facilities and System Deliverability Upgrades for which the Connecting Transmission

Owner has incurred expenses and has not been reimbursed by the Developer.

**2.4.2** Connecting Transmission Owner may, at its option, retain any portion of such

materials, equipment, or facilities that 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.

**2.4.3** With respect to any portion of the Attachment Facilities, and any other facilities

already installed or constructed pursuant to the terms of this Agreement, or previous

interconnection agreements between Developer and Connecting Transmission Owner, Developer

shall be responsible for all costs associated with the removal, relocation or other disposition or

retirement of such materials, equipment, or facilities.

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**2.5**

**Disconnection.**

Upon termination of this Agreement, Developer and Connecting Transmission Owner

will take all appropriate steps to disconnect the Developer’s Large Generating Facility from the

New York State Transmission System. All costs required to effectuate such disconnection shall

be borne by the terminating Party, unless such termination resulted from the non-terminating

Party’s Default of this Agreement or such non-terminating Party otherwise is responsible for

these costs under this Agreement.

**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; to permit the determination and enforcement of liability

and indemnification obligations arising from acts or events that occurred while this Agreement

was in effect; and to permit Developer and Connecting Transmission Owner each to have access

to the lands of the other pursuant to this Agreement or other applicable agreements, to

disconnect, remove or salvage its own facilities and equipment.

**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 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 Developer has executed this Agreement, or any amendment thereto, the Developer

shall reasonably cooperate with Connecting Transmission Owner with respect to such filing and

to provide any information reasonably requested by Connecting Transmission Owner needed to

comply with Applicable Laws and Regulations.

**ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE**

**4.1**

**Provision of Service.**

NYISO will provide Developer with interconnection service of the following type for the

term of this Agreement.

**4.1.1 Product**.

NYISO will provide Interconnection Service to Developer at the Point of

Interconnection.

**4.1.2 Developer** is responsible for ensuring that its actual Large Generating Facility

output matches the scheduled delivery from the Large Generating Facility to the New York State

Transmission System, consistent with the scheduling requirements of the NYISO’s FERC-

approved market structure, including ramping into and out of such scheduled delivery, as

measured at the Point of Interconnection, consistent with the scheduling requirements of the ISO

OATT and any applicable FERC-approved market structure.

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**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 Developer wishes to obtain

Transmission Service on the New York State Transmission System, then 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 Developer wishes to

supply Energy, Installed Capacity or Ancillary Services, then Developer will make application to

do so in accordance with the NYISO Services Tariff.

**ARTICLE 5. INTERCONNECTION FACILITIES**

**ENGINEERING, PROCUREMENT, AND CONSTRUCTION**

**5.1**

**Options.**

Unless otherwise mutually agreed to by Developer and Connecting Transmission Owner,

Developer shall select the In-Service Date, Initial Synchronization Date, and Commercial

Operation Date; and either Standard Option or Alternate Option set forth below, and such dates

and selected option shall be set forth in Appendix B hereto. At the same time, Developer shall

indicate whether it elects to exercise the Option to Build set forth in Article 5.1.3 below. If the

dates designated by the Developer are not acceptable to the Connecting Transmission Owner, the

Connecting Transmission Owner shall so notify the Developer within thirty (30) Calendar Days.

Upon receipt of the notification that Developer’s designated dates are not acceptable to the

Connecting Transmission Owner, the Developer shall notify the Connecting Transmission

Owner within thirty (30) Calendar Days whether it elects to exercise the Option to Build if it has

not already elected to exercise the Option to Build.

**5.1.1 Standard Option**.

The Connecting Transmission Owner shall design, procure, and construct the Connecting

Transmission Owner’s Attachment Facilities and System Upgrade Facilities and System

Deliverability Upgrades, using Reasonable Efforts to complete the Connecting Transmission

Owner’s Attachment Facilities and System Upgrade Facilities and System Deliverability

Upgrades 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

Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities and

System Deliverability Upgrades by the specified dates, the Connecting Transmission Owner

shall promptly provide written notice to the Developer and NYISO, and shall undertake

Reasonable Efforts to meet the earliest dates thereafter.

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**5.1.2 Alternate Option**.

If the dates designated by Developer are acceptable to Connecting Transmission Owner,

the Connecting Transmission Owner shall so notify Developer and NYISO within thirty (30)

Calendar Days, and shall assume responsibility for the design, procurement and construction of

the Connecting Transmission Owner’s Attachment Facilities by the designated dates. If

Connecting Transmission Owner subsequently fails to complete Connecting Transmission

Owner’s Attachment Facilities by the In-Service Date, to the extent necessary to provide back

feed power; or fails to complete System Upgrade Facilities or System Deliverability Upgrades by

the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power

output, unless other arrangements are made by the Developer and Connecting Transmission

Owner for such Trial Operation; or fails to complete the System Upgrade Facilities and System

Deliverability Upgrades by the Commercial Operation Date, as such dates are reflected in

Appendix B hereto; Connecting Transmission Owner shall pay Developer liquidated damages in

accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by

Developer shall be extended day for day for each day that NYISO refuses to grant clearances to

install equipment.

**5.1.3 Option to Build**.

Individual or multiple Developer(s) shall have the option to assume responsibility for the

design, procurement and construction of Connecting Transmission Owner’s Attachment

Facilities and Stand Alone System Upgrade Facilities on the dates specified in Article 5.1.2, if

the requirements in this Article 5.1.3 are met. When multiple Developers exercise this option,

multiple Developers may agree to exercise this option provided (1) all Connecting Transmission

Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities constructed under

this option are only required for Developers participating in the same Class Year Study and (2)

all impacted Developers execute and provide to the NYISO and Connecting Transmission Owner

an agreement regarding responsibilities and payment for the construction of the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities

planned to be built under this option. NYISO, Connecting Transmission Owner, and the

individual Developer or each of the multiple Developers must agree as to what constitutes Stand

Alone System Upgrade Facilities and identify such Stand Alone System Upgrade Facilities in

Appendix A hereto. Except for Stand Alone System Upgrade Facilities, Developer shall have no

right to construct System Upgrade Facilities under this option.

**5.1.4 Negotiated Option**.

If the dates designated by Developer are not acceptable to ConnectingTransmission

Owner, the Developer and Connecticting Transmission Owner shall in good faith attempt to

negotiate terms and conditions (including revision of the specified dates and liquified damages),

the provision of incentives or the procurement and construction of all facilities other than the

Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade

Facilities if the Developer elects to exercise the Option to Build under Article 5.1.3. If the two

Parties are unable to reach agreement on such terms and conditions, then, pursuant to Article

5.1.1 (Standard Option), Connecting Transmission Owner shall assume responsibility for the

design, procurement and construction of all facilities other than the Connecting Transmission

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Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities if the Developer

elects to exercise the Option to Build.

**5.2**

**General Conditions Applicable to Option to Build.**

If Developer assumes responsibility for the design, procurement and construction of the

Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade

Facilities the following conditions apply:

**5.2.1** Developer shall engineer, procure equipment, and construct the Transmission

Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities (or portions thereof)

using Good Utility Practice and using standards and specifications provided in advance by the

Connecting Transmission Owner;

**5.2.2** Developer’s engineering, procurement and construction of the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities shall

comply with all requirements of law to which Connecting Transmission Owner would be subject

in the engineering, procurement or construction of the Connecting Transmission Owner’s

Attachment Facilities and Stand Alone System Upgrade Facilities;

**5.2.3** Connecting Transmission Owner shall review and approve the engineering

design, equipment acceptance tests, and the construction of the Connecting Transmission

Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities;

**5.2.4** Prior to commencement of construction, Developer shall provide to Connecting

Transmission Owner and NYISO a schedule for construction of the Connecting Transmission

Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities, and shall promptly

respond to requests for information from Connecting Transmission Owner or NYISO;

**5.2.5** At any time during construction, Connecting Transmission Owner shall have the

right to gain unrestricted access to the Connecting Transmission Owner’s Attachment Facilities

and Stand Alone System Upgrade Facilities and to conduct inspections of the same;

**5.2.6** At any time during construction, should any phase of the engineering, equipment

procurement, or construction of the Connecting Transmission Owner’s Attachment Facilities and

Stand Alone System Upgrade Facilities not meet the standards and specifications provided by

Connecting Transmission Owner, the Developer shall be obligated to remedy deficiencies in that

portion of the Connecting Transmission Owner’s Attachment Facilities and Stand Alone System

Upgrade Facilities;

**5.2.7** Developer shall indemnify Connecting Transmission Owner and NYISO for

claims arising from the Developer’s construction of Connecting Transmission Owner’s

Attachment Facilities and Stand Alone System Upgrade Facilities under procedures applicable to

Article 18.1 Indemnity;

**5.2.8** Developer shall transfer control of Connecting Transmission Owner’s Attachment

Facilities and Stand Alone System Upgrade Facilities to the Connecting Transmission Owner;

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**5.2.9** Unless the Developer and Connecting Transmission Owner otherwise agree,

Developer shall transfer ownership of Connecting Transmission Owner’s Attachment Facilities

and Stand Alone System Upgrade Facilities to Connecting Transmission Owner;

**5.2.10** Connecting Transmission Owner shall approve and accept for operation and

maintenance the Connecting Transmission Owner’s Attachment Facilities and Stand Alone

System Upgrade Facilities to the extent engineered, procured, and constructed in accordance

with this Article 5.2; and

**5.2.11** Developer shall deliver to NYISO and Connecting Transmission Owner “as built”

drawings, information, and any other documents that are reasonably required by NYISO or

Connecting Transmission Owner to assure that the Attachment Facilities and Stand Alone

System Upgrade Facilities are built to the standards and specifications required by Connecting

Transmission Owner.

**5.2.12** If Developer exercises the Option to Build pursuant to Article 5.1.3, the

Developer shall pay the Connecting Transmission Owner the agreed upon amount of [$

PLACEHOLDER] for the Connecting Transmission Owner to execute the responsibilities

enumerated to Connecting Transmission Owner under Article 5.2. The Connecting

Transmission Owner shall invoice Developer for this total amount to be divided on a monthly

basis pursuant to Article 12.

**5.3**

**Liquidated Damages.**

The actual damages to the Developer, in the event the Connecting Transmission Owner’s

Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades are not

completed by the dates designated by the Developer and accepted by the Connecting

Transmission Owner pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Developer’s

fixed operation and maintenance costs and lost opportunity costs. Such actual damages are

uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated

damages paid by the Connecting Transmission Owner to the Developer in the event that

Connecting Transmission Owner does not complete any portion of the Connecting Transmission

Owner’s Attachment Facilities, System Upgrade Facilities or System Deliverability Upgrades by

the applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of the

Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities and

System Deliverability Upgrades, in the aggregate, for which Connecting Transmission Owner

has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual

cost of the Connecting Transmission Owner Attachment Facilities and System Upgrade Facilities

and System Deliverability Upgrades for which the Connecting Transmission Owner has assumed

responsibility to design, procure, and construct. The foregoing payments will be made by the

Connecting Transmission Owner to the Developer as just compensation for the damages caused

to the Developer, which actual damages are uncertain and impossible to determine at this time,

and as reasonable liquidated damages, but not as a penalty or a method to secure performance of

this Agreement. Liquidated damages, when the Developer and Connecting Transmission Owner

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agree to them, are the exclusive remedy for the Connecting Transmission Owner’s failure to

meet its schedule.

Further, Connecting Transmission Owner shall not pay liquidated damages to Developer

if: (1) Developer is not ready to commence use of the Connecting Transmission Owner’s

Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades to take

the delivery of power for the Developer’s Large Generating Facility’s Trial Operation or to

export power from the Developer’s Large Generating Facility on the specified dates, unless the

Developer would have been able to commence use of the Connecting Transmission Owner’s

Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades to take

the delivery of power for Developer’s Large Generating Facility’s Trial Operation or to export

power from the Developer’s Large Generating Facility, but for Connecting Transmission

Owner’s delay; (2) the Connecting Transmission Owner’s failure to meet the specified dates is

the result of the action or inaction of the Developer or any other Developer who has entered into

a Standard Large Generator Interconnection Agreement with the Connecting Transmission

Owner and NYISO, or action or inaction by any other Party, or any other cause beyond

Connecting Transmission Owner’s reasonable control or reasonable ability to cure; (3) the

Developer has assumed responsibility for the design, procurement and construction of the

Connecting Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade

Facilities; or (4) the Connecting Transmission Owner and Developer have otherwise agreed. In

no event shall NYISO have any liability whatever to Developer for liquidated damages

associated with the engineering, procurement or construction of Attachment Facilities or System

Upgrade Facilities or System Deliverability Upgrades.

**5.4**

**Power System Stabilizers.**

The Developer shall procure, install, maintain and operate Power System Stabilizers in

accordance with the requirements identified in the Interconnection Studies conducted for

Developer’s Large Generating Facility. NYISO and Connecting Transmission Owner reserve

the right to reasonably establish minimum acceptable settings for any installed Power System

Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If

the Large Generating Facility’s Power System Stabilizers are removed from service or not

capable of automatic operation, the Developer shall immediately notify the Connecting

Transmission Owner and NYISO. The requirements of this paragraph shall not apply to wind

generators.

**5.5**

**Equipment Procurement.**

If responsibility for construction of the Connecting Transmission Owner’s Attachment

Facilities or System Upgrade Facilities or System Deliverability Upgrades is to be borne by the

Connecting Transmission Owner, then the Connecting Transmission Owner shall commence

design of the Connecting Transmission Owner’s Attachment Facilities or System Upgrade

Facilities or System Deliverability Upgrades and procure necessary equipment as soon as

practicable after all of the following conditions are satisfied, unless the Developer and

Connecting Transmission Owner otherwise agree in writing:

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**5.5.1** NYISO and Connecting Transmission Owner have completed the Interconnection

Facilities Study pursuant to the Interconnection Facilities Study Agreement;

**5.5.2** The NYISO has completed the required cost allocation analyses, and Developer

has accepted its share of the costs for necessary System Upgrade Facilities and System

Deliverability Upgrades in accordance with the provisions of Attachment S of the ISO OATT;

**5.5.3** The Connecting Transmission Owner has received written authorization to

proceed with design and procurement from the Developer by the date specified in Appendix B

hereto; and

**5.5.4** The Developer has provided security to the Connecting Transmission Owner in

accordance with Article 11.5 by the dates specified in Appendix B hereto.

**5.6**

**Construction Commencement.**

The Connecting Transmission Owner shall commence construction of the Connecting

Transmission Owner’s Attachment Facilities and System Upgrade Facilities and System

Deliverability Upgrades for which it is responsible as soon as practicable after the following

additional conditions are satisfied:

**5.6.1** Approval of the appropriate Governmental Authority has been obtained for any

facilities requiring regulatory approval;

**5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent

required for the construction of a discrete aspect of the Connecting Transmission Owner’s

Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades;

**5.6.3** The Connecting Transmission Owner has received written authorization to

proceed with construction from the Developer by the date specified in Appendix B hereto; and

**5.6.4** The 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 Developer and Connecting Transmission Owner will keep each other, and NYISO,

advised periodically as to the progress of their respective design, procurement and construction

efforts. Any Party may, at any time, request a progress report from the Developer or Connecting

Transmission Owner. If, at any time, the Developer determines that the completion of the

Connecting Transmission Owner’s Attachment Facilities will not be required until after the

specified In-Service Date, the Developer will provide written notice to the Connecting

Transmission Owner and NYISO of such later date upon which the completion of the

Connecting Transmission Owner’s Attachment Facilities will be required.

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**5.8**

**Information Exchange.**

As soon as reasonably practicable after the Effective Date, the Developer and Connecting

Transmission Owner shall exchange information, and provide NYISO the same information,

regarding the design and compatibility of their respective Attachment Facilities and

compatibility of the Attachment Facilities with the New York State Transmission System, and

shall work diligently and in good faith to make any necessary design changes.

**5.9**

**Other Interconnection Options**

**5.9.1 Limited Operation.**

If any of the Connecting Transmission Owner’s Attachment Facilities or System Upgrade

Facilities or System Deliverability Upgrades are not reasonably expected to be completed prior

to the Commercial Operation Date of the Developer’s Large Generating Facility, NYISO shall,

upon the request and at the expense of Developer, in conjunction with the Connecting

Transmission Owner, perform operating studies on a timely basis to determine the extent to

which the Developer’s Large Generating Facility and the Developer’s Attachment Facilities may

operate prior to the completion of the Connecting Transmission Owner’s Attachment Facilities

or System Upgrade Facilities or System Deliverability Upgrades consistent with Applicable

Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this

Agreement. Connecting Transmission Owner and NYISO shall permit Developer to operate the

Developer’s Large Generating Facility and the Developer’s Attachment Facilities in accordance

with the results of such studies.

**5.9.2 Provisional Interconnection Service.**

Prior to the completion of the Large Facility Interconnection Procedures and prior to

completion of requisite Attachment Facilities, Distribution Upgrades, System Upgrade Facilities,

System Distribution Upgrades, or System Protection Facilities, the Developer may request an

evaluation for Provisional Interconnection Service. NYISO, in conjunction with the Connecting

Transmission Owner, shall determine, through available studies or additional studies as

necessary, whether stability, short circuit, thermal, and/or voltage issues would arise if the

Developer interconnects without modifications to the Large Generating Facility or the New York

State Transmission System (or Distribution System as applicable). NYISO, in conjunction with

the Connecting Transmission Owner, shall determine whether any Attachment Facilities,

Distribution Upgrades, System Upgrade Facilities, System Deliverability Upgrades, or System

Protection Facilities, which are necessary to meet Applicable Laws and Regulations, Applicable

Reliability Standards, and Good Utility Practice, are in place prior to the commencement of

interconnection service from the Large Facility. Where available studies indicate that the

Attachment Facilities, Distribution Upgrades, System Upgrade Facilities, System Deliverability

Upgrades, or System Protection Facilities are required for the interconnection of a new, modified

and/or expanded Large Facility but such facilities are not currently in place, NYISO, in

conjunction with the Connecting Transmission Owner, will perform a study, at the Developer’s

expense, to confirm the facilities that are required for Provisional Interconnection Service. The

maximum permissible output of the Large Facility in the Provisional Large Facility

Interconnection Agreement shall be studied, at the Developer’s expense, and updated annually.

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The NYISO shall issue the study’s findings in writing to the Developer and Connecting

Transmission Owner(s). Following a determination by NYISO, in conjunction with the

Connecting Transmission Owner, that the Developer may reliably provide Provisional

Interconnection Service, NYISO shall tender to the Developer and Connecting Transmission

Owner, a Provisional Large Facility Interconnection Agreement. NYISO, Developer, and

Connecting Transmission Owner may execute the Provisional Large Facility Interconnection

Agreement, or the Developer may request the filing of an unexecuted Provisional Large Facility

Interconnection Agreement with the Commission. The Developer shall assume all risk and

liabilities with respect to changes between the Provisional Large Facility Interconnection

Agreement and the Large Generator Interconnection Agreement, including changes in output

limits and the cost responsibilities for the Attachment Facilities, System Upgrade Facilities,

System Deliverability Upgrades, and/or System Protection Facilities.

**5.10 Developer’s Attachment Facilities (“DAF”).**

Developer shall, at its expense, design, procure, construct, own and install the DAF, as

set forth in Appendix A hereto.

**5.10.1 DAF Specifications**.

Developer shall submit initial specifications for the DAF, including System Protection

Facilities, to Connecting Transmission Owner and NYISO at least one hundred eighty (180)

Calendar Days prior to the Initial Synchronization Date; and final specifications for review and

comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date.

Connecting Transmission Owner and NYISO shall review such specifications to ensure that the

DAF are compatible with the technical specifications, operational control, and safety

requirements of the Connecting Transmission Owner and NYISO and comment on such

specifications within thirty (30) Calendar Days of Developer’s submission. All specifications

provided hereunder shall be deemed to be Confidential Information.

**5.10.2 No Warranty**.

The review of Developer’s final specifications by Connecting Transmission Owner and

NYISO shall not be construed as confirming, endorsing, or providing a warranty as to the design,

fitness, safety, durability or reliability of the Large Generating Facility, or the DAF. Developer

shall make such changes to the DAF as may reasonably be required by Connecting Transmission

Owner or NYISO, in accordance with Good Utility Practice, to ensure that the DAF are

compatible with the technical specifications, operational control, and safety requirements of the

Connecting Transmission Owner and NYISO.

**5.10.3 DAF Construction**.

The DAF shall be designed and constructed in accordance with Good Utility Practice.

Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless

the Developer and Connecting Transmission Owner agree on another mutually acceptable

deadline, the Developer shall deliver to the Connecting Transmission Owner and NYISO “as-

built” drawings, information and documents for the DAF, such as: a one-line diagram, a site plan

showing the Large Generating Facility and the DAF, plan and elevation drawings showing the

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layout of the DAF, a relay functional diagram, relaying AC and DC schematic wiring diagrams

and relay settings for all facilities associated with the Developer’s step-up transformers, the

facilities connecting the Large Generating Facility to the step-up transformers and the DAF, and

the impedances (determined by factory tests) for the associated step-up transformers and the

Large Generating Facility. The Developer shall provide to, and coordinate with, Connecting

Transmission Owner and NYISO with respect to proposed specifications for the excitation

system, automatic voltage regulator, Large Generating Facility control and protection settings,

transformer tap settings, and communications, if applicable.

**5.11 Connecting Transmission Owner’s Attachment Facilities Construction.**

The Connecting Transmission Owner’s Attachment Facilities shall be designed and

constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty

(120) Calendar Days after the Commercial Operation Date, unless the Connecting Transmission

Owner and Developer agree on another mutually acceptable deadline, the Connecting

Transmission Owner shall deliver to the Developer “as-built” drawings, relay diagrams,

information and documents for the Connecting Transmission Owner’s Attachment Facilities set

forth in Appendix A.

The Connecting Transmission Owner shall transfer operational control of the Connecting

Transmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities to the

NYISO upon completion of such facilities.

**5.12 Access Rights.**

Upon reasonable notice and supervision by the Granting Party, and subject to any

required or necessary regulatory approvals, either the Connecting Transmission Owner or

Developer (“Granting Party”) shall furnish to the other of those two 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 ingress and egress at the

Point of Interconnection to construct, operate, maintain, repair, test (or witness testing), inspect,

replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with

the New York State Transmission System; (ii) operate and maintain the Large Generating

Facility, the Attachment Facilities and the New York State Transmission System; and (iii)

disconnect or remove the Access Party’s facilities and equipment upon termination of 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 Connecting Transmission Owner’s Attachment Facilities and/or System

Upgrade Facilities and/or System Deliverability Upgrades is to be installed on property owned

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by persons other than Developer or Connecting Transmission Owner, the Transmission Owner

shall at Developer’s expense use efforts, similar in nature and extent to those that it typically

undertakes for its own or affiliated generation, 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 Connecting Transmission Owner’s Attachment Facilities and/or System

Upgrade Facilities and/or System Deliverability Upgrades upon such property.

**5.14 Permits.**

NYISO, Connecting Transmission Owner and the 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 provide permitting assistance to

the Developer comparable to that provided to the Connecting Transmission Owner’s own, or an

Affiliate’s generation, if any.

**5.15 Early Construction of Base Case Facilities.**

Developer may request Connecting Transmission Owner to construct, and Transmission

Owner shall construct, subject to a binding cost allocation agreement reached in accordance with

Attachment S to the ISO OATT, including Section 25.8.7 thereof, using Reasonable Efforts to

accommodate Developer’s In-Service Date, all or any portion of any System Upgrade Facilities

or System Deliverability Upgrades required for Developer to be interconnected to the New York

State Transmission System which are included in the Base Case of the Class Year for the

Developer, and which also are required to be constructed for another Developer, but where such

construction is not scheduled to be completed in time to achieve Developer’s In-Service Date.

**5.16 Suspension.**

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 Connecting Transmission Owner’s Attachment Facilities and/or

System Upgrade Facilities and/or System Deliverability Upgrades required for only that

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,

Developer shall be responsible for all reasonable and necessary costs and/or obligations in

accordance with Attachment S to the ISO OATT 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 Developer’s authorization to do so.

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Connecting Transmission Owner shall invoice Developer for such costs pursuant to

Article 12 and shall use due diligence to minimize its costs. In the event 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.**

**5.17.1 Developer Payments Not Taxable**.

The Developer and Connecting Transmission Owner intend that all payments or property

transfers made by Developer to Connecting Transmission Owner for the installation of the

Connecting Transmission Owner’s Attachment Facilities and the System Upgrade Facilities and

the System Deliverability Upgrades shall be non-taxable, either as contributions to capital, or as

an advance, in accordance with the Internal Revenue Code and any applicable state income tax

laws and shall not be taxable as contributions in aid of construction or otherwise under the

Internal Revenue Code and any applicable state income tax laws.

**5.17.2 Representations and Covenants**.

In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Developer represents

and covenants that (i) ownership of the electricity generated at the Large Generating Facility will

pass to another party prior to the transmission of the electricity on the New York State

Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of

any property transferred to the Connecting Transmission Owner for the Connecting

Transmission Owner’s Attachment Facilities will be capitalized by Developer as an intangible

asset and recovered using the straight-line method over a useful life of twenty (20) years, and

(iii) any portion of the Connecting Transmission Owner’s Attachment Facilities that is a “dual-

use intertie,” within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de

minimis amount of electricity in the direction of the Large Generating Facility. For this purpose,

“de minimis amount” means no more than 5 percent of the total power flows in both directions,

calculated in accordance with the “5 percent test” set forth in IRS Notice 88-129. This is not

intended to be an exclusive list of the relevant conditions that must be met to conform to IRS

requirements for non-taxable treatment.

At Connecting Transmission Owner’s request, Developer shall provide Connecting

Transmission Owner with a report from an independent engineer confirming its representation in

clause (iii), above. Connecting Transmission Owner represents and covenants that the cost of the

Connecting Transmission Owner’s Attachment Facilities paid for by Developer will have no net

effect on the base upon which rates are determined.

**5.17.3 Indemnification for the Cost Consequences of Current Tax Liability Imposed**

**Upon the Connecting Transmission Owner**.

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Notwithstanding Article 5.17.1, 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

Developer to Connecting Transmission Owner under this Agreement, as well as any interest and

penalties, other than interest and penalties attributable to any delay caused by Connecting

Transmission Owner.

Connecting Transmission Owner shall not include a gross-up for the cost consequences

of any current tax liability in the amounts it charges Developer under this Agreement unless

(i) Connecting Transmission Owner has determined, in good faith, that the payments or property

transfers made by 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 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.

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.

**5.17.4 Tax Gross-Up Amount**.

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 Developer will pay Connecting Transmission Owner, in

addition to the amount paid for the Attachment Facilities and System Upgrade Facilities and

System Deliverability Upgrades, 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

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

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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

for calculating Developer’s liability to Connecting Transmission Owner pursuant to this Article

5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount - Present Value

Depreciation Amount))/(1 - Current Tax Rate). Developer’s estimated tax liability in the event

taxes are imposed shall be stated in Appendix A, Attachment Facilities and System Upgrade

Facilities and System Deliverability Upgrades.

**5.17.5 Private Letter Ruling or Change or Clarification of Law**.

At 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 Developer to Connecting Transmission Owner under this Agreement are subject to

federal income taxation. 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 Developer’s knowledge. ConnectingTransmission Owner and

Developer shall cooperate in good faith with respect to the submission of such request.

Connecting Transmission Owner shall keep 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 Developer to participate in all

discussions with the IRS regarding such request for a private letter ruling. Connecting

Transmission Owner shall allow Developer to attend all meetings with IRS officials about the

request and shall permit Developer to prepare the initial drafts of any follow-up letters in

connection with the request.

**5.17.6 Subsequent Taxable Events**.

If, within 10 years from the date on which the relevant Connecting Transmission Owner

Attachment Facilities are placed in service, (i) Developer Breaches the covenants contained in

Article 5.17.2, (ii) a “disqualification event” occurs within the meaning of IRS Notice 88-129, or

(iii) this Agreement terminates and Connecting Transmission Owner retains ownership of the

Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades, the

Developer shall pay a tax gross-up for the cost consequences of any current tax liability imposed

on Connecting Transmission Owner, calculated using the methodology described in Article

5.17.4 and in accordance with IRS Notice 90-60.

**5.17.7 Contests**.

In the event any Governmental Authority determines that Connecting Transmission

Owner’s receipt of payments or property constitutes income that is subject to taxation,

Connecting Transmission Owner shall notify Developer, in writing, within thirty (30) Calendar

Days of receiving notification of such determination by a Governmental Authority. Upon the

timely written request by Developer and at Developer’s sole expense, Connecting Transmission

Owner may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon

Developer’s written request and sole expense, Connecting Transmission Owner may file a claim

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for refund with respect to any taxes paid under this Article 5.17, whether or not it has received

such a determination. Connecting Transmission Owner reserves the right to make all decisions

with regard to the prosecution of such appeal, protest, abatement or other contest, including the

selection of counsel and compromise or settlement of the claim, but Connecting Transmission

Owner shall keep Developer informed, shall consider in good faith suggestions from Developer

about the conduct of the contest, and shall reasonably permit Developer or an Developer

representative to attend contest proceedings.

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, including any costs

associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7.

The Connecting Transmission Owner may abandon any contest if the Developer fails to provide

payment to the Connecting Transmission Owner within (30) Calendar Days of receiving such

invoice. At any time during the contest, Connecting Transmission Owner may agree to a

settlement either with Developer’s consent or after obtaining written advice from nationally-

recognized tax counsel, selected by Connecting Transmission Owner, but reasonably acceptable

to Developer, that the proposed settlement represents a reasonable settlement given the hazards

of litigation. Developer’s obligation shall be based on the amount of the settlement agreed to by

Developer, or if a higher amount, so much of the settlement that is supported by the written

advice from nationally-recognized tax counsel selected under the terms of the preceding

sentence. The settlement amount shall be calculated on a fully grossed-up basis to cover any

related cost consequences of the current tax liability. The Connecting Transmission Owner may

also settle any tax controversy without receiving the Developer’s consent or any such written

advice; however, any such settlement will relieve the Developer from any obligation to

indemnify Connecting Transmission Owner for the tax at issue in the contest (unless the failure

to obtain written advice is attributable to the Developer’s unreasonable refusal to the

appointment of independent tax counsel).

**5.17.8 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 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 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 Developer to Connecting Transmission

Owner are not subject to federal income tax, or (d) if Connecting Transmission Owner receives a

refund from any taxing authority for any overpayment of tax attributable to any payment or

property transfer made by Developer to Connecting Transmission Owner pursuant to this

Agreement, Connecting Transmission Owner shall promptly refund to Developer the following:

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(i)

Any payment made by 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 Developer to Connecting Transmission Owner

for such taxes which Connecting Transmission Owner did not submit to the taxing 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 Developer to the date Connecting

Transmission Owner refunds such payment to 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

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 Connecting Transmission Owner’s Attachment Facilities.

The intent of this provision is to leave both the Developer and Connecting Transmission

Owner, to the extent practicable, in the event that no taxes are due with respect to any payment

for Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades

hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes**.

Upon the timely request by Developer, and at 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 Transmission Owner for which

Developer may be required to reimburse Connecting Transmission Owner under the terms of this

Agreement. 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. 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 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, Developer will be responsible for all taxes, interest and penalties, other than

penalties attributable to any delay caused by Connecting Transmission Owner.

**5.18 Tax Status; Non-Jurisdictional Entities.**

**5.18.1 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

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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. Notwithstanding any

other provisions of this Agreement, LIPA, NYPA and Consolidated Edison Company of New

York, Inc. shall not be required to comply with any provisions of this Agreement that would

result in the loss of tax-exempt status of any of their Tax Exempt Bonds or impair their ability to

issue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shall

include the obligations of the Long Island Power Authority, NYPA and Consolidated Edison

Company of New York, Inc., the interest on which is not included in gross income under the

Internal Revenue Code.

**5.18.2 Non-Jurisdictional Entities**.

LIPA and NYPA do not waive their exemptions, pursuant to Section 201(f) of the FPA,

from Commission jurisdiction with respect to the Commission’s exercise of the FPA’s general

ratemaking authority.

**5.19 Modification.**

**5.19.1 General**.

Either the Developer or Connecting Transmission Owner may undertake modifications to

its facilities covered by this Agreement. If either the Developer or Connecting Transmission

Owner plans to undertake a modification that reasonably may be expected to affect the other

Party’s facilities, that Party shall provide to the other Party, and to NYISO, sufficient

information regarding such modification so that the other Party and NYISO may evaluate the

potential impact of such modification prior to commencement of the work. Such information

shall be deemed to be Confidential Information hereunder and shall include information

concerning the timing of such modifications and whether such modifications are expected to

interrupt the flow of electricity from the Large Generating Facility. The Party desiring to

perform such work shall provide the relevant drawings, plans, and specifications to the other

Party and NYISO at least ninety (90) Calendar Days in advance of the commencement of the

work or such shorter period upon which the Parties may agree, which agreement shall not

unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Developer to

submit an Interconnection Request, Transmission Owner shall provide, within sixty (60)

Calendar Days (or such other time as the Parties may agree), an estimate of any additional

modifications to the New York State Transmission System, Connecting Transmission Owner’s

Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades

necessitated by such Developer modification and a good faith estimate of the costs thereof. The

Developer shall be responsible for the cost of any such additional modifications, including the

cost of studying the impact of the Developer modification.

**5.19.2 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.

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**5.19.3 Modification Costs**.

Developer shall not be assigned the costs of any additions, modifications, or replacements

that Connecting Transmission Owner makes to the Connecting Transmission Owner’s

Attachment Facilities or the New York State Transmission System to facilitate the

interconnection of a third party to the Connecting Transmission Owner’s Attachment Facilities

or 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. Developer shall be responsible for the costs of any additions, modifications,

or replacements to the Developer’s Attachment Facilities that may be necessary to maintain or

upgrade such Developer’s Attachment Facilities consistent with Applicable Laws and

Regulations, Applicable Reliability Standards or Good Utility Practice.

**ARTICLE 6. TESTING AND INSPECTION**

**6.1**

**Pre-Commercial Operation Date Testing and Modifications.**

Prior to the Commercial Operation Date, the Connecting Transmission Owner shall test

the Connecting Transmission Owner’s Attachment Facilities (including required control

technologies and protection systems) and System Upgrade Facilities and System Deliverability

Upgrades and Developer shall test the Large Generating Facility and the Developer’s Attachment

Facilities to ensure their safe and reliable operation. Similar testing may be required after initial

operation. Developer and Connecting Transmission Owner shall each make any modifications to

its facilities that are found to be necessary as a result of such testing. Developer shall bear the

cost of all such testing and modifications. Developer shall generate test energy at the Large

Generating Facility only if it has arranged for the injection of such test energy in accordance with

NYISO procedures.

**6.2**

**Post-Commercial Operation Date Testing and Modifications.**

Developer and Connecting Transmission Owner shall each 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 the continued

interconnection of the Large Generating Facility with the New York State Transmission System

in a safe and reliable manner. Developer and Connecting Transmission Owner shall each have

the right, upon advance written notice, to require reasonable additional testing of the other

Party’s facilities, at the requesting Party’s expense, as may be in accordance with Good Utility

Practice.

**6.3**

**Right to Observe Testing.**

Developer and Connecting Transmission Owner shall each notify the other Party, and the

NYISO, in advance of its performance of tests of its Attachment Facilities. The other Party, and

the NYISO, shall each have the right, at its own expense, to observe such testing.

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**6.4**

**Right to Inspect.**

Developer and Connecting Transmission Owner shall each have the right, but shall have

no obligation to: (i) observe the other Party’s tests and/or inspection of any of its System

Protection Facilities and other protective equipment, including Power System Stabilizers; (ii)

review the settings of the other Party’s System Protection Facilities and other protective

equipment; and (iii) review the other Party’s maintenance records relative to the Attachment

Facilities, the System Protection Facilities and other protective equipment. NYISO shall have

these same rights of inspection as to the facilities and equipment of Developer and 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 Attachment Facilities or 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.**

Developer and Connecting Transmission Owner shall each 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. Unless otherwise agreed by the

Connecting Transmission Owner and NYISO approved meter service provider and Developer,

the Connecting Transmission Owner shall install Metering Equipment at the Point of

Interconnection prior to any operation of the Large Generating Facility and shall own, operate,

test and maintain such Metering power flows including MW and MVAR, MWHR and loss

profile data to and from the Large Generating Facility shall be measured at the Point of

Interconnection. Connecting Transmission Owner shall provide metering quantities, in analog

and/or digital form, as required, to Developer or NYISO upon request. Where the Point of

Interconnection for the Large Generating Facility is other than the generator terminal, the

Developer shall also provide gross MW and MVAR quantities at the generator terminal.

Developer shall bear all reasonable documented costs associated with the purchase, installation,

operation, testing and maintenance of the Metering Equipment.

**7.2**

**Check Meters.**

Developer, at its option and expense, may install and operate, on its premises and on its

side of the Point of Interconnection, one or more check meters to check Connecting

Transmission Owner’s meters. Such check meters shall be for check purposes only and shall not

be used for the measurement of power flows for purposes of this Agreement, except as provided

in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and

examination by Connecting Transmission Owner or its designee. The installation, operation and

maintenance thereof shall be performed entirely by Developer in accordance with Good Utility

Practice.

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**7.3**

**Standards.**

Connecting Transmission Owner 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 Developer, Connecting Transmission Owner shall, at 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

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 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 Developer’s check meters, if installed. If no such check meters

are installed or if the period cannot be reasonably ascertained, the adjustment shall be for 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 Developer’s or Connecting

Transmission Owner’s property at any time.

**7.5**

**Metering Data.**

At Developer’s expense, the metered data shall be telemetered to one or more locations

designated by Connecting Transmission Owner, Developer and NYISO. Such telemetered data

shall be used, under normal operating conditions, as the official measurement of the amount of

energy delivered from the Large Generating Facility to the Point of Interconnection.

**ARTICLE 8. COMMUNICATIONS**

**8.1**

**Developer Obligations.**

In accordance with applicable NYISO requirements, Developer shall maintain

satisfactory operating communications with Connecting Transmission Owner and NYISO.

Developer shall provide standard voice line, dedicated voice line and facsimile communications

at its Large Generating Facility control room or central dispatch facility through use of either the

public telephone system, or a voice communications system that does not rely on the public

telephone system. Developer shall also provide the dedicated data circuit(s) necessary to provide

Developer data to Connecting Transmission Owner and NYISO as set forth in Appendix D

hereto. The data circuit(s) shall extend from the Large Generating Facility to the location(s)

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specified by Connecting Transmission Owner and NYISO. Any required maintenance of such

communications equipment shall be performed by Developer. 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.**

Prior to the Initial Synchronization Date of the Large Generating Facility, a Remote

Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties,

shall be installed by Developer, or by Connecting Transmission Owner at Developer’s expense,

to gather accumulated and instantaneous data to be telemetered to the location(s) designated by

Connecting Transmission Owner and 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 Connecting Transmission Owner and NYISO. Instantaneous bi-directional analog

real power and reactive power flow information must be telemetered directly to the location(s)

specified by Connecting Transmission Owner and 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 and the Connecting Transmission Owner’s Attachment Facilities to be

operated, maintained and controlled in a safe and reliable manner in accordance with this

Agreement and the NYISO Tariffs. Connecting Transmission Owner and NYISO may provide

operating instructions to Developer consistent with this Agreement, NYISO procedures and

Connecting Transmission Owner’s operating protocols and procedures as they may change from

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time to time. Connecting Transmission Owner and NYISO will consider changes to their

respective operating protocols and procedures proposed by Developer.

**9.3**

**Developer Obligations.**

Developer shall at its own expense operate, maintain and control the Large Generating

Facility and the Developer’s Attachment Facilities in a safe and reliable manner and in

accordance with this Agreement. Developer shall operate the Large Generating Facility and the

Developer’s Attachment Facilities in accordance with NYISO and Connecting Transmission

Owner requirements, as such requirements are set forth or referenced in Appendix C hereto.

Appendix C will be modified to reflect changes to the requirements as they may change from

time to time. Any Party may request that the appropriate other Party or Parties provide copies of

the requirements set forth or referenced in Appendix C hereto.

**9.4**

**Start-Up and Synchronization.**

Consistent with the mutually acceptable procedures of the Developer and Connecting

Transmission Owner, the Developer is responsible for the proper synchronization of the Large

Generating Facility to the New York State Transmission System in accordance with NYISO and

Connecting Transmission Owner procedures and requirements.

**9.5**

**Real and Reactive Power Control and Primary Frequency Response.**

**9.5.1 Power Factor Design Criteria.**

**9.5.1.1**

**Synchronous Generation.** Developer shall design the Large

Generating Facility to maintain effective composite power delivery at continuous rated power

output at the Point of Interconnection at a power factor within the range of 0.95 leading to 0.95

lagging unless the NYISO or the Transmission Owner in whose Transmission District the Large

Generating Facility interconnects has established different requirements that apply to all

generators in the New York Control Area or Transmission District (as applicable) on a

comparable basis, in accordance with Good Utility Practice.

The Developer shall design and maintain the plant auxiliary systems to operate safely

throughout the entire real and reactive power design range.

**9.5.1.2**

**Non-Synchronous Generation.** Developer shall design the Large

Generating Facility to maintain composite power delivery at continuous rated power output at

the high-side of the generator substation at a power factor within the range of 0.95 leading to

0.95 lagging, unless the NYISO or the Transmission Owner in whose Transmission District the

Large Generating Facility interconnects has established a different power factor range that

applies to all non-synchronous generators in the New York Control Area or Transmission

District (as applicable) on a comparable basis, in accordance with Good Utility Practice. This

power factor range standard shall be dynamic and can be met using, for example, power

electronics designed to supply this level of reactive capability (taking into account any

limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a

combination of the two. This requirement shall only apply to newly interconnection non-

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synchronous generators that have not yet executed a Facilities Study Agreement as of September

21, 2016.

The Developer shall design and maintain the plant auxiliary systems to operate safely

throughout the entire real and reactive power design range.

**9.5.2 Voltage Schedules**.

Once the Developer has synchronized the Large Generating Facility with the New York

State Transmission System, NYISO shall require Developer to operate the Large Generating

Facility to produce or absorb reactive power within the design capability of the Large Generating

Facility set forth in Article 9.5.1 (Power Factor Design Criteria). NYISO’s voltage schedules

shall treat all sources of reactive power in the New York Control Area in an equitable and not

unduly discriminatory manner. NYISO shall exercise Reasonable Efforts to provide Developer

with such schedules in accordance with NYISO procedures, and may make changes to such

schedules as necessary to maintain the reliability of the New York State Transmission System.

Developer shall operate the Large Generating Facility to maintain the specified output voltage or

power factor at the Point of Interconnection within the design capability of the Large Generating

Facility set forth in Article 9.5.1(Power Factor Design Criteria) as directed by the Connecting

Transmission Owner’s system operator or the NYISO. If Developer is unable to maintain the

specified voltage or power factor, it shall promptly notify NYISO.

**9.5.3 Payment for Reactive Power.**

NYISO shall pay Developer for reactive power or voltage support service that Developer

provides from the Large Generating Facility in accordance with the provisions of Rate Schedule

2 of the NYISO Services Tariff.

**9.5.4 Voltage Regulators**.

Whenever the Large Generating Facility is operated in parallel with the New York State

Transmission System, the automatic voltage regulators shall be in automatic operation at all

times. If the Large Generating Facility’s automatic voltage regulators are not capable of such

automatic operation, the Developer shall immediately notify NYISO, or its designated

representative, and ensure that such Large Generating Facility’s real and reactive power are

within the design capability of the Large Generating Facility’s generating unit(s) and steady state

stability limits and NYISO system operating (thermal, voltage and transient stability) limits.

Developer shall not cause its Large Generating Facility to disconnect automatically or

instantaneously from the New York State Transmission System or trip any generating unit

comprising the Large Generating Facility for an under or over frequency condition unless the

abnormal frequency condition persists for a time period beyond the limits set forth in

ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the New

York Control Area on a comparable basis.

**9.5.5 Primary Frequency Response.**

Developer shall ensure the primary frequency response capability of its Large Generating

Facility by installing, maintaining, and operating a functioning governor or equivalent controls.

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The term “functioning governor or equivalent controls” as used herein shall mean the required

hardware and/or software that provides frequency responsive real power control with the ability

to sense changes in system frequency and autonomously adjust the Large Generating Facility’s

real power output in accordance with the droop and deadband parameters and in the direction

needed to correct frequency deviations. Developer is required to install a governor or equivalent

controls with the capability of operating: (1) with a maximum 5 percent droop ± 0.036 Hz

deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained

response settings from an approved Applicable Reliability Standard providing for equivalent or

more stringent parameters. The droop characteristic shall be: (1) based on the nameplate

capacity of the Large Generating Facility, and shall be linear in the range of frequencies between

59 and 61 Hz that are outside of the deadband parameter; or (2) based on an approved Applicable

Reliability Standard providing for an equivalent or more stringent parameter. The deadband

parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the

governor or equivalent controls is not expected to adjust the Large Generating Facility’s real

power output in response to frequency deviations. The deadband shall be implemented: (1)

without a step to the droop curve, that is, once the frequency deviation exceeds the deadband

parameter, the expected change in the Large Generating Facility’s real power output in response

to frequency deviations shall start from zero and then increase (for under-frequency deviations)

or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the

frequency deviation; or (2) in accordance with an approved Applicable Reliability Standard

providing for an equivalent or more stringent parameter. Developer shall notify NYISO that the

primary frequency response capability of the Large Generating Facility has been tested and

confirmed during commissioning. Once Developer has synchronized the Large Generating

Facility with the New York State Transmission System, Developer shall operate the Large

Generating Facility consistent with the provisions specified in Articles 9.5.5.1 and 9.5.5.2 of this

Agreement. The primary frequency response requirements contained herein shall apply to both

synchronous and non-synchronous Large Generating Facilities.

**9.5.5.1**

**Governor or Equivalent Controls.**

Whenever the Large Generating Facility is operated in parallel with the New York State

Transmission System, Developer shall operate the Large Generating Facility with its governor or

equivalent controls in service and responsive to frequency. Developer shall: (1) in coordination

with NYISO, set the deadband parameter to: (1) a maximum of ±0.036 Hz and set the droop

parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings

from an approved Applicable Reliability Standard that provides for equivalent or more stringent

parameters. Developer shall be required to provide the status and settings of the governor and

equivalent controls to NYISO and/or the Connecting Transmission Owner upon request. If

Developer needs to operate the Large Generating Facility with its governor or equivalent

controls not in service, Developer shall immediately notify NYISO and the Connecting

Transmission Owner, and provide both with the following information: (1) the operating status

of the governor or equivalent controls (i.e., whether it is currently out of service or when it will

be taken out of service); (2) the reasons for removing the governor or equivalent controls from

service; and (3) a reasonable estimate of when the governor or equivalent controls will be

returned to service. Developer shall make Reasonable Efforts to return its governor or

equivalent controls into service as soon as practicable. Developer shall make Reasonable Efforts

to keep outages of the Large Generating Facility’s governor or equivalent controls to a minimum

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whenever the Large Generating Facility is operated in parallel with the New York State

Transmission System.

**9.5.5.2**

**Timely and Sustained Response.**

Developer shall ensure that the Large Generating Facility’s real power response to

sustained frequency deviations outside of the deadband setting is automatically provided and

shall begin immediately after frequency deviates outside of the deadband, and to the extent the

Large Generating Facility has operating capability in the direction needed to correct the

frequency deviation. Developer shall not block or otherwise inhibit the ability of the governor or

equivalent controls to respond and shall ensure that the response is not inhibited, except under

certain operational constraints including, but not limited to, ambient temperature limitations,

physical energy limitations, outages of mechanical equipment, or regulatory requirements. The

Large Generating Facility shall sustain the real power response at least until system frequency

returns to a value within the deadband setting of the governor or equivalent controls. An

Applicable Reliability Standard with equivalent or more stringent requirements shall supersede

the above requirements.

**9.5.5.3**

**Exemptions.**

Large Generating Facilities that are regulated by the United States Nuclear Regulatory

Commission shall be exempt from Articles 9.5.5, 9.5.5.1, and 9.5.5.2 of this Agreement. Large

Generating Facilities that are behind the meter generation that is sized-to-load (i.e., the thermal

load and the generation are near-balanced in real-time operation and the generation is primarily

controlled to maintain the unique thermal, chemical, or mechanical output necessary for the

operating requirements of its host facility) shall be required to install primary frequency response

capability requirements in accordance with the droop and deadband capability requirements

specified in Article 9.5.5, but shall be otherwise exempt from the operating requirements in

Articles 9.5.5, 9.5.5.1, 9.5.5.2, and 9.5.5.4 of this Agreement.

**9.5.5.4**

**Electric Storage Resources.**

Developer interconnecting a Generating Facility that contains an electric storage resource

shall establish an operating range in Appendix C of its LGIA that specifies a minimum state of

charge and a maximum state of charge between which the electric storage resource will be

required to provide primary frequency response consistent with the conditions set forth in

Articles 9.5.5, 9.5.5.1, 9.5.5.2, and 9.5.5.3 of this Agreement. Appendix C shall specify whether

the operating range is static or dynamic, and shall consider (1) the expected magnitude of

frequency deviations in the interconnection; (2) the expected duration that system frequency will

remain outside of the deadband parameter in the interconnection; (3) the expected incidence of

frequency deviations outside of the deadband parameter in the interconnection; (4) the physical

capabilities of the electric storage resource; (5) operational limitations of the electric storage

resources due to manufacturer specification; and (6) any other relevant factors agreed to by the

NYISO, Connecting Transmission Owner, and Developer. If the operating range is dynamic,

then Appendix C must establish how frequently the operating range will be reevaluated and the

factors that may be considered during its reevaluation.

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Developer’s electric storage resource is required to provide timely and sustained primary

frequency response consistent with Article 9.5.5.2 of this Agreement when it is online and

dispatched to inject electricity to the New York State Transmission System and/or receive

electricity from the New York State Transmission System. This excludes circumstances when

the electric storage resource is not dispatched to inject electricity to the New York State

Transmission System and/or dispatched to receive electricity from the New York State

Transmission System. If Developer’s electric storage resource is charging at the time of a

frequency deviation outside of its deadband parameter, it is to increase (for over-frequency

deviations) or decrease (for under-frequency deviations) the rate at which it is charging in

accordance with its droop parameter. Developer’s electric storage resource is not required to

change from charging to discharging, or vice versa, unless the response necessitated by the

droop and deadband settings requires it to do so and it is technically capable of making such a

transition.

**9.6**

**Outages and Interruptions.**

**9.6.1 Outages.**

**9.6.1.1**

**Outage Authority and Coordination**.

Developer and Connecting Transmission Owner may each, in accordance with NYISO

procedures and Good Utility Practice and in coordination with the other Party, remove from

service any of its respective Attachment Facilities or System Upgrade Facilities and System

Deliverability Upgrades that may impact the other Party’s facilities as necessary to perform

maintenance or testing or to install or replace equipment. Absent an Emergency State, the Party

scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule

such removal on a date and time mutually acceptable to both the Developer and the Connecting

Transmission Owner. In all circumstances either Party planning to remove such facility(ies)

from service shall use Reasonable Efforts to minimize the effect on the other Party of such

removal.

**9.6.1.2**

**Outage Schedules**.

The Connecting Transmission Owner shall post scheduled outages of its transmission

facilities on the NYISO OASIS. Developer shall submit its planned maintenance schedules for

the Large Generating Facility to Connecting Transmission Owner and NYISO for a minimum of

a rolling thirty-six month period. Developer shall update its planned maintenance schedules as

necessary. NYISO may direct, or the Connecting Transmission Owner may request, Developer

to reschedule its maintenance as necessary to maintain the reliability of the New York State

Transmission System. Compensation to Developer for any additional direct costs that the

Developer incurs as a result of rescheduling maintenance, including any additional overtime,

breaking of maintenance contracts or other costs above and beyond the cost the Developer would

have incurred absent the request to reschedule maintenance, shall be in accordance with the ISO

OATT. Developer will not be eligible to receive compensation, if during the twelve (12) months

prior to the date of the scheduled maintenance, the Developer had modified its schedule of

maintenance activities other than at the direction of the NYISO or request of the Connecting

Transmission Owner.

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**9.6.1.3 Outage Restoration**.

If an outage on the Attachment Facilities or System Upgrade Facilities or System

Deliverability Upgrades of the Connecting Transmission Owner or Developer adversely affects

the other Party’s operations or facilities, the Party that owns the facility that is out of service

shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating

condition consistent with the nature of the outage. The Party that owns the facility that is out of

service shall provide the other Party and NYISO, to the extent such information is known,

information on the nature of the Emergency State, an estimated time of restoration, and any

corrective actions required. Initial verbal notice shall be followed up as soon as practicable with

written notice explaining the nature of the outage.

**9.6.2 Interruption of Service**. If required by Good Utility Practice or Applicable

Reliability Standards to do so, the NYISO or Connecting Transmission Owner may require

Developer to interrupt or reduce production of electricity if such production of electricity could

adversely affect the ability of NYISO and Connecting Transmission Owner to perform such

activities as are necessary to safely and reliably operate and maintain the New York State

Transmission System. The following provisions shall apply to any interruption or reduction

permitted under this Article 9.6.2:

**9.6.2.1**

The interruption or reduction shall continue only for so long as

reasonably necessary under Good Utility Practice;

**9.6.2.2**

Any such interruption or reduction shall be made on an equitable, non-

discriminatory basis with respect to all generating facilities directly connected to the New York

State Transmission System;

**9.6.2.3**

When the interruption or reduction must be made under circumstances

which do not allow for advance notice, NYISO or Connecting Transmission Owner shall notify

Developer by telephone as soon as practicable of the reasons for the curtailment, interruption, or

reduction, and, if known, its expected duration. Telephone notification shall be followed by

written notification as soon as practicable;

**9.6.2.4**

Except during the existence of an Emergency State, when the

interruption or reduction can be scheduled without advance notice, NYISO or Connecting

Transmission Owner shall notify Developer in advance regarding the timing of such scheduling

and further notify Developer of the expected duration. NYISO or Connecting Transmission

Owner shall coordinate with each other and the Developer using Good Utility Practice to

schedule the interruption or reduction during periods of least impact to the Developer, the

Connecting Transmission Owner and the New York State Transmission System;

**9.6.2.5**

The Parties shall cooperate and coordinate with each other to the

extent necessary in order to restore the Large Generating Facility, Attachment Facilities, and the

New York State Transmission System to their normal operating state, consistent with system

conditions and Good Utility Practice.

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**9.6.3 Ride Through Capability and Performance**.

The New York State Transmission System is designed to automatically activate a load-

shed program as required by the Applicable Reliability Councils in the event of an under-

frequency system disturbance. Developer shall implement under-frequency and over-frequency

relay set points for the Large Generating Facility as required by the Applicable Reliability

Councils to ensure frequency “ride through” capability of the New York State Transmission

System. Large Generating Facility response to frequency deviations of predetermined

magnitudes, both under-frequency and over-frequency deviations, shall be studied and

coordinated with the NYISO and Connecting Transmission Owner in accordance with Good

Utility Practice. Developer shall also implement under voltage and over voltage relay set points,

or equivalent electronic controls, as required by the Applicable Reliability Councils to ensure

voltage “ride through” capability of the New York State Transmission System. The term “ride

through” as used herein shall mean the ability of a Generating Facility to stay connected to and

synchronized with the New York State Transmission System during system disturbances within a

range of under-frequency, over-frequency, under-voltage, and over-voltage conditions, in

accordance with Good Utility Practice and consistent with any standards and guidelines that are

applied to other Generating Facilities in the Balancing Authority Area on a comparable basis

unless the Transmission Owner in whose Transmission District the Large Generating Facility

interconnects has established different requirements that apply on a comparable basis in

accordance with Good Utility Practice. For abnormal frequency conditions and voltage

conditions within the “no trip zone” as that term is defined by ERO Reliability Standard PRC-

024-3, any successor mandatory ride through ERO reliability standards, or any more stringent

NPCC or NYSRC requirements applicable to Generating Facilities in the Balancing Authority

Area on a comparable basis, the non-synchronous Generating Facility must ensure that, within

any physical limitations of the Generating Facility, its control and protection settings are

configured or set to (1) continue active power production during disturbance and post

disturbance periods at pre-disturbance levels, unless reactive power priority mode is enabled or

unless providing primary frequency response or fast frequency response; (2) minimize reductions

in active power and remain within dynamic voltage and current limits, if reactive power priority

mode is enabled, unless providing primary frequency response or fast frequency response; (3)

not artificially limit dynamic reactive power capability during disturbances; and (4) return to pre-

disturbance active power levels without artificial ramp rate limits if active power is reduced,

unless providing primary frequency response or fast frequency response.

**9.6.4 System Protection and Other Control Requirements.**

**9.6.4.1**

**System Protection Facilities**. Developer shall, at its expense, install,

operate and maintain System Protection Facilities as a part of the Large Generating Facility or

Developer’s Attachment Facilities. Connecting Transmission Owner shall install at Developer’s

expense any System Protection Facilities that may be required on the Connecting Transmission

Owner’s Attachment Facilities or the New York State Transmission System as a result of the

interconnection of the Large Generating Facility and Developer’s Attachment Facilities.

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**9.6.4.2**

The protection facilities of both the Developer and Connecting

Transmission Owner shall be designed and coordinated with other systems in accordance with

Good Utility Practice and Applicable Reliability Standards.

**9.6.4.3**

The Developer and Connecting Transmission Owner shall each be

responsible for protection of its respective facilities consistent with Good Utility Practice and

Applicable Reliability Standards.

**9.6.4.4**

The protective relay design of the Developer and Connecting

Transmission Owner shall each 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 Developer’s Large Generating

Facility.

**9.6.4.5**

The Developer and Connecting Transmission Owner will each test,

operate and maintain System Protection Facilities in accordance with Good Utility Practice, ERO

and NPCC criteria.

**9.6.4.6**

Prior to the In-Service Date, and again prior to the Commercial

Operation Date, the Developer and Connecting Transmission Owner shall each perform, or their

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, the Developer and Connecting Transmission

Owner shall each perform both calibration and functional trip tests of its System Protection

Facilities. 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.

**9.6.5 Requirements for Protection**.

In compliance with NPCC requirements and Good Utility Practice, Developer shall

provide, install, own, and maintain relays, circuit breakers and all other devices necessary to

remove any fault contribution of the Large Generating Facility 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. Such protective

equipment shall include, without limitation, a disconnecting device or switch with load-

interrupting capability located between the Large Generating Facility and the New York State

Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld,

conditioned or delayed) of the Developer and Connecting Transmission Owner. Developer shall

be responsible for protection of the Large Generating Facility and Developer’s other equipment

from such conditions as negative sequence currents, over- or under-frequency, sudden load

rejection, over- or under-voltage, and generator loss-of-field. Developer shall be solely

responsible to disconnect the Large Generating Facility and Developer’s other equipment if

conditions on the New York State Transmission System could adversely affect the Large

Generating Facility.

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**9.6.6 Power Quality**.

Neither the facilities of Developer nor the facilities of Connecting Transmission Owner

shall 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**

**Switching and Tagging Rules.**

The Developer and Connecting Transmission Owner shall each provide the other Party a

copy of its switching and tagging rules that are applicable to the other Party’s activities. Such

switching and tagging rules shall be developed on a nondiscriminatory basis. The Parties shall

comply with applicable switching and tagging rules, as amended from time to time, in obtaining

clearances for work or for switching operations on equipment.

**9.8**

**Use of Attachment Facilities by Third Parties.**

**9.8.1 Purpose of Attachment Facilities.**

Except as may be required by Applicable Laws and Regulations, or as otherwise agreed

to among the Parties, the Attachment Facilities shall be constructed for the sole purpose of

interconnecting the Large Generating Facility to the New York State Transmission System and

shall be used for no other purpose.

**9.8.2 Third Party Users.**

If required by Applicable Laws and Regulations or if the Parties mutually agree, such

agreement not to be unreasonably withheld, to allow one or more third parties to use the

Connecting Transmission Owner’s Attachment Facilities, or any part thereof, Developer will be

entitled to compensation for the capital expenses it incurred in connection with the Attachment

Facilities based upon the pro rata use of the Attachment Facilities by Connecting Transmission

Owner, all third party users, and Developer, in accordance with Applicable Laws and

Regulations or upon some other mutually-agreed upon methodology. In addition, cost

responsibility for ongoing costs, including operation and maintenance costs associated with the

Attachment Facilities, will be allocated between Developer and any third party users based upon

the pro rata use of the Attachment Facilities by Connecting Transmission Owner, all third party

users, and Developer, in accordance with Applicable Laws and Regulations or upon some other

mutually agreed upon methodology. If the issue of such compensation or allocation cannot be

resolved through such negotiations, it shall be submitted to FERC for resolution.

**9.9**

**Disturbance Analysis Data Exchange.**

The Parties will cooperate with one another and the NYISO in the analysis of

disturbances to either the Large Generating Facility 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

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and sequence of events records, and any disturbance information required by Good Utility

Practice.

**9.10 Phasor Measurement Units.**

A Developer shall install and maintain, at its expense, phasor measurement units

(“PMUs”) if it meets the following criteria: (1) completed a Class Year after Class Year 2017;

and (2) proposes a new Large Facility that either (a) has a maximum net output equal to or

greater than 100 MW or (b) requires, as Attachment Facilities or System Upgrade Facilities, a

new substation of 230kV or above.

PMUs shall be installed on the Large Facility on the low side of the generator step-up

transformer, unless it is a non-synchronous generation facility, in which case the PMUs shall be

installed on the Developer side of the Point of Interconnection. The PMUs must be capable of

performing phasor measurements at a minimum of 60 samples per second which are

synchronized via a high-accuracy satellite clock. To the extent Developer installs similar quality

equipment, such as relays or digital fault recorders, that can collect data at least at the same rate

as PMUs and which data is synchronized via a high-accuracy satellite clock, such equipment

would satisfy this requirement.

Developer shall be required to install and maintain, at its expense, PMU equipment which

includes the communication circuit capable of carrying the PMU data to a local data

concentrator, and then transporting the information continuously to the Connecting Transmission

Owner and the NYISO; as well as store the PMU data locally for thirty (30) Calendar Days.

Developer shall provide to Connecting Transmission Owner and the NYISO all necessary and

requested information through the Connecting Transmission Owner’s and the NYISO’s

synchrophasor system, including the following: (a) gross MW and MVAR measured at the

Developer side of the generator step-up transformer (or, for a non-synchronous generation

facility, to be measured at the Developer side of the Point of Interconnection); (b) generator

terminal voltage and current magnitudes and angles; (c) generator terminal frequency and

frequency rate of change; and (d) generator field voltage and current, where available; and (e)

breaker status, if available. The Connecting Transmission Owner will provide for the ongoing

support and maintenance of the network communications linking the data concentrator to the

Connecting Transmission Owner and the NYISO, consistent with ISO Procedures detailing the

obligations related to SCADA data.

**ARTICLE 10. MAINTENANCE**

**10.1 Connecting Transmission Owner Obligations.**

Connecting Transmission Owner shall maintain its transmission facilities and Attachment

Facilities in a safe and reliable manner and in accordance with this Agreement.

**10.2 Developer Obligations.**

Developer shall maintain its Large Generating Facility and Attachment Facilities in a safe

and reliable manner and in accordance with this Agreement.

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**10.3 Coordination.**

The Developer and Connecting Transmission Owner shall confer regularly to coordinate

the planning, scheduling and performance of preventive and corrective maintenance on the Large

Generating Facility and the Attachment Facilities. The Developer and Connecting Transmission

Owner shall keep NYISO fully informed of the preventive and corrective maintenance that is

planned, and shall schedule all such maintenance in accordance with NYISO procedures.

**10.4 Secondary Systems.**

The Developer and Connecting Transmission Owner shall each cooperate with the other

in the inspection, maintenance, and testing of control or power circuits that operate below 600

volts, AC or DC, including, but not limited to, any hardware, control or protective devices,

cables, conductors, electric raceways, secondary equipment panels, transducers, batteries,

chargers, and voltage and current transformers that directly affect the operation of Developer or

Connecting Transmission Owner’s facilities and equipment which may reasonably be expected

to impact the other Party. The Developer and Connecting Transmission Owner shall each

provide advance notice to the other Party, and to NYISO, before undertaking any work on such

circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current

transformers, or potential transformers.

**10.5 Operating and Maintenance Expenses.**

Subject to the provisions herein addressing the use of facilities by others, and except for

operations and maintenance expenses associated with modifications made for providing

interconnection or transmission service to a third party and such third party pays for such

expenses, Developer shall be responsible for all reasonable expenses including overheads,

associated with: (1) owning, operating, maintaining, repairing, and replacing Developer’s

Attachment Facilities; and (2) operation, maintenance, repair and replacement of Connecting

Transmission Owner’s Attachment Facilities. The Connecting Transmission Owner shall be

entitled to the recovery of incremental operating and maintenance expenses that it incurs

associated with System Upgrade Facilities and System Deliverability Upgrades if and to the

extent provided for under Attachment S to the ISO OATT.

**ARTICLE 11. PERFORMANCE OBLIGATION**

**11.1 Developer’s Attachment Facilities.**

Developer shall design, procure, construct, install, own and/or control the Developer’s

Attachment Facilities described in Appendix A hereto, at its sole expense.

**11.2 Connecting Transmission Owner’s Attachment Facilities.**

Connecting Transmission Owner shall design, procure, construct, install, own and/or

control the Connecting Transmission Owner’s Attachment Facilities described in Appendix A

hereto, at the sole expense of the Developer.

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**11.3 System Upgrade Facilities and System Deliverability Upgrades.**

Connecting Transmission Owner shall design, procure, construct, install, and own the

System Upgrade Facilities and System Deliverability Upgrades described in Appendix A hereto.

The responsibility of the Developer for costs related to System Upgrade Facilities and System

Deliverability Upgrades shall be determined in accordance with the provisions of Attachment S

to the ISO OATT.

**11.4 Special Provisions for Affected Systems.**

For the re-payment of amounts advanced to Affected System Operator for System

Upgrade Facilities or System Deliverability Upgrades, the 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 System Upgrade Facilities or System Deliverability Upgrades

is not to be allocated in accordance with Attachment S to the ISO OATT. The agreement shall

specify the terms governing payments to be made by the Developer to the Affected System

Operator as well as the re-payment by the Affected System Operator.

**11.5 Provision of Security.**

At least thirty (30) Calendar Days prior to the commencement of the procurement,

installation, or construction of a discrete portion of a Connecting Transmission Owner’s

Attachment Facilities, Developer shall provide Connecting Transmission Owner, at Developer’s

option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably

acceptable to Connecting Transmission Owner and is consistent with the Uniform Commercial

Code of the jurisdiction identified in Article 14.2.1 of this Agreement. Such security for

payment shall be in an amount sufficient to cover the cost for the Developer’s share of

constructing, procuring and installing the applicable portion of Connecting Transmission

Owner’s Attachment Facilities, and shall be reduced on a dollar-for-dollar basis for payments

made to Connecting Transmission Owner for these purposes.

In addition:

**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 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.

**11.5.4** Attachment S to the ISO OATT shall govern the Security that Developer provides

for System Upgrade Facilities and System Deliverability Upgrades.

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**11.6 Developer Compensation for Emergency Services.**

If, during an Emergency State, the Developer provides services at the request or direction

of the NYISO or Connecting Transmission Owner, the Developer will be compensated for such

services in accordance with the NYISO Services Tariff.

**11.7 Line Outage Costs.**

Notwithstanding anything in the ISO OATT to the contrary, the Connecting Transmission

Owner may propose to recover line outage costs associated with the installation of Connecting

Transmission Owner’s Attachment Facilities or System Upgrade Facilities or System

Deliverability Upgrades on a case-by-case basis.

**ARTICLE 12. INVOICE**

**12.1 General.**

The 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 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 Connecting Transmission

Owner’s Attachment Facilities and the System Upgrade Facilities and system Deliverability

Upgrades, Connecting Transmission Owner shall provide an invoice of the final cost of the

construction of the Connecting Transmission Owner’s Attachment Facilities and the System

Upgrade Facilities and System Deliverability Upgrades, determined in accordance with

Attachment S to the ISO OATT, and shall set forth such costs in sufficient detail to enable

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 Developer any amount by

which the actual payment by 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,

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.

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**12.4 Disputes.**

In the event of a billing dispute between Connecting Transmission Owner and Developer,

Connecting Transmission Owner shall continue to perform under this Agreement as long as

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 Developer fails to meet these two requirements for

continuation of service, then Connecting Transmission Owner may provide notice to 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 Notice.**

NYISO or, as applicable, Connecting Transmission Owner shall notify Developer

promptly when it becomes aware of an Emergency State that affects the Connecting

Transmission Owner’s Attachment Facilities or the New York State Transmission System that

may reasonably be expected to affect Developer’s operation of the Large Generating Facility or

the Developer’s Attachment Facilities. Developer shall notify NYISO and Connecting

Transmission Owner promptly when it becomes aware of an Emergency State that affects the

Large Generating Facility or the Developer’s Attachment Facilities that may reasonably be

expected to affect the New York State Transmission System or the Connecting Transmission

Owner’s Attachment Facilities. To the extent information is known, the notification shall

describe the Emergency State, the extent of the damage or deficiency, the expected effect on the

operation of Developer’s or Connecting Transmission Owner’s facilities and operations, its

anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be

followed as soon as practicable with written notice.

**13.3 Immediate Action.**

Unless, in Developer’s reasonable judgment, immediate action is required, Developer

shall obtain the consent of Connecting Transmission Owner, such consent to not be unreasonably

withheld, prior to performing any manual switching operations at the Large Generating Facility

or the Developer’s Attachment Facilities in response to an Emergency State either declared by

NYISO, Connecting Transmission Owner or otherwise regarding New York State Transmission

System.

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**13.4 NYISO and Connecting Transmission Owner Authority.**

**13.4.1 General**.

NYISO or Connecting Transmission Owner may take whatever actions with regard to the

New York State Transmission System or the Connecting Transmission Owner’s Attachment

Facilities 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 or the Connecting

Transmission Owner’s Attachment Facilities, (iii) limit or prevent damage, and (iv) expedite

restoration of service.

NYISO and Connecting Transmission Owner shall use Reasonable Efforts to minimize

the effect of such actions or inactions on the Large Generating Facility or the Developer’s

Attachment Facilities. NYISO or Connecting Transmission Owner may, on the basis of

technical considerations, require the Large Generating Facility to mitigate an Emergency State

by taking actions necessary and limited in scope to remedy the Emergency State, including, but

not limited to, directing Developer to shut-down, start-up, increase or decrease the real or

reactive power output of the Large Generating Facility; implementing a reduction or

disconnection pursuant to Article 13.4.2; directing the Developer to assist with blackstart (if

available) or restoration efforts; or altering the outage schedules of the Large Generating Facility

and the Developer’s Attachment Facilities. Developer shall comply with all of the NYISO and

Connecting Transmission Owner’s operating instructions concerning Large Generating Facility

real power and reactive power output within the manufacturer’s design limitations of the Large

Generating Facility’s equipment that is in service and physically available for operation at the

time, in compliance with Applicable Laws and Regulations.

**13.4.2 Reduction and Disconnection**.

NYISO or Connecting Transmission Owner may reduce Network Access Interconnection

Service or disconnect the Large Generating Facility or the Developer’s Attachment Facilities,

when such reduction or disconnection is necessary under Good Utility Practice due to an

Emergency State. These rights are separate and distinct from any right of Curtailment of ISO

pursuant to the NYISO OATT. When NYISO or Connecting Transmission Owner can schedule

the reduction or disconnection in advance, NYISO or Connecting Transmission Owner shall

notify Developer of the reasons, timing and expected duration of the reduction or disconnection.

NYISO or Transmission Owner shall coordinate with the Developer using Good Utility Practice

to schedule the reduction or disconnection during periods of least impact to the Developer and

the New York State Transmission System. Any reduction or disconnection shall continue only

for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate

with each other to restore the Large Generating Facility, the Attachment Facilities, and the New

York State Transmission System to their normal operating state as soon as practicable consistent

with Good Utility Practice.

**13.5 Developer Authority.**

Consistent with Good Utility Practice and this Agreement, the Developer may take

whatever actions or inactions with regard to the Large Generating Facility or the Developer’s

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Attachment Facilities during an Emergency State in order to (i) preserve public health and safety,

(ii) preserve the reliability of the Large Generating Facility or the Developer’s Attachment

Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Developer shall

use Reasonable Efforts to minimize the effect of such actions or inactions on the New York State

Transmission System and the Connecting Transmission Owner’s Attachment Facilities. NYISO

and Connecting Transmission Owner shall use Reasonable Efforts to assist Developer in such

actions.

**13.6 Limited Liability.**

Except as otherwise provided in Article 11.6 of this Agreement, 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 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.**

**14.2.1** 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.

**14.2.2** This Agreement is subject to all Applicable Laws and Regulations.

**14.2.3** 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

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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.**

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 Articles 9 and 10 of this Agreement.

**ARTICLE 16. FORCE MAJEURE**

**16.1** Economic hardship is not considered a Force Majeure event.

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

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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 (any and all of these a

“Loss”), 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.

**18.1.1 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.

**18.1.2 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.

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**18.1.3 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.

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**18.3 Insurance.**

Developer and Connecting Transmission Owner shall each, 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 A.M. Best financial size category of

VIII or better:

**18.3.1** Employers’ Liability and Workers’ Compensation Insurance providing statutory

benefits in accordance with the laws and regulations of New York State.

**18.3.2** 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 ($2,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate combined

single limit for personal injury, bodily injury, including death and property damage.

**18.3.3** 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.

**18.3.4** If applicable, Commercial General Liability and Comprehensive Automobile

Liability Insurance policies should include contractual liability for work in connection with

construction or demolition work on or within 50 feet of a railroad, or separate Railroad

Protective Liability Policy should be provided.

**18.3.5** 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.

**18.3.6** Commercial General Liability Insurance, Comprehensive Automobile Insurance

and Excess Liability Insurance policies of Developer and Connecting Transmission Owner shall

name the other Party, 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

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

coverage or condition.

**18.3.7** 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. Developer and Connecting Transmission

Owner shall each be responsible for its respective deductibles or retentions.

**18.3.8** 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 Developer and Connecting Transmission Owner.

**18.3.9** 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.

**18.3.10** The requirements contained herein as to the types and limits of all insurance to

be maintained by the Developer and 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.

**18.3.11** 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) Calendar Days thereafter, Developer and 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.

**18.3.12** Notwithstanding the foregoing, Developer and Connecting Transmission Owner

may each 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 18.3.1through 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, such Party shall comply with the insurance requirements applicable to it under Articles

18.3.1 through 18.3.9.

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**18.3.13** 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.

**18.3.14** Subcontractors of each party 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 noncontributory 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, including the Attachment Facilities it owns, 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 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 Large Generating Facility, provided that

the Developer will promptly notify the NYISO and Connecting Transmission Owner of any such

assignment. Any financing arrangement entered into by the 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; provided that if the Developer (or any third party, but only if such

third party is not acting at the direction of the Connecting Transmission Owner) seeks and

obtains such a final determination with respect to any provision of the Alternate Option (Article

5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter

have any force or effect and the rights and obligations of Developer and Connecting

Transmission Owner shall be governed solely by the Standard Option (Article 5.1.1).

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**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

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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 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

counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to

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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,

resulting from that Party divulging Confidential Information pursuant to a FERC or state

regulatory body request under this paragraph.

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**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. DEVELOPER AND CONNECTING TRANSMISSION OWNER**

**NOTICES OF ENVIRONMENTAL RELEASES**

Developer and Connecting Transmission Owner Notice. Developer and Connecting

Transmission Owner shall each notify the other Party, 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 Large Generating Facility or the Attachment Facilities, each

of which may reasonably be expected to affect the other Party. The notifying Party 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. INFORMATION REQUIREMENT**

**24.1 Information Acquisition.**

Connecting Transmission Owner and Developer shall each submit specific information

regarding the electrical characteristics of their respective facilities to the other, and to NYISO, as

described below and in accordance with Applicable Reliability Standards.

**24.2 Information Submission by Connecting Transmission Owner.**

The initial information submission by Connecting Transmission Owner shall occur no

later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include

New York State Transmission System information necessary to allow the Developer to select

equipment and meet any system protection and stability requirements, unless otherwise mutually

agreed to by the Developer and Connecting Transmission Owner. On a monthly basis

Connecting Transmission Owner shall provide Developer and NYISO a status report on the

construction and installation of Connecting Transmission Owner’s Attachment Facilities and

System Upgrade Facilities and System Deliverability Upgrades, including, but not limited to, the

following information: (1) progress to date; (2) a description of the activities since the last report;

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(3) a description of the action items for the next period; and (4) the delivery status of equipment

ordered.

**24.3 Updated Information Submission by Developer.**

The updated information submission by the Developer, including manufacturer

information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial

Operation. Developer shall submit a completed copy of the Large Generating Facility data

requirements contained in Appendix 1 to the Standard Large Facility Interconnection Procedures.

It shall also include any additional information provided to Connecting Transmission Owner for

the Interconnection Facilities Study. Information in this submission shall be the most current

Large Generating Facility design or expected performance data. Information submitted for

stability models shall be compatible with NYISO standard models. If there is no compatible

model, the Developer will work with a consultant mutually agreed to by the Parties to develop

and supply a standard model and associated information.

If the Developer’s data is different from what was originally provided to Connecting

Transmission Owner and NYISO pursuant to an Interconnection Study Agreement among

Connecting Transmission Owner, NYISO and Developer and this difference may be reasonably

expected to affect the other Parties’ facilities or the New York State Transmission System, but

does not require the submission of a new Interconnection Request, then NYISO will conduct

appropriate studies to determine the impact on the New York State Transmission System based

on the actual data submitted pursuant to this Article 24.3. Such studies will provide an estimate

of any additional modifications to the New York State Transmission System, Connecting

Transmission Owner’s Attachment Facilities or System Upgrade Facilities or System

Deliverability Upgrades based on the actual data and a good faith estimate of the costs thereof.

The Developer shall not begin Trial Operation until such studies are completed. The Developer

shall be responsible for the cost of any modifications required by the actual data, including the

cost of any required studies.

**24.4 Information Supplementation.**

Prior to the Commercial Operation Date, the Developer and Connecting Transmission

Owner shall supplement their information submissions described above in this Article 24 with

any and all “as-built” Large Generating Facility information or “as-tested” performance

information that differs from the initial submissions or, alternatively, written confirmation that

no such differences exist. The Developer shall conduct tests on the Large Generating Facility as

required by Good Utility Practice such as an open circuit “step voltage” test on the Large

Generating Facility to verify proper operation of the Large Generating Facility’s automatic

voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility

at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a

five percent change in Large Generating Facility terminal voltage initiated by a change in the

voltage regulators reference voltage. Developer shall provide validated test recordings showing

the responses of Large Generating Facility terminal and field voltages. In the event that direct

recordings of these voltages is impractical, recordings of other voltages or currents that mirror

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the response of the Large Generating Facility’s terminal or field voltage are acceptable if

information necessary to translate these alternate quantities to actual Large Generating Facility

terminal or field voltages is provided. Large Generating Facility testing shall be conducted and

results provided to the Connecting Transmission Owner and NYISO for each individual

generating unit in a station.

Subsequent to the Commercial Operation Date, the Developer shall provide Connecting

Transmission Owner and NYISO any information changes due to equipment replacement, repair,

or adjustment. Connecting Transmission Owner shall provide the Developer and NYISO any

information changes due to equipment replacement, repair or adjustment in the directly

connected substation or any adjacent Connecting Transmission Owner substation that may affect

the Developer Attachment Facilities equipment ratings, protection or operating requirements.

The Developer and Connecting Transmission Owner shall provide such information no later than

thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

**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

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

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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.**

**25.4.1 Audit Rights Period for Construction-Related Accounts and Records.**

Accounts and records related to the design, engineering, procurement, and construction of

Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities and

System Deliverability Upgrades 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.

**25.4.2 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.

**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 Developer or its subcontractors with respect to

obligations of the 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.

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**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.

**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

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filed with FERC if it affects jurisdictional rates, terms and conditions of service, Attachment

Facilities, System Upgrade Facilities, or System Deliverability Upgrades.

**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:

**28.1.1 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 Large Generating Facility, Attachment Facilities and

System Upgrade Facilities and System Deliverability Upgrades 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.

**28.1.2 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).

**28.1.3 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.

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**28.1.4 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.

**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 Standard Large Facility

Interconnection Procedures or such Appendix to the Standard Large Facility 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”.

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**29.4 Compliance.**

Each Party shall perform its obligations under this Agreement in accordance with

Applicable Laws and Regulations, Applicable Reliability Standards, the NYISO 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 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.

**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 Developer shall not

constitute a waiver of the 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.

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**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,

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 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.

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**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 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 System Upgrade Facilities and System

Deliverability Upgrades.

**29.16 Modifications Related to NYISO’s Compliance with Order No. 2023.**

If, as part of the NYISO’s compliance proceeding at the Commission in response to

Order No. 2023, the Commission directs that the NYISO modify the *pro forma* Standard Large

Generator Interconnection Agreement located in Appendix 4 of Attachment X of the ISO OATT,

the Parties shall amend and restate this Agreement to incorporate the modifications; *provided*,

*however*, the Parties may agree to include in the amended and restated agreement non-

conforming changes to any terms of the *pro forma* Standard Large Generator Interconnection

Agreement that have been modified to comply with the Commission’s order, which non-

conforming modifications must be filed with the Commission for its acceptance.

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**IN WITNESS WHEREOF**, the Parties have executed this LGIA in duplicate originals, each of

which shall constitute and be an original effective Agreement between the Parties.

**Niagara Mohawk Power Corporation, d/b/a National grid**

By:

Title:

Date:

**Sterling Power Partners L.P. (Alliance Energy)**

By:

Title:

Date:

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**Appendices**

**Appendix A**

Attachment Facilities and System Upgrade Facilities

**Appendix B**

Milestones

**Appendix C**

Interconnection Details

**Appendix D**

Security Arrangements Details

**Appendix E**

Commercial Operation Date

**Appendix F**

Addresses for Delivery of Notices and Billings

**Appendix G**

Interconnection Requirements For a Wind Generating Plant

**Appendix H**

Non-Applicable Pro-Forma LGIA Provisions

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**Appendix A**

**ATTACHMENT FACILITIES AND SYSTEM UPGRADE FACILITIES**

**1.**

**Attachment Facilities:**

**(a)**

**Developer’s Attachment Facilities:**

The Developer’s Attachment Facilities include all of the facilities between

the Developer’s side of the Delivery Point and the Large Generating Facility. The

Developer’s Attachment Facilities are located on property owned or leased by the

Developer, and, as depicted in Figure A-1, consist of:

i.

The Developer’s Attachment Facility includes the 13.8 kV/115kV

transformer and a 115kV connector including breaker # 40A and switches

#41A and #43A. Developer’s Attachment Facility ends at the jaw-side of

switch #43A (Delivery Point).

ii.

Connecting Transmission Owner’s Metering ties to Developer’s

Attachment Facility between breaker # 40A and switch 43A.

**(b)**

**Connecting Transmission Owner’s Attachment Facilities:**

The Connecting Transmission Owner’s Attachment Facilities consist of

the facilities between the Delivery Point and Interconnection Point. As depicted in

Figure A-1, the Connecting Transmission Owner’s Attachment Facilities include the

following major electrical and physical equipment:

(i)

The Connecting Transmission Owner’s Attachment Facility starts at the

Delivery Point, and includes the Oneida - Sterling # 4 line - a 2.5 mile

long Single-circuit 115kV line and the associated Circuit breaker # 40B

and switches 43B and 41B (including associated

controls/protection/communication/power equipment and facilities).

(ii)

The Connecting Transmission Owner’s Attachment Facility ends at the

jaw-side of switch #41B (the interconnection point) and the tie to the

Transmission Owner’s Oneida Station.

Construction to replace the 115kV connector and installation of the same into the rebuilt

Oneida Substation shall begin on or about June 2025. Connecting Transmission Owner plans to

decommission breaker #40A and switches #41A and #43A, and other controls, protection,

communication, power equipment and facilities. To connect the 115kV connector to the rebuilt

Oneida Substation, Connecting Transmission Owner plans to install one single circuit steel pole

davit arm dead-end structure and one single circuit steel pole dead-end pull-off structure. A new

conductor will be installed between proposed structure 2 and Oneida Substation. The existing

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conductor between existing structure 3 and proposed structure 2 will be maintained and

transferred to the new steel pole. Connecting Transmission Owner anticipates completing

construction on or about May 2027.

**2.**

**System Upgrade Facilities:**

**(a)**

**(b)**

**Stand Alone System Upgrade Facilities:** None.

**Other System Upgrade Facilities:** None.

**3.**

**4.**

**System Deliverability Upgrades:**

None.

**Cost Estimates**

The total estimated costs (+30%/-15%) of the work associated with the upgraded

and replaced Attachment Facilities required for the interconnection of the Large Generating

Facility is approximately $2,473,000.

The cost estimates are in 2024 dollars and are based on the results of the

engineering study and assumptions listed below. The estimates provided herein exclude:

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applicable surcharges;

overall project sales tax;

property taxes;

income tax;

future operation and maintenance costs;

allowance for funds used during construction;

payment;

adverse field conditions such as rock, water, weather, and Developer electrical

equipment obstructions;

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access roads and associated matting;

extended engineering and/or construction hours to minimize outage time or

Transmission Owner’s public duty to serve;

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the cost of any temporary construction service; or

any required permits.

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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.

**5.**

**Operating and Maintenance Expense**

In accordance with Article 10.5 of this Agreement, the Developer shall be responsible for

all reasonable expenses associated with the operation, maintenance, repair and replacement of the

Transmission Owner’s Attachment Facilities, as such are detailed in this Appendix A (“O&M

Expenses”). The Developer shall have the option to pay such O&M Expenses either under the

procedure described in Option 1 or in Option 2 below.

**Option 1: Fixed On-Going Charge Payment:**

The Connecting Transmission Owner will invoice and Developer shall pay an

annual payment to the Connecting Transmission Owner equal to the product of the

Gross Plant Investment associated with the Connecting Transmission Owner’s

Attachment Facilities and the Annual Transmission Ongoing Charge Factor (as

defined below), for the term of this Agreement.

All payments due to be made by the Developer shall be made within thirty (30)

days after receiving an invoice from the Connecting Transmission Owner.

Connecting Transmission Owner will bill Developer for the O&M Expenses on a

quarterly basis.

The Project’s Gross Plant Investment cost associated with the Connecting

Transmission Owner’s Attachment Facilities shall be established in writing by the

Connecting Transmission Owner no later than 90 days following commercial

operation. For the purposes of this Agreement, Gross Plant Investment shall mean

the investment from the plant account records associated with the Connecting

Transmission Owner’s Attachment Facilities for the Large Generating Facility.

The Annual Transmission On-Going Charge Factor shall be calculated annually

each July based on the Connecting Transmission Owner’s most recent FERC Form

1 data and will equal the sum of the Revenue Requirement Components as

identified in O&M Attachment 1 divided by the Total Gross Plant of the Connecting

Transmission Owner. Total Gross Plant shall equal the sum of Item Nos.

A(1)(a)(b)(c) in O&M Attachment 1.

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**Option 2: Quarterly Actual O&M Expenses**

The Developer shall pay for all actual O&M Expenses incurred by the Connecting

Transmission Owner, which expenses shall be billed by the Connecting

Transmission owner quarterly as accumulated during the quarter for which they

were incurred.

All payments due to be made by the Developer shall be made within thirty (30)

days after receiving an invoice from the Connecting Transmission Owner, which

invoice shall be issued after the end of each quarter for the most recent quarter.

**Selection by Developer**

The Developer shall select which option for paying such O&M Expenses

by providing written notice to the Connecting Transmission Owner within thirty

(30) days after the Connecting Transmission Owner’s Attachment Facilities Gross

Plant Investment cost and the most recent Annual Transmission Ongoing Charge

Factor have been provided to the Developer. If the Developer fails to provide

timely notice to the Connecting Transmission Owner of the option selected, the

Developer will be deemed to have section Option 2: Quarterly Actual O&M

Expenses.

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**O&M ATTACHMENT 1**

Capitalized terms used in this calculation will have the following definitions:

**Allocation Factor**

(1)

General Plant Allocation Factor shall equal Electric General Plant divided by the

sum of Electric General Plant plus gas general plant as reported in the Annual Report filed with

the New York State Public Service Commission.

(2)

Gross Transmission Plant Allocation Factor shall equal the total investment in

Transmission Plant in Service divided by the sum of the total Transmission Plant in Service plus

the total Distribution Plant in Service, excluding Intangible Plant, General Plant and Common

Plant.

(3)

Transmission Wages and Salaries Allocation Factor shall equal the ratio of

Connecting Transmission Owner Transmission-related direct electric wages and salaries

including any direct wages or salaries charged to Connecting Transmission Owner by a

Connecting Transmission Owner Affiliate to Connecting Transmission Owner’s total electric

direct wages and salaries including any wages charged to Connecting Transmission Owner by a

Connecting Transmission Owner Affiliate excluding any electric administrative and general

wages and salaries.

**Ratebase and Expense items**

(1)

Administrative and General Expense shall equal electric expenses as recorded in

FERC Account Nos. 920-935.

(2)

Amortization of Investment Tax Credits shall equal electric credits as recorded in

FERC Account No. 411.4.

(3)

Distribution Plant in Service shall equal the gross plant balance as recorded in

FERC Account Nos. 360-374.

(4)

Electric Common Plant shall equal the balance of Common Plant recorded in

FERC Account Nos. 389-399 multiplied by the General Plant Allocation Factor.

(5)

General Plant shall equal electric gross general plant balance recorded in FERC

Account Nos. 389-399.

(6)

Materials and Supplies shall equal electric gross general plant balance recorded in

FERC Account No. 154.

(7)

Payroll Taxes shall equal those electric payroll tax expenses as recorded in FERC

Account Nos. 408.100, 408.110 and 408.130.

(8)

Prepayments shall equal electric prepayment balance as recorded in FERC

Account No. 165.

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(9)

Real Estate Tax Expenses shall equal electric transmission-related real estate tax

expense as recorded in FERC Account No. 408.140 and 408.180.

(10) Transmission Operation and Maintenance Expense shall equal electric expenses

as recorded in FERC Account Nos. 560, 562-573.

(11) Transmission Plant in Service shall equal the gross plant balance as recorded in

FERC Account Nos. 350-359.

(12) Transmission Revenue Credits shall equal the revenue reported in FERC Account

No. 456.

(13) Transmission Related Bad Debt Expense shall equal Bad Debt Expense as

reported in Account 904 related to transmission billing.

(14) Wholesale Metering Cost shall equal any costs associated with any Revenue or

Remote Terminal Unit (RTU) meters and associated equipment located at an internal or external

tie at voltages equal to or greater than 23V. The cost shall be determined by multiplying the

number of wholesale meters in FERC Account No. 370.3 by the average cost of the meters plus

the average costs of installation.

In the event that the above-referenced FERC accounts are renumbered, renamed,

or otherwise modified, the above sections shall be deemed amended to incorporate such

renumbered, renamed, modified or additional accounts.

**Revenue Requirement Components**

The Revenue Requirement Components shall be the sum of Connecting

Transmission Owner’s (A) Return and Associated Income Taxes, (B) Transmission Related Real

Estate Tax Expense, (C) Transmission Related Amortization of Investment Tax Credits, (D)

Transmission Related Payroll Tax Expense, (E) Transmission Operation and Maintenance

Expense, (F) Transmission Related Administrative and General Expenses, less (G) Revenue

Credits, plus (H) Bad Debt Expense.

A.

Return and Associated Income Taxes shall equal the product of the

Transmission Investment Base as identified in A(1) below and the Cost of Capital Rate.

1.

Transmission Investment Base shall be defined as:

Transmission Related General Plant plus Transmission Related

Common Plant plus Transmission Related Regulatory Assets plus

Transmission Related Prepayments plus Transmission Related Materials

and Supplies plus Related Cash Working Capital.

(a)

Transmission Plant in Service shall equal the balance of Total

investment in Transmission Plant plus Wholesale Metering Cost.

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(b)

(c)

Transmission Related General Plant shall equal the balance of

investment in General Plant multiplied by the Transmission Wages

and Salaries Allocation Factor.

Transmission Related Common Plant shall equal Electric Common

Plant multiplied by the Gross Transmission Plant Allocation Factor

and multiplied by the Transmission Wages and Salaries Allocation

Factor.

(d)

Transmission Related Regulatory Assets shall equal balances in

FERC Account Nos. 182.3 and 254 for state and federal regulatory

assets and liabilities related to FAS109, and excess AFUDC

multiplied by the Gross Transmission Plant Allocation Factor.

(e)

(f)

Transmission Related Prepayments shall equal the electric balance

of Prepayments multiplied by the Gross Transmission Plant

Allocation Factor.

Transmission Related Materials and Supplies shall equal the

balance of Materials and Supplies assigned to Transmission added

to the remainder of Material and Supplies not directly assigned to

either Transmission or Distribution multiplied by the Gross

Transmission Plant Allocation Factor.

(g)

Transmission Related Cash Working Capital shall be a 12.5%

allowance (45 days/360 days) of the Transmission Operation and

Maintenance Expense (less FERC Account 565: Transmission of

Electricity by Others) and Transmission-Related Administrative

and General Expense.

2.

Cost of Capital Rate

The Cost of Capital Rate shall equal the proposed Weighted Costs

of Capital plus Federal Income Taxes and State Income Taxes.

(a)

The Weighted Costs of Capital will be calculated for the

Transmission Investment Base using Connecting Transmission

Owner’s actual capital structure and will equal the sum of (i), (ii),

and (iii) below:

(i)

the long-term debt component, which equal the product of

the actual weighted average embedded cost to maturity of

Connecting Transmission Owner’s long-term debt then

outstanding and the actual long-term debt capitalization

ratio.

(ii)

the preferred stock component, which equals the product of

the actual weighted embedded cost to maturity of

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Connecting Transmission Owner’s preferred stock then

outstanding and the actual preferred stock capitalization

ratio;

(iii) the return on equity component, shall be the product of the

allowed ROE of 10.3% or such value as most recently

approved by the Commission plus a 50 basis point adder

(per FERC Order 679 and 679A, if authorized by the

Commission for the Connecting Transmission Owner) and

Connecting Transmission Owner’s actual common equity

capitalization ratio.

(b)

Federal Income Tax shall equal

A x Federal Income Tax Rate

(1 – Federal Income Tax Rate)

Where A is the sum of the preferred stock component and

the return on equity component, each as determined in Sections

2.(a)(ii) and for the ROE set forth in 2.(a)(iii) above

(c)

State Income Tax shall equal

(A + Federal Income Tax) x State Income Tax Rate

(1 – State Income Tax Rate)

Where A is the sum of the preferred stock component and the

return on equity component as determined in A.2.(a)(ii) and A.2.(a)(iii)

above and Federal Income Tax is determined in 2.(b) above.

B.

Transmission Related Real Estate Tax Expense shall equal the Real Estate

Tax Expenses multiplied by the Gross Plant Allocation Factor.

C.

Transmission Related Amortization of Investment Tax Credits shall equal

the electric Amortization of Investment Tax Credits multiplied by the Gross Transmission Plant

Allocation Factor.

D.

Transmission Related Payroll Tax Expense shall equal Payroll Taxes

multiplied by the Transmission Wages and Salaries Allocation Factor.

E.

Transmission Operation and Maintenance Expense shall equal the

Transmission Operation and Maintenance Expense as previously defined.

F.

Transmission Related Administrative and General Expenses shall equal

the sum of the electric Administrative and General Expenses multiplied by the Transmission

Wages and Salaries Allocation Factor.

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G.

Revenue Credits shall equal all Transmission revenue recorded in FERC

Account No. 456.

H.

Transmission Related Bad Debt Expense shall equal Transmission Related

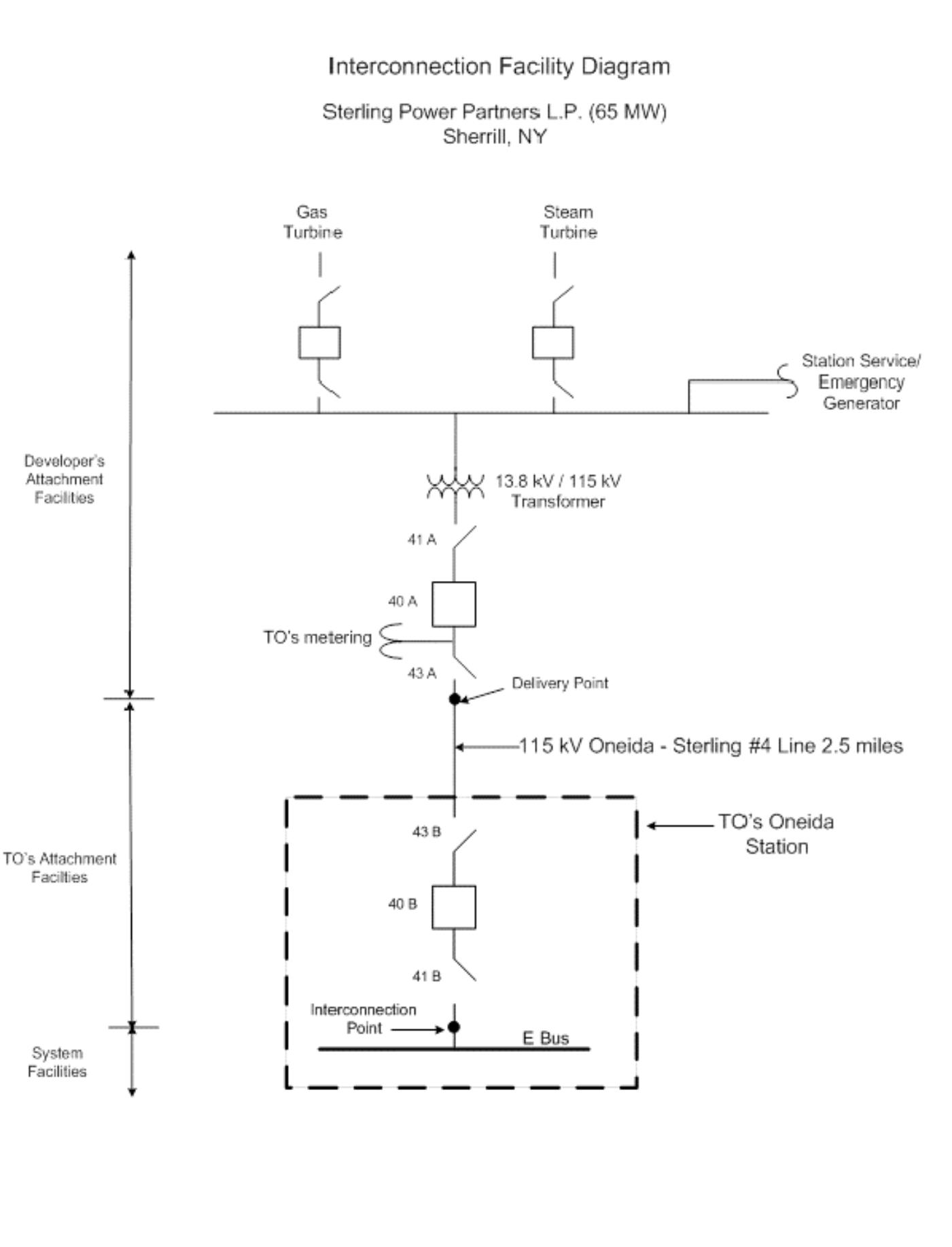
Bad Debt Expense as previously defined.

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**Figure A-1**

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**Appendix B**

**Milestones**

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**Appendix C**

**Interconnection Details**

Corporation NUG Interconnection Report for Sterling Power 65M Cogeneration Project

1.

**Owner: Sterling Power Partners L.P.**

**Project: Oneida/Sithe Cogeneration Facility**

**Point of Interconnection:** (refer to one-line diagram that should be attached in

Appendix A)

2.

3.

**Electrical Equipment Requirements**: The installation of electrical equipment and

operation of the facility must meet or exceed the requirements of Niagara Mohawk’s

Electric System Bulletin No 756-B.

**Metering Requirements**: Electricity transferred to the transmission system shall be

measured by electric watt-hour meters of a type approved by the Public Service

Commission of the State of New York. The meter and installation costs shall be borne by

Sterling Power Partners, L.P. The meters shall be maintained with the rules set forth in 16

NYCRR Part 92.

4.

5.

**Reference:**

**Reference:**

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**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.

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**Appendix E**

**Commercial Operation Date**

For purposes of this Agreement, the Commercial Operation Date shall be treated as June

30, 1998.

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**Appendix F**

**Addresses for Delivery of Notices and Billings**

**Notices:**

NYISO:

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:

Vishal Ahirrao

Director, Customer Energy Integration and Commercial Services

Niagara Mohawk Power Corporation d/b/a National Grid

2 Hanson Place 12th Floor

Brooklyn, NY 11217

Phone: 781-907-3002

Email: NYISOInterconnectionRequests@nationalgrid.com

Developer:

Greg Sharland

Regional Director of Operations for,

Sterling Power Partners, LP

110 East Seneca Street

Sherrill, NY 13461

Phone: (585) 343-9200

Email: gsharland@aeny.us

**Billings and Payments:**

Connecting Transmission Owner:

Vishal Ahirrao

Director, Customer Energy Integration and Commercial Services

Niagara Mohawk Power Corporation d/b/a National Grid

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2 Hanson Place 12th Floor Brooklyn, NY 11217

Phone: 781-907-3002

NYISOInterconnectionRequests@nationalgrid.com

Developer:

Sterling Power Partners, LP

Alliance Energy

110 East Seneca Street

Sherrill, NY 13461

Phone: (585) 343-9200

Email: gsharland@aeny.us

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

NYISO:

New York Independent System Operator, Inc.

Attn: Vice President, Operations

10 Krey Boulevard

Rensselaer, NY 12144

Phone: (518) 356-6000

Fax: (518) 356-6118

Email: interconnectionsupport@nyiso.com

Connecting Transmission Owner:

Vishal Ahirrao

Director, Customer Energy Integration and Commercial Services

Niagara Mohawk Power Corporation d/b/a National Grid

2 Hanson Place 12th Floor

Brooklyn, NY 11217

Phone: 781-907-3002

Email: NYISOInterconnectionRequests@nationalgrid.com

Developer:

Sterling Power Partners, LP

Alliance Energy

110 East Seneca Street

Sherrill, NY 13461

Phone: (585) 343-9200

Email: gsharland@aeny.us

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**APPENDIX G**

**INTERCONNECTION REQUIREMENTS FOR A WIND GENERATING PLANT**

Appendix G sets forth requirements and provisions specific to a wind generating plant.

All other requirements of this LGIA continue to apply to wind generating plant interconnections.

**A.**

**Technical Standards Applicable to a Wind Generating Plant**

**i. Low Voltage Ride-Through (LVRT) Capability**

A wind generating plant shall be able to remain online during voltage disturbances up to

the time periods and associated voltage levels set forth in the standard below. The LVRT

standard provides for a transition period standard and a post-transition period standard.

Transition Period LVRT Standard

The transition period standard applies to wind generating plants subject to FERC Order

661 that have either: (i) interconnection agreements signed and filed with the Commission, filed

with the Commission in unexecuted form, finally executed as conforming agreements, or filed

with the Commission as non-conforming agreements between January 1, 2006 and December 31,

2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating

turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for

delivery through 2007.

1.

Wind generating plants are required to remain in-service during three-phase faults with

normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to

ground faults with delayed clearing, and subsequent post-fault voltage recovery to

prefault voltage unless clearing the fault effectively disconnects the generator from the

system. The clearing time requirement for a three-phase fault will be specific to the wind

generating plant substation location, as determined by and documented by the

Transmission Owner for the Transmission District to which the wind generating plant

will be interconnected. The maximum clearing time the wind generating plant shall be

required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15

p.u., as measured at the high side of the wind generating plant step-up transformer (i.e.

the transformer that steps the voltage up to the transmission interconnection voltage or

“GSU”), after which, if the fault remains following the location-specific normal clearing

time for three-phase faults, the wind generating plant may disconnect from the

transmission system.

2.

This requirement does not apply to faults that would occur between the wind generator

terminals and the high side of the GSU or to faults that would result in a voltage lower

than 0.15 per unit on the high side of the GSU serving the facility.

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3.

4.

Wind generating plants may be tripped after the fault period if this action is intended as

part of a special protection system.

Wind generating plants may meet the LVRT requirements of this standard by the

performance of the generators or by installing additional equipment (e.g., Static VAr

Compensator, etc.) within the wind generating plant or by a combination of generator

performance and additional equipment.

5.

Existing individual generator units that are, or have been, interconnected to the network

at the same location at the effective date of the Appendix G LVRT Standard are exempt

from meeting the Appendix G LVRT Standard for the remaining life of the existing

generation equipment. Existing individual generator units that are replaced are required

to meet the Appendix G LVRT Standard.

**Post-transition Period LVRT Standard**

All wind generating plants subject to FERC Order No. 661 and not covered by the

transition period described above must meet the following requirements:

1.

Wind generating plants are required to remain in-service during three-phase faults with

normal clearing (which is a time period of approximately 4 - 9 cycles) and single line to

ground faults with delayed clearing, and subsequent post-fault voltage recovery to

prefault voltage unless clearing the fault effectively disconnects the generator from the

system. The clearing time requirement for a three-phase fault will be specific to the wind

generating plant substation location, as determined by and documented by the Connecting

Transmission Owner for the Transmission District to which the wind generating plant

will be interconnected. The maximum clearing time the wind generating plant shall be

required to withstand for a three-phase fault shall be 9 cycles after which, if the fault

remains following the location-specific normal clearing time for three-phase faults, the

wind generating plant may disconnect from the transmission system. A wind generating

plant shall remain interconnected during such a fault on the transmission system for a

voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.

2.

3.

4.

This requirement does not apply to faults that would occur between the wind generator

terminals and the high side of the GSU.

Wind generating plants may be tripped after the fault period if this action is intended as

part of a special protection system.

Wind generating plants may meet the LVRT requirements of this standard by the

performance of the generators or by installing additional equipment (e.g., Static VAr

Compensator) within the wind generating plant or by a combination of generator

performance and additional equipment.

5.

Existing individual generator units that are, or have been, interconnected to the network

at the same location at the effective date of the Appendix G LVRT Standard are exempt

from meeting the Appendix G LVRT Standard for the remaining life of the existing

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generation equipment. Existing individual generator units that are replaced are required

to meet the Appendix G LVRT Standard.

**ii.**

**Power Factor Design Criteria (Reactive Power)**

A wind generating plant shall maintain a power factor within the range of 0.95 leading to

0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the ISO’s

System Reliability Impact Study shows that such a requirement is necessary to ensure safety or

reliability.

The power factor range standards can be met using, for example without limitation,

power electronics designed to supply this level of reactive capability (taking into account any

limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if

agreed to by the Connecting Transmission Owner for the Transmission District to which the

wind generating plant will be interconnected, or a combination of the two. The Developer shall

not disable power factor equipment while the wind plant is in operation. Wind plants shall also

be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and

automatic voltage regulation at the generator excitation system if the System Reliability Impact

Study shows this to be required for system safety or reliability.

**iii.**

**Supervisory Control and Data Acquisition (SCADA) Capability**

The wind plant shall provide SCADA capability to transmit data and receive instructions

from the ISO and/or the Connecting Transmission Owner for the Transmission District to which

the wind generating plant will be interconnected, as applicable, to protect system reliability. The

Connecting Transmission Owner for the Transmission District to which the wind generating

plant will be interconnected and the wind plant Developer shall determine what SCADA

information is essential for the proposed wind plant, taking into account the size of the plant and

its characteristics, location, and importance in maintaining generation resource adequacy and

transmission system reliability in its area.

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**Appendix H**

**List of Non-Applicable Attachment X LGIA Provisions**

Connecting Transmission Owner and Developer are already interconnected, pursuant to a

pre-existing interconnection agreement. Therefore, certain terms of the Attachment X New York

ISO LGIA are not applicable to this LGIA. The parties to this LGIA have nevertheless agreed to

use the Attachment X New York ISO LGIA with almost no modifications, in accordance with

FERC policy promoting the use of pro-forma interconnection agreements wherever possible.

The parties, however, believe that the following provisions of the Attachment X New York ISO

LGIA are not applicable to the current LGIA:

Section 5.1 (Option), including all subsections thereof

Section 5.2 (General Conditions Applicable to Option to Build)

Section 5.3 (Liquidated Damages)

Section 5.5 (Equipment Procurement), including all subsections thereof

Section 5.6 (Construction Commencement), including all subsections thereof

Section 5.7 (Work Progress)

Section 5.8 (Information Exchange)

Section 5.9 (Limited Operation)

Section 5.10 (Developer Attachment Facilities), including all subsections thereof

Section 5.11 (Transmission Owner Attachment Facilities), including all subsections

thereof

Section 5.14 (Permits)

Section 5.15 (Early Construction of Base Case Facilities)

Section 6.1 (Pre Commercial Operation Date Testing and Modification)

Section 11.4 (Special Provisions for Affected Systems)

Section 12.2 (Final Invoice)

Section 24.1 (Information Acquisition)

Section 24.2 (Information Submission by Transmission Owner)

Section 24.3 (Updated Information Submission by Developer)

Section 24.4 (Information Supplementation)

Section 25.4.1 (Audit Rights Period for Construction Related Accounts)

Appendix B (Milestones)

Appendix G (Interconnection Requirements for a Wind Generating Plant)

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