

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

April 28, 2026

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

Re: Joint Filing of an Executed Standard Upgrade Construction Agreement for Affected System Upgrades for the Brookside Solar Project (NYISO Queue Position No. 880) Among the New York Independent System Operator, Inc., New York Power Authority, and Brookside Solar, LLC; Request for Waiver of the 60-Day Notice Period; and Request for Critical Energy Infrastructure Information Designation; Docket No. ER26-____-000

Dear Ms. Reese:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.13 of the Commission's regulations,² the New York Independent System Operator, Inc. ("NYISO") and New York Power Authority ("NYPA") (each a "Party" and together, the "Filing Parties") hereby tender for filing an executed Standard Upgrade Construction Agreement ("Construction Agreement") for Affected System Upgrades for the Brookside Solar Project (NYISO Queue Position No. 880) entered into by the NYISO, NYPA, as the System Owner, and Brookside Solar, LLC ("Brookside"), as the Developer.³ The Construction Agreement is labeled as Service Agreement No. 2958 under the NYISO's Open Access Transmission Tariff ("OATT").

The Filing Parties respectfully request that the Commission accept the Construction Agreement for filing. With the limited exceptions described in Part II of this letter, the Construction Agreement conforms to the NYISO's *pro forma* Standard Upgrade Construction Agreement ("Pro Forma Construction Agreement") contained in Attachment HH to the OATT. Further, as described in Part III of this letter, the Filing Parties respectfully request a waiver of

¹ 16 U.S.C. § 824d (2024).

² 18 C.F.R. § 35.13 (2024).

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

the Commission's prior notice requirements⁴ to make the Construction Agreement effective as of April 14, 2026, which is the date of its full execution. Finally, as described in Part IV of this letter, NYPA requests that the diagrams included in the Construction Agreement be protected from disclosure as Critical Energy Infrastructure Information ("CEII").

I. BACKGROUND

Brookside is constructing a 100 MW solar generating facility to be located in Franklin County, New York (the "Facility") that will interconnect with the transmission facilities of New York State Electric & Gas Corporation ("NYSEG"). The NYISO's Class Year Interconnection Facilities Study for Class Year 2023 ("Facilities Study") determined that this interconnection will have impacts on NYPA's transmission system ("Affected System") and identified NYPA as an Affected System Owner. The Facilities Study identified certain System Upgrade Facilities that are required on NYPA's system for the Facility to interconnect reliably to the New York State Transmission System ("Affected System Upgrade Facilities"). The Affected System Upgrade Facilities are described in Appendix A of the Construction Agreement.

The NYISO and NYSEG, as the Connecting Transmission Owner, separately jointly filed at the Commission an executed Standard Interconnection Agreement among the NYISO, NYSEG, and Brookside for the interconnection of the Facility to the transmission facilities of NYSEG ("Brookside Interconnection Agreement").⁵ In the Brookside Interconnection Agreement, the parties indicated that the Affected System Upgrade Facilities on NYPA's system would be addressed in accordance with a separate Construction Agreement among the NYISO, NYPA, and Brookside.

II. DESCRIPTION OF THE CONSTRUCTION AGREEMENT

The Construction Agreement was fully executed on April 14, 2026, by the NYISO, NYPA, and Brookside. The Construction Agreement closely follows the language in the Pro Forma Construction Agreement contained in Attachment HH of the OATT. However, the Construction Agreement does contain limited variations from the Pro Forma Construction Agreement that are described in this Part II. The Joint Filing Parties submit that the changes specified below satisfy the Commission's standard for variations from the Pro Forma Construction Agreement, because unique circumstances exist that require a non-conforming

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

⁵ *New York Independent System Operator, Inc.*, Docket No. ER25-2829-000 (July 11, 2025); see also *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER25-2829-000 (Sept. 8, 2025) (accepting for filing the Brookside Interconnection Agreement).

agreement.⁶ Therefore, the Joint Filing Parties respectfully request that the Commission accept these limited non-conforming changes.

A. Variations to Reflect NYPA's Unique Legal Status

(1) Modifications to Ensure Compliance with New York's Labor Laws

Article 3.2 of the Pro Forma Construction Agreement lists the general conditions applicable to the Interconnection Customer's construction of the System Upgrades. The parties have agreed to amend this list of conditions by adding a statement that Brookside must comply with Section 220 of New York's labor law, which requires that for work performed on NYPA's existing facilities, workmen, laborers, and mechanics must be paid at least the prevailing wage set forth in that statute. Section 220 also addresses pay supplements, work hours, and payroll findings. The Commission has previously accepted this change with respect to work on NYPA's transmission system.⁷

(2) Modification to Address NYPA's Eminent Domain Authority

NYPA is a corporate municipal instrumentality and a political subdivision of the State of New York, organized under the laws of New York, and operating pursuant to Title 1 of Article 5 of the New York Public Authorities Law ("PAL"). Under Section 1007 of the PAL, NYPA has the right to take real property through eminent domain when the NYPA Trustees, in their discretion, deem an eminent domain taking necessary or convenient to acquire real property for the purposes described in this statute. The parties have agreed to modify Article 3.9 of the Construction Agreement to make it clear that NYPA can only use efforts to acquire property by eminent domain if and to the extent consistent with New York law. NYPA must retain the right to have its Trustees review, on a case-by-case basis, each request for NYPA to exercise its power of eminent domain and to exercise their discretion to approve or deny such request, consistent with the requirements of New York law. The Commission has previously accepted this change with respect to agreements to which NYPA is a party.⁸

⁶ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005).

⁷ See, e.g., *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER23-2583-000 (Oct. 3, 2023) (accepting NYPA-related revisions); *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER15-1895-000 (July 16, 2015) (same); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2654-000 (Feb. 9, 2011) (same); *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER08-1507-000 (Nov. 4, 2008) (same).

⁸ See *id.*

III. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER OF THE 60-DAY NOTICE PERIOD

The Filing Parties request an effective date of April 14, 2026, for the Construction Agreement, which is the date of its full execution. The Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted agreements to become effective upon the date of execution.⁹

IV. REQUEST FOR CEII TREATMENT

Pursuant to Sections 388.112 and 388.113 of the Commission's regulations,¹⁰ NYPA requests that the one-line diagrams included in Appendix A of the Construction Agreement and labeled as Figures A-1, A-2, A-3, and A-4 be protected from disclosure as CEII.¹¹ The diagrams contain detailed, one-line schematics of NYPA's facilities that, if disclosed, could pose a threat to the security and the reliability of the New York State bulk power system. The diagrams provide more than simply the general location of critical infrastructure. Unlike publicly available maps of power transmission lines and generation and substation facilities, the schematics show the exact nature and specific location of facilities used to maintain the reliability of the New York State bulk power system.

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

⁹ See, e.g., *New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Letter Order, Docket No. ER11-2953-000 (April 7, 2011) (accepting interconnection agreement effective as of date of execution); see also *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp.*, Letter Order, Docket No. ER08-985-000 (June 26, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER08-699-000 (May 16, 2008) (same).

¹⁰ 18 C.F.R. §§ 388.112 and 388.113 (2025).

¹¹ As required by Section 388.113(d)(1)(i) of the Commission's regulations, NYPA has described in the filing letter how the one-line diagrams in Appendix A satisfy the definition of critical energy infrastructure information as that term is defined in Section 388.113(c)(1). In addition, as required by Section 388.113(d)(1)(ii) the cover page of the filing letter and the relevant pages of the Construction Agreement that contain critical energy infrastructure information are labelled as including CEII and marked DO NOT RELEASE, and a Public and CEII version of the Construction Agreement are being filed with this letter. The CEII material is redacted in the Public version. Finally, as required by Section 388.113(d)(1)(i), NYPA requests that the Commission designate the CEII material submitted on April 28, 2026, with the full five-year CEII designation provided for in Section 388.113(e)(1) as the information provided in the one-line diagrams will continue to satisfy the definition of critical energy infrastructure information for this entire period.

diagrams have been omitted from the Public version of the Construction Agreement included in this filing.

The Joint Filing Parties are electronically submitting a non-public version of this filing. The diagrams are included only in the non-public version of the Construction Agreement in the filing. The non-public diagrams are marked: “**FIGURE CONTAINS CEII – DO NOT RELEASE PURSUANT TO 18 C.F.R. §§ 388.112 and 388.113.**” The non-public diagrams should be treated as CEII reviewable by Commission Staff. In accordance with the Commission’s April 14, 2017 notice on labeling of non-public information, each page of the non-public version of the filing is marked “**CUI//CEII.**”¹² Placeholders have been included in place of the non-public diagrams in the public version of the Construction Agreement.

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

V. COMMUNICATIONS AND CORRESPONDENCE

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

For the NYISO¹³

Robert E. Fernandez, Executive Vice
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¹² See Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff (Apr. 14, 2017) (unreported).

¹³ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2024) to permit service on counsel in both Washington, D.C. and Richmond, VA.

For NYPA

Lori A. Alesio, Executive Vice President & General
Counsel

*Nathan D. Markey, Special Counsel

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*Designated to receive service.

VI. DOCUMENTS SUBMITTED

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

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

VII. SERVICE

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

VIII. CONCLUSION

Wherefore, the Filing Parties respectfully request that the Commission accept the Construction Agreement for filing with an effective date of April 14, 2026.

Respectfully submitted,

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

s/ Nathan D. Markey
Nathan D. Markey
Counsel for
New York Power Authority

cc: Janel Burdick
Emily Chen
James Dawson
Jignasa Gadani
Leanne Khammal
Jaime Knepper
David Morenoff
Jason Rhee
Douglas Roe