**SERVICE AGREEMENT NO. 2657**

**SERVICE AGREEMENT NO. 2657**

**AMENDED AND RESTATED**

**INTERCONNECTION AGREEMENT**

**AMONG THE**

**NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

**AND**

**NEW YORK STATE ELECTRIC & GAS CORPORATION**

**AND**

**HIGH BRIDGE WIND, LLC**

**Dated as of May 8, 2025**

**(High Bridge Wind Project)**

**SERVICE AGREEMENT NO. 2657**

**TABLE OF CONTENTS**

Page Number

[ARTICLE 1. DEFINITIONS.........................................................................................................1](#br6)[ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION ...........................................11 2.1 Effective Date................................................................................................... 11 2.2 Term of Agreement.......................................................................................... 11 2.3 Termination...................................................................................................... 11 2.4 Termination Costs............................................................................................ 11](#br16) [2.5 Disconnection................................................................................................... 12 2.6 Survival. ........................................................................................................... 12](#br17)[ARTICLE 3. REGULATORY FILINGS....................................................................................13ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE ....................................................13 4.1 Provision of Service......................................................................................... 13 4.2 No Transmission Delivery Service. ................................................................. 13](#br18) [4.3 No Other Services. ........................................................................................... 14ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT,AND CONSTRUCTION...............................................................................................................14 5.1 Options............................................................................................................. 14](#br19) [5.2 General Conditions Applicable to Option to Build.......................................... 16](#br21) [5.3 Liquidated Damages......................................................................................... 17](#br22) [5.4 Power System Stabilizers................................................................................. 18 5.5 Equipment Procurement................................................................................... 18](#br23) [5.6 Construction Commencement.......................................................................... 19 5.7 Work Progress.................................................................................................. 19](#br24) [5.8 Information Exchange...................................................................................... 20 5.9 Other Interconnection Options......................................................................... 20](#br25) [5.10 Developer’s Attachment Facilities (“DAF”).................................................... 21](#br26) [5.11 Connecting Transmission Owner’s Attachment Facilities Construction......... 22 5.12 Access Rights................................................................................................... 22](#br27) [5.13 Lands of Other Property Owners. .................................................................... 23 5.14 Permits. ............................................................................................................ 23 5.15 Early Construction of Base Case Facilities...................................................... 23](#br28) [5.16 Suspension. ...................................................................................................... 24 5.17 Taxes. ............................................................................................................... 24](#br29) [5.18 Tax Status; Non-Jurisdictional Entities............................................................ 29](#br34) [5.19 Modification..................................................................................................... 30](#br35)[ARTICLE 6. TESTING AND INSPECTION.............................................................................31 6.1 Pre-Commercial Operation Date Testing and Modifications........................... 31 6.2 Post-Commercial Operation Date Testing and Modifications......................... 31 6.3 Right to Observe Testing. ................................................................................ 31 6.4 Right to Inspect. ............................................................................................... 31](#br36)[ARTICLE 7. METERING...........................................................................................................32](#br37)

i

**SERVICE AGREEMENT NO. 2657**

[7.1 General............................................................................................................. 32 7.2 Check Meters. .................................................................................................. 32](#br37) [7.3 Standards.......................................................................................................... 33 7.4 Testing of Metering Equipment. ...................................................................... 33 7.5 Metering Data................................................................................................... 33ARTICLE 8. COMMUNICATIONS ..........................................................................................33 8.1 Developer Obligations. .................................................................................... 33](#br38) [8.2 Remote Terminal Unit...................................................................................... 34 8.3 No Annexation. ................................................................................................ 34ARTICLE 9. OPERATIONS.......................................................................................................34 9.1 General............................................................................................................. 34](#br39) [9.2 NYISO and Connecting Transmission Owner Obligations. ............................ 35 9.3 Developer Obligations. .................................................................................... 35 9.4 Start-Up and Synchronization.......................................................................... 35 9.5 Real and Reactive Power Control and Primary Frequency Response. ............ 35](#br40) [9.6 Outages and Interruptions. ............................................................................... 39](#br44) [9.7 Switching and Tagging Rules. ......................................................................... 43 9.8 Use of Attachment Facilities by Third Parties. ................................................ 43](#br48) [9.9 Disturbance Analysis Data Exchange. ............................................................. 44 9.10 Reserved........................................................................................................... 44ARTICLE 10. MAINTENANCE ..................................................................................................44 10.1 Connecting Transmission Owner Obligations. ................................................ 44 10.2 Developer Obligations. .................................................................................... 44 10.3 Coordination..................................................................................................... 44 10.4 Secondary Systems. ......................................................................................... 44](#br49) [10.5 Operating and Maintenance Expenses. ............................................................ 45ARTICLE 11. PERFORMANCE OBLIGATION ........................................................................45 11.1 Developer’s Attachment Facilities................................................................... 45 11.2 Connecting Transmission Owner’s Attachment Facilities............................... 45 11.3 System Upgrade Facilities and System Deliverability Upgrades. ................... 45 11.4 Special Provisions for Affected Systems. ........................................................ 45](#br50) [11.5 Provision of Security........................................................................................ 46 11.6 Developer Compensation for Emergency Services.......................................... 46 11.7 Line Outage Costs............................................................................................ 46](#br51)[ARTICLE 12. INVOICE ...............................................................................................................47 12.1 General............................................................................................................. 47 12.2 Final Invoice..................................................................................................... 47 12.3 Payment............................................................................................................ 47 12.4 Disputes............................................................................................................ 47](#br52)[ARTICLE 13. EMERGENCIES....................................................................................................48 13.1 Obligations....................................................................................................... 48 13.2 Notice............................................................................................................... 48 13.3 Immediate Action............................................................................................. 48](#br53) [13.4 NYISO and Connecting Transmission Owner Authority. ............................... 49](#br54)

ii

**SERVICE AGREEMENT NO. 2657**

[13.5 Developer Authority......................................................................................... 50 13.6 Limited Liability. ............................................................................................. 50ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW........................50 14.1 Regulatory Requirements................................................................................. 50 14.2 Governing Law................................................................................................. 50](#br55)[ARTICLE 15. NOTICES...............................................................................................................51 15.1 General............................................................................................................. 51 15.2 Billings and Payments...................................................................................... 51 15.3 Alternative Forms of Notice. ........................................................................... 51 15.4 Operations and Maintenance Notice. ............................................................... 51ARTICLE 16. FORCE MAJEURE ...............................................................................................51](#br56)[ARTICLE 17. DEFAULT .............................................................................................................52 17.1 General............................................................................................................. 52 17.2 Right to Terminate. .......................................................................................... 52ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE ...............52 18.1 Indemnity. ........................................................................................................ 52](#br57) [18.2 No Consequential Damages............................................................................. 54 18.3 Insurance. ......................................................................................................... 54](#br59)[ARTICLE 19. ASSIGNMENT......................................................................................................56](#br61)[ARTICLE 20. SEVERABILITY...................................................................................................57ARTICLE 21. COMPARABILITY...............................................................................................57ARTICLE 22. CONFIDENTIALITY............................................................................................57 22.1 Confidentiality. ................................................................................................ 57](#br62) [22.2 Term................................................................................................................. 58 22.3 Confidential Information.................................................................................. 58 22.4 Scope................................................................................................................ 58 22.5 Release of Confidential Information................................................................ 58](#br63) [22.6 Rights. .............................................................................................................. 59 22.7 No Warranties. ................................................................................................. 59 22.8 Standard of Care............................................................................................... 59 22.9 Order of Disclosure.......................................................................................... 59 22.10 Termination of Agreement............................................................................... 59](#br64) [22.11 Remedies.......................................................................................................... 60 22.12 Disclosure to FERC, its Staff, or a State.......................................................... 60 22.13 Required Notices Upon Requests or Demands for Confidential Information . 60](#br65)[ARTICLE 23. DEVELOPER AND CONNECTING TRANSMISSION OWNER NOTICES OFENVIRONMENTAL RELEASES ................................................................................................61ARTICLE 24. INFORMATION REQUIREMENT......................................................................61 24.1 Information Acquisition................................................................................... 61 24.2 Information Submission by Connecting Transmission Owner........................ 61 24.3 Updated Information Submission by Developer.............................................. 61](#br66) [24.4 Information Supplementation........................................................................... 62](#br67)[ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS.............................................63 25.1 Information Access. ......................................................................................... 63](#br68)

iii

**SERVICE AGREEMENT NO. 2657**

[25.2 Reporting of Non-Force Majeure Events......................................................... 63 25.3 Audit Rights. .................................................................................................... 63](#br68) [25.4 Audit Rights Periods. ....................................................................................... 64 25.5 Audit Results.................................................................................................... 64ARTICLE 26. SUBCONTRACTORS ..........................................................................................64 26.1 General............................................................................................................. 64 26.2 Responsibility of Principal............................................................................... 64](#br69) [26.3 No Limitation by Insurance. ............................................................................ 65ARTICLE 27. DISPUTES.............................................................................................................65 27.1 Submission....................................................................................................... 65 27.2 External Arbitration Procedures....................................................................... 65 27.3 Arbitration Decisions. ...................................................................................... 65](#br70) [27.4 Costs................................................................................................................. 66 27.5 Termination...................................................................................................... 66ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS ...........................66 28.1 General............................................................................................................. 66](#br71)[ARTICLE 29. MISCELLANEOUS ..............................................................................................67 29.1 Binding Effect.................................................................................................. 67 29.2 Conflicts........................................................................................................... 67 29.3 Rules of Interpretation...................................................................................... 67](#br72) [29.4 Compliance. ..................................................................................................... 68 29.5 Joint and Several Obligations. ......................................................................... 68 29.6 Entire Agreement. ............................................................................................ 68 29.7 No Third Party Beneficiaries. .......................................................................... 68 29.8 Waiver.............................................................................................................. 68](#br73) [29.9 Headings........................................................................................................... 69 29.10 Multiple Counterparts. ..................................................................................... 69 29.11 Amendment...................................................................................................... 69 29.12 Modification by the Parties.............................................................................. 69 29.13 Reservation of Rights....................................................................................... 69](#br74) [29.14 No Partnership.................................................................................................. 70 29.15 Other Transmission Rights............................................................................... 70](#br75)

Appendices

iv

**SERVICE AGREEMENT NO. 2657**

**AMENDED AND RESTATED STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT**

**THIS AMENDED AND RESTATED STANDARD LARGE GENERATOR INTERCONNECTION AGREEMENT** (“Agreement”) is made and entered into this 8th dayof May, 2025, by and among High Bridge Wind, LLC, a limited liability company organized andexisting under the laws of the State of Delaware (“Developer” with a Large Generating Facility),the New York Independent System Operator, Inc., a not-for-profit corporation organized andexisting under the laws of the State of New York (“NYISO”), and New York State Electric &Gas Corporation, a corporation organized and existing under the laws of the State of New York(“Connecting Transmission Owner”). Developer, the NYISO, or Connecting TransmissionOwner 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 ConnectingTransmission Owner owns certain facilities included in the New York State TransmissionSystem;

**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, NYISO, and Connecting Transmission Owner have agreed to enter intothis Agreement for the purpose of interconnecting the Large Generating Facility with the NewYork 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 themeanings specified in this Article [1. Te](#br6)rms used in this Agreement with initial capitalization thatare not defined in this Article [1](#br6) 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 ISOOATT, 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 Connecting Transmission Owner that may be affected by theproposed 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

1

**SERVICE AGREEMENT NO. 2657**

the transmission of Energy in interstate commerce and provides Transmission Service under theTariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York StateTransmission System where System Deliverability Upgrades, System Upgrade Facilities, orNetwork Upgrade Facilities are or will be installed pursuant to Attachment P, Attachment X,Attachment Z, or Attachment S to the ISO OATT.

**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 orentity. The term “control” shall mean the possession, directly or indirectly, of the power todirect the management or policies of a person or an entity. A voting interest of ten percent ormore shall create a rebuttable presumption of control.

**Ancillary Services** shall mean those services that are necessary to support the transmission ofCapacity and Energy from resources to Loads while maintaining reliable operation of the NewYork State Transmission System in accordance with Good Utility Practice.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state andlocal laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial oradministrative orders, permits and other duly authorized actions of any Governmental Authority,including but not limited to Environmental Law.

**Applicable Reliability Councils** shall mean the NERC, the NPCC and the NYSRC.

**Applicable Reliability Standards** shall mean the requirements and guidelines of the ApplicableReliability Councils, and the Transmission District to which the Developer’s Large GeneratingFacility is directly interconnected, as those requirements and guidelines are amended andmodified and in effect from time to time; provided that no Party shall waive its right to challengethe applicability or validity of any requirement or guideline as applied to it in the context of thisAgreement.

**Attachment Facilities** shall mean the Connecting Transmission Owner’s Attachment Facilitiesand the Developer’s Attachment Facilities. Collectively, Attachment Facilities include allfacilities and equipment between the Large Generating Facility and the Point of Interconnection,including any modification, additions or upgrades that are necessary to physically andelectrically interconnect the Large Generating Facility to the New York State TransmissionSystem. Attachment Facilities are sole use facilities and shall not include Stand Alone SystemUpgrade Facilities, Distribution Upgrades, System Upgrade Facilities or System DeliverabilityUpgrades.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used forthe Interconnection Studies by NYISO, Connecting Transmission Owner or Developer describedin Section 30.2.3 of the Standard Large Facility Interconnection Procedures.

2

**SERVICE AGREEMENT NO. 2657**

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

**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 TransmissionSystem that are neither Highways nor Other Interfaces. All transmission facilities in Zone J andZone 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 marketscomprised 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.,* LoadZone K) , except for Class Year Interconnection Facility Studies conducted prior to Class Year2012, for which “Capacity Region” shall be defined as set forth in Section 25.7.3 of AttachmentS to the ISO OATT.

**Capacity Resource Interconnection Service (“CRIS”)** shall mean the service provided byNYISO to Developers that satisfy the NYISO Deliverability Interconnection Standard or that areotherwise eligible to receive CRIS in accordance with Attachment S to the ISO OATT; suchservice being one of the eligibility requirements for participation as a NYISO Installed CapacitySupplier.

**Class Year Deliverability Study** shall mean an assessment, conducted by the NYISO staff incooperation with Market Participants, to determine whether System Deliverability Upgrades arerequired for Class Year CRIS Projects under the NYISO Deliverability Interconnection Standard.

**Commercial Operation** shall mean the status of a Large Generating Facility that hascommenced generating electricity for sale, excluding electricity generated during TrialOperation.

**Commercial Operation Date** of a unit shall mean the date on which the Large GeneratingFacility commences Commercial Operation as agreed to by the Parties, notice of which must beprovided 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](#br62) of this Agreement.

**Connecting Transmission Owner** shall mean the New York public utility or authority (or itsdesignated agent) that (i) owns facilities used for the transmission of Energy in interstatecommerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwisepossesses an interest in the portion of the New York State Transmission System or DistributionSystem at the Point of Interconnection, and (iii) is a Party to this Agreement.

3

**SERVICE AGREEMENT NO. 2657**

**Connecting Transmission Owner’s Attachment Facilities** shall mean all facilities andequipment owned, controlled or operated by the Connecting Transmission Owner from the Pointof Change of Ownership to the Point of Interconnection as identified in Appendix A to theStandard Large Generator Interconnection Agreement, including any modifications, additions orupgrades to such facilities and equipment. Connecting Transmission Owner’s AttachmentFacilities 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 Facilitiesand/or System Deliverability Upgrades associated with Class Year Projects upon which theLarge 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 forSystem Upgrade Facilities or System Deliverability Upgrades.

**Control Area** shall mean an electric power system or combination of electric power systems towhich a common automatic generation control scheme is applied in order to: (1) match, at alltimes, the power output of the Generators within the electric power system(s) and capacity andenergy purchased from entities outside the electric power system(s), with the Load within theelectric power system(s); (2) maintain scheduled interchange with other Control Areas, withinthe limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s)within reasonable limits in accordance with Good Utility Practice; and (4) provide sufficientgenerating capacity to maintain Operating Reserves in accordance with Good Utility Practice. AControl Area must be certified by the NPCC.

**Default** shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article [17](#br57) of this Agreement.

**Developer** shall mean an Eligible Customer developing a Large Generating Facility, proposingto connect to the New York State Transmission System, in compliance with the NYISOMinimum Interconnection Standard.

**Developer’s Attachment Facilities** shall mean all facilities and equipment, as identified inAppendix A of this Agreement, that are located between the Large Generating Facility and thePoint of Change of Ownership, including any modification, addition, or upgrades to suchfacilities and equipment necessary to physically and electrically interconnect the LargeGenerating Facility to the New York State Transmission System. Developer’s AttachmentFacilities are sole use facilities.

**Distribution System** shall mean the Connecting Transmission Owner’s facilities and equipmentused to distribute electricity that are subject to FERC jurisdiction, and are subject to theNYISO’s Large Facility Interconnection Procedures in Attachment X to the ISO OATT or SmallGenerator Interconnection Procedures in Attachment Z to the ISO OATT under FERC OrderNos. 2003 and/or 2006. The term Distribution System shall not include LIPA’s distributionfacilities.

4

**SERVICE AGREEMENT NO. 2657**

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the ConnectingTransmission Owner’s Distribution System at or beyond the Point of Interconnection to facilitateinterconnection of a Large Facility or Small Generating Facility and render the transmissionservice necessary to affect the Developer’s wholesale sale of electricity in interstate commerce.Distribution Upgrades do not include Attachment Facilities, System Upgrade Facilities, orSystem Deliverability Upgrades. Distribution Upgrades are sole use facilities and shall notinclude Stand Alone System Upgrade Facilities, System Upgrade Facilities, or SystemDeliverability Upgrades.

**Effective Date** shall mean the date on which this Agreement becomes effective upon executionby the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the datespecified by the Commission.

**Emergency State** shall mean the condition or state that the New York State Power System is inwhen an abnormal condition occurs that requires automatic or immediate manual action toprevent or limit loss of the New York State Transmission System or Generators that couldadversely affect the reliability of the New York State Power System.

**Energy Resource Interconnection Service (“ERIS”)** shall mean the service provided byNYISO to interconnect the Developer’s Large Generating Facility to the New York StateTransmission System or to the Distribution System in accordance with the NYISO MinimumInterconnection Standard, to enable the New York State Transmission System to receive Energyand Ancillary Services from the Large Generating Facility, pursuant to the terms of the ISOOATT.

**Environmental Law** shall mean Applicable Laws and 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 orequipment, any order, regulation or restriction imposed by governmental, military or lawfullyestablished civilian authorities, or any other cause beyond a Party’s control. A Force Majeureevent does not include acts of negligence or intentional wrongdoing by the Party claiming ForceMajeure.

**Generating Facility** shall mean Developer’s device for the production and/or storage for laterinjection of electricity identified in the Interconnection Request, but shall not include theDeveloper’s Attachment Facilities or Distribution Upgrades.

5

**SERVICE AGREEMENT NO. 2657**

**Generating Facility Capacity** shall mean the net seasonal capacity of the Generating Facilityand the aggregate net seasonal capacity of the Generating Facility where it includes multipleenergy production devices.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approvedby a significant portion of the electric industry during the relevant time period, or any of thepractices, methods and acts which, in the exercise of reasonable judgment in light of the factsknown at the time the decision was made, could have been expected to accomplish the desiredresult at a reasonable cost consistent with good business practices, reliability, safety andexpedition. 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 actsgenerally accepted in the region.

**Governmental Authority** shall mean any federal, state, local or other governmental regulatoryor administrative agency, court, commission, department, board, or other governmentalsubdivision, legislature, rulemaking board, tribunal, or other governmental authority havingjurisdiction over any of the Parties, their respective facilities, or the respective services theyprovide, and exercising or entitled to exercise any administrative, executive, police, or taxingauthority 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 orincluded 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” orwords of similar meaning and regulatory effect under any applicable Environmental Law, or anyother chemical, material or substance, exposure to which is prohibited, limited or regulated byany applicable Environmental Law.

**Highway** shall mean 115 kV and higher transmission facilities that comprise the followingNYCA interfaces: Dysinger East, West Central, Volney East, Moses South, Central East/TotalEast, and UPNY-ConEd, and their immediately connected, in series, bulk power system facilitiesin 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 anupstream or downstream zone adjacent to the interface and (b) has a power transfer distributionfactor (DFAX) equal to or greater than five percent when the aggregate of generation in zones orsystems adjacent to the upstream zone or zones that define the interface is shifted to theaggregate of generation in zones or systems adjacent to the downstream zone or zones that definethe 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 shallnot 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 isinitially synchronized and upon which Trial Operation begins, notice of which must be providedto the NYISO in the form of Appendix E-1.

6

**SERVICE AGREEMENT NO. 2657**

**In-Service Date** shall mean the date upon which the Developer reasonably expects it will beready to begin use of the Connecting Transmission Owner’s Attachment Facilities to obtain backfeed power.

**Interconnection Facilities Study** shall mean a study conducted by NYISO or a third partyconsultant for the Developer to determine a list of facilities (including Connecting TransmissionOwner’s Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and SystemDeliverability Upgrades as identified in the Interconnection System Reliability Impact Study),the cost of those facilities, and the time required to interconnect the Large Generating Facilitywith the New York State Transmission System or with the Distribution System. The scope ofthe study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures.

**Interconnection Facilities Study Agreement (“Class Year Study Agreement”)** shall mean theform of agreement contained in Appendix 2 of the Standard Large Facility InterconnectionProcedures for conducting the Interconnection Facilities Study.

**Interconnection Request** shall mean a Developer’s request, in the form of Appendix 1 to theStandard Large Facility Interconnection Procedures, in accordance with the Tariff, tointerconnect a new Large Generating Facility to the New York State Transmission System or tothe Distribution System, or to materially increase the capacity of, or make a materialmodification to the operating characteristics of, an existing Large Generating Facility that isinterconnected with the New York State Transmission System or with the Distribution System.

**Interconnection Study** shall mean any of the following studies: the Optional InterconnectionFeasibility Study, the Interconnection System Reliability Impact Study, and the InterconnectionFacilities 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 InterconnectionProcedures, that evaluates the impact of the proposed Large Generating Facility on the safety andreliability of the New York State Transmission System and, if applicable, an Affected System, todetermine what Attachment Facilities, Distribution Upgrades and System Upgrade Facilities areneeded for the proposed Large Generating Facility of the Developer to connect reliably to theNew York State Transmission System or to the Distribution System in a manner that meets theNYISO 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.

7

**SERVICE AGREEMENT NO. 2657**

**Metering Equipment** shall mean all metering equipment installed or to be installed at the LargeGenerating Facility pursuant to this Agreement at the metering points, including but not limitedto instrument transformers, MWh-meters, data acquisition equipment, transducers, remoteterminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Council or its successor organization.

**New York State Transmission System** shall mean the entire New York State electrictransmission system, which includes (i) the Transmission Facilities Under ISO OperationalControl; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remainingtransmission 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, unlessotherwise provided for by Attachment S to the ISO OATT, by (i) any generation facility largerthan 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 transferpursuant to Section 25.9.5 of Attachment S to the ISO OATT. To meet the NYISODeliverability Interconnection Standard, the Developer must, in accordance with the rules inAttachment S to the ISO OATT, fund or commit to fund any System Deliverability Upgradesidentified for its project in the Class Year Deliverability Study.

**NYISO Minimum Interconnection Standard** – The reliability standard that must be met byany generation facility or Class Year Transmission Project that is subject to NYISO’s LargeFacility Interconnection Procedures in Attachment X to the ISO OATT or the NYISO’s SmallGenerator Interconnection Procedures in Attachment Z, that is proposing to connect to the NewYork State Transmission System or Distribution System, to obtain ERIS. The MinimumInterconnection Standard is designed to ensure reliable access by the proposed project to theNew York State Transmission System or to the Distribution System. The MinimumInterconnection Standard does not impose any deliverability test or deliverability requirement onthe 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 HudsonValley [*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 (LoadZone 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.

8

**SERVICE AGREEMENT NO. 2657**

**Party or Parties** shall mean NYISO, 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 thisAgreement, where the Developer’s Attachment Facilities connect to the ConnectingTransmission 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 theDistribution System.

**Provisional Interconnection Service** shall mean interconnection service provided by the ISOassociated with interconnecting the Developer’s Large Facility to the New York StateTransmission System (or Distribution System as applicable) and enabling the transmissionsystem 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, ifapplicable, the ISO OATT.

**Provisional Large Facility Interconnection Agreement** shall mean the interconnectionagreement for Provisional Interconnection Service established between the ISO, ConnectingTransmission Owner(s) and the Developer. This agreement shall take the form of the LargeGenerator Interconnection Agreement, modified for provisional purposes and type of facility.

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by aParty under this Agreement, efforts that are timely and consistent with Good Utility Practice andare 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 itsICAP Ineligible Forced Outage.

**Services Tariff** shall mean the NYISO Market Administration and Control Area Tariff, as filedwith the Commission, and as amended or supplemented from time to time, or any successor tariffthereto.

**Stand Alone System Upgrade Facilities** shall mean System Upgrade Facilities that are not partof an Affected System that a Developer may construct without affecting day-to-day operations ofthe New York State Transmission System during their construction. NYISO, the ConnectingTransmission Owner and the Developer must agree as to what constitutes Stand Alone SystemUpgrade Facilities and identify them in Appendix A to this Agreement. If NYISO, theConnecting Transmission Owner and the Developer disagree about whether a particular SystemUpgrade Facility is a Stand Alone System Upgrade Facility, NYISO and the ConnectingTransmission Owner must provide the Developer a written technical explanation outlining whyNYISO and the Connecting Transmission Owner does not consider the System Upgrade Facilityto be a Stand Alone System Upgrade Facility within fifteen (15) days of its determination.

9

**SERVICE AGREEMENT NO. 2657**

**Standard Large Facility Interconnection Procedures (“Large Facility InterconnectionProcedures” or “LFIP”)** shall mean the interconnection procedures applicable to anInterconnection Request pertaining to a Large Generating Facility that are included inAttachment X of the ISO OATT.

**Standard Large Generator Interconnection Agreement (“LGIA”)** shall mean thisAgreement, which is the form of interconnection agreement applicable to an InterconnectionRequest pertaining to a Large Generating Facility, that is included in Appendix 4 to AttachmentX of the ISO OATT.

**System Deliverability Upgrades** shall mean the least costly configuration of commerciallyavailable components of electrical equipment that can be used, consistent with Good UtilityPractice and Applicable Reliability Requirements, to make the modifications or additions toByways and Highways and Other Interfaces on the existing New York State TransmissionSystem and Distribution System that are required for the proposed project to connect reliably tothe system in a manner that meets the NYISO Deliverability Interconnection Standard at therequested level of Capacity Resource Interconnection Service.

**System Protection Facilities** shall mean the equipment, including necessary protection signalcommunications equipment, required to (1) protect the New York State Transmission Systemfrom faults or other electrical disturbances occurring at the Large Generating Facility and (2)protect the Large Generating Facility from faults or other electrical system disturbancesoccurring on the New York State Transmission System or on other delivery systems or othergenerating systems to which the New York State Transmission System is directly connected.

**System Upgrade Facilities** shall mean the least costly configuration of commercially availablecomponents of electrical equipment that can be used, consistent with Good Utility Practice andApplicable Reliability Requirements, to make the modifications to the existing transmissionsystem 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 formof generic generation or transmission projects; and (ii) proposed interconnections. In the case ofproposed interconnection projects, System Upgrade Facilities are the modifications or additionsto the existing New York State Transmission System that are required for the proposed project toconnect reliably to the system in a manner that meets the NYISO Minimum InterconnectionStandard.

**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.

10

**SERVICE AGREEMENT NO. 2657**

**ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION**

**2.1 Effective Date.**

This Agreement shall become effective upon execution by the Parties, subject toacceptance by FERC, or if filed unexecuted, upon the date specified by FERC. The NYISO andConnecting Transmission Owner shall promptly file this Agreement with FERC upon executionin accordance [with Article 3.](#br18)

**2.2 Term of Agreement.**

Subject to the provisions of Article [2.3, thi](#br16)s Agreement shall remain in effect for a periodof thirty (30) years from the Effective Date and shall be automatically renewed for eachsuccessive one-year period thereafter.

**2.3 Termination.**

**2.3.1 Written Notice.**

This Agreement may be terminated by the Developer after giving the NYISO andConnecting Transmission Owner ninety (90) Calendar Days advance written notice, or by theNYISO and Connecting Transmission Owner notifying FERC after the Large GeneratingFacility is Retired.

**2.3.2 Default.**

Any Party may terminate this Agreement in accordance with Article [17.](#br57)

**2.3.3 Compliance.**

Notwithstanding Artic[les 2.3.1](#br16) a[nd 2.3.2, no ter](#br16)mination of this Agreement shall becomeeffective until the Parties have complied with all Applicable Laws and Regulations applicable tosuch 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](#br16) above, theterminating Party shall pay all costs incurred (including any cancellation costs relating to ordersor contracts for Attachment Facilities and equipment) or charges assessed by the other Parties, asof the date of the other Parties’ receipt of such notice of termination, that are the responsibility ofthe terminating Party under this Agreement. In the event of termination by a Party, all Partiesshall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising asa consequence of termination. Upon termination of this Agreement, unless otherwise ordered orapproved by FERC:

11

**SERVICE AGREEMENT NO. 2657**

**2.4.1** With respect to any portion of the Connecting Transmission Owner’s AttachmentFacilities that have not yet been constructed or installed, the Connecting Transmission Ownershall to the extent possible and with Developer’s authorization cancel any pending orders of, orreturn, any materials or equipment for, or contracts for construction of, such facilities; providedthat in the event Developer elects not to authorize such cancellation, Developer shall assume allpayment obligations with respect to such materials, equipment, and contracts, and theConnecting 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 extentthat Developer has already paid Connecting Transmission Owner for any or all such costs ofmaterials or equipment not taken by Developer, Connecting Transmission Owner shall promptlyrefund such amounts to Developer, less any costs, including penalties incurred by the ConnectingTransmission Owner to cancel any pending orders of or return such materials, equipment, orcontracts.

If Developer terminates this Agreement, it shall be responsible for all costs incurred inassociation with Developer’s interconnection, including any cancellation costs relating to ordersor contracts for Attachment Facilities and equipment, and other expenses including any SystemUpgrade Facilities and System Deliverability Upgrades for which the Connecting TransmissionOwner 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 suchmaterials, equipment, or facilities that Developer chooses not to accept delivery of, in which caseConnecting Transmission Owner shall be responsible for all costs associated with procuring suchmaterials, equipment, or facilities.

**2.4.3** With respect to any portion of the Attachment Facilities, and any other facilitiesalready installed or constructed pursuant to the terms of this Agreement, Developer shall beresponsible for all costs associated with the removal, relocation or other disposition or retirementof such materials, equipment, or facilities.

**2.5 Disconnection.**

Upon termination of this Agreement, Developer and Connecting Transmission Ownerwill take all appropriate steps to disconnect the Developer’s Large Generating Facility from theNew York State Transmission System. All costs required to effectuate such disconnection shallbe borne by the terminating Party, unless such termination resulted from the non-terminatingParty’s Default of this Agreement or such non-terminating Party otherwise is responsible forthese costs under this Agreement.

**2.6 Survival.**

This Agreement shall continue in effect after termination to the extent necessary toprovide for final billings and payments and for costs incurred hereunder; including billings andpayments pursuant to this Agreement; to permit the determination and enforcement of liability

12

**SERVICE AGREEMENT NO. 2657**

and indemnification obligations arising from acts or events that occurred while this Agreementwas in effect; and to permit Developer and Connecting Transmission Owner each to have accessto the lands of the other pursuant to this Agreement or other applicable agreements, todisconnect, remove or salvage its own facilities and equipment.

**ARTICLE 3. REGULATORY FILINGS**

NYISO and Connecting Transmission Owner shall file this Agreement (and anyamendment hereto) with the appropriate Governmental Authority, if required. Any informationrelated to studies for interconnection asserted by Developer to contain Confidential Informationshall be treated in accordance [with Article 22](#br62) of this Agreement and Attachment F to the ISOOATT. If the Developer has executed this Agreement, or any amendment thereto, the Developershall reasonably cooperate with NYISO and Connecting Transmission Owner with respect tosuch filing and to provide any information reasonably requested by NYISO and ConnectingTransmission 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 theterm of this Agreement.

**4.1.1 Product.**

NYISO will provide Energy Resource Interconnection Service and Capacity ResourceInterconnection Service to Developer at the Point of Interconnection.

**4.1.2 Developer** is responsible for ensuring that its actual Large Generating Facilityoutput matches the scheduled delivery from the Large Generating Facility to the New York StateTransmission System, consistent with the scheduling requirements of the NYISO’s FERC-approved market structure, including ramping into and out of such scheduled delivery, asmeasured at the Point of Interconnection, consistent with the scheduling requirements of the ISOOATT and any applicable FERC-approved market structure.

**4.2 No Transmission Delivery Service.**

The execution of this Agreement does not constitute a request for, nor agreement toprovide, any Transmission Service under the ISO OATT, and does not convey any right todeliver electricity to any specific customer or Point of Delivery. If Developer wishes to obtainTransmission Service on the New York State Transmission System, then Developer must requestsuch Transmission Service in accordance with the provisions of the ISO OATT.

13

**SERVICE AGREEMENT NO. 2657**

**4.3 No Other Services.**

The execution of this Agreement does not constitute a request for, nor agreement toprovide Energy, any Ancillary Services or Installed Capacity under the NYISO MarketAdministration and Control Area Services Tariff (“Services Tariff”). If Developer wishes tosupply Energy, Installed Capacity or Ancillary Services, then Developer will make application todo 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 CommercialOperation Date; and either the Standard Option or Alternate Option set forth below, and suchdates and selected option shall be set forth in Appendix B hereto. At the same time, Developershall indicate whether it elects to exercise the Option to Build set forth in Artic[le 5.1.3](#br20) below. Ifthe 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) CalendarDays. Upon receipt of the notification that Developer’s designated dates are not acceptable tothe Connecting Transmission Owner, the Developer shall notify the Connecting TransmissionOwner within thirty (30) Calendar Days whether it elects to exercise the Option to Build if it hasnot already elected to exercise the Option to Build.

**5.1.1 Standard Option.**

The Connecting Transmission Owner shall design, procure, and construct the ConnectingTransmission Owner’s Attachment Facilities and System Upgrade Facilities and SystemDeliverability Upgrades, using Reasonable Efforts to complete the Connecting TransmissionOwner’s Attachment Facilities and System Upgrade Facilities and System DeliverabilityUpgrades by the dates set forth in Appendix B hereto. The Connecting Transmission Ownershall not be required to undertake any action which is inconsistent with its standard safetypractices, its material and equipment specifications, its design criteria and constructionprocedures, its labor agreements, and Applicable Laws and Regulations. In the event theConnecting Transmission Owner reasonably expects that it will not be able to complete theConnecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities andSystem Deliverability Upgrades by the specified dates, the Connecting Transmission Ownershall promptly provide written notice to the Developer and NYISO, and shall undertakeReasonable Efforts to meet the earliest dates thereafter.

**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)

14

**SERVICE AGREEMENT NO. 2657**

Calendar Days, and shall assume responsibility for the design, procurement and construction ofthe Connecting Transmission Owner’s Attachment Facilities by the designated dates. IfConnecting Transmission Owner subsequently fails to complete Connecting TransmissionOwner’s Attachment Facilities by the In-Service Date, to the extent necessary to provide backfeed power; or fails to complete System Upgrade Facilities or System Deliverability Upgrades bythe Initial Synchronization Date to the extent necessary to allow for Trial Operation at full poweroutput, unless other arrangements are made by the Developer and Connecting TransmissionOwner for such Trial Operation; or fails to complete the System Upgrade Facilities and SystemDeliverability Upgrades by the Commercial Operation Date, as such dates are reflected inAppendix B hereto; Connecting Transmission Owner shall pay Developer liquidated damages inaccordance with Artic[le 5.3, Liqui](#br22)dated Damages, provided, however, the dates designated byDeveloper shall be extended day for day for each day that NYISO refuses to grant clearances toinstall equipment.

**5.1.3 Option to Build.**

Developer shall have the option to assume responsibility for the design, procurement andconstruction of Connecting Transmission Owner’s Attachment Facilities and Stand AloneSystem Upgrade Facilities on the dates specified in Artic[le 5.1.2; provided](#br19) that if an AttachmentFacility or Stand Alone System Upgrade Facility is needed for more than one Developer’sproject, Developer’s option to build such facility shall be contingent on the agreement of allother affected Developers. NYISO, Connecting Transmission Owner and Developer must agreeas to what constitutes Stand Alone System Upgrade Facilities and identify such Stand AloneSystem Upgrade Facilities in Appendix A hereto. Except for Stand Alone System UpgradeFacilities, Developer shall have no right to construct System Upgrade Facilities under thisoption.

**5.1.4 Negotiated Option.**

If the dates designated by Developer are not acceptable to the Connecting TransmissionOwner, the Developer and Connecting Transmission Owner shall in good faith attempt tonegotiate terms and conditions (including revision of the specified dates and liquidated damages,the provision of incentives or the procurement and construction of all facilities other than theConnecting Transmission Owner’s Attachment Facilities and Stand Alone System UpgradeFacilities if the Developer elects to exercise the Option to Build under Artic[le 5.1.3.](#br20) If the twoParties are unable to reach agreement on such terms and conditions, then, pursuant to Article

[5.1.1](#br19) (Standard Option), Connecting Transmission Owner shall assume responsibility for thedesign, procurement and construction of all facilities other than the Connecting TransmissionOwner’s Attachment Facilities and Stand Alone System Upgrade Facilities if the Developerelects to exercise the Option to Build.

15

**SERVICE AGREEMENT NO. 2657**

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

If Developer assumes responsibility for the design, procurement and construction of theConnecting Transmission Owner’s Attachment Facilities and Stand Alone System UpgradeFacilities, the following conditions apply:

**5.2.1** Developer shall engineer, procure equipment, and construct the ConnectingTransmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities (orportions thereof) using Good Utility Practice and using standards and specifications provided inadvance by the Connecting Transmission Owner;

**5.2.2** Developer’s engineering, procurement and construction of the ConnectingTransmission Owner’s Attachment Facilities and Stand Alone System Upgrade Facilities shallcomply with all requirements of law to which Connecting Transmission Owner would be subjectin the engineering, procurement or construction of the Connecting Transmission Owner’sAttachment Facilities and Stand Alone System Upgrade Facilities;

**5.2.3** Connecting Transmission Owner shall review and approve the engineeringdesign, equipment acceptance tests, and the construction of the Connecting TransmissionOwner’s Attachment Facilities and Stand Alone System Upgrade Facilities;

**5.2.4** Prior to commencement of construction, Developer shall provide to ConnectingTransmission Owner and NYISO a schedule for construction of the Connecting TransmissionOwner’s Attachment Facilities and Stand Alone System Upgrade Facilities, and shall promptlyrespond to requests for information from Connecting Transmission Owner or NYISO;

**5.2.5** At any time during construction, Connecting Transmission Owner shall have theright to gain unrestricted access to the Connecting Transmission Owner’s Attachment Facilitiesand 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, equipmentprocurement, or construction of the Connecting Transmission Owner’s Attachment Facilities andStand Alone System Upgrade Facilities not meet the standards and specifications provided byConnecting Transmission Owner, the Developer shall be obligated to remedy deficiencies in thatportion of the Connecting Transmission Owner’s Attachment Facilities and Stand Alone SystemUpgrade Facilities;

**5.2.7** Developer shall indemnify Connecting Transmission Owner and NYISO forclaims arising from the Developer’s construction of Connecting Transmission Owner’sAttachment Facilities and Stand Alone System Upgrade Facilities under procedures applicable toArticle [18.1](#br57) Indemnity;

16

**SERVICE AGREEMENT NO. 2657**

**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;

**5.2.9** Unless the Developer and Connecting Transmission Owner otherwise agree,Developer shall transfer ownership of Connecting Transmission Owner’s Attachment Facilitiesand Stand Alone System Upgrade Facilities to Connecting Transmission Owner;

**5.2.10** Connecting Transmission Owner shall approve and accept for operation andmaintenance the Connecting Transmission Owner’s Attachment Facilities and Stand AloneSystem Upgrade Facilities to the extent engineered, procured, and constructed in accordancewith 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 orConnecting Transmission Owner to assure that the Attachment Facilities and Stand AloneSystem Upgrade Facilities are built to the standards and specifications required by ConnectingTransmission Owner.

**5.2.12** If Developer exercises the Option to Build pursuant to Artic[le 5.1.3, the](#br20)Developer shall pay the Connecting Transmission Owner the agreed upon amount of$4,835,000.00 for the Connecting Transmission Owner to execute the responsibilitiesenumerated to Connecting Transmission Owner under Artic[le 5.2. Th](#br21)e ConnectingTransmission Owner shall invoice Developer for this total amount to be divided on a monthlybasis pursuant t[o Article 12.](#br52)

**5.3 Liquidated Damages.**

The actual damages to the Developer, in the event the Connecting Transmission Owner’sAttachment Facilities or System Upgrade Facilities or System Deliverability Upgrades are notcompleted by the dates designated by the Developer and accepted by the ConnectingTransmission Owner pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Developer’sfixed operation and maintenance costs and lost opportunity costs. Such actual damages areuncertain and impossible to determine at this time. Because of such uncertainty, any liquidateddamages paid by the Connecting Transmission Owner to the Developer in the event thatConnecting Transmission Owner does not complete any portion of the Connecting TransmissionOwner’s Attachment Facilities, System Upgrade Facilities or System Deliverability Upgrades bythe applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of theConnecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities andSystem Deliverability Upgrades, in the aggregate, for which Connecting Transmission Ownerhas assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actualcost of the Connecting Transmission Owner Attachment Facilities and System Upgrade Facilitiesand System Deliverability Upgrades for which the Connecting Transmission Owner has assumed

17

**SERVICE AGREEMENT NO. 2657**

responsibility to design, procure, and construct. The foregoing payments will be made by theConnecting Transmission Owner to the Developer as just compensation for the damages causedto 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 ofthis Agreement. Liquidated damages, when the Developer and Connecting Transmission Owneragree to them, are the exclusive remedy for the Connecting Transmission Owner’s failure tomeet its schedule.

Further, Connecting Transmission Owner shall not pay liquidated damages to Developerif: (1) Developer is not ready to commence use of the Connecting Transmission Owner’sAttachment Facilities or System Upgrade Facilities or System Deliverability Upgrades to takethe delivery of power for the Developer’s Large Generating Facility’s Trial Operation or toexport power from the Developer’s Large Generating Facility on the specified dates, unless theDeveloper would have been able to commence use of the Connecting Transmission Owner’sAttachment Facilities or System Upgrade Facilities or System Deliverability Upgrades to takethe delivery of power for Developer’s Large Generating Facility’s Trial Operation or to exportpower from the Developer’s Large Generating Facility, but for Connecting TransmissionOwner’s delay; (2) the Connecting Transmission Owner’s failure to meet the specified dates isthe result of the action or inaction of the Developer or any other Developer who has entered intoa Standard Large Generator Interconnection Agreement with the Connecting TransmissionOwner and NYISO, or action or inaction by any other Party, or any other cause beyondConnecting Transmission Owner’s reasonable control or reasonable ability to cure; (3) theDeveloper has assumed responsibility for the design, procurement and construction of theConnecting Transmission Owner’s Attachment Facilities and Stand Alone System UpgradeFacilities; or (4) the Connecting Transmission Owner and Developer have otherwise agreed. Inno event shall NYISO have any liability whatever to Developer for liquidated damagesassociated with the engineering, procurement or construction of Attachment Facilities or SystemUpgrade Facilities or System Deliverability Upgrades.

**5.4 Power System Stabilizers.**

The Developer shall procure, install, maintain and operate Power System Stabilizers inaccordance with the requirements identified in the Interconnection Studies conducted forDeveloper’s Large Generating Facility. NYISO and Connecting Transmission Owner reservethe right to reasonably establish minimum acceptable settings for any installed Power SystemStabilizers, subject to the design and operating limitations of the Large Generating Facility. Ifthe Large Generating Facility’s Power System Stabilizers are removed from service or notcapable of automatic operation, the Developer shall immediately notify the ConnectingTransmission Owner and NYISO. The requirements of this paragraph shall not apply to windgenerators.

**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

18

**SERVICE AGREEMENT NO. 2657**

Connecting Transmission Owner, then the Connecting Transmission Owner shall commencedesign of the Connecting Transmission Owner’s Attachment Facilities or System UpgradeFacilities or System Deliverability Upgrades and procure necessary equipment as soon aspracticable after all of the following conditions are satisfied, unless the Developer andConnecting Transmission Owner otherwise agree in writing:

**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 Developerhas accepted its share of the costs for necessary System Upgrade Facilities and SystemDeliverability Upgrades in accordance with the provisions of Attachment S of the ISO OATT;

**5.5.3** The Connecting Transmission Owner has received written authorization toproceed with design and procurement from the Developer by the date specified in Appendix Bhereto; 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 ConnectingTransmission Owner’s Attachment Facilities and System Upgrade Facilities and SystemDeliverability Upgrades for which it is responsible as soon as practicable after the followingadditional 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 extentrequired for the construction of a discrete aspect of the Connecting Transmission Owner’sAttachment 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 constructionefforts. Any Party may, at any time, request a progress report from the Developer or Connecting

19

**SERVICE AGREEMENT NO. 2657**

Transmission Owner. If, at any time, the Developer determines that the completion of theConnecting Transmission Owner’s Attachment Facilities will not be required until after thespecified In-Service Date, the Developer will provide written notice to the ConnectingTransmission Owner and NYISO of such later date upon which the completion of theConnecting Transmission Owner’s Attachment Facilities will be required.

**5.8 Information Exchange.**

As soon as reasonably practicable after the Effective Date, the Developer and ConnectingTransmission Owner shall exchange information, and provide NYISO the same information,regarding the design and compatibility of their respective Attachment Facilities andcompatibility of the Attachment Facilities with the New York State Transmission System, andshall 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 UpgradeFacilities or System Deliverability Upgrades are not reasonably expected to be completed priorto 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 ConnectingTransmission Owner, perform operating studies on a timely basis to determine the extent towhich the Developer’s Large Generating Facility and the Developer’s Attachment Facilities mayoperate prior to the completion of the Connecting Transmission Owner’s Attachment Facilitiesor System Upgrade Facilities or System Deliverability Upgrades consistent with ApplicableLaws and Regulations, Applicable Reliability Standards, Good Utility Practice, and thisAgreement. Connecting Transmission Owner and NYISO shall permit Developer to operate theDeveloper’s Large Generating Facility and the Developer’s Attachment Facilities in accordancewith the results of such studies.

**5.9.2 Provisional Interconnection Service.**

Prior to the completion of the Large Facility Interconnection Procedures and prior tocompletion of requisite Attachment Facilities, Distribution Upgrades, System Upgrade Facilities,System Distribution Upgrades, or System Protection Facilities, the Developer may request anevaluation for Provisional Interconnection Service. NYISO, in conjunction with the ConnectingTransmission Owner, shall determine, through available studies or additional studies asnecessary, whether stability, short circuit, thermal, and/or voltage issues would arise if theDeveloper interconnects without modifications to the Large Generating Facility or the New YorkState Transmission System (or Distribution System as applicable). NYISO, in conjunction withthe Connecting Transmission Owner, shall determine whether any Attachment Facilities,Distribution Upgrades, System Upgrade Facilities, System Deliverability Upgrades, or SystemProtection Facilities, which are necessary to meet Applicable Laws and Regulations, ApplicableReliability Standards, and Good Utility Practice, are in place prior to the commencement of

20

**SERVICE AGREEMENT NO. 2657**

interconnection service from the Large Facility. Where available studies indicate that theAttachment Facilities, Distribution Upgrades, System Upgrade Facilities, System DeliverabilityUpgrades, or System Protection Facilities are required for the interconnection of a new, modifiedand/or expanded Large Facility but such facilities are not currently in place, NYISO, inconjunction with the Connecting Transmission Owner, will perform a study, at the Developer’sexpense, to confirm the facilities that are required for Provisional Interconnection Service. Themaximum permissible output of the Large Facility in the Provisional Large FacilityInterconnection Agreement shall be studied, at the Developer’s expense, and updated annually.The NYISO shall issue the study’s findings in writing to the Developer and ConnectingTransmission Owner(s). Following a determination by NYISO, in conjunction with theConnecting Transmission Owner, that the Developer may reliably provide ProvisionalInterconnection Service, NYISO shall tender to the Developer and Connecting TransmissionOwner, a Provisional Large Facility Interconnection Agreement. NYISO, Developer, andConnecting Transmission Owner may execute the Provisional Large Facility InterconnectionAgreement, or the Developer may request the filing of an unexecuted Provisional Large FacilityInterconnection Agreement with the Commission. The Developer shall assume all risk andliabilities with respect to changes between the Provisional Large Facility InterconnectionAgreement and the Large Generator Interconnection Agreement, including changes in outputlimits 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, asset forth in Appendix A hereto.

**5.10.1 DAF Specifications.**

Developer shall submit initial specifications for the DAF, including System ProtectionFacilities, 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 andcomment at least ninety (90) Calendar Days prior to the Initial Synchronization Date.Connecting Transmission Owner and NYISO shall review such specifications to ensure that theDAF are compatible with the technical specifications, operational control, and safetyrequirements of the Connecting Transmission Owner and NYISO and comment on suchspecifications within thirty (30) Calendar Days of Developer’s submission. All specificationsprovided hereunder shall be deemed to be Confidential Information.

**5.10.2 No Warranty.**

The review of Developer’s final specifications by Connecting Transmission Owner andNYISO 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. Developershall make such changes to the DAF as may reasonably be required by Connecting Transmission

21

**SERVICE AGREEMENT NO. 2657**

Owner or NYISO, in accordance with Good Utility Practice, to ensure that the DAF arecompatible with the technical specifications, operational control, and safety requirements of theConnecting 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, unlessthe Developer and Connecting Transmission Owner agree on another mutually acceptabledeadline, 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 planshowing the Large Generating Facility and the DAF, plan and elevation drawings showing thelayout of the DAF, a relay functional diagram, relaying AC and DC schematic wiring diagramsand relay settings for all facilities associated with the Developer’s step-up transformers, thefacilities connecting the Large Generating Facility to the step-up transformers and the DAF, andthe impedances (determined by factory tests) for the associated step-up transformers and theLarge Generating Facility. The Developer shall provide to, and coordinate with, ConnectingTransmission Owner and NYISO with respect to proposed specifications for the excitationsystem, 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 andconstructed in accordance with Good Utility Practice. Upon request, within one hundred twenty(120) Calendar Days after the Commercial Operation Date, unless the Connecting TransmissionOwner and Developer agree on another mutually acceptable deadline, the ConnectingTransmission Owner shall deliver to the Developer “as-built” drawings, relay diagrams,information and documents for the Connecting Transmission Owner’s Attachment Facilities setforth in Appendix A.

The Connecting Transmission Owner shall not transfer operational control of theConnecting Transmission Owner’s Attachment Facilities and Stand Alone System UpgradeFacilities to the NYISO upon completion of such facilities.

**5.12 Access Rights.**

Upon reasonable notice and supervision by the Granting Party, and subject to anyrequired or necessary regulatory approvals, either the Connecting Transmission Owner orDeveloper (“Granting Party”) shall furnish to the other of those two Parties (“Access Party”) atno cost any rights of use, licenses, rights of way and easements with respect to lands owned orcontrolled 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 thePoint 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

22

**SERVICE AGREEMENT NO. 2657**

the New York State Transmission System; (ii) operate and maintain the Large GeneratingFacility, 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 thisAgreement. In exercising such licenses, rights of way and easements, the Access Party shall notunreasonably disrupt or interfere with normal operation of the Granting Party’s business andshall adhere to the safety rules and procedures established in advance, as may be changed fromtime to time, by the Granting Party and provided to the Access Party. The Access Party shallindemnify the Granting Party against all claims of injury or damage from third parties resultingfrom 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 SystemUpgrade Facilities and/or System Deliverability Upgrades is to be installed on property ownedby persons other than Developer or Connecting Transmission Owner, the ConnectingTransmission Owner shall at Developer’s expense use efforts, similar in nature and extent tothose that it typically undertakes for its own or affiliated generation, including use of its eminentdomain authority, and to the extent consistent with state law, to procure from such persons anyrights 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 AttachmentFacilities and/or System Upgrade Facilities and/or System Deliverability Upgrades upon suchproperty.

**5.14 Permits.**

NYISO, Connecting Transmission Owner and the Developer shall cooperate with eachother in good faith in obtaining all permits, licenses and authorizations that are necessary toaccomplish the interconnection in compliance with Applicable Laws and Regulations. Withrespect to this paragraph, Connecting Transmission Owner shall provide permitting assistance tothe Developer comparable to that provided to the Connecting Transmission Owner’s own, or anAffiliate’s generation, if any.

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

Developer may request Connecting Transmission Owner to construct, and ConnectingTransmission Owner shall construct, subject to a binding cost allocation agreement reached inaccordance with Attachment S to the ISO OATT, including Section 25.8.7 thereof, usingReasonable Efforts to accommodate Developer’s In-Service Date, all or any portion of anySystem Upgrade Facilities or System Deliverability Upgrades required for Developer to beinterconnected to the New York State Transmission System which are included in the Base Caseof the Class Year Study for the Developer, and which also are required to be constructed foranother Developer, but where such construction is not scheduled to be completed in time toachieve Developer’s In-Service Date.

23

**SERVICE AGREEMENT NO. 2657**

**5.16 Suspension.**

Developer reserves the right, upon written notice to Connecting Transmission Owner andNYISO, to suspend at any time all work by Connecting Transmission Owner associated with theconstruction and installation of Connecting Transmission Owner’s Attachment Facilities and/orSystem Upgrade Facilities and/or System Deliverability Upgrades required for only thatDeveloper under this Agreement with the condition that the New York State TransmissionSystem shall be left in a safe and reliable condition in accordance with Good Utility Practice andthe 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 inaccordance with Attachment S to the ISO OATT including those which ConnectingTransmission 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 benecessary to ensure the safety of persons and property and the integrity of the New York StateTransmission System during such suspension and, if applicable, any costs incurred in connectionwith the cancellation or suspension of material, equipment and labor contracts which ConnectingTransmission Owner cannot reasonably avoid; provided, however, that prior to canceling orsuspending any such material, equipment or labor contract, Connecting Transmission Ownershall obtain Developer’s authorization to do so.

Connecting Transmission Owner shall invoice Developer for such costs pursuant toArticle 12 and shall use due diligence to minimize its costs. In the event Developer suspendswork by Connecting Transmission Owner required under this Agreement pursuant to this Article

[5.16, a](#br29)nd has not requested Connecting Transmission Owner to recommence the work requiredunder this Agreement on or before the expiration of three (3) years following commencement ofsuch suspension, this Agreement shall be deemed terminated. The three-year period shall beginon the date the suspension is requested, or the date of the written notice to ConnectingTransmission 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 propertytransfers made by Developer to Connecting Transmission Owner for the installation of theConnecting Transmission Owner’s Attachment Facilities and the System Upgrade Facilities andthe System Deliverability Upgrades shall be non-taxable, either as contributions to capital, or asan advance, in accordance with the Internal Revenue Code and any applicable state income taxlaws and shall not be taxable as contributions in aid of construction or otherwise under theInternal 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

24

**SERVICE AGREEMENT NO. 2657**

pass to another party prior to the transmission of the electricity on the New York StateTransmission System, (ii) for income tax purposes, the amount of any payments and the cost ofany property transferred to the Connecting Transmission Owner for the ConnectingTransmission Owner’s Attachment Facilities will be capitalized by Developer as an intangibleasset 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 deminimis 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 notintended to be an exclusive list of the relevant conditions that must be met to conform to IRSrequirements for non-taxable treatment.

At Connecting Transmission Owner’s request, Developer shall provide ConnectingTransmission Owner with a report from an independent engineer confirming its representation inclause (iii), above. Connecting Transmission Owner represents and covenants that the cost of theConnecting Transmission Owner’s Attachment Facilities paid for by Developer will have no neteffect 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.**

Notwithstanding Artic[le 5.17.1, De](#br29)veloper shall protect, indemnify and hold harmlessConnecting Transmission Owner from the cost consequences of any current tax liability imposedagainst Connecting Transmission Owner as the result of payments or property transfers made byDeveloper to Connecting Transmission Owner under this Agreement, as well as any interest andpenalties, other than interest and penalties attributable to any delay caused by ConnectingTransmission Owner.

Connecting Transmission Owner shall not include a gross-up for the cost consequencesof 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 propertytransfers made by Developer to Connecting Transmission Owner should be reported as incomesubject to taxation or (ii) any Governmental Authority directs Connecting Transmission Ownerto report payments or property as income subject to taxation; provided, however, that ConnectingTransmission Owner may require Developer to provide security, in a form reasonably acceptableto Connecting Transmission Owner (such as a parental guarantee or a letter of credit), in anamount equal to the cost consequences of any current tax liability under this Artic[le 5.17.](#br29)Developer shall reimburse Connecting Transmission Owner for such costs on a fully grossed-upbasis, in accordance with Artic[le 5.17.4, withi](#br31)n thirty (30) Calendar Days of receiving writtennotification from Connecting Transmission Owner of the amount due, including detail about howthe amount was calculated.

This indemnification obligation shall terminate at the earlier of (1) the expiration of theten-year testing period and the applicable statute of limitation, as it may be extended by the

25

**SERVICE AGREEMENT NO. 2657**

Connecting Transmission Owner upon request of the IRS, to keep these years open for audit oradjustment, or (2) the occurrence of a subsequent taxable event and the payment of any relatedindemnification obligations as contemplated by this Artic[le 5.17.](#br29)

**5.17.4 Tax Gross-Up Amount.**

Developer’s liability for the cost consequences of any current tax liability under thisArtic[le 5.17](#br29) shall be calculated on a fully grossed-up basis. Except as may otherwise be agreedto by the parties, this means that Developer will pay Connecting Transmission Owner, inaddition to the amount paid for the Attachment Facilities and System Upgrade Facilities andSystem Deliverability Upgrades, an amount equal to (1) the current taxes imposed on ConnectingTransmission Owner (“Current Taxes”) on the excess of (a) the gross income realized byConnecting Transmission Owner as a result of payments or property transfers made byDeveloper to Connecting Transmission Owner under this Agreement (without regard to anypayments under this Artic[le 5.17) (](#br29)the “Gross Income Amount”) over (b) the present value offuture tax deductions for depreciation that will be available as a result of such payments orproperty transfers (the “Present Value Depreciation Amount”), plus (2) an additional amountsufficient to permit the Connecting Transmission Owner to receive and retain, after the paymentof 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 TransmissionOwner’s composite federal and state tax rates at the time the payments or property transfers arereceived and Connecting Transmission Owner will be treated as being subject to tax at thehighest marginal rates in effect at that time (the “Current Tax Rate”), and (ii) the Present ValueDepreciation Amount shall be computed by discounting Connecting Transmission Owner’santicipated tax depreciation deductions as a result of such payments or property transfers byConnecting Transmission Owner’s current weighted average cost of capital. Thus, the formulafor calculating Developer’s liability to Connecting Transmission Owner pursuant to this Article

[5.17.4](#br31) can be expressed as follows: (Current Tax Rate x (Gross Income Amount - Present ValueDepreciation Amount))/(1 - Current Tax Rate). Developer’s estimated tax liability in the eventtaxes are imposed shall be stated in Appendix A, Attachment Facilities and System UpgradeFacilities 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 theIRS a request for a private letter ruling as to whether any property transferred or sums paid, or tobe paid, by Developer to Connecting Transmission Owner under this Agreement are subject tofederal income taxation. Developer will prepare the initial draft of the request for a private letterruling, and will certify under penalties of perjury that all facts represented in such request aretrue and accurate to the best of Developer’s knowledge. Connecting Transmission Owner andDeveloper shall cooperate in good faith with respect to the submission of such request.

26

**SERVICE AGREEMENT NO. 2657**

Connecting Transmission Owner shall keep Developer fully informed of the status ofsuch request for a private letter ruling and shall execute either a privacy act waiver or a limitedpower of attorney, in a form acceptable to the IRS, that authorizes Developer to participate in alldiscussions with the IRS regarding such request for a private letter ruling. ConnectingTransmission Owner shall allow Developer to attend all meetings with IRS officials about therequest and shall permit Developer to prepare the initial drafts of any follow-up letters inconnection with the request.

**5.17.6 Subsequent Taxable Events.**

If, within 10 years from the date on which the relevant Connecting Transmission OwnerAttachment Facilities are placed in service, (i) Developer Breaches the covenants contained inArtic[le 5.17.2, (ii) a](#br29) “disqualification event” occurs within the meaning of IRS Notice 88-129, or(iii) this Agreement terminates and Connecting Transmission Owner retains ownership of theAttachment Facilities and System Upgrade Facilities and System Deliverability Upgrades, theDeveloper shall pay a tax gross-up for the cost consequences of any current tax liability imposedon Connecting Transmission Owner, calculated using the methodology described in Article

[5.17.4](#br31) and in accordance with IRS Notice 90-60.

**5.17.7 Contests.**

In the event any Governmental Authority determines that Connecting TransmissionOwner’s receipt of payments or property constitutes income that is subject to taxation,Connecting Transmission Owner shall notify Developer, in writing, within thirty (30) CalendarDays of receiving notification of such determination by a Governmental Authority. Upon thetimely written request by Developer and at Developer’s sole expense, Connecting TransmissionOwner may appeal, protest, seek abatement of, or otherwise oppose such determination. UponDeveloper’s written request and sole expense, Connecting Transmission Owner may file a claimfor refund with respect to any taxes paid under this Artic[le 5.17, whe](#br29)ther or not it has receivedsuch a determination. Connecting Transmission Owner reserves the right to make all decisionswith regard to the prosecution of such appeal, protest, abatement or other contest, including theselection of counsel and compromise or settlement of the claim, but Connecting TransmissionOwner shall keep Developer informed, shall consider in good faith suggestions from Developerabout the conduct of the contest, and shall reasonably permit Developer or an Developerrepresentative to attend contest proceedings.

Developer shall pay to Connecting Transmission Owner on a periodic basis, as invoicedby Connecting Transmission Owner, Connecting Transmission Owner’s documented reasonablecosts of prosecuting such appeal, protest, abatement or other contest, including any costsassociated with obtaining the opinion of independent tax counsel described in this Article [5.17.7.](#br32)The Connecting Transmission Owner may abandon any contest if the Developer fails to providepayment to the Connecting Transmission Owner within thirty (30) Calendar Days of receivingsuch invoice. At any time during the contest, Connecting Transmission Owner may agree to asettlement either with Developer’s consent or after obtaining written advice from nationally-

27

**SERVICE AGREEMENT NO. 2657**

recognized tax counsel, selected by Connecting Transmission Owner, but reasonably acceptableto Developer, that the proposed settlement represents a reasonable settlement given the hazardsof litigation. Developer’s obligation shall be based on the amount of the settlement agreed to byDeveloper, or if a higher amount, so much of the settlement that is supported by the writtenadvice from nationally-recognized tax counsel selected under the terms of the precedingsentence. The settlement amount shall be calculated on a fully grossed-up basis to cover anyrelated cost consequences of the current tax liability. The Connecting Transmission Owner mayalso settle any tax controversy without receiving the Developer’s consent or any such writtenadvice; however, any such settlement will relieve the Developer from any obligation toindemnify Connecting Transmission Owner for the tax at issue in the contest (unless the failureto obtain written advice is attributable to the Developer’s unreasonable refusal to theappointment of independent tax counsel).

**5.17.8 Refund.**

In the event that (a) a private letter ruling is issued to Connecting Transmission Ownerwhich holds that any amount paid or the value of any property transferred by Developer toConnecting Transmission Owner under the terms of this Agreement is not subject to federalincome taxation, (b) any legislative change or administrative announcement, notice, ruling orother determination makes it reasonably clear to Connecting Transmission Owner in good faiththat any amount paid or the value of any property transferred by Developer to ConnectingTransmission Owner under the terms of this Agreement is not taxable to ConnectingTransmission Owner, (c) any abatement, appeal, protest, or other contest results in adetermination that any payments or transfers made by Developer to Connecting TransmissionOwner are not subject to federal income tax, or (d) if Connecting Transmission Owner receives arefund from any taxing authority for any overpayment of tax attributable to any payment orproperty transfer made by Developer to Connecting Transmission Owner pursuant to thisAgreement, Connecting Transmission Owner shall promptly refund to Developer the following:

(i) Any payment made by Developer under this Artic[le 5.17](#br29) for taxes that isattributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Developer to Connecting Transmission Ownerfor 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 ConnectingTransmission Owner refunds such payment to Developer, and

(iii) With respect to any such taxes paid by Connecting Transmission Owner, anyrefund or credit Connecting Transmission Owner receives or to which it may be entitled fromany Governmental Authority, interest (or that portion thereof attributable to the paymentdescribed in clause (i), above) owed to the Connecting Transmission Owner for suchoverpayment of taxes (including any reduction in interest otherwise payable by ConnectingTransmission Owner to any Governmental Authority resulting from an offset or credit);

28

**SERVICE AGREEMENT NO. 2657**

provided, however, that Connecting Transmission Owner will remit such amount promptly toDeveloper only after and to the extent that Connecting Transmission Owner has received a taxrefund, credit or offset from any Governmental Authority for any applicable overpayment ofincome tax related to the Connecting Transmission Owner’s Attachment Facilities.

The intent of this provision is to leave both the Developer and Connecting TransmissionOwner, to the extent practicable, in the event that no taxes are due with respect to any paymentfor Attachment Facilities and System Upgrade Facilities and System Deliverability Upgradeshereunder, 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, ConnectingTransmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (otherthan federal or state income tax) asserted or assessed against Connecting Transmission Ownerfor which Developer may be required to reimburse Connecting Transmission Owner under theterms of this Agreement. Developer shall pay to Connecting Transmission Owner on a periodicbasis, as invoiced by Connecting Transmission Owner, Connecting Transmission Owner’sdocumented reasonable costs of prosecuting such appeal, protest, abatement, or other contest.Developer and Connecting Transmission Owner shall cooperate in good faith with respect to anysuch contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement orcannot be deferred, no amount shall be payable by Developer to Connecting TransmissionOwner for such taxes until they are assessed by a final, non-appealable order by any court oragency of competent jurisdiction. In the event that a tax payment is withheld and ultimately dueand payable after appeal, Developer will be responsible for all taxes, interest and penalties, otherthan 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 includingthe status of NYISO, or the status of any Connecting Transmission Owner with respect to theissuance of bonds including, but not limited to, Local Furnishing Bonds. Notwithstanding anyother provisions of this Agreement, LIPA, NYPA and Consolidated Edison Company of NewYork, Inc. shall not be required to comply with any provisions of this Agreement that wouldresult in the loss of tax-exempt status of any of their Tax-Exempt Bonds or impair their ability toissue future tax-exempt obligations. For purposes of this provision, Tax-Exempt Bonds shallinclude the obligations of the Long Island Power Authority, NYPA and Consolidated EdisonCompany of New York, Inc., the interest on which is not included in gross income under theInternal Revenue Code.

29

**SERVICE AGREEMENT NO. 2657**

**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 generalratemaking authority.

**5.19 Modification.**

**5.19.1 General.**

Either the Developer or Connecting Transmission Owner may undertake modifications toits facilities covered by this Agreement. If either the Developer or Connecting TransmissionOwner plans to undertake a modification that reasonably may be expected to affect the otherParty’s facilities, that Party shall provide to the other Party, and to NYISO, sufficientinformation regarding such modification so that the other Party and NYISO may evaluate thepotential impact of such modification prior to commencement of the work. Such informationshall be deemed to be Confidential Information hereunder and shall include informationconcerning the timing of such modifications and whether such modifications are expected tointerrupt the flow of electricity from the Large Generating Facility. The Party desiring toperform such work shall provide the relevant drawings, plans, and specifications to the otherParty and NYISO at least ninety (90) Calendar Days in advance of the commencement of thework or such shorter period upon which the Parties may agree, which agreement shall notunreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Developer tosubmit an Interconnection Request, the NYISO shall provide, within sixty (60) Calendar Days(or such other time as the Parties may agree), an estimate of any additional modifications to theNew York State Transmission System, Connecting Transmission Owner’s Attachment Facilitiesor System Upgrade Facilities or System Deliverability Upgrades necessitated by such Developermodification and a good faith estimate of the costs thereof. The Developer shall be responsiblefor the cost of any such additional modifications, including the cost of studying the impact of theDeveloper modification.

**5.19.2 Standards.**

Any additions, modifications, or replacements made to a Party’s facilities shall bedesigned, constructed and operated in accordance with this Agreement, NYISO requirements andGood Utility Practice.

**5.19.3 Modification Costs.**

Developer shall not be assigned the costs of any additions, modifications, or replacementsthat Connecting Transmission Owner makes to the Connecting Transmission Owner’sAttachment Facilities or the New York State Transmission System to facilitate the

30

**SERVICE AGREEMENT NO. 2657**

interconnection of a third party to the Connecting Transmission Owner’s Attachment Facilitiesor the New York State Transmission System, or to provide Transmission Service to a third partyunder the ISO OATT, except in accordance with the cost allocation procedures in Attachment Sof 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 orupgrade such Developer’s Attachment Facilities consistent with Applicable Laws andRegulations, 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 testthe Connecting Transmission Owner’s Attachment Facilities (including required controltechnologies and protection systems) and System Upgrade Facilities and System DeliverabilityUpgrades and Developer shall test the Large Generating Facility and the Developer’s AttachmentFacilities to ensure their safe and reliable operation. Similar testing may be required after initialoperation. Developer and Connecting Transmission Owner shall each make any modifications toits facilities that are found to be necessary as a result of such testing. Developer shall bear thecost of all such testing and modifications. Developer shall generate test energy at the LargeGenerating Facility only if it has arranged for the injection of such test energy in accordance withNYISO procedures.

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

Developer and Connecting Transmission Owner shall each at its own expense performroutine inspection and testing of its facilities and equipment in accordance with Good UtilityPractice and Applicable Reliability Standards as may be necessary to ensure the continuedinterconnection of the Large Generating Facility with the New York State Transmission Systemin a safe and reliable manner. Developer and Connecting Transmission Owner shall each havethe right, upon advance written notice, to require reasonable additional testing of the otherParty’s facilities, at the requesting Party’s expense, as may be in accordance with Good UtilityPractice.

**6.3 Right to Observe Testing.**

Developer and Connecting Transmission Owner shall each notify the other Party, and theNYISO, in advance of its performance of tests of its Attachment Facilities. The other Party, andthe NYISO, shall each have the right, at its own expense, to observe such testing.

**6.4 Right to Inspect.**

Developer and Connecting Transmission Owner shall each have the right, but shall haveno obligation to: (i) observe the other Party’s tests and/or inspection of any of its SystemProtection Facilities and other protective equipment, including Power System Stabilizers; (ii)

31

**SERVICE AGREEMENT NO. 2657**

review the settings of the other Party’s System Protection Facilities and other protectiveequipment; and (iii) review the other Party’s maintenance records relative to the AttachmentFacilities, the System Protection Facilities and other protective equipment. NYISO shall havethese same rights of inspection as to the facilities and equipment of Developer and ConnectingTransmission Owner. A Party may exercise these rights from time to time as it deems necessaryupon reasonable notice to the other Party. The exercise or non-exercise by a Party of any suchrights shall not be construed as an endorsement or confirmation of any element or condition ofthe Attachment Facilities or the System Protection Facilities or other protective equipment or theoperation 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](#br36) shall be treated in accordance with Artic[le 22](#br62) of this Agreement and Attachment F to the ISOOATT.

**ARTICLE 7. METERING**

**7.1 General.**

The metering requirements set forth in this Article 7 shall apply to the Large GeneratingFacility, except to the extent they conflict with the metering requirements set forth in Section 3of Appendix C of this Agreement. Developer and Connecting Transmission Owner shall eachcomply with applicable requirements of NYISO and the New York Public Service Commissionwhen exercising its rights and fulfilling its responsibilities under this Article [7. Unle](#br37)ss otherwiseagreed by the Connecting Transmission Owner and NYISO approved meter service provider andDeveloper, the Connecting Transmission Owner shall install Metering Equipment at the Point ofInterconnection prior to any operation of the Large Generating Facility and shall own, operate,test and maintain such Metering Equipment. Net power flows including MW and MVAR,MWHR and loss profile data to and from the Large Generating Facility shall be measured at thePoint of Interconnection. Connecting Transmission Owner shall provide metering quantities, inanalog and/or digital form, as required, to Developer or NYISO upon request. Where the Pointof Interconnection for the Large Generating Facility is other than the generator terminal, theDeveloper 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 itsside of the Point of Interconnection, one or more check meters to check ConnectingTransmission Owner’s meters. Such check meters shall be for check purposes only and shall notbe used for the measurement of power flows for purposes of this Agreement, except as providedin Artic[le 7.4](#br38) below. The check meters shall be subject at all reasonable times to inspection andexamination by Connecting Transmission Owner or its designee. The installation, operation andmaintenance thereof shall be performed entirely by Developer in accordance with Good UtilityPractice.

32

**SERVICE AGREEMENT NO. 2657**

**7.3 Standards.**

Connecting Transmission Owner shall install, calibrate, and test revenue quality MeteringEquipment including potential transformers and current transformers in accordance withapplicable ANSI and PSC standards as detailed in the NYISO Control Center CommunicationsManual 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 Equipmentupon installation and at least once every two (2) years thereafter. If requested to do so byNYISO or Developer, Connecting Transmission Owner shall, at Developer’s expense, inspect ortest Metering Equipment more frequently than every two (2) years. Connecting TransmissionOwner shall give reasonable notice of the time when any inspection or test shall take place, andDeveloper and NYISO may have representatives present at the test or inspection. If at any timeMetering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired orreplaced at Developer’s expense, in order to provide accurate metering, unless the inaccuracy ordefect is due to Connecting Transmission Owner’s failure to maintain, then ConnectingTransmission Owner shall pay. If Metering Equipment fails to register, or if the measurementmade by Metering Equipment during a test varies by more than two percent from themeasurement made by the standard meter used in the test, Connecting Transmission Owner shalladjust the measurements by correcting all measurements for the period during which MeteringEquipment was in error by using Developer’s check meters, if installed. If no such check metersare installed or if the period cannot be reasonably ascertained, the adjustment shall be for theperiod immediately preceding the test of the Metering Equipment equal to one-half the time fromthe date of the last previous test of the Metering Equipment. The NYISO shall reserve the rightto review all associated metering equipment installation on the Developer’s or ConnectingTransmission Owner’s property at any time.

**7.5 Metering Data.**

At Developer’s expense, the metered data shall be telemetered to one or more locationsdesignated by Connecting Transmission Owner, Developer and NYISO. Such telemetered datashall be used, under normal operating conditions, as the official measurement of the amount ofenergy 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 maintainsatisfactory operating communications with Connecting Transmission Owner and NYISO.Developer shall provide standard voice line, dedicated voice line and facsimile communicationsat its Large Generating Facility control room or central dispatch facility through use of either thepublic telephone system, or a voice communications system that does not rely on the public

33

**SERVICE AGREEMENT NO. 2657**

telephone system. Developer shall also provide the dedicated data circuit(s) necessary to provideDeveloper data to Connecting Transmission Owner and NYISO as set forth in Appendix Dhereto. The data circuit(s) shall extend from the Large Generating Facility to the location(s)specified by Connecting Transmission Owner and NYISO. Any required maintenance of suchcommunications equipment shall be performed by Developer. Operational communications shallbe activated and maintained under, but not be limited to, the following events: system parallelingor separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly anddaily load data.

**8.2 Remote Terminal Unit.**

Prior to the Initial Synchronization Date of the Large Generating Facility, a RemoteTerminal 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 byConnecting Transmission Owner and NYISO through use of a dedicated point-to-point datacircuit(s) as indicated in Artic[le 8.1. The](#br38) communication protocol for the data circuit(s) shall bespecified by Connecting Transmission Owner and NYISO. Instantaneous bi-directional analogreal 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 otherwiselearns of any metering, telemetry or communications equipment errors or malfunctions thatrequire the attention and/or correction by that other Party. The Party owning such equipmentshall 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 propertyof the Party providing such equipment regardless of the mode and manner of annexation orattachment to real property, unless otherwise mutually agreed by the Party providing suchequipment and the Party receiving such equipment.

**ARTICLE 9. OPERATIONS**

**9.1 General.**

Each Party shall comply with Applicable Laws and Regulations and ApplicableReliability Standards. Each Party shall provide to the other Parties all information that mayreasonably be required by the other Parties to comply with Applicable Laws and Regulations andApplicable Reliability Standards.

34

**SERVICE AGREEMENT NO. 2657**

**9.2 NYISO and Connecting Transmission Owner Obligations.**

Connecting Transmission Owner and NYISO shall cause the New York StateTransmission System and the Connecting Transmission Owner’s Attachment Facilities to beoperated, maintained and controlled in a safe and reliable manner in accordance with thisAgreement and the NYISO Tariffs. Connecting Transmission Owner and NYISO may provideoperating instructions to Developer consistent with this Agreement, NYISO procedures andConnecting Transmission Owner’s operating protocols and procedures as they may change fromtime to time. Connecting Transmission Owner and NYISO will consider changes to theirrespective operating protocols and procedures proposed by Developer.

**9.3 Developer Obligations.**

Developer shall at its own expense operate, maintain and control the Large GeneratingFacility and the Developer’s Attachment Facilities in a safe and reliable manner and inaccordance with this Agreement. Developer shall operate the Large Generating Facility and theDeveloper’s Attachment Facilities in accordance with NYISO and Connecting TransmissionOwner 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 fromtime to time. Any Party may request that the appropriate other Party or Parties provide copies ofthe 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 ConnectingTransmission Owner, the Developer is responsible for the proper synchronization of the LargeGenerating Facility to the New York State Transmission System in accordance with NYISO andConnecting 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 Facilityto maintain effective composite power delivery at continuous rated power output at the Point ofInterconnection at a power factor within the range of 0.95 leading to 0.95 lagging unless theNYISO or the Transmission Owner in whose Transmission District the Large Generating Facilityinterconnects has established different requirements that apply to all generators in the New YorkControl Area or Transmission District (as applicable) on a comparable basis, in accordance withGood Utility Practice.

The Developer shall design and maintain the plant auxiliary systems to operate safelythroughout the entire real and reactive power design range.

35

**SERVICE AGREEMENT NO. 2657**

**9.5.1.2 Non-Synchronous Generation.** Developer shall design the Large GeneratingFacility to maintain composite power delivery at continuous rated power output at the high-sideof 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 LargeGenerating Facility interconnects has established a different power factor range that applies to allnon-synchronous generators in the Control Area or Transmission District (as applicable) on acomparable basis, in accordance with Good Utility Practice. This power factor range standardshall be dynamic and can be met using, for example, power electronics designed to supply thislevel of reactive capability (taking into account any limitations due to voltage level, real poweroutput, etc.) or fixed and switched capacitors, or a combination of the two. This requirementshall only apply to newly interconnection non-synchronous generators that have not yet executeda Facilities Study Agreement as of September 21, 2016.

The Developer shall design and maintain the plant auxiliary systems to operate safelythroughout 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 YorkState Transmission System, NYISO shall require Developer to operate the Large GeneratingFacility to produce or absorb reactive power within the design capability of the Large GeneratingFacility set forth in Article [9.5.1](#br40) (Power Factor Design Criteria). NYISO’s voltage schedulesshall treat all sources of reactive power in the New York Control Area in an equitable and notunduly discriminatory manner. NYISO shall exercise Reasonable Efforts to provide Developerwith such schedules in accordance with NYISO procedures, and may make changes to suchschedules 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 orpower factor at the Point of Interconnection within the design capability of the Large GeneratingFacility set forth in Article [9.5.1](#br40) (Power Factor Design Criteria) as directed by the ConnectingTransmission Owner’s system operator or the NYISO. If Developer is unable to maintain thespecified 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 Developerprovides from the Large Generating Facility in accordance with the provisions of Rate Schedule2 of the NYISO Services Tariff.

**9.5.4 Voltage Regulators.**

Whenever the Large Generating Facility is operated in parallel with the New York StateTransmission System, the automatic voltage regulators shall be in automatic operation at alltimes. If the Large Generating Facility’s automatic voltage regulators are not capable of suchautomatic operation, the Developer shall immediately notify NYISO, or its designated

36

**SERVICE AGREEMENT NO. 2657**

representative, and ensure that such Large Generating Facility’s real and reactive power arewithin the design capability of the Large Generating Facility’s generating unit(s) and steady statestability limits and NYISO system operating (thermal, voltage and transient stability) limits.Developer shall not cause its Large Generating Facility to disconnect automatically orinstantaneously from the New York State Transmission System or trip any generating unitcomprising the Large Generating Facility for an under or over frequency condition unless theabnormal frequency condition persists for a time period beyond the limits set forth inANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the NewYork Control Area on a comparable basis.

**9.5.5 Primary Frequency Response.**

Developer shall ensure the primary frequency response capability of its Large GeneratingFacility by installing, maintaining, and operating a functioning governor or equivalent controls.The term “functioning governor or equivalent controls” as used herein shall mean the requiredhardware and/or software that provides frequency responsive real power control with the abilityto sense changes in system frequency and autonomously adjust the Large Generating Facility’sreal power output in accordance with the droop and deadband parameters and in the directionneeded to correct frequency deviations. Developer is required to install a governor or equivalentcontrols with the capability of operating: (1) with a maximum 5 percent droop ± 0.036 Hzdeadband; or (2) in accordance with the relevant droop, deadband, and timely and sustainedresponse settings from an approved Applicable Reliability Standard providing for equivalent ormore stringent parameters. The droop characteristic shall be: (1) based on the nameplatecapacity of the Large Generating Facility, and shall be linear in the range of frequencies between59 and 61 Hz that are outside of the deadband parameter; or (2) based on an approved ApplicableReliability Standard providing for an equivalent or more stringent parameter. The deadbandparameter shall be: the range of frequencies above and below nominal (60 Hz) in which thegovernor or equivalent controls is not expected to adjust the Large Generating Facility’s realpower 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 deadbandparameter, the expected change in the Large Generating Facility’s real power output in responseto 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 thefrequency deviation; or (2) in accordance with an approved Applicable Reliability Standardproviding for an equivalent or more stringent parameter. Developer shall notify NYISO that theprimary frequency response capability of the Large Generating Facility has been tested andconfirmed during commissioning. Once Developer has synchronized the Large GeneratingFacility with the New York State Transmission System, Developer shall operate the LargeGenerating Facility consistent with the provisions specified in Articles 9.5.5.1 and 9.5.5.2 of thisAgreement. The primary frequency response requirements contained herein shall apply to bothsynchronous and non-synchronous Large Generating Facilities.

**9.5.5.1 Governor or Equivalent Controls**.

37

**SERVICE AGREEMENT NO. 2657**

Whenever the Large Generating Facility is operated in parallel with the New York StateTransmission System, Developer shall operate the Large Generating Facility with its governor orequivalent controls in service and responsive to frequency. Developer shall: (1) in coordinationwith NYISO, set the deadband parameter to: (1) a maximum of ±0.036 Hz and set the droopparameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settingsfrom an approved Applicable Reliability Standard that provides for equivalent or more stringentparameters. Developer shall be required to provide the status and settings of the governor andequivalent controls to NYISO and/or the Connecting Transmission Owner upon request. IfDeveloper needs to operate the Large Generating Facility with its governor or equivalentcontrols not in service, Developer shall immediately notify NYISO and the ConnectingTransmission Owner, and provide both with the following information: (1) the operating statusof the governor or equivalent controls (i.e., whether it is currently out of service or when it willbe taken out of service); (2) the reasons for removing the governor or equivalent controls fromservice; and (3) a reasonable estimate of when the governor or equivalent controls will bereturned to service. Developer shall make Reasonable Efforts to return its governor orequivalent controls into service as soon as practicable. Developer shall make Reasonable Effortsto keep outages of the Large Generating Facility’s governor or equivalent controls to a minimumwhenever the Large Generating Facility is operated in parallel with the New York StateTransmission System.

**9.5.5.2 Timely and Sustained Response.**

Developer shall ensure that the Large Generating Facility’s real power response tosustained frequency deviations outside of the deadband setting is automatically provided andshall begin immediately after frequency deviates outside of the deadband, and to the extent theLarge Generating Facility has operating capability in the direction needed to correct thefrequency deviation. Developer shall not block or otherwise inhibit the ability of the governor orequivalent controls to respond and shall ensure that the response is not inhibited, except undercertain operational constraints including, but not limited to, ambient temperature limitations,physical energy limitations, outages of mechanical equipment, or regulatory requirements. TheLarge Generating Facility shall sustain the real power response at least until system frequencyreturns to a value within the deadband setting of the governor or equivalent controls. AnApplicable Reliability Standard with equivalent or more stringent requirements shall supersedethe above requirements.

**9.5.5.3 Exemptions.**

Large Generating Facilities that are regulated by the United States Nuclear RegulatoryCommission shall be exempt from Articles 9.5.5, 9.5.5.1, and 9.5.5.2 of this Agreement. LargeGenerating Facilities that are behind the meter generation that is sized-to-load (i.e., the thermalload and the generation are near-balanced in real-time operation and the generation is primarilycontrolled to maintain the unique thermal, chemical, or mechanical output necessary for theoperating requirements of its host facility) shall be required to install primary frequency responsecapability requirements in accordance with the droop and deadband capability requirements

38

**SERVICE AGREEMENT NO. 2657**

specified in Article 9.5.5, but shall be otherwise exempt from the operating requirements inArticles 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 an electric storage resource shall establish an operating rangein Appendix C of its LGIA that specifies a minimum state of charge and a maximum state ofcharge between which the electric storage resource will be required to provide primary frequencyresponse consistent with the conditions set forth in Articles 9.5.5, 9.5.5.1, 9.5.5.2, and 9.5.5.3 ofthis Agreement. Appendix C shall specify whether the operating range is static or dynamic, andshall consider (1) the expected magnitude of frequency deviations in the interconnection; (2) theexpected duration that system frequency will remain outside of the deadband parameter in theinterconnection; (3) the expected incidence of frequency deviations outside of the deadbandparameter 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, andDeveloper. If the operating range is dynamic, then Appendix C must establish how frequentlythe operating range will be reevaluated and the factors that may be considered during itsreevaluation.

Developer’s electric storage resource is required to provide timely and sustained primaryfrequency response consistent with Article 9.5.5.2 of this Agreement when it is online anddispatched to inject electricity to the New York State Transmission System and/or receiveelectricity from the New York State Transmission System. This excludes circumstances whenthe electric storage resource is not dispatched to inject electricity to the New York StateTransmission System and/or dispatched to receive electricity from the New York StateTransmission System. If Developer’s electric storage resource is charging at the time of afrequency deviation outside of its deadband parameter, it is to increase (for over-frequencydeviations) or decrease (for under-frequency deviations) the rate at which it is charging inaccordance with its droop parameter. Developer’s electric storage resource is not required tochange from charging to discharging, or vice versa, unless the response necessitated by the droopand deadband settings requires it to do so and it is technically capable of making such atransition.

**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 NYISOprocedures and Good Utility Practice and in coordination with the other Party, remove fromservice any of its respective Attachment Facilities or System Upgrade Facilities and SystemDeliverability Upgrades that may impact the other Party’s facilities as necessary to performmaintenance or testing or to install or replace equipment. Absent an Emergency State, the Party

39

**SERVICE AGREEMENT NO. 2657**

scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedulesuch removal on a date and time mutually acceptable to both the Developer and the ConnectingTransmission 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 suchremoval.

**9.6.1.2 Outage Schedules**.

The Connecting Transmission Owner shall post scheduled outages of its transmissionfacilities on the NYISO OASIS. Developer shall submit its planned maintenance schedules forthe Large Generating Facility to Connecting Transmission Owner and NYISO for a minimum ofa rolling thirty-six month period. Developer shall update its planned maintenance schedules asnecessary. NYISO may direct, or the Connecting Transmission Owner may request, Developerto reschedule its maintenance as necessary to maintain the reliability of the New York StateTransmission System. Compensation to Developer for any additional direct costs that theDeveloper 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 wouldhave incurred absent the request to reschedule maintenance, shall be in accordance with the ISOOATT. Developer will not be eligible to receive compensation, if during the twelve (12) monthsprior to the date of the scheduled maintenance, the Developer had modified its schedule ofmaintenance activities other than at the direction of the NYISO or request of the ConnectingTransmission Owner.

**9.6.1.3 Outage Restoration**.

If an outage on the Attachment Facilities or System Upgrade Facilities or SystemDeliverability Upgrades of the Connecting Transmission Owner or Developer adversely affectsthe other Party’s operations or facilities, the Party that owns the facility that is out of serviceshall use Reasonable Efforts to promptly restore such facility(ies) to a normal operatingcondition consistent with the nature of the outage. The Party that owns the facility that is out ofservice 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 anycorrective actions required. Initial verbal notice shall be followed up as soon as practicable withwritten notice explaining the nature of the outage.

**9.6.2 Interruption of Service**. If required by Good Utility Practice or ApplicableReliability Standards to do so, the NYISO or Connecting Transmission Owner may requireDeveloper to interrupt or reduce production of electricity if such production of electricity couldadversely affect the ability of NYISO and Connecting Transmission Owner to perform suchactivities as are necessary to safely and reliably operate and maintain the New York StateTransmission System. The following provisions shall apply to any interruption or reductionpermitted under this Artic[le 9.6.2:](#br45)

40

**SERVICE AGREEMENT NO. 2657**

**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 YorkState Transmission System;

**9.6.2.3** When the interruption or reduction must be made under circumstanceswhich do not allow for advance notice, NYISO or Connecting Transmission Owner shall notifyDeveloper by telephone as soon as practicable of the reasons for the curtailment, interruption, orreduction, and, if known, its expected duration. Telephone notification shall be followed bywritten notification as soon as practicable;

**9.6.2.4** Except during the existence of an Emergency State, when the interruptionor reduction can be scheduled without advance notice, NYISO or Connecting TransmissionOwner shall notify Developer in advance regarding the timing of such scheduling and furthernotify Developer of the expected duration. NYISO or Connecting Transmission Owner shallcoordinate with each other and the Developer using Good Utility Practice to schedule theinterruption or reduction during periods of least impact to the Developer, the ConnectingTransmission Owner and the New York State Transmission System;

**9.6.2.5** The Parties shall cooperate and coordinate with each other to the extentnecessary in order to restore the Large Generating Facility, Attachment Facilities, and the NewYork State Transmission System to their normal operating state, consistent with systemconditions and Good Utility Practice.

**9.6.3 Under-Frequency and Over Frequency Conditions.**

The New York State Transmission System is designed to automatically activate a load-shed program as required by the NPCC in the event of an under-frequency system disturbance.Developer shall implement under-frequency and over-frequency relay set points for the LargeGenerating Facility as required by the NPCC to ensure “ride through” capability of the NewYork State Transmission System. Large Generating Facility response to frequency deviations ofpredetermined magnitudes, both under-frequency and over-frequency deviations, shall be studiedand coordinated with the NYISO and Connecting Transmission Owner in accordance with GoodUtility Practice. The term “ride through” as used herein shall mean the ability of a GeneratingFacility to stay connected to and synchronized with the New York State Transmission Systemduring system disturbances within a range of under-frequency and over-frequency conditions, inaccordance with Good Utility Practice and with NPCC Regional Reliability Reference Directory# 12, or its successor.

41

**SERVICE AGREEMENT NO. 2657**

**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 orDeveloper’s Attachment Facilities. Connecting Transmission Owner shall install at Developer’sexpense any System Protection Facilities that may be required on the Connecting TransmissionOwner’s Attachment Facilities or the New York State Transmission System as a result of theinterconnection of the Large Generating Facility and Developer’s Attachment Facilities.

**9.6.4.2** The protection facilities of both the Developer and ConnectingTransmission Owner shall be designed and coordinated with other systems in accordance withGood Utility Practice and Applicable Reliability Standards.

**9.6.4.3** The Developer and Connecting Transmission Owner shall each beresponsible for protection of its respective facilities consistent with Good Utility Practice andApplicable Reliability Standards.

**9.6.4.4** The protective relay design of the Developer and ConnectingTransmission Owner shall each incorporate the necessary test switches to perform the testsrequired in Article [6](#br36) of this Agreement. The required test switches will be placed such that theyallow operation of lockout relays while preventing breaker failure schemes from operating andcausing unnecessary breaker operations and/or the tripping of the Developer’s Large GeneratingFacility.

**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,NERC and NPCC criteria.

**9.6.4.6** Prior to the In-Service Date, and again prior to the Commercial OperationDate, the Developer and Connecting Transmission Owner shall each perform, or their agentsshall perform, a complete calibration test and functional trip test of the System ProtectionFacilities. At intervals suggested by Good Utility Practice and following any apparentmalfunction of the System Protection Facilities, the Developer and Connecting TransmissionOwner shall each perform both calibration and functional trip tests of its System ProtectionFacilities. These tests do not require the tripping of any in-service generation unit. These testsdo, 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 shallprovide, install, own, and maintain relays, circuit breakers and all other devices necessary toremove any fault contribution of the Large Generating Facility to any short circuit occurring onthe New York State Transmission System not otherwise isolated by Connecting TransmissionOwner’s equipment, such that the removal of the fault contribution shall be coordinated with the

42

**SERVICE AGREEMENT NO. 2657**

protective requirements of the New York State Transmission System. Such protectiveequipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Large Generating Facility and the New York StateTransmission System at a site selected upon mutual agreement (not to be unreasonably withheld,conditioned or delayed) of the Developer and Connecting Transmission Owner. Developer shallbe responsible for protection of the Large Generating Facility and Developer’s other equipmentfrom such conditions as negative sequence currents, over- or under-frequency, sudden loadrejection, over- or under-voltage, and generator loss-of-field. Developer shall be solelyresponsible to disconnect the Large Generating Facility and Developer’s other equipment ifconditions on the New York State Transmission System could adversely affect the LargeGenerating Facility.

**9.6.6 Power Quality.**

Neither the facilities of Developer nor the facilities of Connecting Transmission Ownershall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltageor current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard519, or any applicable superseding electric industry standard. In the event of a conflict betweenANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSIStandard 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 acopy of its switching and tagging rules that are applicable to the other Party’s activities. Suchswitching and tagging rules shall be developed on a nondiscriminatory basis. The Parties shallcomply with applicable switching and tagging rules, as amended from time to time, in obtainingclearances for work or for switching operations on equipment.

**9.8 Use of Attachment Facilities by Third Parties.**

**9.8.1 Purpose of Attachment Facilit**i**es.**

Except as may be required by Applicable Laws and Regulations, or as otherwise agreedto among the Parties, the Attachment Facilities shall be constructed for the sole purpose ofinterconnecting the Large Generating Facility to the New York State Transmission System andshall 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, suchagreement not to be unreasonably withheld, to allow one or more third parties to use theConnecting Transmission Owner’s Attachment Facilities, or any part thereof, Developer will beentitled to compensation for the capital expenses it incurred in connection with the AttachmentFacilities based upon the pro rata use of the Attachment Facilities by Connecting Transmission

43

**SERVICE AGREEMENT NO. 2657**

Owner, all third party users, and Developer, in accordance with Applicable Laws andRegulations or upon some other mutually-agreed upon methodology. In addition, costresponsibility for ongoing costs, including operation and maintenance costs associated with theAttachment Facilities, will be allocated between Developer and any third party users based uponthe pro rata use of the Attachment Facilities by Connecting Transmission Owner, all third partyusers, and Developer, in accordance with Applicable Laws and Regulations or upon some othermutually agreed upon methodology. If the issue of such compensation or allocation cannot beresolved 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 ofdisturbances to either the Large Generating Facility or the New York State Transmission Systemby gathering and providing access to any information relating to any disturbance, includinginformation from disturbance recording equipment, protective relay targets, breaker operationsand sequence of events records, and any disturbance information required by Good UtilityPractice.

**9.10 Reserved.**

**ARTICLE 10. MAINTENANCE**

**10.1 Connecting Transmission Owner Obligations.**

Connecting Transmission Owner shall maintain its transmission facilities and AttachmentFacilities 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 safeand reliable manner and in accordance with this Agreement.

**10.3 Coordination.**

The Developer and Connecting Transmission Owner shall confer regularly to coordinatethe planning, scheduling and performance of preventive and corrective maintenance on the LargeGenerating Facility and the Attachment Facilities. The Developer and Connecting TransmissionOwner shall keep NYISO fully informed of the preventive and corrective maintenance that isplanned, 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 otherin the inspection, maintenance, and testing of control or power circuits that operate below 600volts, AC or DC, including, but not limited to, any hardware, control or protective devices,cables, conductors, electric raceways, secondary equipment panels, transducers, batteries,

44

**SERVICE AGREEMENT NO. 2657**

chargers, and voltage and current transformers that directly affect the operation of Developer orConnecting Transmission Owner’s facilities and equipment which may reasonably be expectedto impact the other Party. The Developer and Connecting Transmission Owner shall eachprovide advance notice to the other Party, and to NYISO, before undertaking any work on suchcircuits, especially on electrical circuits involving circuit breaker trip and close contacts, currenttransformers, or potential transformers.

**10.5 Operating and Maintenance Expenses.**

Subject to the provisions herein addressing the use of facilities by others, and except foroperations and maintenance expenses associated with modifications made for providinginterconnection or transmission service to a third party and such third party pays for suchexpenses, Developer shall be responsible for all reasonable expenses including overheads,associated with: (1) owning, operating, maintaining, repairing, and replacing Developer’sAttachment Facilities; and (2) operation, maintenance, repair and replacement of ConnectingTransmission Owner’s Attachment Facilities. The Connecting Transmission Owner shall beentitled to the recovery of incremental operating and maintenance expenses that it incursassociated with System Upgrade Facilities and System Deliverability Upgrades if and to theextent 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/orcontrol the Connecting Transmission Owner’s Attachment Facilities described in Appendix Ahereto, at the sole expense of the Developer.

**11.3 System Upgrade Facilities and System Deliverability Upgrades.**

Connecting Transmission Owner shall design, procure, construct, install, and own theSystem Upgrade Facilities and System Deliverability Upgrades described in Appendix A hereto.The responsibility of the Developer for costs related to System Upgrade Facilities and SystemDeliverability Upgrades shall be determined in accordance with the provisions of Attachment Sto the ISO OATT.

**11.4 Special Provisions for Affected Sy**s**tems.**

For the re-payment of amounts advanced to Affected System Operator for SystemUpgrade Facilities or System Deliverability Upgrades, the Developer and Affected SystemOperator shall enter into an agreement that provides for such re-payment, but only if

45

**SERVICE AGREEMENT NO. 2657**

responsibility for the cost of such System Upgrade Facilities or System Deliverability Upgradesis not to be allocated in accordance with Attachment S to the ISO OATT. The agreement shallspecify the terms governing payments to be made by the Developer to the Affected SystemOperator 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’sAttachment Facilities, Developer shall provide Connecting Transmission Owner, at Developer’soption, a guarantee, a surety bond, letter of credit or other form of security that is reasonablyacceptable to Connecting Transmission Owner and is consistent with the Uniform CommercialCode of the jurisdiction identified in Artic[le 14.2.1](#br55) of this Agreement. Such security forpayment shall be in an amount sufficient to cover the cost for the Developer’s share ofconstructing, procuring and installing the applicable portion of Connecting TransmissionOwner’s Attachment Facilities, and shall be reduced on a dollar-for-dollar basis for paymentsmade to Connecting Transmission Owner for these purposes.

In addition:

**11.5.1** The guarantee must be made by an entity that meets the commerciallyreasonable creditworthiness requirements of Connecting Transmission Owner, and containsterms and conditions that guarantee payment of any amount that may be due from Developer, upto 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.

**11.6 Developer Compensation for Emergency Services.**

If, during an Emergency State, the Developer provides services at the request or directionof the NYISO or Connecting Transmission Owner, the Developer will be compensated for suchservices in accordance with the NYISO Services Tariff.

**11.7 Line Outage Costs.**

Notwithstanding anything in the ISO OATT to the contrary, the Connecting TransmissionOwner may propose to recover line outage costs associated with the installation of Connecting

46

**SERVICE AGREEMENT NO. 2657**

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 or as otherwise agreed bysuch Parties and as set forth in Section 3 of Appendix B. Each invoice shall state the month towhich the invoice applies and fully describe the services and equipment provided. TheDeveloper and Connecting Transmission Owner may discharge mutual debts and paymentobligations due and owing to each other on the same date through netting, in which case allamounts one Party owes to the other Party under this Agreement, including interest payments orcredits, shall be netted so that only the net amount remaining due shall be paid by the owingParty.

**12.2 Final Invoice.**

Within six months after completion of the construction of the Connecting TransmissionOwner’s Attachment Facilities and the System Upgrade Facilities and System DeliverabilityUpgrades, Connecting Transmission Owner shall provide an invoice of the final cost of theconstruction of the Connecting Transmission Owner’s Attachment Facilities and the SystemUpgrade Facilities and System Deliverability Upgrades, determined in accordance withAttachment S to the ISO OATT, and shall set forth such costs in sufficient detail to enableDeveloper to compare the actual costs with the estimates and to ascertain deviations, if any, fromthe cost estimates. Connecting Transmission Owner shall refund to Developer any amount bywhich the actual payment by Developer for estimated costs exceeds the actual costs ofconstruction 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 Fhereto. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days ofreceipt. 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 ofinvoices will not constitute a waiver of any rights or claims the paying Party may have under thisAgreement.

**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 asDeveloper: (i) continues to make all payments not in dispute; and (ii) pays to ConnectingTransmission Owner or into an independent escrow account the portion of the invoice in dispute,

47

**SERVICE AGREEMENT NO. 2657**

pending resolution of such dispute. If Developer fails to meet these two requirements forcontinuation of service, then Connecting Transmission Owner may provide notice to Developerof a Default pursuant to Artic[le 17. W](#br57)ithin thirty (30) Calendar Days after the resolution of thedispute, the Party that owes money to the other Party shall pay the amount due with interestcalculated 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 applicableReliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed toby the NYISO Operating Committee.

**13.2 Notice.**

NYISO or, as applicable, Connecting Transmission Owner shall notify Developerpromptly when it becomes aware of an Emergency State that affects the ConnectingTransmission Owner’s Attachment Facilities or the New York State Transmission System thatmay reasonably be expected to affect Developer’s operation of the Large Generating Facility orthe Developer’s Attachment Facilities. Developer shall notify NYISO and ConnectingTransmission Owner promptly when it becomes aware of an Emergency State that affects theLarge Generating Facility or the Developer’s Attachment Facilities that may reasonably beexpected to affect the New York State Transmission System or the Connecting TransmissionOwner’s Attachment Facilities. To the extent information is known, the notification shalldescribe the Emergency State, the extent of the damage or deficiency, the expected effect on theoperation of Developer’s or Connecting Transmission Owner’s facilities and operations, itsanticipated duration and the corrective action taken and/or to be taken. The initial notice shall befollowed as soon as practicable with written notice.

**13.3 Immediate Action.**

Unless, in Developer’s reasonable judgment, immediate action is required, Developershall obtain the consent of Connecting Transmission Owner, such consent to not be unreasonablywithheld, prior to performing any manual switching operations at the Large Generating Facilityor the Developer’s Attachment Facilities in response to an Emergency State either declared byNYISO, Connecting Transmission Owner or otherwise regarding New York State TransmissionSystem.

48

**SERVICE AGREEMENT NO. 2657**

**13.4 NYISO and Connecting Transmission Owner Authority.**

**13.4.1 General.**

NYISO or Connecting Transmission Owner may take whatever actions with regard to theNew York State Transmission System or the Connecting Transmission Owner’s AttachmentFacilities it deems necessary during an Emergency State in order to (i) preserve public health andsafety, (ii) preserve the reliability of the New York State Transmission System or the ConnectingTransmission Owner’s Attachment Facilities, (iii) limit or prevent damage, and (iv) expediterestoration of service.

NYISO and Connecting Transmission Owner shall use Reasonable Efforts to minimizethe effect of such actions or inactions on the Large Generating Facility or the Developer’sAttachment Facilities. NYISO or Connecting Transmission Owner may, on the basis oftechnical considerations, require the Large Generating Facility to mitigate an Emergency Stateby taking actions necessary and limited in scope to remedy the Emergency State, including, butnot limited to, directing Developer to shut-down, start-up, increase or decrease the real orreactive power output of the Large Generating Facility; implementing a reduction ordisconnection pursuant to Artic[le 13.4.2; di](#br54)recting the Developer to assist with blackstart (ifavailable) or restoration efforts; or altering the outage schedules of the Large Generating Facilityand the Developer’s Attachment Facilities. Developer shall comply with all of the NYISO andConnecting Transmission Owner’s operating instructions concerning Large Generating Facilityreal power and reactive power output within the manufacturer’s design limitations of the LargeGenerating Facility’s equipment that is in service and physically available for operation at thetime, in compliance with Applicable Laws and Regulations.

**13.4.2 Reduction and Disconnection.**

NYISO or Connecting Transmission Owner may reduce Energy ResourceInterconnection Service and Capacity Resource Interconnection Service or disconnect the LargeGenerating Facility or the Developer’s Attachment Facilities, when such reduction ordisconnection is necessary under Good Utility Practice due to an Emergency State. These rightsare separate and distinct from any right of Curtailment of NYISO pursuant to the ISO OATT.When NYISO or Connecting Transmission Owner can schedule the reduction or disconnectionin advance, NYISO or Connecting Transmission Owner shall notify Developer of the reasons,timing and expected duration of the reduction or disconnection. NYISO or ConnectingTransmission Owner shall coordinate with the Developer using Good Utility Practice to schedulethe reduction or disconnection during periods of least impact to the Developer and the New YorkState Transmission System. Any reduction or disconnection shall continue only for so long asreasonably necessary under Good Utility Practice. The Parties shall cooperate with each other torestore the Large Generating Facility, the Attachment Facilities, and the New York StateTransmission System to their normal operating state as soon as practicable consistent with GoodUtility Practice.

49

**SERVICE AGREEMENT NO. 2657**

**13.5 Developer Authority.**

Consistent with Good Utility Practice and this Agreement, the Developer may takewhatever actions or inactions with regard to the Large Generating Facility or the Developer’sAttachment 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 AttachmentFacilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Developer shalluse Reasonable Efforts to minimize the effect of such actions or inactions on the New York StateTransmission System and the Connecting Transmission Owner’s Attachment Facilities. NYISOand Connecting Transmission Owner shall use Reasonable Efforts to assist Developer in suchactions.

**13.6 Limited Liability.**

Except as otherwise provided in Artic[le 11.6](#br51) of this Agreement, no Party shall be liableto another Party for any action it takes in responding to an Emergency State so long as suchaction 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 anyrequired approval or certificate from one or more Governmental Authorities in the form andsubstance satisfactory to the applying Party, or the Party making any required filings with, orproviding notice to, such Governmental Authorities, and the expiration of any time periodassociated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtainsuch other approvals. Nothing in this Agreement shall require Developer to take any action thatcould result in its inability to obtain, or its loss of, status or exemption under the Federal PowerAct or the Public Utility Holding Company Act of 2005 or the Public Utility Regulatory PoliciesAct of 1978, as amended.

**14.2 Governing Law.**

**14.2.1** The validity, interpretation and performance of this Agreement and each of itsprovisions shall be governed by the laws of the state of New York, without regard to its conflictsof 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.

50

**SERVICE AGREEMENT NO. 2657**

**ARTICLE 15. NOTICES**

**15.1 General.**

Unless otherwise provided in this Agreement, any notice, demand or request required orpermitted to be given by a Party to the other Parties and any instrument required or permitted tobe tendered or delivered by a Party in writing to the other Parties shall be effective whendelivered and may be so given, tendered or delivered, by recognized national courier, or bydepositing the same with the United States Postal Service with postage prepaid, for delivery bycertified or registered mail, addressed to the Party, or personally delivered to the Party, at theaddress set out in Appendix F hereto.

A Party may change the notice information in this Agreement by giving five (5) BusinessDays 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 andnot required by this Agreement to be given in writing may be so given by telephone, facsimile oremail 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, andNYISO, in writing of the identity of the person(s) that it designates as the point(s) of contact withrespect to the implementation of Artic[les 9](#br39) a[nd 10](#br49) of this Agreement.

**ARTICLE 16. FORCE MAJEURE**

**16.1** Economic hardship is not considered a Force Majeure event.

**16.2** A Party shall not be responsible or liable, or deemed, in Default with respect toany obligation hereunder, (including obligations under Artic[le 4](#br18) of this Agreement) , other thanthe obligation to pay money when due, to the extent the Party is prevented from fulfilling suchobligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than anobligation to pay money when due) by reason of Force Majeure shall give notice and the fullparticulars of such Force Majeure to the other Parties in writing or by telephone as soon asreasonably possible after the occurrence of the cause relied upon. Telephone notices givenpursuant to this Article shall be confirmed in writing as soon as reasonably possible and shallspecifically state full particulars of the Force Majeure, the time and date when the Force Majeureoccurred and when the Force Majeure is reasonably expected to cease. The Party affected shallexercise due diligence to remove such disability with reasonable dispatch, but shall not be

51

**SERVICE AGREEMENT NO. 2657**

required to accede or agree to any provision not satisfactory to it in order to settle and terminate astrike or other labor disturbance.

**ARTICLE 17. DEFAULT**

**17.1 General.**

No Breach shall exist where such failure to discharge an obligation (other than thepayment of money) is the result of Force Majeure as defined in this Agreement or the result of anact or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give writtennotice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Daysfrom receipt of the Breach notice within which to cure such Breach; provided however, if suchBreach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shallcommence such cure within thirty (30) Calendar Days after notice and continuously anddiligently complete such cure within ninety (90) Calendar Days from receipt of the Breachnotice; 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](#br57) a Breach is not capable ofbeing cured within the period provided for herein, the non-Breaching Parties acting together shallthereafter have the right to declare a Default and terminate this Agreement by written notice atany time until cure occurs, and be relieved of any further obligation hereunder and, whether ornot those Parties terminate this Agreement, to recover from the defaulting Party all amounts duehereunder, 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 saveharmless, as applicable, the other Parties (each an “Indemnified Party”) from, any and alldamages, losses, claims, including claims and actions relating to injury to or death of any personor damage to property, the alleged violation of any Environmental Law, or the release orthreatened 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 itsobligations under this Agreement on behalf of the Indemnifying Party, except in cases where theIndemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by thegross negligence or intentional wrongdoing of the Indemnified Party or (ii) the violation by theIndemnifying Party of any Environmental Law or the release by the Indemnifying Party of anyHazardous Substance.

52

**SERVICE AGREEMENT NO. 2657**

**18.1.1 Indemnified Party.**

If a Party is entitled to indemnification under this Artic[le 18](#br57) as a result of a claim by athird party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceedunder Artic[le 18.1.3, to](#br58) assume the defense of such claim, such Indemnified Party may at theexpense of the Indemnifying Party contest, settle or consent to the entry of any judgment withrespect to, or pay in full, such claim.

**18.1.2 Indemnifying Party.**

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Partyharmless under this Artic[le 18, the a](#br57)mount owing to the Indemnified Party shall be the amount ofsuch Indemnified Party’s actual Loss, net of any insurance or other recovery.

**18.1.3 Indemnity Procedures.**

Promptly after receipt by an Indemnified Party of any claim or notice of thecommencement of any action or administrative or legal proceeding or investigation as to whichthe indemnity provided for in Artic[le 18.1](#br57) may apply, the Indemnified Party shall notify theIndemnifying Party of such fact. Any failure of or delay in such notification shall not affect aParty’s indemnification obligation unless such failure or delay is materially prejudicial to theIndemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defensethereof with counsel designated by such Indemnifying Party and reasonably satisfactory to theIndemnified Party. If the defendants in any such action include one or more Indemnified Partiesand the Indemnifying Party and if the Indemnified Party reasonably concludes that there may belegal defenses available to it and/or other Indemnified Parties which are different from oradditional to those available to the Indemnifying Party, the Indemnified Party shall have the rightto select separate counsel to assert such legal defenses and to otherwise participate in the defenseof such action on its own behalf. In such instances, the Indemnifying Party shall only berequired to pay the fees and expenses of one additional attorney to represent an IndemnifiedParty 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 andcontrol the defense of any such action, suit or proceedings if and to the extent that, in the opinionof the Indemnified Party and its counsel, such action, suit or proceeding involves the potentialimposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity ofinterest between the Indemnified Party and the Indemnifying Party, in such event theIndemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall notsettle or consent to the entry of any judgment in any action, suit or proceeding without the

53

**SERVICE AGREEMENT NO. 2657**

consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned ordelayed.

**18.2 No Consequential Damages.**

Other than the liquidated damages heretofore described and the indemnity obligations setforth in Artic[le 18.1, in n](#br57)o event shall any Party be liable under any provision of this Agreementfor any losses, damages, costs or expenses for any special, indirect, incidental, consequential, orpunitive damages, including but not limited to loss of profit or revenue, loss of the use ofequipment, cost of capital, cost of temporary equipment or services, whether based in whole or inpart 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 separateagreement will not be considered to be special, indirect, incidental, or consequential damageshereunder.

**18.3 Insurance.**

Developer and Connecting Transmission Owner shall each, at its own expense, procureand maintain in force throughout the period of this Agreement and until released by the otherParties, the following minimum insurance coverages, with insurance companies licensed towrite insurance or approved eligible surplus lines carriers in the state of New York with aminimum A.M. Best rating of A or better for financial strength, and an A.M. Best financial sizecategory 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 andoperations, personal injury, broad form property damage, broad form blanket contractual liabilitycoverage products and completed operations coverage, coverage for explosion, collapse andunderground hazards, independent contractors coverage, coverage for pollution to the extentnormally available and punitive damages to the extent normally available using InsuranceServices Office, Inc. Commercial General Liability Coverage (“ISO CG”) Form CG 00 01 04 13or a form equivalent to or better than CG 00 01 04 13, with minimum limits of Two MillionDollars ($2,000,000) per occurrence and Two Million Dollars ($2,000,000) aggregate combinedsingle limit for personal injury, bodily injury, including death and property damage.

**18.3.3** Comprehensive Automobile Liability Insurance for coverage of ownedand 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 forbodily injury, including death, and property damage.

**18.3.4** If applicable, the Commercial General Liability and Comprehensive Automobile Liability Insurance policies should include contractual liability for work in

54

**SERVICE AGREEMENT NO. 2657**

connection with construction or demolition work on or within 50 feet of a railroad, or a separateRailroad 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 occurrenceand Twenty Million Dollars ($20,000,000) aggregate. The Excess policies should contain thesame extensions listed under the Primary policies.

**18.3.6** The Commercial General Liability Insurance, Comprehensive AutomobileInsurance and Excess Liability Insurance policies of Developer and Connecting TransmissionOwner shall name the other Party, its parent, associated and Affiliate companies and theirrespective directors, officers, agents, servants and employees (“Other Party Group”) as additionalinsureds using ISO CG Endorsements: CG 20 33 04 13, and CG 20 37 04 13 or CG 20 10 04 13and CG 20 37 04 13 or equivalent to or better forms. All policies shall contain provisionswhereby the insurers waive all rights of subrogation in accordance with the provisions of thisAgreement against the Other Party Group and provide thirty (30) Calendar days advance writtennotice to the Other Party Group prior to anniversary date of cancellation or any material changein coverage or condition.

**18.3.7** The Commercial General Liability Insurance, Comprehensive AutomobileLiability Insurance and Excess Liability Insurance policies shall contain provisions that specifythat the policies are primary and non-contributory. Developer and Connecting TransmissionOwner shall each be responsible for its respective deductibles or retentions.

**18.3.8** The Commercial General Liability Insurance, Comprehensive AutomobileLiability Insurance and Excess Liability Insurance policies, if written on a Claims First MadeBasis, shall be maintained in full force and effect for at least three (3) years after termination ofthis Agreement, which coverage may be in the form of tail coverage or extended reporting periodcoverage 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 coveragefor claims resulting from pollution or other environmental impairment arising out of or inconnection with work performed on the premises by the other party, its contractors and and/orsubcontractors. Such insurance is to include coverage for, but not be limited to, cleanup, thirdparty bodily injury and property damage and remediation and will be written on an occurrencebasis. The policy shall name the Other Party Group as additional insureds, be primary andcontain 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

55

**SERVICE AGREEMENT NO. 2657**

intended to and shall not in any manner, limit or qualify the liabilities and obligations assumedby those Parties under this Agreement.

**18.3.11** Within forty-five (45) days following execution of this Agreement, and assoon as practicable after the end of each fiscal year or at the renewal of the insurance policy andin any event within ninety (90) days thereafter, Developer and Connecting Transmission Ownershall provide certificate of insurance for all insurance required in this Agreement, executed byeach insurer or by an authorized representative of each insurer.

**18.3.12** Notwithstanding the foregoing, Developer and Connecting TransmissionOwner may each self-insure to meet the minimum insurance requirements of Artic[les 18.3.1](#br59)[through 18.3.9](#br60) to the extent it maintains a self-insurance program; provided that, such Party’ssenior debt is rated at investment grade, or better, by Standard & Poor’s and that its self-insurance program meets the minimum insurance requirements of Artic[les 18.3.1](#br59) [through 18.3.9.](#br60)In the event that a Party is permitted to self-insure pursuant to this Artic[le 18.3.12, it](#br61) shall notifythe other Party that it meets the requirements to self-insure and that its self-insurance programmeets the minimum insurance requirements in a manner consistent with that specified in Articles

[18.3.1](#br59) [through 18.3.9](#br60) and provide evidence of such coverages. For any period of time that aParty’s senior debt is unrated by Standard & Poor’s or is rated at less than investment grade byStandard & Poor’s, such Party shall comply with the insurance requirements applicable to itunder Artic[les 18.3.1](#br59) thr[ough 18.3.9.](#br60)

**18.3.13** Developer and Connecting Transmission Owner agree to report to eachother in writing as soon as practical all accidents or occurrences resulting in injuries to anyperson, including death, and any property damage arising out of this Agreement.

**18.3.14** Subcontractors of each party must maintain the same insurancerequirements stated under Artic[les 18.3.1](#br59) [through 18.3.9](#br60) and comply with the Additional Insuredrequirements herein. In addition, their policies must state that they are primary and non-contributory and contain a waiver of subrogation.

**ARTICLE 19. ASSIGNMENT**

This Agreement may be assigned by a Party only with the written consent of the otherParties; provided that a Party may assign this Agreement without the consent of the other Partiesto any Affiliate of the assigning Party with an equal or greater credit rating and with the legalauthority and operational ability to satisfy the obligations of the assigning Party under thisAgreement; provided further that a Party may assign this Agreement without the consent of theother Parties in connection with the sale, merger, restructuring, or transfer of a substantialportion or all of its assets, including the Attachment Facilities it owns, so long as the assignee insuch a transaction directly assumes in writing all rights, duties and obligations arising under thisAgreement; and provided further that the Developer shall have the right to assign thisAgreement, without the consent of the NYISO or Connecting Transmission Owner, for collateralsecurity purposes to aid in providing financing for the Large Generating Facility, provided that

56

**SERVICE AGREEMENT NO. 2657**

the Developer will promptly notify the NYISO and Connecting Transmission Owner of any suchassignment. Any financing arrangement entered into by the Developer pursuant to this Articlewill provide that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’sassignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgageewill notify the NYISO and Connecting Transmission Owner of the date and particulars of anysuch exercise of assignment right(s) and will provide the NYISO and Connecting TransmissionOwner with proof that it meets the requirements of Articles 11.5 a[nd 18.3.](#br59) Any attemptedassignment that violates this Article is void and ineffective. Any assignment under thisAgreement 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 beunreasonably withheld, conditioned or delayed.

**ARTICLE 20. SEVERABILITY**

If any provision in this Agreement is finally determined to be invalid, void orunenforceable by any court or other Governmental Authority having jurisdiction, suchdetermination shall not invalidate, void or make unenforceable any other provision, agreement orcovenant of this Agreement; provided that if the Developer (or any third party, but only if suchthird party is not acting at the direction of the Connecting Transmission Owner) seeks andobtains such a final determination with respect to any provision of the Alternate Option (Article

[5.1.2), or](#br19) the Negotiated Option (Artic[le 5.1.4), th](#br20)en none of these provisions shall thereafterhave any force or effect and the rights and obligations of Developer and ConnectingTransmission Owner shall be governed solely by the Standard Option (Article 5.1.1).

**ARTICLE 21. COMPARABILITY**

The Parties will comply with all applicable comparability and code of conduct laws, rulesand 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 shallconstitute confidential information (“Confidential Information”) and shall be subject to thisArtic[le 22.](#br62)

If requested by a Party receiving information, the Party supplying the information shallprovide in writing, the basis for asserting that the information referred to in this Article warrantsconfidential treatment, and the requesting Party may disclose such writing to the appropriateGovernmental Authority. Each Party shall be responsible for the costs associated with affordingconfidential treatment to its information.

57

**SERVICE AGREEMENT NO. 2657**

**22.2 Term.**

During the term of this Agreement, and for a period of three (3) years after the expirationor termination of this Agreement, except as otherwise provided in this Artic[le 22, e](#br62)ach Partyshall 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 informationthat is treated as confidential by the disclosing Party and which the disclosing Party identifies asConfidential 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 inAttachment F to the ISO OATT.

**22.4 Scope.**

Confidential Information shall not include information that the receiving Party candemonstrate: (1) is generally available to the public other than as a result of a disclosure by thereceiving Party; (2) was in the lawful possession of the receiving Party on a non-confidentialbasis before receiving it from the disclosing Party; (3) was supplied to the receiving Partywithout restriction by a third party, who, to the knowledge of the receiving Party after dueinquiry, was under no obligation to the disclosing Party to keep such information confidential;(4) was independently developed by the receiving Party without reference to ConfidentialInformation of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful actor omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordancewith Artic[le 22.9](#br64) of this Agreement, Order of Disclosure, to be disclosed by any GovernmentalAuthority or is otherwise required to be disclosed by law or subpoena, or is necessary in anylegal proceeding establishing rights and obligations under this Agreement. Informationdesignated as Confidential Information will no longer be deemed confidential if the Party thatdesignated the information as confidential notifies the other Party that it no longer isconfidential.

**22.5 Release of Confidential Information.**

No Party shall release or disclose Confidential Information to any other person, except toits Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees,consultants, or to parties who may be considering providing financing to or equity participationwith Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis inconnection with this Agreement, unless such person has first been advised of the confidentialityprovisions of this Article [22](#br62) and has agreed to comply with such provisions. Notwithstandingthe foregoing, a Party providing Confidential Information to any person shall remain primarilyresponsible for any release of Confidential Information in contravention of this Artic[le 22.](#br62)

58

**SERVICE AGREEMENT NO. 2657**

**22.6 Rights.**

Each Party retains all rights, title, and interest in the Confidential Information that eachParty discloses to the other Party. The disclosure by each Party to the other Parties ofConfidential Information shall not be deemed a waiver by any Party or any other person or entityof the right to protect the Confidential Information from public disclosure.

**22.7 No Warranties.**

By providing Confidential Information, no Party makes any warranties or representationsas to its accuracy or completeness. In addition, by supplying Confidential Information, no Partyobligates itself to provide any particular information or Confidential Information to the otherParties nor to enter into any further agreements or proceed with any other relationship or jointventure.

**22.8 Standard of Care.**

Each Party shall use at least the same standard of care to protect Confidential Informationit 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 itsobligations to the other Parties under this Agreement or its regulatory requirements, including theISO OATT and NYISO Services Tariff. The NYISO shall, in all cases, treat the information itreceives 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 apparentauthority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories,requests for production of documents, administrative order, or otherwise, to disclose ConfidentialInformation, that Party shall provide the other Parties with prompt notice of such request(s) orrequirement(s) so that the other Parties may seek an appropriate protective order or waivecompliance with the terms of this Agreement. Notwithstanding the absence of a protective orderor waiver, the Party may disclose such Confidential Information which, in the opinion of itscounsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts toobtain reliable assurance that confidential treatment will be accorded any ConfidentialInformation 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 todestroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to theother Parties) or return to the other Parties, without retaining copies thereof, any and all writtenor electronic Confidential Information received from the other Parties pursuant to thisAgreement.

59

**SERVICE AGREEMENT NO. 2657**

**22.11 Remedies.**

The Parties agree that monetary damages would be inadequate to compensate a Party foranother Party’s Breach of its obligations under this Artic[le 22. Ea](#br62)ch Party accordingly agreesthat the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if thefirst Party Breaches or threatens to Breach its obligations under this Article [22, whic](#br62)h equitablerelief shall be granted without bond or proof of damages, and the receiving Party shall not pleadin defense that there would be an adequate remedy at law. Such remedy shall not be deemed anexclusive remedy for the Breach of this Articl[e 22,](#br62) but shall be in addition to all other remediesavailable at law or in equity. The Parties further acknowledge and agree that the covenantscontained herein are necessary for the protection of legitimate business interests and arereasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequentialor punitive damages of any nature or kind resulting from or arising in connection with thisArtic[le 22.](#br62)

**22.12 Disclosure to FERC, its Staff, or a State.**

Notwithstanding anything in this Article [22](#br62) 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, requestsinformation from one of the Parties that is otherwise required to be maintained in confidencepursuant to this Agreement or the ISO OATT, the Party shall provide the requested informationto FERC or its staff, within the time provided for in the request for information. In providing theinformation 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 andthat the information be withheld from public disclosure. Parties are prohibited from notifyingthe other Parties to this Agreement prior to the release of the Confidential Information to theCommission or its staff. The Party shall notify the other Parties to the Agreement when it isnotified by FERC or its staff that a request to release Confidential Information has been receivedby 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 aconfidential investigation shall be treated in a similar manner if consistent with the applicablestate 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 stateregulatory body request under this paragraph.

**22.13 Required Notices Upon Requests or Demands for Confidential Information**

Except as otherwise expressly provided herein, no Party shall disclose ConfidentialInformation to any person not employed or retained by the Party possessing the ConfidentialInformation, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by thedisclosing Party to be required to be disclosed in connection with a dispute between or amongthe Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of theother Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill itsobligations under this Agreement, the ISO OATT or the NYISO Services Tariff. Prior to anydisclosures of a Party’s Confidential Information under this subparagraph, or if any third party or

60

**SERVICE AGREEMENT NO. 2657**

Governmental Authority makes any request or demand for any of the information described inthis subparagraph, the disclosing Party agrees to promptly notify the other Party in writing andagrees to assert confidentiality and cooperate with the other Party in seeking to protect theConfidential Information from public disclosure by confidentiality agreement, protective order orother reasonable measures.

**ARTICLE 23. DEVELOPER AND CONNECTING TRANSMISSION OWNER NOTICES OF ENVIRONMENTAL RELEASES**

Developer and Connecting Transmission Owner shall each notify the other Party, firstorally and then in writing, of the release of any Hazardous Substances, any asbestos or leadabatement activities, or any type of remediation activities related to the Large Generating Facilityor 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 Partymakes a good faith effort to provide the notice no later than twenty-four hours after such Partybecomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of anypublicly 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 informationregarding the electrical characteristics of their respective facilities to the other, and to NYISO, asdescribed 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 nolater than one hundred eighty (180) Calendar Days prior to Trial Operation and shall includeNew York State Transmission System information necessary to allow the Developer to selectequipment and meet any system protection and stability requirements, unless otherwise mutuallyagreed to by the Developer and Connecting Transmission Owner. On a monthly basisConnecting Transmission Owner shall provide Developer and NYISO a status report on theconstruction and installation of Connecting Transmission Owner’s Attachment Facilities andSystem Upgrade Facilities and System Deliverability Upgrades, including, but not limited to, thefollowing information: (1) progress to date; (2) a description of the activities since the lastreport; (3) a description of the action items for the next period; and (4) the delivery status ofequipment ordered.

**24.3 Updated Information Submission by Developer.**

The updated information submission by the Developer, including manufacturerinformation, shall occur no later than one hundred eighty (180) Calendar Days prior to the TrialOperation. Developer shall submit a completed copy of the Large Generating Facility data

61

**SERVICE AGREEMENT NO. 2657**

requirements contained in Appendix 1 to the Standard Large Facility Interconnection Procedures.It shall also include any additional information provided to Connecting Transmission Owner forthe Interconnection Facilities Study. Information in this submission shall be the most currentLarge Generating Facility design or expected performance data. Information submitted forstability models shall be compatible with NYISO standard models. If there is no compatiblemodel, the Developer will work with a consultant mutually agreed to by the Parties to developand supply a standard model and associated information.

If the Developer’s data is different from what was originally provided to ConnectingTransmission Owner and NYISO pursuant to an Interconnection Study Agreement amongConnecting Transmission Owner, NYISO and Developer and this difference may be reasonablyexpected to affect the other Parties’ facilities or the New York State Transmission System, butdoes not require the submission of a new Interconnection Request, then NYISO will conductappropriate studies to determine the impact on the New York State Transmission System basedon the actual data submitted pursuant to this Artic[le 24.3. S](#br66)uch studies will provide an estimateof any additional modifications to the New York State Transmission System, ConnectingTransmission Owner’s Attachment Facilities or System Upgrade Facilities or SystemDeliverability 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 Developershall be responsible for the cost of any modifications required by the actual data, including thecost of any required studies.

**24.4 Information Supplementation.**

Prior to the Commercial Operation Date, the Developer and Connecting TransmissionOwner shall supplement their information submissions described above in this Article [24](#br66) withany and all “as-built” Large Generating Facility information or “as-tested” performanceinformation that differs from the initial submissions or, alternatively, written confirmation thatno such differences exist. The Developer shall conduct tests on the Large Generating Facility asrequired by Good Utility Practice such as an open circuit “step voltage” test on the LargeGenerating Facility to verify proper operation of the Large Generating Facility’s automaticvoltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facilityat synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) afive percent change in Large Generating Facility terminal voltage initiated by a change in thevoltage regulators reference voltage. Developer shall provide validated test recordings showingthe responses of Large Generating Facility terminal and field voltages. In the event that directrecordings of these voltages is impractical, recordings of other voltages or currents that mirrorthe response of the Large Generating Facility’s terminal or field voltage are acceptable ifinformation necessary to translate these alternate quantities to actual Large Generating Facilityterminal or field voltages is provided. Large Generating Facility testing shall be conducted andresults provided to the Connecting Transmission Owner and NYISO for each individualgenerating unit in a station.

62

**SERVICE AGREEMENT NO. 2657**

Subsequent to the Commercial Operation Date, the Developer shall provide ConnectingTransmission Owner and NYISO any information changes due to equipment replacement, repair,or adjustment. Connecting Transmission Owner shall provide the Developer and NYISO anyinformation changes due to equipment replacement, repair or adjustment in the directlyconnected substation or any adjacent Connecting Transmission Owner substation that may affectthe Developer Attachment Facilities equipment ratings, protection or operating requirements.The Developer and Connecting Transmission Owner shall provide such information no later thanthirty (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 (“RequestingParty”) information that is in the possession of the Disclosing Party and is necessary in order forthe Requesting Party to: (i) verify the costs incurred by the Disclosing Party for which theRequesting Party is responsible under this Agreement; and (ii) carry out its obligations andresponsibilities under this Agreement. The Parties shall not use such information for purposesother than those set forth in this Article [25.1](#br68) of this Agreement and to enforce their rights underthis Agreement.

**25.2 Reporting of Non-Force Majeure Events.**

Each Party (the “Notifying Party”) shall notify the other Parties when the Notifying Partybecomes aware of its inability to comply with the provisions of this Agreement for a reason otherthan a Force Majeure event. The Parties agree to cooperate with each other and providenecessary information regarding such inability to comply, including the date, duration, reason forthe inability to comply, and corrective actions taken or planned to be taken with respect to suchinability to comply. Notwithstanding the foregoing, notification, cooperation or informationprovided under this Article shall not entitle the Party receiving such notification to allege a causefor anticipatory breach of this Agreement.

**25.3 Audit Rights.**

Subject to the requirements of confidentiality under Artic[le 22](#br62) of this Agreement, eachParty shall have the right, during normal business hours, and upon prior reasonable notice toanother Party, to audit at its own expense the other Party’s accounts and records pertaining to theother Party’s performance or satisfaction of its obligations under this Agreement. Such auditrights shall include audits of the other Party’s costs, calculation of invoiced amounts, and eachParty’s actions in an Emergency State. Any audit authorized by this Article shall be performedat the offices where such accounts and records are maintained and shall be limited to thoseportions of such accounts and records that relate to the Party’s performance and satisfaction ofobligations under this Agreement. Each Party shall keep such accounts and records for a periodequivalent to the audit rights periods described in Artic[le 25.4](#br69) of this Agreement.

63

**SERVICE AGREEMENT NO. 2657**

**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 ofConnecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities andSystem Deliverability Upgrades shall be subject to audit for a period of twenty-four monthsfollowing Connecting Transmission Owner’s issuance of a final invoice in accordance withArtic[le 12.2](#br52) 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 obligationsunder this Agreement other than those described in Artic[le 25.4.1 of](#br69) this Agreement shall besubject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rightsperiod shall be twenty-four months after the auditing Party’s receipt of an invoice giving rise tosuch cost obligations; and (ii) for an audit relating to all other obligations, the applicable auditrights 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, anotice of such overpayment or underpayment shall be given to the other Party together withthose 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 anysubcontractor 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 andconditions of this Agreement in providing such services and each Party shall remain primarilyliable 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 itsobligations under this Agreement. The hiring Party shall be fully responsible to the other Partiesfor the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had beenmade; provided, however, that in no event shall the NYISO or Connecting Transmission Ownerbe liable for the actions or inactions of the Developer or its subcontractors with respect toobligations of the Developer under Artic[le 5](#br19) of this Agreement. Any applicable obligation

64

**SERVICE AGREEMENT NO. 2657**

imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall beconstrued as having application to, any subcontractor of such Party.

**26.3 No Limitation by Insurance.**

The obligations under this Artic[le 26](#br69) 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 connectionwith this Agreement or its performance (a “Dispute”), such Party shall provide the other Partieswith written notice of the Dispute (“Notice of Dispute”). Such Dispute shall be referred to adesignated senior representative of each Party for resolution on an informal basis as promptly aspracticable after receipt of the Notice of Dispute by the other Parties. In the event the designatedrepresentatives are unable to resolve the Dispute through unassisted or assisted negotiationswithin thirty (30) Calendar Days of the other Parties’ receipt of the Notice of Dispute, suchDispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved inaccordance with the arbitration procedures set forth below. In the event the Parties do not agreeto submit such Dispute to arbitration, each Party may exercise whatever rights and remedies itmay 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 neutralarbitrator 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 onearbitrator who shall sit on a three-member arbitration panel. In each case, the arbitrator(s) shallbe knowledgeable in electric utility matters, including electric transmission and bulk powerissues, and shall not have any current or past substantial business or financial relationships withany party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of theParties an opportunity to be heard and, except as otherwise provided herein, shall conduct thearbitration in accordance with the Commercial Arbitration Rules of the American ArbitrationAssociation (“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 Artic[le 27,](#br70)the terms of this Artic[le 27](#br70) shall prevail.

**27.3 Arbitration Decisions.**

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision withinninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decisionand the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply theprovisions of this Agreement and shall have no power to modify or change any provision of this

65

**SERVICE AGREEMENT NO. 2657**

Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon theParties, and judgment on the award may be entered in any court having jurisdiction. Thedecision of the arbitrator(s) may be appealed solely on the grounds that the conduct of thearbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Actor the Administrative Dispute Resolution Act. The final decision of the arbitrator must also befiled with FERC if it affects jurisdictional rates, terms and conditions of service, AttachmentFacilities, System Upgrade Facilities, or System Deliverability Upgrades.

**27.4 Costs.**

Each Party shall be responsible for its own costs incurred during the arbitration processand for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to siton the three member panel; or (2) one-third the cost of the single arbitrator jointly chosen by theParties.

**27.5 Termination.**

Notwithstanding the provisions of this Article [27, a](#br70)ny Party may terminate thisAgreement in accordance with its provisions or pursuant to an action at law or equity. The issueof 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 thestate in which it is organized, formed, or incorporated, as applicable; that it is qualified to dobusiness in the state or states in which the Large Generating Facility, Attachment Facilities andSystem Upgrade Facilities and System Deliverability Upgrades owned by such Party, asapplicable, are located; and that it has the corporate power and authority to own its properties, tocarry on its business as now being conducted and to enter into this Agreement and carry out thetransactions contemplated hereby and perform and carry out all covenants and obligations on itspart 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 aParty hereto and to perform its obligations hereunder. This Agreement is a legal, valid andbinding 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,

66

**SERVICE AGREEMENT NO. 2657**

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 conflictwith the organizational or formation documents, or bylaws or operating agreement, of suchParty, or any judgment, license, permit, order, material agreement or instrument applicable to orbinding upon such Party or any of its assets.

**28.1.4 Consent and Approval.**

Such Party has sought or obtained, or, in accordance with this Agreement will seek orobtain, each consent, approval, authorization, order, or acceptance by any GovernmentalAuthority in connection with the execution, delivery and performance of this Agreement, and itwill provide to any Governmental Authority notice of any actions under this Agreement that arerequired 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 shallinure 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 thiscover agreement and the Appendices hereto, the terms and conditions of this cover agreementshall be given precedence over the Appendices, except as otherwise expressly agreed to inwriting by the Parties.

**29.3 Rules of Interpretation.**

This Agreement, unless a clear contrary intention appears, shall be construed andinterpreted 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 ina particular capacity excludes such person in any other capacity or individually; (3) reference toany agreement (including this Agreement), document, instrument or tariff means suchagreement, document, instrument, or tariff as amended or modified and in effect from time totime in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference toany Applicable Laws and Regulations means such Applicable Laws and Regulations asamended, 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

67

**SERVICE AGREEMENT NO. 2657**

otherwise, reference to any Article, Section or Appendix means such Article of this Agreementor such Appendix to this Agreement, or such Section to the Standard Large FacilityInterconnection Procedures or such Appendix to the Standard Large Facility InterconnectionProcedures, as the case may be; (6) “hereunder”, “hereof’, “herein”, “hereto” and words ofsimilar import shall be deemed references to this Agreement as a whole and not to any particularArticle or other provision hereof or thereof; (7) “including” (and with correlative meaning“include”) means including without limiting the generality of any description preceding suchterm; and (8) relative to the determination of any period of time, “from” means “from andincluding”, “to” means “to but excluding” and “through” means “through and including”.

**29.4 Compliance.**

Each Party shall perform its obligations under this Agreement in accordance withApplicable Laws and Regulations, Applicable Reliability Standards, the ISO OATT and GoodUtility Practice. To the extent a Party is required or prevented or limited in taking any action bysuch regulations and standards, such Party shall not be deemed to be in Breach of this Agreementfor its compliance therewith. When any Party becomes aware of such a situation, it shall notifythe other Parties promptly so that the Parties can discuss the amendment to this Agreement that isappropriate under the circumstances.

**29.5 Joint and Several Obligations.**

Except as otherwise stated herein, the obligations of NYISO, Developer and ConnectingTransmission 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 theentire agreement between the Parties with reference to the subject matter hereof, and supersedesall prior and contemporaneous understandings or agreements, oral or written, between the Partieswith 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, orany 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 anycharacter whatsoever in favor of any persons, corporations, associations, or entities other than theParties, and the obligations herein assumed are solely for the use and benefit of the Parties, theirsuccessors in interest and permitted their assigns.

**29.8 Waiver.**

The failure of a Party to this Agreement to insist, on any occasion, upon strictperformance of any provision of this Agreement will not be considered a waiver of anyobligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either

68

**SERVICE AGREEMENT NO. 2657**

Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or awaiver with respect to any other failure to comply with any other obligation, right, duty of thisAgreement. Termination or Default of this Agreement for any reason by the Developer shall notconstitute a waiver of the Developer’s legal rights to obtain Capacity Resource InterconnectionService and Energy Resource Interconnection Service from the NYISO and ConnectingTransmission Owner in accordance with the provisions of the ISO OATT. Any waiver of thisAgreement shall, if requested, be provided in writing.

**29.9 Headings.**

The descriptive headings of the various Articles of this Agreement have been inserted forconvenience of reference only and are of no significance in the interpretation or construction ofthis Agreement.

**29.10 Multiple Counterparts.**

This Agreement may be executed in two or more counterparts, each of which is deemedan original but all constitute one and the same instrument.

**29.11 Amendment.**

The Parties may by mutual agreement amend this Agreement, by a written instrumentduly 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 awritten instrument duly executed by all three of the Parties. Such an amendment shall becomeeffective 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 unilateralfilings 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 applicableprovision of the Federal Power Act and FERC’s rules and regulations thereunder, and Developershall have the right to make a unilateral filing with FERC to modify this Agreement pursuant tosection 206 or any other applicable provision of the Federal Power Act and FERC’s rules andregulations thereunder; provided that each Party shall have the right to protest any such filing byanother Party and to participate fully in any proceeding before FERC in which suchmodifications may be considered. Nothing in this Agreement shall limit the rights of the Partiesor of FERC under sections 205 or 206 of the Federal Power Act and FERC’s rules andregulations thereunder, except to the extent that the Parties otherwise mutually agree as providedherein.

69

**SERVICE AGREEMENT NO. 2657**

**29.14 No Partnership.**

This Agreement shall not be interpreted or construed to create an association, jointventure, agency relationship, or partnership among the Parties or to impose any partnershipobligation or partnership liability upon any Party. No Party shall have any right, power orauthority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be anagent or representative of, or to otherwise bind, any other Party.

**29.15 Other Transmission Rights.**

Notwithstanding any other provision of this Agreement, nothing herein shall be construedas 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 orin the future under any other agreement or tariff as a result of, or otherwise associated with, thetransmission capacity, if any, created by the System Upgrade Facilities and SystemDeliverability Upgrades.

70

**SERVICE AGREEMENT NO. 2657**



**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.

**New York Independent System Operator, Inc.**

By:

Name:

Title:

Date:

**New York State Electric & Gas Corporation**

By: By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**High Bridge Wind, LLC**

By:

Name:

Title:

Date:

71

**SERVICE AGREEMENT NO. 2657**

**APPENDICES**

**Appendix A**

Attachment Facilities and System Upgrade Facilities

**Appendix B**

Milestones

**Appendix C**

Interconnection Details

**Appendix D**

Security Arrangements Details

**Appendix E-1**

Initial Synchronization Date

**Appendix E-2**

Commercial Operation Date

**Appendix F**

Addresses for Delivery of Notices and Billings

**SERVICE AGREEMENT NO. 2657**

**APPENDIX A**

**ATTACHMENT FACILITIES AND SYSTEM UPGRADE FACILITIES**

**1. Attachment Facilities:**

**(a) Developer’s Attachment Facilities:**

The Developer’s Attachment Facilities (“DAFs”) include all of the facilities between theDeveloper’s side of the Point of Change of Ownership (“PCO”) and the Large GeneratingFacility. The High Bridge Collector Substation will collect energy from the Large GeneratingFacility and feed the energy to the transmission grid via the Connecting Transmission Owner’ssystem.

The DAFs will be designed, constructed, operated, and maintained by the Developer.Developer shall design and construct the DAFs in accordance with the applicable requirementsof Connecting Transmission Owner, to the extent not inconsistent with the terms of thisAgreement or the NYISO OATT, as set out in (i) Connecting Transmission Owner’s applicablestandards and (ii) the Connecting Transmission Owner’s Bulletin 86-01.

The DAFs will consist of the following major electrical and physical equipment:

*High Bridge Collector Substation*

• One (1) three-phase circuit breaker, 145 kV, 1200/2000 A continuous with six (6)

sets of multi ratio (“MR”) bushing current transformers;

• One (1) three-phase, three winding, 115/34.5/13.8 kV grounded wye-grounded wye/delta tertiary, step-up transformer rated 75/100/125 MVA (ONAN/ONAF/ONAF), with impedance of 8.96%;

• Three (3) single-phase, 115 kV coupling capacitor voltage transformers

(“CCVTs”);

• One (1) line disconnect switch, motor operated, three-phase, 115 kV, 1200A;

• 115 kV structures and foundations; and

• 115 kV bus work.

**(b) Connecting Transmission Owner’s Attachment Facilities:**

The Connecting Transmission Owner’s Attachment Facilities (“CTOAFs”) include thefacilities and equipment owned, controlled or operated by the Connecting Transmission Ownerbetween the PCO and the Point of Interconnection (“POI”). The PCO and the POI aredesignated on Figure A-1 to Appendix A. Developer will design, construct, and commission theConnecting Transmission Owner’s Attachment Facilities in accordance with the applicablerequirements of Connecting Transmission Owner, to the extent not inconsistent with the terms of

A-1

**SERVICE AGREEMENT NO. 2657**

this Agreement or the NYISO OATT, as set out in (i) Connecting Transmission Owner’sapplicable standards and (ii) the Connecting Transmission Owner’s Bulletin 86-01. TheConnecting Transmission Owner will provide project management and construction oversight.

As depicted in Figure A-1, the CTOAFs include the following major electrical andphysical equipment:

• One (1) line disconnect switch, motor-operated, three-phase, vertical break, 123 kV nominal, 550 kV basic insulation level (“BIL”), 3000 A continuous with group operated ground switch;

• Three (3) 115 kV combination current transformer/voltage transformer (“CT/VT”) metering units, 550 kV BIL, metering accuracy (use for metering);• Three (3) surge arresters, 96 kV nominal voltage, 76 kV maximum continuous operating voltage (“MCOV”);

• One (1) 115 kV A-Frame dead end structure; • 115 kV structures and foundations; • 115 kV bus work, cables, fittings;

• Conduit;

• Control cabling; and • Grounding material.

**2. System Upgrade Facilities:**

**(a) Stand Alone System Upgrade Facilities:**

The Large Generating Facility will interconnect to the Connecting Transmission Owner’stransmission system via a new POI Station with a three-breaker ring bus configuration (“HighBridge Substation”). The new High Bridge Substation will connect the Large GeneratingFacility to the Connecting Transmission Owner’s existing 115 kV transmission line (#946)running between its existing Jennison and East Norwich Substations. Line #946 will be tappedinto the High Bridge Substation with the addition of two (2) new steel transmission poles. Theinterconnection will also consist of upgrades to the Line #946 remote ends. The Developer willperform the engineering, design, procurement, permitting, construction, installation, testing, andcommissioning of the High Bridge Substation in accordance with Connecting TransmissionOwner’s Bulletin 86-01, to the extent not inconsistent with this Agreement and the NYISOOATT. The Connecting Transmission Owner will provide project management and constructionoversight. As depicted in Figure A-1, the new High Bridge Substation includes the followingmajor electrical and physical equipment:

• Three (3) vacuum circuit breakers 145 kV nominal system voltage, 650 kV basic insulation level (“BIL”), 3000 A continuous, 40 kA interrupting with six (6) sets of bushing current transformers, 3000/5A multi-ratio (“MR”) relay accuracy C800;• Seven (7) motor operated disconnect switches, three phase, vertical break, 123 kV nominal voltage, 3000 A continuous, 550 kV BIL with aux. switches;

A-2

**SERVICE AGREEMENT NO. 2657**

• Two (2) motor operated disconnect switches, three-phase, vertical break, 123 kV nominal voltage, 3000 A continuous, 550 kV BIL with aux. switches with group operated grounding switch;

• Ten (10) CCVTs 115 kV nominal voltage, 550 kV BIL, 1000 Volt-ampere (“VA”)

continuous, 577/1000:1;

• Fiber optic cable, four (4) strands for remote end communications; • Telecommunication equipment;

• IT equipment;

• One (1) large control enclosure, 43'-6"x22'-0" with relaying panels for metering,

control and communication;

• Seven (7) surge arresters, 96 kV nominal voltage, 76 kV MCOV; • Redundant A & B relay systems;

• One (1) pilot scheme;

• Two (2) station batteries (125 V DC); • Two (2) station battery chargers;

• Two (2) 115 kV A-Frame dead end structures;• One (1) single-phase 100 kVA station service voltage transformer (“SSVT”);• One (1) lightning mast;

• 115 kV structures; • Foundations;

• 115 kV bus work, cables, fittings; • AC & DC station service panels; • Fencing;

• Conduits and trench; • Control cabling;

• Grounding materials; and

• Excavation, backfilling, grading.

**(b) Other System Upgrade Facilities**

The Connecting Transmission Owner and Developer agree that Developer will performthe Other SUF work. The Developer shall perform such work consistent with the requirementsin Section 5.2 of this Agreement. The Developer will perform the engineering, design,procurement, construction, installation, testing, and commissioning of the Other System UpgradeFacilities in accordance with (i) Connecting Transmission Owner’s applicable standards inaccordance with Good Utility Practice and (ii) the Connecting Transmission Owner’s Bulletin86-01, to the extent not inconsistent with this Agreement and the NYISO OATT.

*i. Jennison Substation*

The Connecting Transmission Owner’s existing 115kV Jennison Substation requiresupgrades to accommodate the new High Bridge Substation. The Connecting TransmissionOwner’s existing 115 kV 946 line from the Jennison to East Norwich substations will need to be

A-3

**SERVICE AGREEMENT NO. 2657**

rerouted to the new High Bridge Substation. The existing Line 946 relay settings will need to beupdated.

The work at the Jennison Substation includes the following major electrical and physicalequipment:

• Line relay settings;

• Fiber optic cable, four (4) strands for SA SUF communications;• Telecommunication equipment;• 115 kV Bus work, cables, fittings;• Conduits;

• Control cabling; and • Grounding materials.

ii. *Overdutied Breaker at Jennison Substation*

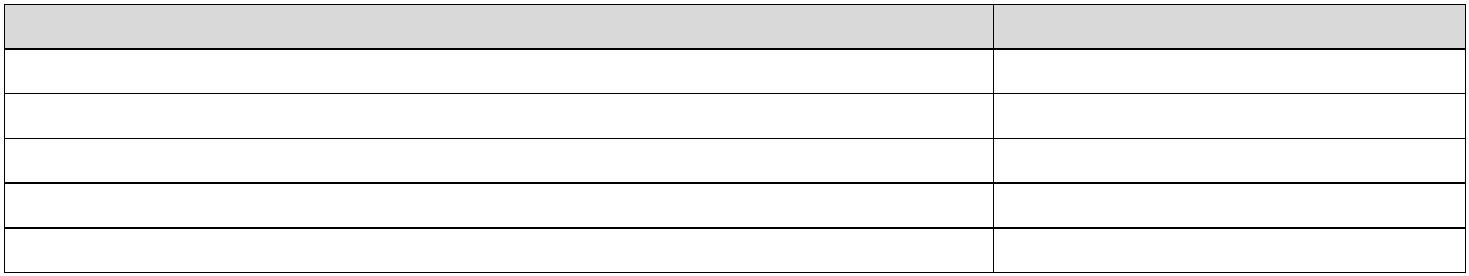
The Interconnection Facilities Study for Class Year 2019 determined that theinterconnection of Developer’s Large Generating Facility (the “High Bridge Wind Project” withQueue No. 706) and the interconnection of another affiliated Large Generating Facility (the“Bluestone Wind Project” with Queue No. 579) would result in an overdutied 115 kV breaker atConnecting Transmission Owner’s Jennison Substation. The Interconnection Facilities Studyidentified the replacement of the overdutied 115 kV breaker as an upgrade for both projects at atotal cost of $310,700, determining that the High Bridge Wind Project is responsible for 39.61%of the costs of the upgrade, and the Bluestone Wind Project is responsible for 60.39% of the costof the upgrade.

In the original version of this Agreement, Developer and the developer of the BluestoneWind Project agreed to perform the installation of the replacement breaker at ConnectingTransmission Owner’s Jennison Substation, subject to Connecting Transmission Owner’soversight. Developer agreed to be individually responsible for installing the replacement breakerat the Jennison Substation in accordance with the terms and conditions of this Agreement;*provided, however,* that if the developer of the Bluestone Wind Project individually, orcollectively with Developer, installed the replacement breaker, Developer’s obligation would bedeemed satisfied for purposes of this Agreement. Developer agreed that it would be responsiblefor coordinating with the developer of the Bluestone Wind Project outside of this Agreement tothe extent necessary concerning the entities’ installation of the replacement breaker, includingany joint coordination with Connecting Transmission Owner and addressing any cost allocationissues associated with this work between the entities.

Subsequent to the execution of the original version of this Agreement, the developer ofthe Bluestone Wind Project replaced the overdutied 115 kV breaker at the Jennison Substation atits own expense. The installation of the replacement breaker satisfies Developer’s obligationconcerning the overdutied breaker for purposes of this Agreement. Any issues or disputebetween Developer and the developer of the Bluestone Wind Project concerning the allocation of

A-4

**SERVICE AGREEMENT NO. 2657**



the costs of this replacement breaker work shall be resolved between the Developer and thedeveloper of the Bluestone Wind Project outside of this Agreement.

*iii. East Norwich Substation*

The Connecting Transmission Owner’s existing 115kV East Norwich Substation requiresupgrades to accommodate the new High Bridge Substation. The Connecting TransmissionOwner’s existing 115 kV Line #946 from East Norwich to Jennison Substations will need to bererouted to the new High Bridge Substation. The existing electro-mechanical line relaying willbe removed and two new relay panels will be installed to accommodate the new line relaying.Panel 201 will be updated to accommodate the new A protection line relaying and Panel 110 willbe installed to accommodate the new B protection line relaying. Fiber needs to be added tocommunication between East Norwich Substation and the new High Bridge Substation.

The work at the East Norwich Substation includes the following major electrical andphysical equipment:

• Redundant A & B relay systems;• Four (4) fiber strands for relay protection; and• Control cabling.

*iv. Overdutied Breakers at East Norwich Substation*

The Interconnection Facilities Study for Class Year 2019 determined that theinterconnection of the High Bridge Wind Project would result in four (4) overdutied breakers atConnecting Transmission Owner’s East Norwich Substation. The Interconnection FacilitiesStudy identified the replacement of the overdutied breakers at a total cost of $1,064,800.

Due to an end-of-useful-life determination of the overdutied breakers, ConnectingTransmission Owner will perform the installation of the replacement breakers at East NorwichSubstation at Connecting Transmission Owner’s expense.

**3. System Deliverability Upgrades**

None.

**4. Cost Estimates**

**Description Estimated Cost**Connecting Transmission Owner’s Attachment Facilities $878,000Stand Alone System Upgrade Facilities $9,226,000Other System Upgrade Facilities

*Jennison Substation* $257,000 *Overdutied Breaker at Jennison Substation* $123,068

A-5

**SERVICE AGREEMENT NO. 2657**



*East Norwich Substation* $232,500*Overdutied Breakers at East Norwich Substation* $1,064,800 **Total** $11,781,368

**5. Operating and Maintenance Expenses**

The Connecting Transmission Owner will invoice the Developer for all O&M paymentsdue to be made by the Developer on a monthly basis in accordance with Article 12 of thisagreement. Developer shall have the option to pay such O&M Expenses either under theprocedure described in Option 1 or in Option 2 below.

Option 1: Fixed On-Going Charge Payment:

As of the Effective Date, the total cost of the Connecting Transmission Owner’sAttachment Facilities is $878,000.00. Accordingly, Developer’s monthly O&MExpenses shall be as follows:

Developer shall pay to Connecting Transmission Owner for O&M Expenses each monthduring the term of this Agreement based on a FERC-approved methodology on anamount equal to 1/12 of the product of 7.525% and the total cost of such ConnectingTransmission Owner’s Attachment Facilities as listed at Appendix A of this Agreement.The percentages may be updated annually.

Estimated Monthly O&M calculation = 1/12 x 7.525% x $878,000.00

Estimated Monthly O&M payment = $5,505.79

Option 2: Annual Actual O&M Expenses

The Developer shall pay for all reasonable and verifiable O&M Expenses incurred byConnecting Transmission Owner, which expenses shall be billed by ConnectingTransmission Owner annually as accumulated during the year for which they wereincurred.

B. O&M Expenses

O&M Expenses shall include (but are not limited to):

1. Operation & Maintenance 2. Equipment Replacement 3. Administrative & General

4. Applicable Property and Other Taxes

Selection by Developer

A-6

**SERVICE AGREEMENT NO. 2657**

Developer shall select which option for paying O&M Expenses by providing writtennotice to the Connecting Transmission Owner within thirty (30) days after receiving from theConnecting Transmission Owner the Connecting Transmission Owner’s Attachment FacilitiesPlant installed cost. If Developer fails to provide timely notice to Connecting TransmissionOwner of the option selected, Developer will be deemed to have chosen:

Option 2: Annual Actual O&M Expenses

A-7

**SERVICE AGREEMENT NO. 2657**



**Figure 1**

(Follows below)

A-8

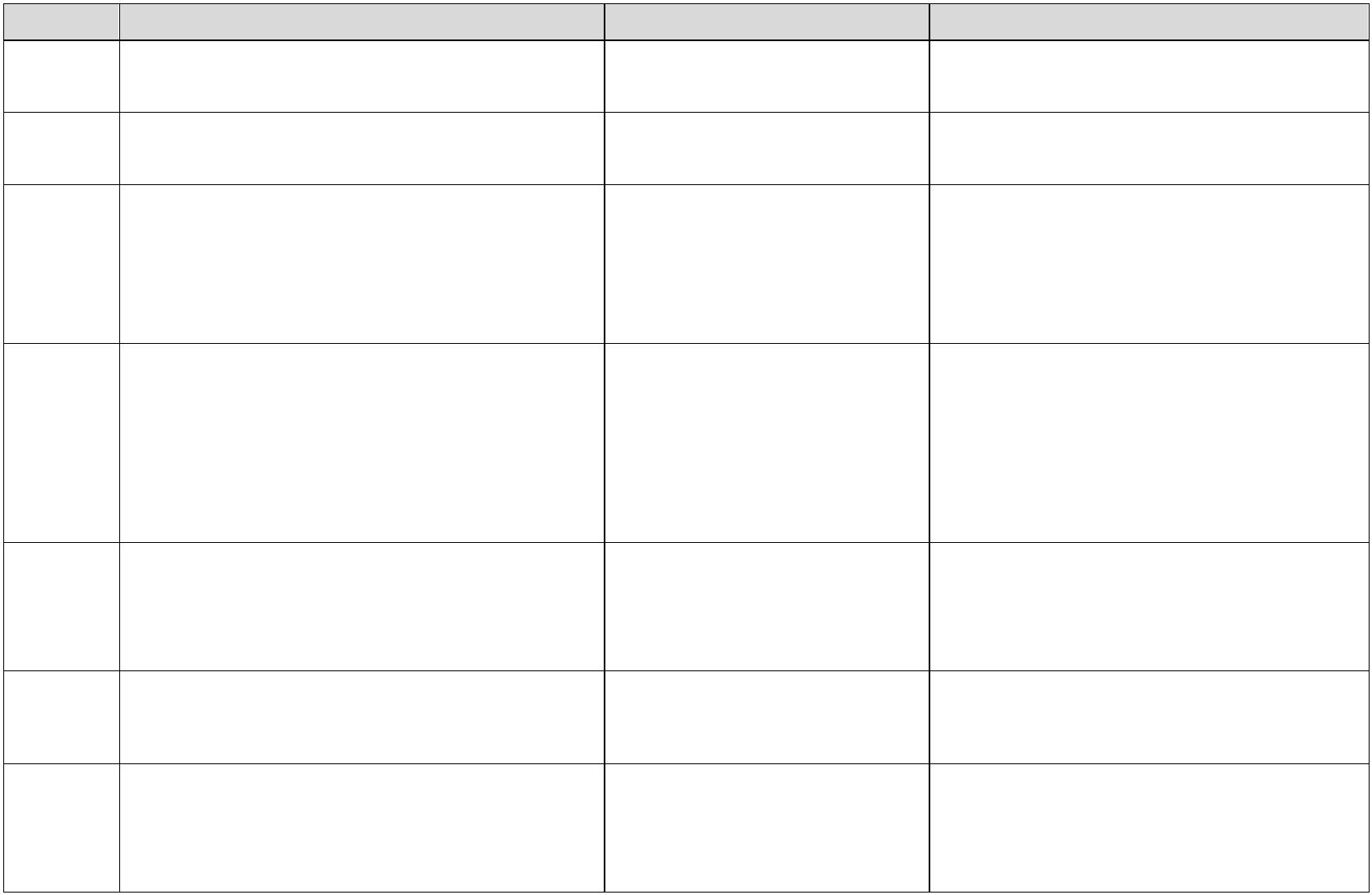
**SERVICE AGREEMENT NO. 2657**



**[CONTAINS CEII- THIS PAGE REMOVED FROM PUBLIC VERSION]**

A-9

**SERVICE AGREEMENT NO. 2657**



**APPENDIX B**

**MILESTONES**

**1. Selected Option Pursuant to Article 5.1**

Developer has elected the Option to Build pursuant to Article 5.1.3 of this Agreementwith respect to its responsibilities detailed in Appendix A regarding the ConnectingTransmission Owner’s Attachment Facilities and the Stand Alone System Upgrade Facilities.The Connecting Transmission Owner will perform its responsibilities detailed in Appendix A inaccordance with the Standard Option set forth in Article 5.1.1 of this Agreement

**2. Milestones**

Milestones listed have been determined prior to beginning detailed engineering.Modifications should be expected. A significant amount of work is dependent on securingoutages. Outage applications require significant engineering completion prior to submitting theoutage request. A minimum of 180 days in advance is required. Outage requests are not alwaysgranted due to system conditions and other scheduled outage work.

**Milestone Date Responsible Party** 1. LGIA executed February 2022 Developer/Connecting

Transmission Owner

2. Executed Amended LGIA March 2025 Developer/Connecting

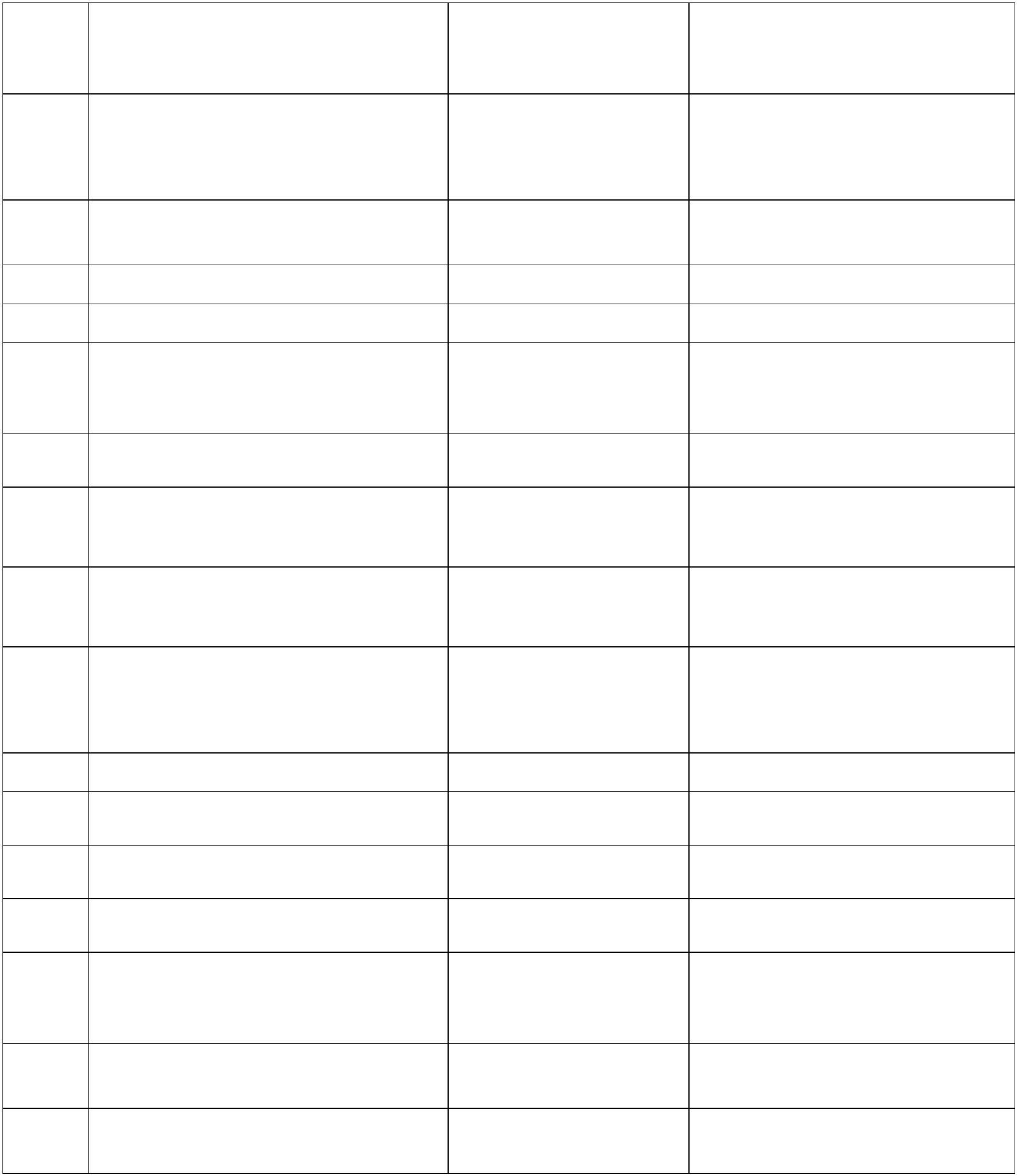
Transmission Owner 3. Conceptual package according to Completed Developer

engineering deliverables TM2.71.18and Equipment Specification IFR,IFU.

|  |  |  |
| --- | --- | --- |
| 4. Conceptual package according to  Engineering Deliverables  TM2.71.18 and Equipment  Specification IFA. |  | Completed Developer |
| 5. Start System Protection and Control  (SPC) 1-2 (starts after conceptual  has been approved) |  | Completed Developer |
| 6. Start RAM (Transmission facility  rating and modeling) process |  | Completed Developer |
| 7. Detail engineering package  according to engineering  deliverables TM2.71.18 IFR, IFA |  | Completed Developer |

B-1

**SERVICE AGREEMENT NO. 2657**



|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 8. Submission of electrical and civil  design for compliance filing for  Article 10 Certificate | | |  | Completed Developer |
| 9. Detail Engineering Package  according to Engineering  Deliverables TM2.71.18 IFR, IFA,  IFC  10. Issue purchase orders for long lead  items. |  | April 2025 Connecting Transmission Owner  March 2025 Developer | | | |

11. SPC 1-2 completed March 2025 Developer

12. Site mobilization July 2025 Developer

|  |  |  |
| --- | --- | --- |
| 13. POI Substation and Developer  Attachment Facilities: construction  start date - grading |  | July 2025 Developer |

14. Remote ends – construction start December 2025 Developer

date

15. POI Substation and Developer December 2025 Developer

Attachment Facilities: foundations (completion)

16. Start SPC3-7 According to March 2025 Developer engineering deliverables TM2.71.18

IFR, IFA

17. Request outage date (date may March 2025 Developer change according to construction,

testing and commissioning sequencing)

18. Main power transformer on site July 2026 Developer

19. Start POI Substation and Developer December 2025 Developer Attachment Facilities: above ground

20. Overhead line crossing agreements March 2025 Developer/Connecting completed Transmission Owner

21. SPC 3-7 according to engineering September 2025 Developer deliverables TM2.71.18 IFC

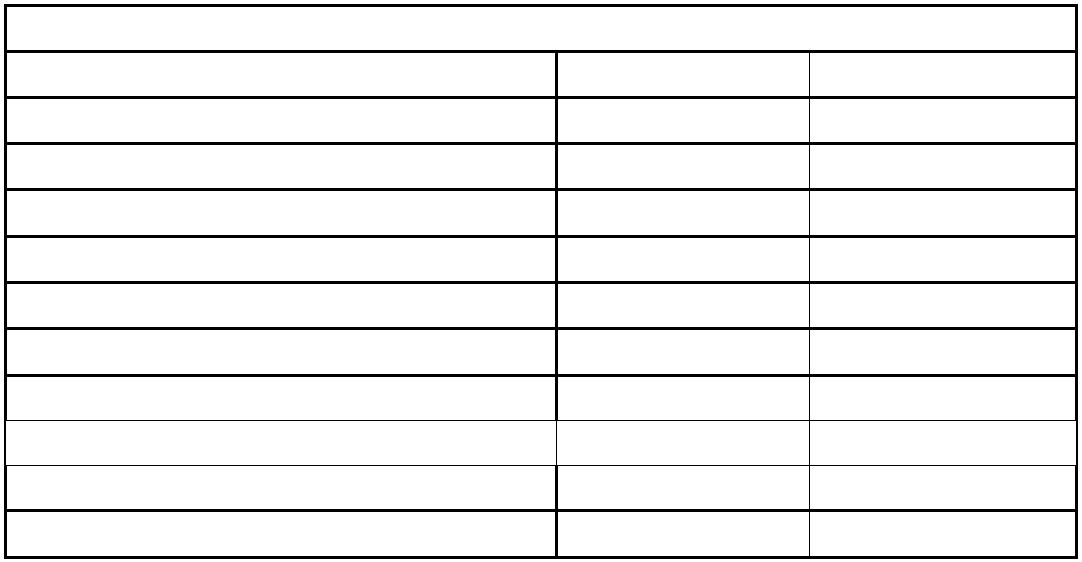
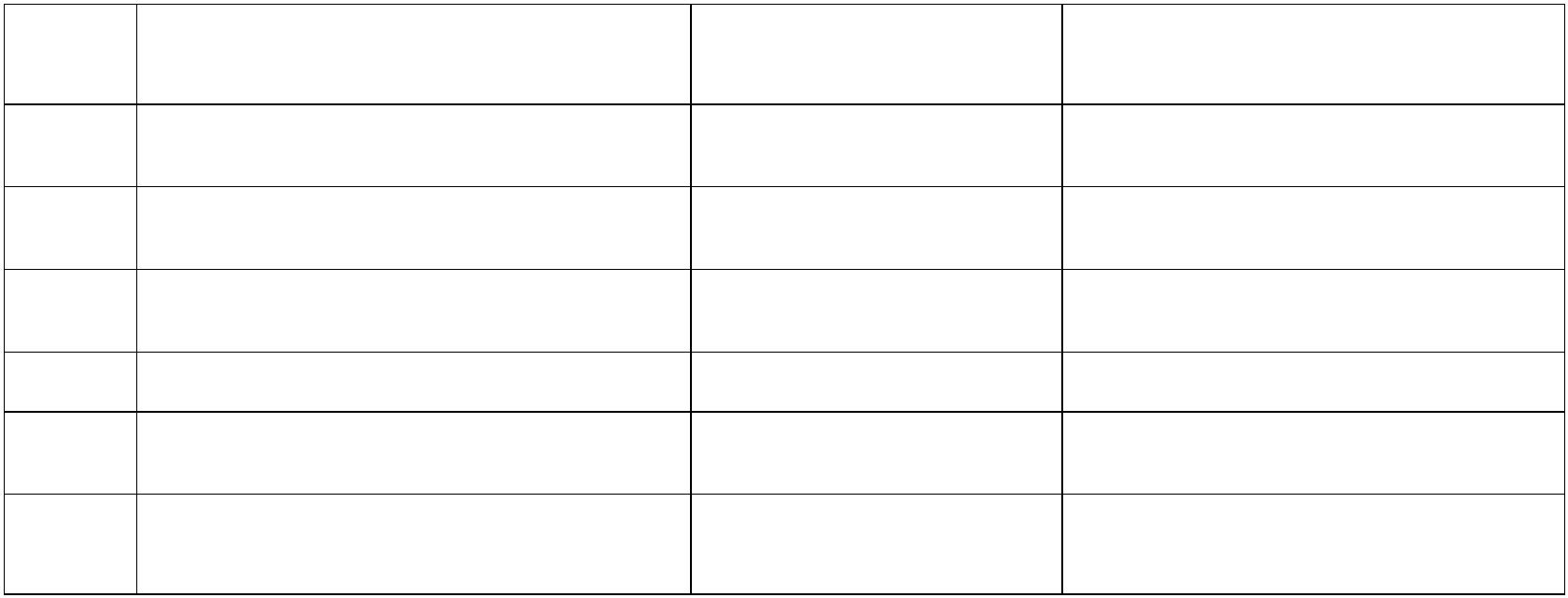
22. RAM (45 days) process approved January 2026 may be Developer completed as early as

November 2025

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 23. Testing/commissioning (POI and  remote ends) |  | March-September 2026 Developer/Connecting  Transmission Owner | | | |
| 24. Interconnection line construction  (completion) | | |  | September 2026 Developer |

B-2

**SERVICE AGREEMENT NO. 2657**



|  |  |  |
| --- | --- | --- |
| 25. Collection substation construction  (completion) |  | August 2026 Developer |

26. Asset transfer agreement started November 2024 Developer/Connecting Transmission Owner

27. Asset transfer agreement completed September 2026 Developer/Connecting Transmission Owner

28. In-Service Date September 2026 Developer/Connecting Transmission Owner

29. Initial Synchronization Date September 2026 Developer

30. Commercial Operation Date November 2026 Developer/Connecting

Transmission Owner

31. Project Close-Out Date May 2027 Developer (documentation)

**3. Security and Prepayment Amounts**

**1. Security**

Developer will provide security to the Connecting Transmission Owner in the amount of$878,000 pursuant to Article 11.5 of this Agreement for the Connecting Transmission Owner’sAttachment Facilities. This amount is in addition to the security in the amount of $10,903,368that the Developer posted for System Upgrade Facilities pursuant to Attachment S of the NYISOOATT.

**2. Prepayment for Connecting Transmission Owner’s Oversight**

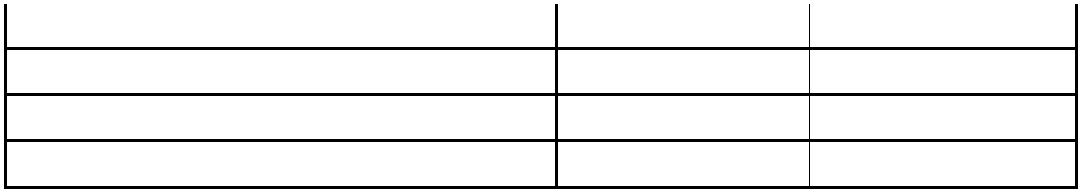
Developer has agreed to pay Connecting Transmission Owner in the amount of$4,835,000.00 for Connecting Transmission Owner to execute the responsibilities to beConnecting Transmission Owner under Article 5.2 (“Connecting Transmission Owner’sOversight).

**Pre-Payment Installments**

Date/Task Milestone # InstallmentEngineering - cost through 2024 $700,000Feb 2025 $50,000Mar 2025 $200,000Apr 2025 $50,000May 2025 $50,000June 2025 $50,000Civil/Inground 12 $550,000Civil/Inground 12 $550,000Civil/Inground 12 $550,000Civil/Inground 12 $550,000

B-3

**SERVICE AGREEMENT NO. 2657**



Above Ground 14 & 19 $535,000Above Ground 14 & 19 $500,000T&C 14, 19 & 23 $500,000 **Total** $**4,835,000**

B-4

**SERVICE AGREEMENT NO. 2657**

**APPENDIX C**

**INTERCONNECTION DETAILS**

**1. Description of Large Generating Facility including Point of Interconnection**

The Large Generating Facility will be a wind farm located in Chenango, NY. The LargeGenerating Facility will consist of twenty-four (24) Vestas wind turbine generators, rated 4.3MW each for a total project output of 103.2 at the WTG LV terminals, centrally limited to 100.8MW at the POI. Each of the units has a reactive power range of 1.709 MVAR @ 0.9 p.u. voltageat the LV terminals leading to 1.525 MVAR lagging @ 1.1 p.u. voltage at the LV terminals.

The generators will be in four (4) clusters with 6 (Feeder #1), 6 (Feeder #2), 6 (Feeder#3), and 6 (Feeder #4) turbines, respectively. The twenty-four (24) units will be joined to acentral 34.5 kV bus that connects to the 115kV system through a three-winding 75/100/125MVA, 115/34.5/13.8 kV transformer with an embedded delta and H-X impedance of 8.96%.

The Large Generating Facility will interconnect to Connecting Transmission Owner’snew High Bridge Substation in the new bay between new 145 kV Breakers B2 and B3. The POIis identified on the one-line diagram attached to Appendix A and is at the connection point of theConnecting Transmission Owner’s Attachment Facilities to the new bay between Breakers B2and B3. The PCO shall be the strain insulators at the A-frame dead end structure inside theConnecting Transmission Owner’s new High Bridge Substation. The PCO is identified on theone-line diagram attached to Appendix A.

**2. Developer Operating Requirements**

(a) Developer must comply with all applicable NYISO tariffs and procedures, asamended from time to time.

(b) Developer must comply with the Connecting Transmission Owner’s operatinginstructions and requirements, as amended from time to time, to the extent not inconsistent withthe terms of this Agreement or the NYISO OATT.

C-1

**SERVICE AGREEMENT NO. 2657**

**APPENDIX D**

**SECURITY ARRANGEMENTS DETAILS**

Infrastructure security of New York State Transmission System equipment andoperations and control hardware and software is essential to ensure day-to-day New York StateTransmission System reliability and operational security. The Commission will expect theNYISO, all Transmission Owners, all Developers and all other Market Participants to complywith the recommendations offered by the President’s Critical Infrastructure Protection Boardand, eventually, best practice recommendations from the electric reliability authority. All publicutilities will be expected to meet basic standards for system infrastructure and operationalsecurity, including physical, operational, and cyber-security practices.

D-1

**SERVICE AGREEMENT NO. 2657**



**APPENDIX E-1**

**INITIAL SYNCHRONIZATION DATE**

[**Date**]

New York Independent System Operator, Inc.Attn: Vice President, Operations10 Krey Boulevard Rensselaer, NY 12144

New York State Electric & Gas Corporation18 Link Drive, PO Box 5224 Binghamton, NY 13902

Re: High Bridge Wind Large Generating Facility

Dear :

On **[Date] [Developer]** initially synchronized the Large Generating Facility [specify units, if applicable]. This letter confirms [Developer]’s Initial Synchronization Date was [specify].

Thank you.

[**Signature**]

[**Developer Representative**]

E-1-1

**SERVICE AGREEMENT NO. 2657**

**APPENDIX E-2**

**COMMERCIAL OPERATION DATE**

**[Date]**

New York Independent System Operator, Inc.Attn: Vice President, Operations10 Krey Boulevard Rensselaer, NY 12144

New York State Electric & Gas Corporation18 Link Drive, PO Box 5224 Binghamton, NY 13902

Re: High Bridge Wind Large Generating Facility

Dear \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_:

On **[Date] [Developer]** has completed Trial Operation of Unit No. \_\_\_. This letter confirmsthat [Developer] commenced Commercial Operation of Unit No. \_\_\_ at the Large GeneratingFacility, effective as of **[Date plus one day]**.

Thank you.

**[Signature]**

**[Developer Representative]**

E-2-1

**SERVICE AGREEMENT NO. 2657**



**APPENDIX F**

**ADDRESSES FOR DELIVERY OF NOTICES AND BILLINGS**

**Notices:**

NYISO:

Before commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.Attn: Vice President, System and Resource Planning10 Krey Boulevard Rensselaer, NY 12144 Phone: (518) 356-6000 Fax: (518) 356-6118

After commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.Attn: Vice President, Operations10 Krey Boulevard Rensselaer, NY 12144 Phone: (518) 356-6000 Fax: (518) 356-6118

Connecting Transmission Owner:

New York State Electric & Gas CorporationAttn: Manager-Programs/ProjectsElectric Transmission Services 18 Link Drive, PO Box 5224 Binghamton, NY 13902-5224

Phone: (585) 484-6306 [nyisointerconnectionadmin@avangrid.com](mailto:nyisointerconnectionadmin@avangrid.com)

Developer:

High Bridge Wind, LLC c/o Northland Power Inc.

Attn: Engineering and Construction (prior to COD)Attn: Market Operations & Compliance (after COD)30 St. Clair Avenue West, 3rd floor Toronto, Ontario M4V 3A1 Canada Phone: (416) 962-6262

Fax: (416) 962-6266

[Luke.Kupczyk@Northlandpower.com](mailto:Luke.Kupczyk@Northlandpower.com) (prior to COD)

F-1

**SERVICE AGREEMENT NO. 2657**



[Octavia.Peterson@Northlandpower.com(a](mailto:Octavia.Peterson@Northlandpower.com)fter COD) **Billings and Payments:**

Connecting Transmission Owner:

New York State Electric & Gas CorporationAttn: Mgr. Billing & Risk Management18 Link Drive, PO Box 5224 Binghamton, NY 13902-5224

Phone: (585) 484-6883 Fax: (607) 762-8885 [nyisointerconnectionadmin@avangrid.com](mailto:nyisointerconnectionadmin@avangrid.com)

Developer:

High Bridge Wind, LLCc/o Northland Power Inc.Attn: Accounts Payable30 St. Clair Avenue West, 3rd floorToronto, Ontario M4V 3A1Canada

Phone: (416) 962-6262Fax: (416) 962-6266 [accountspayable@Northlandpower.com](mailto:accountspayable@Northlandpower.com)

**Alternative Forms of Delivery of Notices (telephone, facsimile or email):**

NYISO:

Before commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.Attn: Vice President, System and Resource Planning10 Krey Boulevard Rensselaer, NY 12144 Phone: (518) 356-6000 Fax: (518) 356-6118 interconnectionsupport@nyiso.com

After commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.Attn: Vice President, Operations10 Krey Boulevard Rensselaer, NY 12144

F-2

**SERVICE AGREEMENT NO. 2657**



Phone: (518) 356-6000 Fax: (518) 356-6118 interconnectionsupport@nyiso.com

Connecting Transmission Owner:

New York State Electric & Gas CorporationAttn: Manager-Programs/ProjectsElectric Transmission Services 18 Link Drive, PO Box 5224 Binghamton, NY 13902-5224

Phone: (585) 484-6306 [nyisointerconnectionadmin@avangrid.com](mailto:nyisointerconnectionadmin@avangrid.com)

Developer:

High Bridge Wind, LLCc/o Northland Power Inc.30 St. Clair Avenue West, 3rd floorToronto, Ontario M4V 3A1Canada

Phone: (416) 962-6262Fax: (416) 962-6266

Email[: legal@northlandpower.com](mailto:legal@northlandpower.com)

F-3