



April 25, 2012

**CONTAINS CRITICAL ENERGY
INFRASTRUCTURE INFORMATION**

By Electronic Delivery

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

Re: Filing of an Executed Interconnection Agreement Between the
New York Power Authority and Consolidated Edison Company
of New York, Inc., and Request for Critical Energy Infrastructure
Information Designation, Docket No. ER12-____-000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.12 of the Commission's Regulations,² the New York Power Authority ("NYPA") and Consolidated Edison Company of New York, Inc. (Con Edison") hereby tender for filing an executed Interconnection Agreement ("Agreement"), designated as Service Agreement No. 1873 between NYPA and Con Edison (collectively, "the Parties"). With the exceptions noted in Section II of this letter, the Interconnection Agreement conforms to the *pro forma* Large Generator Interconnection Agreement ("LGIA") that is contained in Attachment X of the New York Independent System Operator, Inc.'s ("NYISO") Open Access Transmission Tariff ("OATT").

¹ 16 U.S.C. § 824d (2006).

² 18 C.F.R. § 35.12 (2008).

Con Edison and NYPA request a May 1, 2012 effective date for the Interconnection Agreement and further request a waiver of the normal 60-day notice period, as discussed fully below.

The NYISO is not a party to this Agreement because the interconnection project is not subject to the NYISO interconnection process, which requires a three party agreement. Two-party interconnection agreements are designated as Service Agreements under the NYISO OATT.³ The agreements are being filed by the Parties to the Agreements, and the NYISO has indicated its intention to file comments in support of the filing.⁴

I. BACKGROUND

The Agreement provides for an additional interconnection between transmission facilities owned by NYPA and those owned by Con Edison. The new transmission tie will connect Con Edison's Astoria East substation to NYPA's Astoria Annex substation. Both substations are located within a short distance (approximately 1000 feet) of each other on property that Con Edison owns and that is also the site of several electric generating plants. One generating facility is currently connected to the Astoria Annex substation, and that substation in turn is connected by transmission lines that NYPA owns (Q35L&M) to Con Edison's transmission facilities in Manhattan. Several generating facilities are connected to the Astoria East substation, including the Astoria Nos. 2 and 4 generators, which are owned by Astoria Generating Company, L.P. ("Astoria Generating"). Also connected to the Astoria East substation are distribution facilities that Con Edison owns and uses to serve retail customers in portions of Queens.

The Agreement is necessitated by the decision of Astoria Generating to mothball its No. 2 generator and by the long term outage of its No. 4 generator. On December 14, 2011, Astoria Generating gave notice to the New York Public Service Commission ("NYPSC"), the NYISO, and Con Edison that it would mothball the Astoria No. 2 generator effective June 11, 2012, and that the generator would be unavailable for an indefinite period of time. At the time, the Astoria No. 4 generator was out of service on a long term basis because of an equipment failure.⁵ Con Edison considered the potential

³ *Consolidated Edison Company of New York, Inc.*, 119 FERC ¶ 61,206 (2007); *Consolidated Edison Company of New York, Inc.*, Docket No. ER09-1515-000, Letter Order dated September 3, 2009; *Niagara Mohawk Power Corporation*, 121 FERC ¶ 61,183 (2007).

⁴ *Id.* See also, *Consolidated Edison Company of New York, Inc.*, Docket No. ER10-1193-000, Letter Order dated June 3, 2010; *Consolidated Edison Company of New York, Inc.*, Docket No. ER08-895-000, Letter Order dated October 24, 2008.

⁵ On February 14, 2012, Astoria Generating gave notice that it is mothballing the Astoria No. 4 generator for an indefinite period.

impact of Astoria Generating's action on electric system reliability. On February 3, 2012, Con Edison reported to the NYPSC that the mothballing of Astoria No. 2, concurrent with the outage of Astoria No. 4, would cause localized reliability deficiencies for two transmission load areas in Queens commencing in the summer of 2012.⁶

Con Edison subsequently proposed the new transmission tie between the Astoria Annex and Astoria East substations as a solution for the reliability deficiencies resulting from the mothballing of the Astoria No. 2 generator and the unavailability of Astoria No. 4. The new transmission tie would allow the delivery of energy that is available at the Astoria Annex to the deficient transmission load areas via the Astoria East substation. The new tie will be constructed in two phases because of time constraints. Phase 1 will connect the new tie from the Astoria East substation to the Q35L&M transmission lines at a point near the Astoria Annex substation. That connection can be completed prior to the commencement of the 2012 summer season and the effective date for the mothballing of Astoria No. 2. Phase 2 will change the interconnection point for the new transmission tie, from the Q35L&M lines to an air to gas bushing located within the fence line of the Astoria Annex substation. Con Edison expects to complete Phase 2 of the project prior to the 2013 summer.

Con Edison presented the solution to the NYISO and to market participants at a joint meeting of the NYISO's Transmission Planning Advisory Subcommittee and Electric System Planning Working Group on February 16, 2012. Con Edison explained that the transmission tie would solve the reliability deficiency attributable to Astoria No. 2 and is the only solution for that deficiency that could be constructed prior to the effective date of the mothballing of Astoria No. 2.⁷ A small remaining deficiency attributable to Astoria No. 4 can be solved through operational arrangements for the time being.

Con Edison proposed the new transmission tie as a project under its local transmission plan. Con Edison posted the project as a modification to that plan and as an update to the base case depicted in the NYISO's Form 715. The NYISO agreed that the project was appropriately pursued under local plan because it will not have a material effect on the bulk power system.⁸

⁶ The deficiencies relate to the second contingency design and operating requirement, which is a local reliability requirement established by the Reliability Rules of the New York State Reliability Council and the NYPSC's regulations.

⁷ A small portion of the deficiency, which is attributable to the unavailability of the Astoria 4 generator, would have to be addressed by a separate solution if Astoria 4 does not return to service within a reasonable time.

⁸ The NYISO planning process does not apply to projects that affect power flows on designated interfaces by less than 10 MW. See NYISO Procedure "System Reliability Impact Study Criteria and Procedures." Section 3.7 of the NYISO OATT permits transmission owners to propose and construct transmission facilities in the public interest and consistent with regulatory requirements.

Con Edison will, at its sole expense, construct, own, and operate the new transmission tie. The interconnection of the tie to the Astoria Annex substation will require the construction within the substation of system upgrade facilities - consisting primarily of relay equipment and an extension of the gas-insulated bus. Con Edison will design, procure and construct those facilities at its own cost, and NYPA will own the system upgrade facilities. Con Edison will be responsible for the operation and maintenance of the system upgrade facilities pursuant to an existing "Agreement between Con Edison and NYPA for the Operation and Maintenance of the Facilities Associated with Astoria Annex Substation 345kV Gas-Insulated Substation," dated February 1, 2011. Once constructed, the new transmission tie will become part of Con Edison's system and will be available for open access transmission service by the NYISO.

II. VARIATIONS FROM THE NYISO'S PRO FORMA LGIA

The Agreement substantially conforms to the *pro forma* Large Generator Interconnection Agreement ("LGIA") contained in Attachment X of the NYISO OATT. However, as discussed below, the Agreement differs from the *pro forma* LGIA in certain respects - most notably to reflect that the new tie is a transmission project, not a generation project.

The Agreement is similar in that respect to the Interconnection Agreement that the Commission recently approved for the Hudson Transmission Partners ("HTP") project, a merchant project that created a new tie between New Jersey and New York.⁹ The HTP Interconnection Agreement modified the *pro forma* LGIA to conform it to the merchant transmission project proposed by HTP. Accordingly, the Parties incorporated into the Agreement the modifications that HTP proposed and the Commission approved, except for terms relating to merchant projects that are not applicable to the regulated utility project that Con Edison proposes here.

The following discussion summarizes the primary differences between the *pro forma* LGIA and the Agreement. For the sake of clarity, the differences are divided into three categories: variations to reflect NYPA's unique legal status, variations between the HTP Interconnection Agreement and the *pro forma* LGIA, and variations between the Agreement and the HTP Interconnection Agreement.

The Commission has accepted changes to the *pro forma* LGIA terms where, as here, there are unique circumstances associated with the interconnections, including

⁹ *New York Independent System Operator, Inc.*, Docket No. ER11-3479-000, Letter Order dated June 28, 2011. NYPA is not a party to the HTP Interconnection Agreement. The representations made regarding the HTP Interconnection Agreement are solely those of Con Edison's.

“reliability concerns, novel legal issues or other unique factors.”¹⁰ In fact, many of the modifications to the *pro forma* LGIA in this Agreement are substantially similar or identical to those previously accepted by the Commission.¹¹ Con Edison and NYPA respectfully request that the Commission accept these modifications in light of the unique factors and novel legal issues explained below.

A. Variations to Reflect NYPA’s Unique Legal Status

NYPA is a corporate municipal instrumentality and a political subdivision of the State of New York (the “State”), organized under the laws of the State, and operating pursuant to Title 1 of Article 5 of the New York Public Authorities Law. As a result, certain limited variations from the *pro forma* LGIA are necessary to reflect NYPA’s unique legal status as a public authority governed under the New York Public Authorities Law.

1. Compliance with New York’s Labor Law

Section 5.2 of the *pro forma* LGIA lists the general conditions applicable to the Developer’s Option to Build. The Parties have agreed to amend this list of conditions by adding a statement that the Developer must comply with Section 220 of New York’s labor law, which requires that for work performed on NYPA’s existing facilities, workman, laborers, and mechanics must be paid at least the prevailing wage set forth in that statute. Section 220 also addresses pay supplements, work hours, and payroll findings. The Commission has previously accepted this change to the *pro forma* LGIA.¹²

2. NYPA’s Eminent Domain Authority

Under Section 1007 of the New York Public Authorities Law, NYPA has the right to take real property through eminent domain when the NYPA trustees, in their discretion, deem an eminent domain taking necessary or convenient to acquire real property for the purposes described in such statute. The Parties have proposed to modify Article 5.13 of the Interconnection Agreement to make it clear that NYPA can only use

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

¹¹ See *New York Independent System Operator, Inc. and Consolidated Edison Company of New York, Inc.*, 123 FERC ¶ 61,093 (Apr. 29, 2008) (accepting an interconnection agreement of a Merchant Transmission Facility); see also *New York Independent System Operator, Inc. and Consolidated Edison Company of New York, Inc.*, Docket No. ER-11-2199-000 (December 28, 2010).

¹² See *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER08-1507-000 (November 4, 2008) and *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER11-2654-000 (Feb. 9, 2011).

efforts to acquire property by eminent domain if and to the extent consistent with State law (*i.e.*, New York Public Authorities Law § 1007). NYPA must retain the right to have its trustees review, on a case-by-case basis, each request for NYPA to exercise its power of eminent domain and to exercise their discretion to approve or deny such request, consistent with the requirements of New York State law. The Commission has also previously accepted this specific variation to the *pro forma* LGIA.¹³

B. Differences Between the HTP Interconnection Agreement and the Pro Forma LGIA

The primary changes by the HTP Interconnection Agreement to the *pro forma* LGIA are as follows:

1. The *pro forma* term “Large Generating Facility” was replaced with “Transmission Facility” throughout the Agreement. Similarly, the definition of “Standard Large Generator Agreement” was revised to clarify that such term does not refer to this Interconnection Agreement. The term “Standard Large Interconnection Agreement” was replaced with “this Agreement,” “Interconnection Agreement,” or “Transmission Facility Interconnection Agreement.”
2. Revisions were necessary to account for the specific characteristics of a transmission facility. Unlike a Large Generating Facility, a Transmission Facility “transmits” power. Large Generating Facilities, by contrast, generate, produce, or export power. The words “export,” “generate,” or “produce,” were replaced, as applicable, with the word “transmit.”¹⁴ Similarly, the following terms were replaced, as follows:
 - ⌚ “generation” with “generation or transmission facilities;”
 - ⌚ “generating facilities” to “transmission facilities;”
 - ⌚ “generating electricity for sale” with “transmitting electricity,” ⌚ “generated at” to “transmitted on;”
 - ⌚ “produce or absorb reactive power” to “transmit reactive power;” and
 - ⌚ “production of electricity” to “transmission” or “transmission of electricity over the Transmission Facility;”
3. References to the NYISO Interconnection Study Process and Cost Allocation procedure were eliminated because they did not apply to the HTP transmission expansion.

¹³ See *id.*

¹⁴ See, e.g., HTP Interconnection Agreement at §1 (“Definitions”); §6.1 (“Pre-Commercial Operation Date Testing and Modifications”); §9.5.2 (“Voltage Schedules”).

4. Certain reactive power and voltage provisions in the *pro forma* LGIA also were revised to conform to the unique operating requirements of the Transmission Facility.
5. Several other provisions included in the generator-focused *pro forma* LGIA were revised as follows:
 - ⌚ Article 5.4 (“Power System Stabilizers”) and Article 9.5.4 (“Governors and Regulators”) were deleted because they are inapplicable to a transmission facility;
 - ⌚ Article 5.17.2 (“Representations and Covenants”) was qualified by the language, “as applicable to this Transmission Facility;”
 - ⌚ Article 6.4 (“Right to Inspect”) was revised to delete the reference to Power System Stabilizers;
 - ⌚ Language regarding the right to observe testing of the Transmission Facility was added to the discussion in Article 6.3 (“Right to Observe Testing”) which is limited, in the *pro forma* LGIA, to Attachment Facilities testing;
 - ⌚ Article 9.6.4 (“System Protection and Other Control Requirements”) was revised to account for the potential tripping of not only the Transmission Facility, but also the Connecting Transmission Owner’s facilities;¹⁵
 - ⌚ Article 9.6.4 was further revised to account for the manner and intervals at which tests will be conducted related to System Protection Facilities;¹⁶
 - ⌚ Article 9.6.5 (“Requirements for Protection”) was revised to add the obligation to comply with the requirements of other applicable reliability councils, and language was deleted regarding load interrupting capability and equipment that is not applicable to a Transmission Facility;
 - ⌚ Article 24.4 (“Information Supplementation”) was revised (i) to delete references to voltage and equipment tests that are applicable to generation facilities but not transmission facilities and (ii) to clarify that Developer shall provide validated recordings of applicable tests.
6. Because no attachment facilities were associated with the HTP project, Article 5.8 was revised to refer to “the Attachment Facilities” rather than “their respective Attachment Facilities.” The definition of “In-Service Date” in Article 1 was revised to mean the date upon which the Developer reasonably expects it will be ready to begin use of either Connecting Transmission Owner’s Attachment Facilities or System Upgrade Facilities to obtain back feed power.

¹⁵ *Id.* at § 9.6.4.4.

¹⁶ *Id.* at § 9.6.4.6.

7. Since there are no System Deliverability Upgrade Facilities and System Deliverability Upgrades covered by the HTP Agreement, the reference in Appendix A to System Deliverability Upgrade Facilities was eliminated and references in the Appendices were revised to refer simply to “System Upgrade Facilities” rather than “Stand Alone System Upgrade Facilities.”
8. Article 2.2 of the Interconnection Agreement (“Term of Agreement”) provided for a term of twenty five (25) years, consistent with Article 2.2 of the *pro forma* LGIA, which allows developers to specifically provides that the Parties may elect a term longer than ten (10) years.
9. Certain errors were corrected including numbering errors, formatting errors, and other ministerial revisions, including (i) updating the Table of Contents to reflect the above-referenced revisions; and (ii) replacing the reference in Section 9.6.3 to NPCC criteria A-3 with a reference to the NPCC Regional Reliability Reference Directory that has replaced NPCC criteria A-3.

C. Differences Between the Agreement and the HTP Interconnection Agreement

The primary changes by the Agreement relative to the HTP Interconnection Agreement are as follows:

1. The Recital paragraphs were conformed to reflect the parties and circumstances of this project, rather than the HTP project.
2. Definitions of terms not used in the Agreement were deleted. In addition, the reference to “other reliability councils that was included in the HTP Interconnection Agreement was omitted, reconciling the text with the *pro forma* LGIA. Definitions relevant to project were added.
3. References to the NYISO as a party to the agreement were deleted.
4. Characterizations of the project as a “merchant” undertaking were deleted.
5. Articles 4.1 and 13.4.2 were revised to delete references to interconnection services and balancing of receipts and deliveries.
6. Article 5.3, (“Liquidated Damages”), Article 5.5 (“Equipment Procurement”), Article 5.6 (“Construction Commencement”), Article 5.9 (“ Limited Operation”), Article 5.10 (“ Developer’s Attachment Facilities”), Article 5.11 (“Connecting Transmission Owner’s Attachment Facilities”), Article 5.15 (“ Early Construction of Base Case Facilities”), Article 9.5.3 (“Payment for Reactive Power”), and

- Article 11.4 (“Special Provisions for Affected Systems”) were deleted because they are inapplicable to this project.
7. Article 6.1 references to the delivery of test energy have been deleted because it is not relevant to the project.
 8. Article 7 was revised to eliminate provisions relating to metering that are inapplicable to the project. The new metering section states that revenue metering already exists and for telemetering, a multi functioning meter will be provided that will record relevant power flow information.
 9. Article 9.5 relating to reactive power and voltage schedules includes the text of the *pro forma* LGIA, rather than the modified provision of the HTP Interconnection Agreement.
 10. Article 9.6.1.2 relating to outage scheduling was revised to have Con Edison post the outage schedules on the NYISO OASIS, and not NYPA.
 11. Article 11 was revised to eliminate provisions relating to Affected Systems and Security because no such systems exist with respect to the proposed project and because no security was prescribed by the NYISO for the proposed project.
 12. Article 18.3 relating to insurance was revised to delete references to forms of coverage that are not commercially available.
 13. Article 29.2 has been revised to state that the provisions contained in the Appendices take precedent over the terms in the Agreement, in the event of a conflict.

III. REQUEST FOR CEII TREATMENT

Pursuant to the Commission’s regulations at 18 C.F.R. §388.112 and 18 C.F.R. § 388.113, Con Edison and NYPA request that the two one-line diagrams included as part of Appendix A to the Agreement (Figure A-1 and A-2) be protected from disclosure as Critical Energy Infrastructure Information (“CEII”). These one-line diagrams contain one-line schematics of transmission lines and the Astoria Annex and Astoria East substations which, if disclosed, could pose a threat to the security and the reliability of the New York State bulk power system. These diagrams provide more than simply the general location of critical infrastructure. Unlike publicly available maps of power transmission lines and generation and substation facilities, these schematics shows the exact nature and specific location of facilities and transmission lines used to maintain the reliability of the New York State bulk power system. They reveal critical information related to the facilities and transmission depicted therein that, if disclosed, could be useful to a person seeking to disable the power grid. Therefore, the disclosure of these

CEII diagrams would pose a threat to the reliability of the New York State bulk power system and to the health and safety of New York residents. Moreover, the information revealed in these schematics reveal CEII that FERC has determined to be exempt from mandatory disclosure under 5 U.S.C. § 552(b)(7)(F). The diagrams have been omitted from the Public version of the Interconnection Agreement included in this filing. The diagrams are included only in the CEII version of the Interconnection Agreement in the filing.

All communications relating to this request for CEII treatment should be addressed to the following:

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IV. EFFECTIVE DATE

Con Edison and NYPA request that the Commission permit the Agreement to become effective as of May 1, 2012. The Commission has waived the 60-day notice requirement, partially or entirely, with respect to other interconnection agreements where circumstances warrant. A waiver in this case would serve the public interest by (i) eliminating a reliability deficiency prior to the commencement of the peak summer season and (ii) providing certainty with regard to investments and facilities that Con Edison must make and construct to eliminate that deficiency. The Agreement will not

alter the rates or revenues of NYPA or Con Edison. Accordingly, NYPA requests that the Commission grant a waiver of its prior notice requirements to the extent necessary to accommodate the requested effective date.

V. COMMUNICATIONS AND CORRESPONDENCE

Communications regarding this filing should be directed to:

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VI. DOCUMENTS SUBMITTED

This filing consists of the following documents:

- A. this filing letter;**
- B. a clean Public version of the Agreement;**

- C. a clean CEH version of the Agreement; and
- D. a blacklined Public version showing the Agreement's changes from the NYISO's *pro forma* LGIA.

VII. SERVICE

Con Edison will serve this filing electronically on the NYPSC, the NYISO, and NYPA.

VIII. CONCLUSION

Wherefore, Con Edison and NYPA respectfully request that the Commission accept the attached Agreement effective as of May 1, 2012.

Respectfully submitted,

/s/ Andrew Neuman

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s/ Marc Richter

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