

June 10, 2015

By Electronic Delivery

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

**CONTAINS CRITICAL ENERGY
INFRASTRUCTURE INFORMATION**

Re: Filing of an Executed Large Generator Interconnection Agreement Among the New York Independent System Operator, Inc., the New York Power Authority, and CPV Valley, LLC; Request for Waiver of the 60-Day Notice Period; and Request for Critical Energy Infrastructure Information Designation; Docket No. ER15-____-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 Independent System Operator, Inc. ("NYISO") and the New York Power Authority ("NYPA") (together, the "Joint Filing Parties") hereby tender for filing an executed Large Generator Interconnection Agreement entered into by the NYISO, NYPA, as the Connecting Transmission Owner, and CPV Valley, LLC ("CPV Valley"), as the Developer (the "CPV Valley Agreement").³ The CPV Valley Agreement is labelled as Service Agreement No. 2214.

The Joint Filing Parties respectfully request that the Commission accept the CPV Valley Agreement for filing. With the limited exceptions described in Part I of this letter, the CPV Valley Agreement conforms to the NYISO's *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the NYISO's Open Access Transmission Tariff ("OATT"). Further, as described in Part II of this letter, the Joint Filing Parties respectfully request a waiver of the Commission's prior notice requirements⁴ to make the CPV Valley Agreement effective as of May 28, 2015, which is the date of its execution. Finally, as described in Part III of this letter, NYPA requests that certain figures included in the appendices of the CPV Valley Agreement be protected from disclosure as Critical Energy Infrastructure Information ("CEII").

¹ 16 U.S.C. § 824d (2014).

² 18 C.F.R. § 35.12 (2014).

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

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

I. Discussion

A. Background

CPV Valley is constructing a nominal 680 MW combined-cycle generating facility that will be located in Orange County, New York ("Facility"). The Facility will have a net summer capability of approximately 685 MW and a net winter capability of approximately 761 MW. Additional details regarding the Facility can be found in Appendix C of the CPV Valley Agreement.

The Facility will interconnect to certain transmission facilities of NYPA that are part of the New York State Transmission System. The Point of Interconnection will be the bus tap of a new three breaker ring bus ("Dolson Avenue Substation") on NYPA's transmission line # 42, approximately 31.8 miles from the Coopers Corners Substation and 14.7 miles from the Rock Tavern Substation. Figures A-1 and A-2 of Appendix A of the CPV Valley Agreement provide a one-line diagram showing the Point of Interconnection.

The NYISO Class Year 2011 Interconnection Facilities Study ("Class Year 2011 Study") determined that the interconnection will also have impacts on the transmission systems of the New York State Electric & Gas Corporation ("NYSEG") and Central Hudson Gas & Electric Corporation ("Central Hudson"), which are part of the New York State Transmission System. The Class Year 2011 Study identified certain System Upgrade Facilities that must be constructed on NYSEG's and Central Hudson's systems for the Facility to interconnect reliably to the New York State Transmission System. The NYISO and CPV Valley have entered into two engineering, procurement, and construction agreements for the construction of these System Upgrade Facilities - an agreement with NYSEG and an agreement with Central Hudson.⁵

The Class Year 2011 Study also determined that certain System Deliverability Upgrades are required for the Large Generating Facility to receive Capacity Resource Interconnection Service ("CRIS"). The System Deliverability Upgrades identified and cost allocated to CPV Valley in the Class Year 2011 Study involve upgrades to portions of the New York State Transmission System operated by Affected System Operators - Central Hudson and Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"). Pursuant to Section 25.7.12 of Attachment S to the OATT, CPV Valley accepted its System Deliverability Upgrade Project Cost Allocation in the Final Decision Round of the Class Year 2011 Study and posted the required Security for same. CPV Valley is eligible for CRIS when the Facility begins Commercial Operation. The System Deliverability Upgrades, to the extent they are constructed pursuant to Section 25.7.12 of Attachment S to the NYISO OATT, will be designed, procured, and constructed pursuant to separate engineering, procurement, and construction agreements by and among the NYISO, the Developer, Central Hudson, and National Grid.⁶

⁵ The NYISO is separately filing with the relevant Transmission Owner these engineering, procurement, and construction agreements for the Commission's acceptance.

⁶ CPV Valley has elected to enter Class Year 2015 to pursue a deliverability retest pursuant to Section 25.7.12.4 of Attachment S of the OATT. Section 25.7.12.4 allows a Developer that accepted a System Deliverability Upgrade Project Cost Allocation in a prior Class Year Study to enter a subsequent

In parallel with the NYISO's performance of the Class Year 2011 Study, NYPA performed System Impact Studies for two unrelated projects: (i) Coopers Corner Shunt Reactor (NYISO Interconnection Queue No. 373) and (ii) Marcy South Reinforcement (NYISO Interconnection Queue No. 380). The NYISO, NYPA, and CPV Valley anticipate that these projects will go in-service prior to the Facility and, once completed, could impact the need for certain System Upgrade Facilities on the transmission facilities of NYPA, NYSEG, and Central Hudson that were identified in the Class Year 2011 Study and are included in Appendix A of the CPV Valley Agreement. The NYISO, NYPA, and CPV Valley have agreed that they will evaluate, in consultation with NYSEG and Central Hudson, the continued need for and any modifications to the System Upgrade Facilities identified in the CPV Valley Agreement and will amend the agreement if the System Upgrade Facilities identified through their evaluation differ in any material way from those currently specified in the agreement.⁷

B. The CPV Valley Agreement Closely Conforms to the Pro Forma LGIA Contained in Attachment X of the NYISO OATT

The CPV Valley Agreement was executed on May 28, 2015, by the NYISO, NYPA, and CPV Valley. The CPV Valley Agreement closely follows the language in the Pro Forma LGIA contained in Attachment X of the NYISO OATT. However, the CPV Valley Agreement does contain limited variations from the Pro Forma LGIA that are described in this Part I.B. These variations are necessary because of: (i) NYPA's unique legal status as a public authority governed under the New York Public Authorities Law, and (ii) the unique circumstances of CPV Valley's project. The Joint Filing Parties submit that these changes specified below satisfy the Commission's standard for variations from the Pro Forma LGIA, because unique circumstances exist that require a non-conforming agreement.⁸ Therefore, the Joint Filing Parties respectfully request that the Commission accept the CPV Valley Agreement with these limited non-conforming changes.

1. Variations to Reflect NYPA's Unique Legal Status

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

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

Class Year Study to be retested for deliverability. As a result, and as specifically contemplated by Section 25.7.12.4, if CPV Valley's Facility is found to be deliverable without the System Deliverability Upgrades identified in the Class Year 2011 Study, its corresponding System Deliverability Upgrades Security posting from Class Year 2011 would be terminated.

⁷ The parties memorialized this approach in Section 7 of Appendix A of the CPV Valley Agreement.

⁸ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005).

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.⁹

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

NYPA is a corporate municipal instrumentality and a political subdivision of the State of New York, organized under the laws of New York, and operating pursuant to Title 1 of Article 5 of the New York Public Authorities Law ("PAL"). Under Section 1007 of the PAL, NYPA has the right to take real property through eminent domain when the NYPA Trustees, in their discretion, deem an eminent domain taking necessary or convenient to acquire real property for the purposes described in this statute. The parties have agreed to modify Section 5.13 of the CPV Valley Agreement to make it clear that NYPA can only use efforts to acquire property by eminent domain if and to the extent consistent with New York law (*i.e.*, PAL Section 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 law. The Commission has previously accepted this change to the Pro Forma LGIA.¹⁰

2. Modifications to Clarify the Facility's Capacity Resource Interconnection Service and Existing Energy Resource Interconnection Service

In the Class Year 2011 Study, CPV Valley's Facility was studied at a maximum summer net electrical output of 678 MW for purposes of its Energy Resource Interconnection Service ("ERIS") value. During the interconnection agreement negotiations, CPV Valley requested that the NYISO approve a seven (7) MW increase in the Facility's ERIS level to 685 MW due to engineering refinements in the proposed equipment for the Facility, with a corresponding increase along the Facility's temperature curve. The NYISO evaluated the requested increase and determined that it did not constitute a Material Modification that would trigger the need for a new Interconnection Request because the increase was within the permissible threshold included in Section 30.3.1 of Attachment X to the OATT.

Section 30.3.1 permits an increase in capacity to a Large Facility if such increase is not associated with any material equipment changes and is not more than ten (10) MW or five (5) percent greater than the Large Facility's existing ERIS value. For purposes of Section 30.3.1 of Attachment X, the existing ERIS for CPV Valley's Facility is the maximum megawatt electrical output versus temperature curve for the Facility, consistent with the maximum summer net output evaluated in the Class Year 2011 Study - 678 MW. While the NYISO approved the seven (7) MW increase to the Facility's existing ERIS, the increase in approved ERIS does not

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

¹⁰ See *id.*

increase the baseline ERIS (or “existing ERIS” as that term is used in Section 30.3.1 of Attachment X). The Joint Filing Parties memorialized this in Section 3(a) of Appendix C of the CPV Valley Agreement.

The Joint Filing Parties also revised Section 4.1.1 of the CPV Valley Agreement and Section 3(a) of Appendix C to indicate that the Facility will receive 680 MW CRIS, which was the value studied in the Class Year 2011 Study, unless the value is subsequently increased pursuant to an applicable provision of the NYISO OATT.

3. Additional Figures

Appendix C includes a number of figures illustrating the design of the Dolson Avenue Substation and the related facilities required to interconnect the Facility, including: (i) a one-line diagram illustrating the relay equipment for the Dolson Avenue Substation (Figure C-1), (ii) a Dolson Avenue Substation building and elevation plan (Figure C-2), (iii) a Dolson Avenue Substation building layout (Figure C-3), (iv) a rendering of the Dolson Avenue Substation building (Figure C-4), and (v) a real estate drawing concerning the Dolson Avenue Substation (Figure C-5). The Joint Filing Parties propose to include these figures in the CPV Valley Agreement to memorialize certain variations from NYPA’s design criteria in the design of the Dolson Avenue Substation and related facilities. These variations were agreed upon by NYPA and CPV Valley to take into account unique features present at the substation site.

II. Proposed Effective Date and Request for Wavier of the 60-Day Notice Period

The Joint Filing Parties request an effective date of May 28, 2015, for the CPV Valley Agreement, which is the date of its execution. The Joint Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted interconnection agreements to become effective upon the date of execution.¹¹

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, NYPA requests that the following figures included with the CPV Valley Agreement be protected from disclosure as CEII:

- ☐ Figure A-1 - This diagram contains a detailed, one-line schematic of the Dolson Avenue Substation and the interconnected transmission lines and attachment facilities;

¹¹ See, e.g., *New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Docket No. ER11-2953-000 (April 7, 2011) (accepting interconnection agreement effective as of date of execution); see also *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp., Letter Order*, Docket No. ER08-985-000 (June 26, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-699-000 (May 16, 2008) (same).

- Figure C-1 - This diagram contains a detailed, one-line schematic of the protection, control, and communication schemes at the Dolson Avenue Substation; and
- Figure C-3 - This diagram illustrates the detailed physical layout of the Dolson Avenue Substation's connections to the transmission system and generator tap.

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, the diagrams show the exact nature and specific location of facilities and transmission lines used to maintain the reliability of the New York State bulk power system. In NYPA's assessment, these diagrams 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 figures 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 figures reveals CEII, which the Commission has determined to be exempt from mandatory disclosure under 5 U.S.C. § 552(b)(7)(F). The figures have been omitted from the Public version of the CPV Valley Agreement included in this filing. The figures are included only in the CEII version of the CPV Valley Agreement in the filing. All communications relating to this request for CEII treatment should be addressed to the following:

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IV. Communications and Correspondence

Communications regarding this filing should be directed to:

For the NYISO¹²

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¹² The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2014) to permit service on counsel in both Washington, D.C. and Richmond, VA.

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June 10, 2015
Page 7

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V. Documents Submitted

The NYISO submits the following documents: ☐

this filing letter;

- ☐ a clean Public version of the CPV Valley Agreement (Attachment I);
- ☐ a blacklined Public version of the CPV Valley Agreement showing the changes from the body of the Pro Forma LGIA (Attachment II);
- ☐ a clean CEII version of the CPV Valley Agreement (Attachment III); and
- ☐ the signature pages for the CPV Valley Agreement (Attachment IV). **VI.**

Service

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

VII. Conclusion

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the CPV Valley Agreement for filing with an effective date of May 28, 2015.

Respectfully submitted,

/s/ Sara B. Keegan

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Counsel for the
New York Independent System Operator, Inc.

/s/ Andrew F. Neuman

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Assistant General Counsel
New York Power Authority

cc: Michael Bardee
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