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January 7, 2010

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

Re: Filing of an Executed Large Generator Interconnection Agreement Among the New York Independent System Operator, Inc., the New York Power Authority, and Astoria Energy II LLC, and Request for Waiver of 60-Day Notice Period, Docket No. ER11- __ -000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,¹ Section 35.12 of the Commission's regulations,² and Section 30.11.3 of the New York Independent System Operator, Inc.'s ("NYISO's") Large Facility Interconnection Procedures,³ the 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 Astoria Energy II LLC ("Astoria"), as the Developer (the "Astoria Agreement").⁴ The Astoria Agreement is labeled as Service Agreement No. 1678.

The Joint Filing Parties respectfully request that the Commission accept the Astoria Agreement for filing. With the limited exceptions described in Part I.B of this letter, the Astoria 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 OATT. Further, as described in Part II of this letter, the Joint Filing Parties respectfully request a waiver of the

¹ 16 U.S.C. § 824d (2008).

² 18 C.F.R. § 35.12 (2009).

³ Section 30.11.3 of Attachment X of the NYISO OATT.

⁴ Capitalized terms not otherwise defined have the meaning ascribed to them in the NYISO's OATT and Attachments S and X to the NYISO OATT.

Commission's prior notice requirements⁵ to make the Astoria Agreement effective as of December 20, 2010, the date of its execution.

I. Discussion

A. Background

Astoria is constructing a combined cycle generation facility ("Facility") that will be located in New York City. The Facility has a net summer capability of approximately 550 MW and a net winter capability of approximately 650 MW. Additional details regarding the Facility can be found in Appendix C of the Astoria Agreement.

The Facility will interconnect with the New York State Transmission System at the new 345 kV NYPA Annex Substation. The Facility's Point of Interconnection is located at the NYPA Annex Substation between breaker positions 1 and 2. Figure A-1 in Appendix A of the Astoria Agreement provides a one-line diagram showing the Point of Interconnection.

Under the Agreement, Astoria is responsible for constructing the Attachment Facilities and the System Upgrade Facilities. Astoria has contracted with Consolidated Edison Company of New York, Inc. ("Con Edison") through a separate agreement to perform the construction and installation of certain System Upgrade Facilities located at Con Edison's East 13th Street Substation and its Farragut Substation. These System Upgrade Facilities are described in detail in Section 2.b of Appendix A of the Agreement.

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

The Astoria Agreement was executed on December 20, 2010, by the NYISO, NYPA, and Astoria. The Astoria Agreement closely follows the language in the Pro Forma LGIA contained in Attachment X of the NYISO OATT. However, the Astoria Agreement does contain limited variations from the Pro Forma LGIA described in Sections B.1 through B.6 below that are necessary because of NYPA's unique legal status as a public authority governed under the New York Public Authorities Law and the unique circumstances of Astoria's project. The Joint Filing Parties submit that the 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.⁶ Therefore, the Joint Filing Parties respectfully request that the Commission accept the Astoria Agreement with these limited non-conforming changes.

⁵ See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶61,139, *reh'g denied*, 65 FERC ¶ 61,081 (1993).

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

1. Modification to Reflect Astoria's Acquisition of Installed Capacity Deliverability Rights

The NYISO will provide Astoria with both Energy Resource Interconnection Service and Capacity Resource Interconnection Service ("CRIS") as provided for in Section 4.1.1 of the Pro Forma LGIA. The Facility was not evaluated for deliverability in the Class Year 2010 Interconnection Facilities Study. However, in accordance with Section 25.9.4 of Attachment S of the NYISO OATT, the Facility will acquire, by transfer from the deactivated Charles Poletti Power Project, 576 MW of Installed Capacity deliverability rights when the Facility achieves Commercial Operation. Accordingly, the parties have agreed to modify the Astoria Agreement by making Section 4.1.1 of the Astoria Agreement, which indicates that Astoria has elected for the NYISO to provide it with CRIS, subject to Section 6 of Appendix A of the Astoria Agreement. Section 6 of Appendix A establishes that the Facility will acquire 576 MW of Installed Capacity deliverability rights from the deactivated Charles Poletti Power Project upon achieving Commercial Operation, and that the NYISO will provide 576 MW of CRIS.

2. Modification to Ensure 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 approved this change to the Pro Forma LGIA.⁷

3. 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 direction, deem an eminent domain taking necessary or convenient to acquire real property for the purposes described in such statute. The parties have agreed to modify Section 5.13 of the Astoria 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 approved this change to the Pro Forma LGIA.⁸

⁷ See *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-1507-000 (November 4, 2008).

⁸ See *id.*

4. Addition to Address Short Circuit Concerns at Con Edison's Farragut Substation

The short circuit analysis performed as part of the Annual Transmission Reliability Assessment ("ATRA") for the Class Year 2010 Interconnection Facilities Study identified certain breakers, including breakers in Con Edison's Farragut Substation, as overdutied as a result of the impacts of Class Year 2010 projects, including the impact of the Facility. The ATRA investigated mitigation solutions and determined that placing the existing Gowanus 345 kV Series Reactors ("SRs") R41 and R42 in service would mitigate the overdutied breaker condition identified. If, however, during the operation of the Facility, one or both of these SRs were to fail, the operation of the Facility might be interrupted or reduced until a replacement for the SRs is operational. The parties agreed to insert Section 9.10 in the Astoria Agreement to indicate that the Facility could be interrupted or reduced in the event of the failure of one or both SRs.

5. Modification to Cost Responsibilities for Operation and Maintenance Costs

Section 10.5 of the Pro Forma LGIA states that the Developer will be responsible for the expenses associated with owning, operating, maintaining, repairing, and replacing both the Developer's Attachment Facilities and the Connecting Transmission Owner's Attachment Facilities. The parties agreed to modify Section 10.5 in the Astoria Agreement to provide that the Connecting Transmission Owner will be responsible for owning, operating, maintaining, repairing, and replacing its Attachment Facilities. The Developer will continue to be responsible for owning, operating, maintaining, repairing, and replacing its Attachment Facilities.

6. Other Modifications

The Astoria Agreement also includes a small number of modifications to correct the following typographical errors in the Pro Forma LGIA:

- In the table of contents, the term "Interconnection" has been capitalized to make it consistent with the other headings.
- In the preamble to Article 1, the reference to Section 30.1.0 has been modified to clarify that the reference is to Section 30.1 of Attachment X of the NYISO OATT.
- In the final sentence of Section 9.6.3, the reference to "NPCC criteria A-3" has been updated to "NPCC Directory #12."
- In the final sentence of Section 27.3, an extra "or" has been removed.

II. Proposed Effective Date and Request for Waiver of Notice Requirement

The Joint Filing Parties request a December 20, 2010, effective date for the Astoria Agreement, which is the date of execution. The Joint Filing Parties respectfully request that the

Commission waive the prior notice requirement in order to permit the requested effective date. The Commission has previously permitted interconnection agreements to become effective upon the date of execution.⁹

III. Communications and Correspondence

The following persons should be included in the official service list in this proceeding and all communications concerning this filing should be addressed to them:

For the NYISO

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⁹ See, e.g., *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp., Letter Order*, Docket No. ER08-985-000 (June 26, 2008) (accepting interconnection agreement effective as of the date of execution); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-699-000 (May 16, 2008) (same).

¹⁰ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

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IV. Documents Submitted

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the Astoria Agreement ("Attachment I"); and
3. A blacklined version of the Astoria Agreement showing the changes from the body of the Pro Forma LGIA ("Attachment II").

V. Service

The NYISO will send a copy of this filing to NYPA and Astoria. 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 electric utility regulatory agency of New Jersey. In addition, the complete public version of this filing will be posted on the NYISO's website at www.nyiso.com.

VI. Conclusion

For the foregoing reasons, the Joint Filing Parties respectfully request that the Commission accept this Astoria Agreement for filing with an effective date of December 20, 2010.

Respectfully submitted,

/s/ Ted J. Murphy
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Counsel for the
New York Independent System Operator, Inc.

/s/ Andrew F. Neuman
Andrew F. Neuman
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Enclosures