

July 8, 2015

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

**Re: Niagara Mohawk Power Corporation d/b/a National Grid
Docket No. ER15-____-000
Amended and Restated Interconnection Agreement with
Sithe/Independence Power Partners, L.P.**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations,² Niagara Mohawk Power Corporation d/b/a/ National Grid (“National Grid”) submits an Amended and Restated Interconnection Agreement (“Amended and Restated Sithe IA”) between National Grid and Sithe/Independence Power Partners, L.P. (“Sithe”). The attached Amended and Restated Sithe IA is designated as Service Agreement No. 1160 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The Amended and Restated Sithe IA is an undisputed agreement between National Grid and Sithe for the continued provision of interconnection service to the generating facility owned by Sithe and located in the Town of Scriba, New York (“Facility”). National Grid requests that the Commission accept the Amended and Restated Sithe IA as of the effective date set forth therein, June 30, 2015.

I. Background

National Grid is a public utility with a transmission system in the State of New York. National Grid’s transmission facilities have been placed under the operational control of the NYISO.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

Sithe owns and operates the Facility, a natural gas-fueled, gas-turbine combined-cycle facility rated at 1254 MW.

National Grid and Sithe are parties to an interconnection agreement regarding the Facility that was amended a number of times. The most recent version of that interconnection agreement was accepted by the Commission by a letter order issued on December 6, 2010 in Docket No. ER11-1888-000.³ Pursuant to that existing interconnection agreement, National Grid provides interconnection service to the Facility using the transmission system owned by National Grid.

II. The Amended and Restated Sithe IA

National Grid and Sithe have entered into the Amended and Restated Sithe IA to provide for continued interconnection service to the Facility using the transmission system owned by National Grid, pursuant to the terms of the Amended and Restated Sithe IA. The parties intend the Amended and Restated Sithe IA to amend and restate, and to supersede and replace, the interconnection agreement for the Facility that was accepted in Docket No. ER11-1888-000, effective as of June 30, 2015, as set forth in the Amended and Restated Sithe IA.

With minor variations, the Amended and Restated Sithe IA follows the *pro forma* Large Generator Interconnection Agreement (“LGIA”) set forth in Appendix 6 of Attachment X to the NYISO OATT. The main difference between the Amended and Restated Sithe IA and the NYISO *pro forma* is that the Amended and Restated Sithe IA is a two-party agreement between the transmission owner (National Grid) and the generation facility owner (Sithe), whereas the *pro forma* NYISO LGIA is a three-party agreement among the transmission owner, the generation facility owner, and the NYISO.⁴

Commission precedent supports acceptance of the Amended and Restated Sithe IA as a two-party agreement. In proceedings on two-party LGIAs between National Grid and generation subsidiaries of Alliance Energy that were modeled on the *pro forma* NYISO LGIA,⁵ the Commission found that the NYISO did not need to be a party to certain two-party LGIAs, for the following reasons:

[T]hey are not the type of new generator interconnection agreements envisioned by Order No. 2003; rather they are more like after-the-fact

³ That existing interconnection agreement between National Grid and Sithe is designated as Service Agreement No. 1160 under the NYISO OATT. The Amended and Restated Sithe IA will supersede and replace that existing interconnection agreement.

⁴ Attachment B to this filing shows the differences between the Amended and Restated Sithe IA and the *pro forma* NYISO LGIA in black-line format.

⁵ These LGIAs were filed and accepted pursuant to Commission proceedings in Docket Nos. ER07-1019, ER07-1020, and ER07-1021.

interconnection operating agreements that govern the terms, conditions, and rates associated with the continued operation and maintenance of previously constructed facilities built to accommodate the interconnection of the Alliance generators to Niagara Mohawk's transmission system. Accordingly, we will not require NYISO to be a signatory to these unexecuted IAs.⁶

Like the LGIAs in that case, the Amended and Restated Sithe IA is not a new generator interconnection agreement of the type envisioned by Order No. 2003. Instead, the Amended and Restated Sithe IA governs the terms, conditions, and rates associated with the continued operation and maintenance of the previously constructed facilities built to accommodate the interconnection of the existing Facility to the National Grid transmission system. Therefore, the Commission should accept the Amended and Restated Sithe IA as a two-party agreement.

The *pro forma* NYISO LGIA contains a number of provisions that are applicable to new interconnections but are not applicable to existing interconnections, such as the interconnection for the Facility. However, National Grid and Sithe have agreed to retain those provisions in the Amended and Restated Sithe IA.⁷ This approach is consistent with the approach authorized in *PJM Interconnection, L.L.C.*⁸ In that order, the Commission rejected a proposal to delete inapplicable provisions from an LGIA, stating that “[i]f a provision of a contract is not applicable, it is not applicable,” and concluding that “[u]nless confusion is likely, modifications to a pro forma agreement that ‘clarify’ matters not in doubt are not necessary.”⁹

National Grid and Sithe have agreed to a ten-year term for the Amended and Restated Sithe IA, which is the standard term under the *pro forma* NYISO LGIA.¹⁰

⁶ *Niagara Mohawk Power Corp. d/b/a National Grid*, 121 FERC ¶ 61,104, at P 22 (2007) (citation omitted). The Commission also stated that “any interconnections involving the interconnection of a new generating facility or involving increases in capacity or material modifications to the operating characteristics of existing generating facilities interconnected to Niagara Mohawk’s or any other NYISO member’s transmission system will require the NYISO to be a signatory to that IA.” *Id.* However, the Facility is already interconnected to the transmission system owned by National Grid, and there has been no increase in capacity or material modifications to the operating characteristics of the Facility. Therefore, the NYISO does not need to be a signatory to the Amended and Restated Sithe IA.

⁷ See Amended and Restated Sithe IA at Appendix I. However, throughout the Amended and Restated Sithe IA, the parties have replaced the defined terms “Developer” and “Developer’s Attachment Facilities” with the terms “Interconnection Customer” and “Interconnection Customer’s Attachment Facilities,” both of which have been given the same definitions as the replaced terms Developer and Developer’s Attachment Facilities. See *id.* at Article 1.

⁸ 111 FERC ¶ 61,098 (2005).

⁹ *Id.* at P 14.

¹⁰ See Amended and Restated Sithe IA at Article 2.2.

National Grid and Sithe have also included clarifying provisions in the Amended and Restated Sithe IA that differ from provisions in the *pro forma* NYISO LGIA. In Article 27.2, the parties have agreed to have a third arbitrator selected by consensus of both parties, because this is a two-party agreement. In Article 27.4, the parties have changed the allocation of costs for a single arbitrator from one-third per party to one-half per party, because the Amended and Restated Sithe IA is a two-party rather than a three-party agreement. In Appendix E to the Amended and Restated Sithe IA, the parties have replaced the developer certification statement concerning Trial Operation and commencement of Commercial Operation with a statement that Sithe commenced Commercial Operation of the Facility on November 15, 1994. The purpose of this modification is to specify the date on which the Facility was interconnected and began Commercial Operation. The Commission has accepted comparable LGIAs containing similar clarifying provisions. In new Appendix G to the Amended and Restated Sithe, the parties have clarified that, in accordance with Article 10.5 of the Amended and Restated Sithe IA, Sithe will be responsible for all reasonable operation and maintenance expenses and will pay such expenses to National Grid under one of two procedures set forth in Appendix G.

III. Effective Date

The Commission's regulations require service agreements to be filed not more than 30 days after service under the agreements has commenced.¹¹ As discussed above, the Amended and Restated Sithe IA is intended to go into effect as of June 30, 2015, *i.e.*, fewer than 30 days after the date the Amended and Restated Sithe IA is being filed. Therefore, National Grid requests that the Commission accept the Amended and Restated Sithe IA effective June 30.

IV. Documents Enclosed

In addition to this filing letter, attached are the following documents:

- i. The Amended and Restated Sithe IA (Service Agreement No. 1160 under the NYISO OATT), provided in clean format (Attachment A)
- ii. Black-lined revisions showing the differences between the Amended and Restated Sithe IA and the *pro forma* NYISO LGIA (Attachment B)

¹¹

18 C.F.R. § 35.3.

V. Communications and Service

Communications regarding this filing should be addressed to the following individuals, whose names should be entered on the official service list maintained by the Secretary for this proceeding:¹²

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Copies of this filing have been served on Sithe, the NYISO, and the New York State Public Service Commission.

VI. Conclusion

For the reasons stated herein, National Grid respectfully requests that the Commission accept the Amended and Restated Sithe IA effective as of June 30, 2015.

Respectfully submitted,

/s/ Amanda C. Downey
Amanda Downey
Counsel
National Grid USA
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¹² National Grid requests waiver of 18 C.F.R. § 385.203(b) to allow four persons to be added to the service list in this proceeding.

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