

August 8, 2019

By Electronic Delivery

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

Re: Proposed Implementation Agreement under Section 4.1.9.3 of the New York Independent System Operator, Inc.'s Market Administration and Control Area Services Tariff

Dear Secretary Bose:

In accordance with Section 4.1.9.3 of its Market Administration and Control Area Services Tariff (“Services Tariff”), Section 205 of the Federal Power Act (“FPA”),¹ and Part 35 of the Commission’s regulations,² 18 C.F.R. § 35, *et seq.*, the New York Independent System Operator, Inc. (“NYISO”) respectfully submits the attached Implementation Agreement. The proposed Implementation Agreement governs Astoria Generating Company L.P.’s and Eastern Generation, LLC’s, (collectively “AGC”) recovery of the costs to construct a new No. 2 Ultra Low Sulfur Diesel (“ULSD”) fuel oil system in order to accommodate the conversion of units 3 and 5 at the Astoria Generating Station to fire No. 2 ULSD in lieu of No. 6 fuel oil. Beginning in January 2022, New York City local law will not allow the units to burn No. 6 fuel oil.³ The new No. 2 ULSD fuel oil system is necessary to allow units 3 and 5 to generate electric energy using

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35, *et seq.*

³ See Section 24-168 of the Administrative Code of the City of New York, as amended by local law 31 for the year 2018.

liquid fuel in lieu of natural gas, when required by New York State Reliability Council (“NYSRC”) Local Reliability Rule G.2., *Loss of Gas Supply (New York City)*, (“Rule G.2”). The proposed Implementation Agreement is designated as Service Agreement No. 2474 under the NYISO Open Access Transmission Tariff (“OATT”).

Section 4.1.9 of the NYISO’s Services Tariff addresses, among other things, cost recovery by dual-fuel generating units that are designated pursuant to NYSRC Local Reliability Rule G.2 to either burn an alternate fuel (oil) at designated minimum levels, or to activate their auto-fuel swap capability, based on forecast Load levels in New York City. These generating units are referred to as “Eligible Units” for purposes of Services Tariff Section 4.1.9. Units 3 and 5 at the Astoria Generating Station are both Eligible Units. Each unit has a nominal maximum output of approximately 370 MW and is capable of burning natural gas or oil, or a combination of the two fuels. Both units are connected to multiple load pockets in New York City and can direct their output to either the Astoria East or the Astoria West substation, and can switch between these two substations while online. Therefore, each unit is capable of supporting multiple load pockets within New York City and can switch their output between substations without taking an outage.

The new No. 2 ULSD fuel oil system is necessary because the existing fuel oil storage facility at the Astoria Generating Station is only physically capable of storing No. 6 fuel oil and New York City local law requires that AGC stop burning No. 6 fuel oil by January 2022. In order to remain able to operate on either natural gas or an alternate fuel after January 2022, AGC is converting its storage facility and equipment at units 3 and 5 to store and burn No. 2 ULSD instead of No. 6 fuel oil. This fuel conversion will allow AGC units 3 and 5 to continue supporting electric system reliability by providing the loss of gas supply service required by the NYSRC, while at the same time complying with the requirements of Section 24-168 of the Administrative Code of the City of New York.

Section 4.1.9.3 of the Services Tariff specifies that generating units that seek to recover costs incurred in connection with its compliance with Rule G.2, in addition to the commodity cost, associated taxes and emission allowance cost, shall negotiate an Implementation Agreement with the NYISO. The generating unit and the NYISO must also “consider the input of the New York State Public Service Commission, and the Transmission Owner designated by Rule [G.2] . . .”, in this case the Con Edison Company of New York, Inc. (“Con Edison”).⁴ The NYISO and AGC negotiated and executed a new Implementation Agreement (Attachment I) to address AGC’s recovery of certain costs incurred to comply with Rule G.2. While negotiating and drafting this Implementation Agreement, the NYISO sought input from the New York Department of Public Service and Con Edison. The NYISO is authorized to state that Con Edison supports the terms of the proposed Implementation Agreement. The NYISO requests, with AGC’s support, that the proposed Implementation Agreement be permitted to become effective on October 8, 2019 (*i.e.*, the day following the end of the statutory 60-day notice period).

⁴ Local Reliability Rule I-R3 was renumbered to Local Reliability Rule G.2 when the New York State Reliability Council renumbered its Reliability Rules in January 2015.

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. Proposed Implementation Agreement between the NYISO and AGC (Attachment I)

II. Communications and Correspondence

All communications and service in this proceeding should be directed to:

Robert E. Fernandez, General Counsel
Raymond Stalter, Director, Regulatory Affairs
Alex M. Schnell, Assistant General Counsel/
Registered Corporate Counsel
*James H. Sweeney, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-7678
rfernandez@nyiso.com
rstalter@nyiso.com
aschnell@nyiso.com
jsweeney@nyiso.com

*Person designated for receipt of service.

III. Background

The NYSRC is the local reliability organization charged with promoting and preserving the reliability of the New York State Power System (“NYS Power System”), consistent with Reliability Rules established by the North American Electric Reliability Corporation (“NERC”) and the regional regulatory body, the Northeast Power Coordinating Council (“NPCC”).⁵ Section 2.02 of the NYSRC Agreement establishes that, “[t]he mission of the NYSRC is to promote and preserve the reliability of electric service...by developing, maintaining, and, from time to time, updating the Reliability Rules which shall be complied with by the ISO and all entities engaging in electric transmission, ancillary services, energy and power transactions on the NYS Power System.” Furthermore, the Agreement between the NYISO and the NYSRC

⁵ On June 30, 1998, the Federal Energy Regulatory Commission (“Commission”) issued an Order conditionally approving the formation of the NYSRC and conditionally accepting the NYSRC Agreement and the ISO/NYSRC Agreement. 83 FERC ¶ 61,362. On April 30, 1999, the Commission issued a subsequent Order requesting further revisions regarding the governance of the NYSRC and the relationship of the NYISO and NYSRC. 87 FERC ¶ 61,135. On July 29, 1999, following a compliance filing that addressed the request for further revisions, the Commission issued an Order approving the formation of the NYSRC and accepting the NYSRC Agreement and ISO/NYSRC Agreement. 88 FERC ¶ 61,138.

(“ISO/NYSRC Agreement”) establishes that the NYSRC “shall be responsible for developing Reliability Rules pursuant to which the ISO shall maintain the safety and short-term reliability of the NYS Power System.”⁶

The NYISO, AGC, and Con Edison must comply with NYSRC Local Reliability Rule G.2 such that the NYS Bulk Power System is operated so that the loss of a single gas facility does not result in the loss of electric load within the New York City zone. Section 5.2 of the Services Tariff establishes that “[i]n acting as the Control Area operator, the ISO will be responsible for maintaining the safety and the short-term reliability of the NYCA and for the implementation of reliability standards promulgated by NERC and NPCC and for the Reliability Rules promulgated by the NYSRC.”⁷ The NYISO must also comply with the Independent System Operator Agreement (“ISO Agreement”)⁸ and the ISO/NYSRC Agreement,⁹ which are on file with and were accepted by the Commission.

Units 3 and 5 at the Astoria Generating Station in Queens, New York currently support reliable operation of the NYS Power System through their ability to generate electric power by burning natural gas or an alternate liquid fuel, or a combination of the two, in compliance with NYSRC Local Reliability Rule G.2. Under the New York City local law prohibiting use of No. 6 fuel oil, AGC must construct the new No. 2 ULSD fuel oil system such that Astoria Generating Station units 3 and 5 can fire No. 2 ULSD as an alternate fuel to continue complying with the NYSRC loss of gas supply reliability rule.

IV. Description of Proposed Implementation Agreement

The proposed Implementation Agreement facilitates AGC’s efforts to move forward in a timely, cost effective manner with the fuel system modifications necessary to help maintain the reliable operation of the NYS Bulk Power System. The conversion of generating units 3 and 5 to No. 2 ULSD is required in order to allow the Astoria Generating Station to be in compliance with Chapter 2 of Title 15 of the Rules of the City of New York, while also continuing to comply with New York State Reliability Council’s Local Reliability Rule G.2, Loss of Generator Gas Supply - New York City. Pursuant to Services Tariff Section 4.1.9, the NYISO negotiated an Implementation Agreement with AGC to share the prudent capital costs incurred as part of the No. 2 ULSD fuel oil system conversion. The NYISO will collect the money it pays to AGC

⁶ ISO/NYSRC Agreement Section 4.1.

⁷ Services Tariff Section 5.2.

⁸ See ISO Agreement Section 6.02, “The ISO OATT and the ISO Services Tariff will require those entities having a Service Agreement with the ISO to comply with the Reliability Rules and ISO Procedures regarding the reliability of the NYS Power System and to furnish data to the ISO as required.”

⁹ See ISO/NYSRC Agreement Section 2.1 which establishes that “[p]ursuant to the NYSRC Agreement, the NYSRC shall develop Reliability Rules which shall be complied with by the ISO and all entities engaged in transactions on the NYS Power System.”; see also ISO/NYSRC Agreement Section 3.3 which establishes that the NYISO shall “implement and comply with all Reliability Rules established by the NYSRC.”

pursuant to this proposed Implementation Agreement from Load withdrawals in the Con Edison Transmission District, in accordance with Section 6.1.7 of the NYISO OATT.¹⁰

The proposed Implementation Agreement establishes a mechanism whereby AGC and the Loads in the Con Edison Transmission District will split the prudently incurred capital costs associated with constructing key elements of the No. 2 ULSD fuel oil system, including a four million gallon above ground No. 2 ULSD tank farm (consisting of two 2M gallon storage tanks) at the Astoria Generating Station, foundations, steel containment systems, drainage and pump systems, piping systems, and a fire detection system (the "Project"). Based on a total project cost of \$42.9 million (not including any remediation costs), the NYISO agreed, with the support of Consolidated Edison, to reimburse AGC at a fixed rate of \$500,000 per month for 84 months following the effective date of this Implementation Agreement. The NYISO and AGC agreed that NYISO would begin monthly payments the month after the effective date of the Implementation Agreement to facilitate construction of the project and keep overall costs to NYISO load in the Con Edison Transmission District lower than if payments commenced after construction was completed by limiting the need to incur additional financing costs. The proposed cost sharing will allow AGC to construct a state-of-the-art No. 2 ULSD fuel oil system to support electric system reliability and to comply with both the City of New York local law and the NYSRC Local Reliability Rule G.2.

The NYISO and AGC further agreed that AGC will procure a spot barge of No. 2 ULSD for a minimum of approximately 100 days during the first winter the units operate on No. 2 ULSD. The spot barge will allow AGC to maintain approximately 30,000 barrels of additional No. 2 ULSD on-site during the first winter of operation on No. 2 ULSD. The additional on-site liquid fuel will increase the availability and flexibility of the units during their first winter operating on a new fuel, when some uncertainty exists as a result of the new fuel, new equipment and less on-site liquid fuel storage. NYISO and AGC will each contribute 50% of the spot barge costs. NYISO's payment for 50% of the spot barge costs is not included in the \$500,000 monthly payment and will be made in separate monthly payments to AGC in accordance with Section 1.6.5 of the Implementation Agreement. After the conclusion of the first winter period, the NYISO and AGC will review whether a barge should be procured in future years, and will determine the appropriate allocation of barge costs between AGC and the Loads in the Con Edison Transmission District.

The Implementation Agreement also describes potential adjustments to the \$500,000 monthly payments under a variety of situations. First, in the event that the actual project cost exceeds or is less than \$42.9 million, Section 1.5 of the proposed Implementation Agreement describes how the monthly payment will be adjusted up or down for the remaining payment months. Any upwards adjustment to the monthly payment will be based on the lesser of the

¹⁰ The NYISO currently collects money in the same manner for another effective Implementation Agreement under Services Tariff Section 4.1.9. *See*, Service Agreement No. 2336 under the NYISO OATT filed in Docket No. ER17-1579-000, Implementation Agreement governing TC Ravenswood LLC's recovery of its costs to generate electric energy using fuel oil in lieu of natural gas in furtherance of New York State Reliability Council Local Reliability Rule G.2.

actual project cost or \$48 million because any project costs above \$48 million will be borne entirely by AGC in accordance with Section 1.5.2 of the Implementation Agreement. Second, if AGC makes a corporate decision to deactivate either unit or both units, or if a catastrophic failure prevents the operation of either or both units, Section 1.8 of the proposed Implementation Agreement allows the NYISO to stop making monthly payments to AGC and describes how AGC will reimburse the NYISO a portion of the money already paid. AGC's obligation to reimburse the NYISO in these circumstances would include the money NYISO paid prior to the facilities commencing operation and, therefore, reduces the risk to load of making payments during construction of the facilities. If the NYISO receives a refund from AGC, the NYISO would allocate that money to load in the Con Edison Transmission District. Finally, in the event that AGC deactivates any of the generating units or ceases oil burning capability because of a change in law or circumstances outside AGC's control, any remaining monthly payments will be reduced in accordance with Section 1.11 of the proposed Implementation Agreement; however, AGC will not reimburse the NYISO for payments already made under these circumstances.

V. Effective Date

The NYISO respectfully requests that the proposed Implementation Agreement be permitted to become effective on October 8, 2019 (*i.e.*, the day following the end of the statutory 60-day notice period).

The October 8, 2019 effective date will provide AGC the cost recovery certainty that it needs to construct the new ULSD fuel oil system.

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 State Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO's website at www.nyiso.com.

VII. Conclusion

The NYISO respectfully requests that the Commission issue an order accepting the proposed Implementation Agreement without modification or condition, thereby making the rates, terms and conditions of the Implementation Agreement effective on October 8, 2019.

Respectfully submitted,

/s/ James H. Sweeney

James H. Sweeney, Senior Attorney
New York Independent System Operator, Inc.

cc: Anna Cochrane
James Danly
Jignasa Gadani
Jette Gebhart
Kurt Longo
John C. Miller
David Morenoff
Daniel Nowak
Larry Parkinson
Douglas Roe
Frank Swigonski
Gary Will
Liam Baker (Astoria Generating Company L.P.)
Susan LoFrumento (Consolidated Edison Company of New York, Inc.)