

THIS FILING LETTER DOES NOT CONTAIN ANY CEIL. ATTACHMENTS I AND II DO NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT III INCLUDES A ONE-LINE SCHEMATIC FOR WHICH CEIL DESIGNATION IS REQUESTED IN SECTION III BELOW, AND IS SUBMITTED SEPARATELY.

April 9, 2020

By Electronic Delivery

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

Re: Joint Filing of an Executed Large Generator Interconnection Agreement Among the New York Independent System Operator, Inc. and Consolidated Edison Company of New York, Inc.; Request for Critical Energy Infrastructure Information Designation; and Request for Waiver of the 60-Day Notice Period; Docket No. ER20-____-000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.13 of the Commission's regulations,² the New York Independent System Operator, Inc. ("NYISO") and Consolidated Edison Company of New York, Inc. ("Con Edison") (together, the "Joint Filing Parties") hereby tender for filing an executed two-party Large Generator Interconnection Agreement entered into by the NYISO and Con Edison, with Con Edison as both the Connecting Transmission Owner and Developer (the "Agreement").³ The Agreement is labeled as Service Agreement No. 2520 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Agreement for filing. As described in Part I of this letter, the Agreement is based upon the NYISO's three-party, *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the OATT as modified to reflect that there are only two parties to the Agreement. Further, as described in Part II of this letter, the Joint Filing Parties respectfully

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. § 35.13 (2017).

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 OATT and NYISO Market Administration and Control Area Services Tariff.

request a waiver of the Commission's prior notice requirements⁴ to make the Agreement effective as of March 26, 2020, which is the date of its full execution. Finally, as described in Part III of this letter, Con Edison requests that the one-line diagram included in the Agreement be protected from disclosure as Critical Energy Infrastructure Information.

I. Discussion

A. Background

Con Edison owns an existing 172 MW natural gas fired combustion turbine electricity generation facility known as East River 1 (the "Facility"), which is part of the East River Generating Station located in the city of New York, New York. There is no pre-existing interconnection agreement for the Facility because its interconnection pre-dated the Commission's Order No. 2003 and was not subject to the requirement to enter into an interconnection agreement with the NYISO under the transition rules adopted to implement the Order No. 2003 requirements. Con Edison recently modified the Facility with the addition of GE Advanced Gas-Path hardware and control and the removal of existing combustion and gas-path hardware, which modification resulted in a 12 MW increase in the output of the Facility, to a total output of 184 MW. As a result of this upgrade, the NYISO and Con Edison have entered into the Agreement for the Facility. Additional details regarding the Facility can be found in Appendix C of the Agreement.

The Facility interconnects to certain facilities of Con Edison that are part of the New York State Transmission System. The Point of Interconnection is at bus section GT-1 of East 13th Street 138 kV substation. Appendix A of the Agreement includes a one-line diagram showing the Point of Interconnection.

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

The Agreement was fully executed on March 26, 2020 by the NYISO and Con Edison. The Agreement largely conforms to the language in the Pro Forma LGIA contained in Attachment X of the NYISO OATT with the exceptions described below in this Part I.B. 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.⁵ Therefore, the Joint Filing Parties respectfully request that the Commission accept the Agreement with the non-conforming changes.

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).

⁵ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh'g denied*, 112 FERC ¶ 61,282 (2005).

1. Modifications Required to Reflect Con Edison as Both the Connecting Transmission Owner and Developer

The Pro Forma LGIA is a standard form of agreement that provides for three parties to the agreement, *i.e.*, the NYISO, Connecting Transmission Owner, and Developer. Here, Con Edison owns and operates both the Facility and the transmission facility to which the Facility connects. Thus, Con Edison is both the Connecting Transmission Owner and the Developer. Therefore, the NYISO and Con Edison modified the three-party Pro Forma LGIA into a two-party agreement.

The Joint Filing Parties made three types of modifications to the Pro Forma LGIA to create the two-party Agreement. As described below, the Joint Filing Parties: (A) deleted or modified terms appropriate for a three-party agreement and replaced them with terms appropriate for a two-party agreement; (B) replaced all references to “Connecting Transmission Owner” and “Developer” with “Con Edison;” and (C) eliminated or modified those provisions in the Pro Forma LGIA that define the contractual relationship between the Connecting Transmission Owner and the Developer, as they are the same entity here. The Commission has previously accepted similar changes to the Pro Forma LGIA where a two-party agreement was needed.⁶

a. Modifications to reflect that there are only two Parties

The Joint Filing Parties have modified several provisions of the Pro Forma LGIA to reflect the fact that there are only two parties to the Agreement. For example, the Joint Filing Parties deleted terms like “any Party” and “all Parties” and replaced them with terms appropriate for a two-part agreement like “either Party” and “the other Party.” Such modifications substitute terms applicable to three-party agreements with terms suitable for a two-party agreement. These modifications appear throughout the Agreement.⁷

The Joint Filing Parties also modified requirements specific to three parties so that they function for two parties. For example, the arbitration procedures of the Pro Forma LGIA establish that each of the three parties will select a member of a three-member arbitration panel.

⁶ See, *e.g.*, *New York Independent System Operator, Inc. and New York Power Authority*, Letter Order, Docket No. ER09-1372-000 (August 24, 2009) (accepting a modified two-party version of the Pro Forma LGIA for filing); see also, *e.g.*, *New York Independent System Operator, Inc. and Rochester Gas and Electric Corporation*, Letter Order, Docket No. ER12-1086-000 (March 22, 2012) (accepting a modified two-party version of the NYISO’s *pro forma* Small Generator Interconnection Agreement for filing).

⁷ Changes were made to the following provisions: parts of Article 1 (Definitions) defining “Applicable Reliability Standards,” “Attachment Facilities,” “Base Case” and “Capacity Resource Interconnection Service;” and Articles 2.3.2, 2.4, 5.1.1, 5.18.1*, 5.19.2*, 6.3, 6.4, 7.1, 7.5*, 9.1, 9.3, 9.9*, 13.6*, 15.1*, 15.3*, 16.2*, 17.1*, 17.2*, 18.1*, 18.2*, 19*, 22.6*, 22.7*, 22.8*, 22.9*, 22.10*, 22.11*, 22.12*, 22.13*, 25.1*, 25.2*, 25.3*, 26.1*, 26.2*, 27.1*, 27.2*, 29.4*, 29.11*, 29.12*, and 29.14*.

* As discussed herein, several provisions have been deleted from the Pro Forma LGIA and, as a result, several provisions in the Agreement are numbered differently. This filing letter refers to the original numbering of the Pro Forma LGIA and designates a change by use of an asterisk.

As the Agreement will only have two parties, the Joint Filing Parties have agreed to modify Article 27.2 (renumbered as Article 25.2 of the Agreement) to provide for each of the two parties to select an arbitrator and have the two arbitrators select a third arbitrator for the three-member arbitration panel. The Joint Filing Parties have also agreed to modify Article 27.4 (renumbered as Article 25.4 of the Agreement) to provide for each of the two parties to be responsible for one-half of the arbitration costs rather than one-third under the three-party cost provisions of the Pro Forma LGIA.

b. Modifications that replace the terms “Connecting Transmission Owner” and “Developer” with the term “Con Edison”

The Joint Filing Parties deleted references to “Connecting Transmission Owner” and “Developer” and replaced those with the term “Con Edison.” These modifications appear throughout the Agreement.⁸

c. Deletions or modifications of provisions in the Pro Forma LGIA that define the contractual relationship between a Connecting Transmission Owner and Developer that are separate legal entities

Many of the provisions of the Pro Forma LGIA create rights and obligations between the Connecting Transmission Owner and the Developer or outline terms between the Connecting Transmission Owner and Developer. For example, the Pro Forma LGIA provides in Article 5.1 options for Connecting Transmission Owner and Developer to determine which party will design, procure, and construct a Large Generating Facility and any Attachment Facilities, System Upgrade Facilities, and System Deliverability Upgrades. As Con Edison is both the Connecting Transmission Owner and the Developer, the Joint Filing Parties agreed to modify Article 5.1 to replace the different options with provisions specifying that Con Edison will design, procure, and construct any Attachment Facilities, System Upgrade Facilities, or System Deliverability Upgrades. Similarly, the NYISO and Con Edison have stricken several Pro Forma LGIA provisions that are inapplicable as the Connecting Transmission Owner and the Developer are the same party.⁹ Additionally, the Joint Filing Parties made conforming edits to several Articles

⁸ Changes were made to the following provisions: parts of Article 1 (Definitions) defining “Affected System,” “Affected Transmission Owner,” “Applicable Reliability Standards,” “Base Case,” “Capacity Resource Interconnection Service,” “Distribution System,” “Distribution Upgrades,” “Energy Resource Interconnection Service,” “Generating Facility,” “Governmental Authority,” “In-Service Date,” “Interconnection Facilities Study,” “Interconnection Request,” “Interconnection System Reliability Impact Study,” “Party or Parties,” “Stand Alone System Upgrade Facilities,” and “Trial Operation;” and Articles 2.1, 2.3.1, 2.5, 3, 4.1, 4.2, 4.3, 5.1, 5.4*, 5.9*, 5.14*, 5.16*, 5.19.1*, 6.1, 6.2, 6.3, 6.4, 7.1, 7.3*, 7.4*, 7.5*, 8.1, 8.2, 9.2, 9.3, 9.4, 9.5, 9.6.1, 9.6.2, 9.6.3, 9.6.4, 9.6.5, 9.6.6, 9.8.2*, 9.10*, 10.2*, 10.3*, 10.4*, 10.5*, 11.1, 11.3*, 11.4*, 11.6*, 13.2*, 13.4*, 13.5*, 14.1*, 15.4*, 18.3*, 19*, 22.5*, 24.1*, 24.2*, 24.3*, 24.4*, 26.2*, 29.5*, 29.8*, 29.13*, and 29.15*

⁹ The following provisions have been stricken from the Agreement: parts of Article 1 (Definitions) defining “Connecting Transmission Owner,” Connecting Transmission Owner’s Attachment Facilities,” “Developer,” “Developer’s Attachment Facilities,” and “Point of Change of Ownership;” parts of Articles 2.5, 2.6, 3, 5.4*, 5.14*,

and cross-references to reflect the changed numbering that resulted from the foregoing modifications.

2. Modifications to reflect that Con Edison will self-insure

As Con Edison is both Developer and Connecting Transmission Owner, the NYISO and Con Edison agreed to modify the insurance requirements in Article 18.3 of the Pro Forma LGIA (renumbered as Article 17.3 of the Agreement) to provide that Con Edison will self-insure in types and amounts consistent with its existing commercial practice for the generating facilities that it operates and Good Utility Practice.

3. Primary Frequency Response

The Commission's Order No. 842¹⁰ established requirements for large and small generating facilities to install, maintain, and operate equipment capable of providing primary frequency response.¹¹ These requirements are set forth in Articles 9.5.4 and 9.5.5 of the Pro Forma LGIA.¹² The requirements only apply to existing generating facilities if a new interconnection request was submitted for such facilities on or after the effective date of Order No. 842 (*i.e.*, May 15, 2018).¹³

These primary frequency response requirements do not apply to the Agreement because Con Edison submitted the interconnection request for the existing facility on December 1, 2014, prior to the May 15, 2018 effective date of Order No. 842. Accordingly, the Joint Filing Parties have agreed not to include Article 9.5.5 and corresponding language in Article 9.5.4 of the Pro Forma LGIA in the Agreement. The Commission has previously accepted similar changes.¹⁴

4. Deviations Expressly Contemplated by the Pro Forma LGIA

Article 9.5.1.1 of the Pro Forma LGIA provides power factor design criteria for Large Generating Facilities. The language of this article specifically provides that such criteria may

5.16*, 5.19.1*, 6.2, 6.4, 7.4*, 9.4, 9.6.1, 9.6.1.3, 9.6.4, 9.6.5, 10.3*, 10.4*, 10.5*, 13.2*, 18.1.3*, 20*, 24.3*, 24.4*, 25.3*, 25.4.2*, and 29.13*; and all of Articles 2.4.1, 2.4.2, 2.4.3; 5.2, 5.3, 5.5, 5.6, 5.7, 5.8, 5.10, 5.11, 5.12, 5.13, 5.15, 5.17, 5.19.3, 7.2, 8.3, 9.5.5, 9.7, 10.1, 11.2, 11.5, 11.7, 12, 13.3, 23, 25.4.1, and 25.5.

¹⁰ *Essential Reliability Services and the Evolving Bulk-Power System—Primary Frequency Response*, Order No. 842, 83 Fed. Reg. 9,636 (Mar. 6, 2018), 162 FERC ¶ 61,128 (2018) (“Order No. 842”).

¹¹ Order No. 842 at PP. 1, 247.

¹² *New York Independent System Operator, Inc., Compliance Filing Order No. 842*, Docket No. ER18-1620-000 (May 15, 2018).

¹³ Order No. 842 at P. 1; *see also* *MATL LLP*, Letter Order, Docket No. ER-18-1788-000 (November 15, 2018).

¹⁴ *See, e.g., New York Independent System Operator, Inc.*, Letter Order, Docket No. ER18-2022-000 (August 28, 2018) (accepting an amended interconnection agreement without primary frequency response requirements).

vary where “the NYISO or the Transmission Owner in whose Transmission District the Large Generating Facility interconnects has established different requirements that apply to all generators in the New York Control Area or Transmission District (as applicable) on a comparable basis.” As the Facility is already operated by Con Edison in accordance with the requirements of Con Edison’s Transmission District, the Joint Filing Parties agreed to modify Article 9.5.1.1 to provide that Con Edison shall maintain the effective power composite delivery of the Facility within its existing reactive power capability range.

5. Steam Operation

In addition to providing electric energy, the Large Generating Facility also provides steam services that are utilized by Con Edison as a steam utility in New York City. When the Large Generating Facility is providing steam, certain operational requirement noted above need to be revised to accommodate the dual nature of the generating facility.

For example, the requirement to procure, install, maintain, and operate Power System Stabilizers contained in Article 5.1 of the Agreement must also be consistent with the requirements to provide steam services to Con Edison. In addition, the power factor requirements in Article 9.5.1 of the Agreement and the voltage schedule requirements in Article 9.5.2 of the Agreement to produce and absorb reactive power must be consistent with the requirements of the Con Edison steam system.

The operational requirements that have been modified to accommodate the needs of the Con Edison steam system are contained in Section 3 of Appendix C of the Agreement.

Article 29.2 of the Pro Forma LGIA provides for discrepancies or conflicts between or among terms and conditions of the cover agreement and its Appendices. The language of this article specifically provides that the terms and conditions of the cover agreement shall be given precedence over the Appendices, “except as otherwise expressly agreed in writing by the Parties.” Exercising the rights afforded to them by this last clause, the NYISO and Con Edison added a provision to this article expressly agreeing that the terms and conditions of the Appendices shall take precedence over the provisions of the cover agreement in case of a discrepancy or conflict between or among the terms and conditions of same. The Commission has previously accepted this change to the Pro Forma LGIA.¹⁵

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

The Joint Filing Parties request an effective date of March 26, 2020 for the Agreement, which is the date of its full execution. The Joint Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The

¹⁵ See, e.g., *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER17-467-000 (January 23, 2017) (accepting revision to Article 29.2 to reflect precedence of the terms and conditions in Appendices); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2199-000 (December 28, 2010) (accepting revision to Article 29.2 to reflect precedence of the terms and conditions in Appendices).

Commission has previously permitted interconnection agreements to become effective upon the date of execution.¹⁶

III. Request for CEII Treatment

Pursuant to Sections 388.112 and 388.113 of the Commission's regulations,¹⁷ Con Edison requests that the one-line diagram included as Figures A-1 in Appendix A of the Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information ("CEII").¹⁸ The diagram contains detailed, one-line schematics of Con Edison's facilities that, if disclosed, could pose a threat to the security and the reliability of the New York State bulk power system. The diagram provides more than simply the general location of critical infrastructure. Unlike publicly available maps of power transmission lines and generation and substation facilities, the schematics show the exact nature and specific location of facilities used to maintain the reliability of the New York State bulk power system.

The diagram, in Con Edison's assessment, reveals such critical information related to the facilities depicted therein that, if disclosed, could be useful to a person seeking to disable the power grid. Therefore, the disclosure of the CEII diagram would pose a threat to the reliability of the New York State bulk power system and the health and safety of New York residents. Moreover, the information revealed in this schematic reveals CEII, which the Commission 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 Agreement included in this filing.

The Joint Filing Parties are electronically submitting a non-public version of this filing. The diagram is included only in the non-public version of the Interconnection Agreement in the filing. The non-public diagram is marked: **"FIGURE CONTAINS CEII – DO NOT RELEASE PURSUANT TO 18 C.F.R. §§ 388.112 and 388.113."** The non-public diagram should be treated as CEII reviewable by Commission Staff. In accordance with the

¹⁶ 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).

¹⁷ 18 C.F.R. §§ 388.112 and 388.113.

¹⁸ As required by Section 388.113(d)(1)(i) of the Commission's regulations, Con Edison has described in the filing letter how the one-line diagram in Figures A-1 satisfies the definition of critical energy infrastructure information as that term is defined in Section 388.113(c)(1). In addition, as required by Section 388.113(d)(1)(ii) the cover page of the filing letter and the relevant page of the Interconnection Agreement that contains critical energy infrastructure information is labelled as including CEII and marked DO NOT RELEASE, and a Public and CEII version of the Interconnection Agreement are being filed with this letter. The CEII material is redacted in the Public version. Finally, as required by Section 388.113(d)(1)(i), Con Edison requests that the Commission designate the CEII material submitted on April 9, 2020, with the full five-year CEII designation provided for in Section 388.113(e)(1) as the information provided in the one-line diagrams will continue to satisfy the definition of critical energy infrastructure information for this entire period.

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Commission's April 14, 2017 notice on labeling of non-public information, each page of the non-public version of the filing is marked "CUI//CEII."¹⁹ A placeholder has been included in place of the non-public diagram in the public version of the Agreement.

All communications relating to this request for privileged and confidential treatment should be addressed to:

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IV. Communications and Correspondence

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

For the NYISO²⁰

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¹⁹ See Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff (Apr. 14, 2017) (unreported).

²⁰ 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.

For Con Edison

*Designated to receive service.

V. Documents Submitted

The Joint Filing Parties submit the following documents with this filing letter:

- A clean public version of the Agreement (Attachment I);
- A blacklined public version of the Agreement showing the changes from the Pro Forma LGIA (Attachment II);
- A clean CEII version of the Agreement (Attachment III); and
- The signature pages for the Agreement (Attachment IV).

VI. Service

On behalf of the Joint Filing Parties, 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 documents included with this filing will be posted on the NYISO's website at www.nyiso.com.

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VII. Conclusion

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the Agreement for filing with an effective date of March 26, 2020.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan
*Counsel for the
New York Independent System Operator, Inc.*

/s/ Paul A. Savage

Paul A. Savage
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