

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.

June 18, 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., Consolidated Edison Company of New York, Inc., and NRG Berrians East Development LLC; 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 Large Generator Interconnection Agreement entered into among the NYISO, Con Edison, as the Connecting Transmission Owner, and NRG Berrians East Development LLC ("NRG"), as the Developer (the "Interconnection Agreement").³ The Interconnection Agreement is labeled as Service Agreement No. 2535 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing. With the limited exceptions described in Part I of this letter, the Interconnection Agreement conforms to the NYISO's *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the OATT. Further, as described in Part II of this letter, the Joint Filing Parties respectfully request a

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13.

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.

waiver of the Commission's prior notice requirements⁴ to make the Interconnection Agreement effective as of June 4, 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 Interconnection Agreement be protected from disclosure as Critical Energy Infrastructure Information.

I. Discussion

A. Background

NRG owns an existing generating facility in Astoria, in Queens County, New York that entered commercial operation in 1970 ("Existing Facility"). The Existing Facility was initially owned by Con Edison and was subsequently sold by Con Edison to NRG Energy, Inc. in 1999. There is no pre-existing interconnection agreement for the Existing Facility, which 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 by the NYISO to implement the Order No. 2003 requirements.

NRG proposes to replace twelve gas turbine generators at the Existing Facility, which currently interconnects to Con Edison's 138kV Astoria East Substation, with a new Large Generating Facility consisting of one simple cycle unit with a summer capability of 431 MW and winter capability of 439 MW ("New Facility"). As a result of the facility replacement, the NYISO, Con Edison, and NRG have entered into the Interconnection Agreement for the New Facility. Additional details regarding the New Facility can be found in Appendix C of the Interconnection Agreement.

The New Facility will continue to interconnect to certain facilities of Con Edison that are part of the New York State Transmission System. The New Facility will use three existing, feeders with upgraded protective relays to interconnect at Con Edison's 138 kV Astoria East Substation. The three Points of Interconnection ("POI") of the New Facility are as follows: (1) from existing feeder 34126 at bus section 6E (between circuit breakers 5E and 6E); (2) from existing feeder 34127 at bus section 4AW (between circuit breakers 4W and 5W); and (3) from existing feeder 34129 at bus section 3W (between circuit breakers 2W and 3W). Appendix A of the Interconnection Agreement includes a one-line diagram showing the Points of Interconnection.

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

The Interconnection Agreement was fully executed on June 4, 2020 by the NYISO, Con Edison, and NRG. The Interconnection 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

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).

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 Interconnection Agreement with the non-conforming changes.

1. Modifications Required Due to Existence of Related Contractual Agreements

The site on which the New Facility will be located is the subject of certain pre-existing agreements between Con Edison and NRG's parent, NRG Energy, Inc., that are part of the transaction in 1999 in which Con Edison transferred the generating assets to NRG Energy, Inc. These include: (i) the Generating Plant and Gas Turbine Asset Purchase and Sale Agreement, dated as of January 27, 1999, and (ii) the Astoria Gas Turbine Continuing Site Agreement as of January 27, 1999. Under these agreements, Con Edison and NRG Energy, Inc. have certain obligations related to the property where the assets are located and the assets that were transferred as part of the transaction. Accordingly, the parties agreed for Con Edison and NRG to describe in Section 2(m) of Appendix C the provisions of these agreements that will continue to apply to the New Facility. In addition, the parties agreed to modify the "Entire Agreement" requirements in Section 29.6 of the Interconnection Agreement to accommodate these requirements in Section 2(m) of Appendix C. The Commission has previously accepted this type of change to the Pro Forma LGIA.⁶ Further, as stated in Section 2(m) of Appendix C, if a Party becomes aware of a conflict between these agreements and the Interconnection Agreement, the Party will notify the other parties to the Interconnection Agreement to discuss what, if any, amendment of the Interconnection Agreement would be appropriate under the circumstances.

2. Modifications Specifically Contemplated by LGIA

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, Con Edison, and NRG 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.⁷

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

⁶ See, e.g., *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER17-467-000 (January 23, 2017) (accepting revisions to Article 29.6 that addressed requirements for additional agreements in Appendix C of the interconnection agreement); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2199-000 (December 28, 2010) (same).

⁷ 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*

3. Pending Provisional Interconnection Service Requirements

In the NYISO's compliance proceeding for Order No. 845,⁸ the Commission determined that the NYISO's proposed provisional interconnection service requirements partially complied with Order No. 845 and directed the NYISO to revise certain language in the Pro Forma LGIA.⁹ On April 28, 2020, the NYISO submitted a compliance filing proposing revisions to the Pro Forma LGIA to address the Commission's directives, which filing is currently pending at the Commission.¹⁰ As the requirements in the Pro Forma LGIA concerning provisional interconnection service have to date only been accepted in part and, in any case, would not apply to the interconnection of the New Facility, the parties agreed to not include the new provisional interconnection service definitions and requirements in Article 1 and Section 5.9.2 in the Interconnection Agreement.

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

The Joint Filing Parties request an effective date of June 4, 2020 for the Interconnection 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 Commission has previously permitted interconnection agreements to become effective upon the date of execution.¹¹

III. Request for CEII Treatment

Pursuant to Sections 388.112 and 388.113 of the Commission's regulations,¹² 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").¹³ The diagram contains detailed, one-line schematics of Con Edison's

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).

⁸ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 83 Fed. Reg. 21342 (May 9, 2018), 163 FERC ¶ 61,043 (2018), *order on clarification and reh'g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019).

⁹ *See New York Independent System Operator, Inc.*, 170 FERC ¶ 61,117 at PP 78-81 (2020).

¹⁰ *See New York Independent System Operator, Inc.*, Compliance Filing, Docket No. ER19-1949-001 at pp 4-5 (April 28, 2020).

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).

¹² 18 C.F.R. §§ 388.112 and 388.113.

¹³ 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

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 Interconnection 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 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."**¹⁴ A placeholder has been included in place of the non-public diagram in the public version of the Interconnection Agreement.

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

For Con Edison

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of New York, Inc.
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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 June 18, 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.

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

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IV. Communications and Correspondence

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

For the NYISO¹⁵

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¹⁵ 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.

V. Documents Submitted

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

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

VII. Conclusion

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing with an effective date of June 4, 2020.

Respectfully submitted,

/s/ Sara B. Keegan

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

/s/ Paul A. Savage

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|-----|----------------|-----------------|
| cc: | Anna Cochrane | Daniel Nowak |
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| | John C. Miller | Eric Vandenberg |
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