

February 26, 2021

By Electronic Delivery

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

Re: Filing of an Executed Amended and Restated Engineering, Procurement, Construction, Operation, and Maintenance Agreement Among the New York Independent System Operator, Inc., Alcoa Power Generating, Inc., and H.Q. Energy Services (U.S.) Inc.; Request for Waiver of the 60-Day Notice Period; Docket No. ER21-\_\_\_\_-000

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act<sup>1</sup> and Section 35.13 of the Commission's regulations,<sup>2</sup> the New York Independent System Operator, Inc. ("NYISO") hereby tenders for filing an executed Amended and Restated Engineering, Procurement, Construction, Operation, and Maintenance Agreement ("Amended EPC Agreement") entered into by the NYISO, Alcoa Power Generating Inc.'s Long Sault Division ("APGI"), as the Affected System Operator, and H.Q. Energy Services (U.S.) Inc. ("HQUS"), as the Transmission Developer.<sup>3</sup> The NYISO, APGI, and HQUS are collectively the "Parties." The Amended EPC Agreement is labeled as Service Agreement No. 2476 under the NYISO's Open Access Transmission Tariff ("OATT").

The NYISO respectfully requests that the Commission accept the Amended EPC Agreement for filing. The Amended EPC Agreement is based on the NYISO's *pro forma* Standard Large Generator Interconnection Agreement ("Pro Forma LGIA") contained in Attachment X to the OATT, with non-conforming exceptions previously accepted by the Commission for the prior version of this agreement and limited additional revisions described in Part I below. Further, as described in Part II of this letter, the NYISO respectfully requests a waiver of the Commission's prior notice requirements to make the Amended EPC Agreement effective as of February 11, 2021, which is the date of its full execution.

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2019).

<sup>3</sup> Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachment P of the NYISO OATT, and if not defined therein, in Attachments X or S of the NYISO OATT, or the NYISO OATT or NYISO Market Administration and Control Area Services Tariff ("Services Tariff").

## **I. DISCUSSION**

HQUS is developing a Transmission Project to provide for an 80 MW increase in transmission capacity on the Cedar Rapids Transmission Intertie located in St. Lawrence County, New York, to increase imports from the Quebec Control Area to New York's Rest of State region. The Transmission Project includes the reconductoring of Niagara Mohawk Power Corporation d/b/a National Grid's ("National Grid's") 115 kV Alcoa-Dennison Line 12 ("Line 12"), the installation of a 25 MVAR rack mounted capacitor bank at National Grid's Dennison Substation, and related Network Upgrade Facilities required for the Transmission Project to connect reliably to the New York State Transmission System in a manner that meets the NYISO Transmission Interconnection Standard. HQUS is developing and will fund the Transmission Project and related Network Upgrade Facilities to receive Capacity Resource Interconnection Service ("CRIS") commensurate with the 80 MW of incremental transfer capability created by the transmission upgrade.

The Transmission Project will predominantly upgrade the transmission facilities of National Grid – the Connecting Transmission Owner. The NYISO, National Grid, and HQUS have entered into a Transmission Project Interconnection Agreement pursuant to which National Grid will construct, own, operate, and maintain the portions of the Transmission Project and Network Upgrade Facilities that impact its transmission facilities ("Transmission Project Interconnection Agreement").<sup>4</sup>

The NYISO's interconnection studies for the Transmission Project also identified impacts on an Affected System in New York – APCI's transmission system – with APCI an Affected System Operator. The portion of the Transmission Project and Network Upgrade Facilities on APCI's transmission system will be constructed, owned, operated, and maintained by APCI. Accordingly, the Parties entered into an EPC Agreement that governs the rates, terms, and conditions regarding the engineering, procurement, construction, operation, and maintenance of the portion of the Transmission Project and Network Upgrade Facilities on APCI's system.<sup>5</sup> Consistent with NYISO practice, as accepted by the Commission, the EPC Agreement is based on the Pro Forma LGIA as modified to reflect the different purpose of the EPC Agreement. The EPC Agreement was fully executed on October 4, 2019, filed at the Commission in Docket No.

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<sup>4</sup> *New York Independent System Operator, Inc., Niagara Mohawk Power Corporation d/b/a National Grid*, Letter Order, Docket No. ER20-194-000 (Dec. 23, 2019) (accepting Amended and Restated Transmission Project Interconnection Agreement among NYISO, National Grid, and HQUS for the Transmission Project); *New York Independent System Operator, Inc., Niagara Mohawk Power Corporation d/b/a National Grid*, Letter Order, Docket No. ER19-2645-000 (Sept. 26, 2019) (accepting Transmission Project Interconnection Agreement among NYISO, National Grid, and HQUS for the Transmission Project).

<sup>5</sup> National Grid, as the Connecting Transmission Owner, signed the Original EPC Agreement and the Amended EPC Agreement solely for the limited purpose of acknowledging that its representatives had read and were fully apprised of the terms of the agreement.

ER20-149 on October 21, 2019,<sup>6</sup> and was accepted by the Commission on December 13, 2019 (“Original EPC Agreement”).<sup>7</sup>

Subsequent to the execution of the Original EPC Agreement, HQUS proposed certain changes to the Transmission Project that the NYISO determined were not material modifications. In particular, HQUS proposed an alternative, shorter transmission project route and flexibility concerning the conductors to be installed. Accordingly, the Parties agreed to amend the Original EPC Agreement and enter into the Amended EPC Agreement to reflect these project modifications and related equipment changes in Appendix A of the Agreement.<sup>8</sup>

The Parties agreed to make the following additional changes to the Amended EPC Agreement:

- Modifications to reflect that this is the “Amended and Restated” agreement;
- Modifications to the Recitals to describe the different versions of the agreement;
- Modification to the cost estimate table and Security requirements in Appendix A to reflect modified equipment and work;
- Revisions to the Milestones in Appendix A to indicate that certain milestones were completed or have been modified.

Finally, subsequent to the execution of the Original EPC Agreement, the NYISO made certain modifications to the Pro Forma LGIA that was the base document for the Original EPC Agreement. The parties incorporated into the Amended EPC Agreement these updates to the Pro Forma LGIA,<sup>9</sup> except where: (i) the modifications were to provisions of the Pro Forma LGIA that were deleted from the Original EPC Agreement or modified in a manner that would eliminate the revised language, (ii) the modifications did not function with the revised language in the provision in the Original EPC Agreement, or (iii) the modifications did not apply to a Transmission Project studied under Attachment P of the NYISO OATT. As with the Original EPC Agreement, the Amended EPC Agreement continues to be based on and largely conforms to the language in the Pro Forma LGIA, with non-conforming revision to address the unique circumstances of this Transmission Project and to reflect the different purpose of the agreement as an EPC Agreement.<sup>10</sup>

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<sup>6</sup> *New York Independent System Operator, Inc.*, Docket No. ER20-149-000 (Oct. 21, 2019).

<sup>7</sup> *New York Independent System Operator, Inc.*, Docket No. ER20-149-000 (Dec. 13, 2019).

<sup>8</sup> The NYISO is simultaneously filing a Second Amended and Restated Interconnection Agreement among the NYISO, National Grid, and HQUS with related changes.

<sup>9</sup> The changes in the Amended EPC Agreement to align with the subsequent changes to the Pro Forma LGIA include revisions to the definitions in Article 1 (*i.e.*, revision to “In-Service Date”), the signature page, and the insertion of Appendix C.

<sup>10</sup> *See, e.g., PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh’g denied*, 112 FERC ¶ 61,282 (2005).

The Amended EPC Agreement was fully executed on February 11, 2021, by the NYISO, APGI, and HQUS.

## **II. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER OF THE 60-DAY NOTICE PERIOD**

The NYISO requests an effective date of February 11, 2021, for the Amended EPC 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 such agreements to become effective upon the date of execution.<sup>11</sup>

## **III. COMMUNICATIONS AND CORRESPONDENCE**

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

### **For the NYISO<sup>12</sup>**

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<sup>11</sup> See, e.g., *New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Letter Order, Docket No. ER15-2079-000 (August 5, 2015) (accepting the engineering, procurement, and construction agreement as of its date of execution); see also *New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Letter Order, 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).

<sup>12</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2019) to permit service on counsel in both Washington, D.C. and Richmond, VA.

**IV. DOCUMENTS SUBMITTED**

The NYISO submits the following documents with this filing letter:

- A clean version of the Amended EPC Agreement (Attachment I);
- A blacklined version of the Amended EPC Agreement showing the changes from the Original EPC Agreement (Attachment II); and
- The signature pages for the Amended EPC Agreement (Attachment III).

**V. 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 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](http://www.nyiso.com).

**VI. CONCLUSION**

Wherefore, the NYISO respectfully requests that the Commission accept the Amended EPC Agreement for filing with an effective date of February 11, 2021.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan

*Counsel for the*

*New York Independent System Operator, Inc.*

cc: Matt Christiansen  
Jignasa Gadani  
Jette Gebhart  
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