

April 19, 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 Engineering, Procurement & Construction Agreement  
Among New York Transco, LLC, Holcim (US) Inc. and New York Independent  
System Operator, 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 regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),<sup>2</sup> New York Transco, LLC (“NY Transco”) hereby tenders for filing an executed Engineering, Procurement & Construction Agreement (“EPC Agreement”), entered into by NY Transco, Holcim (US) Inc. (“Holcim”), and the New York Independent System Operator, Inc. (“NYISO”).<sup>3</sup> The attached EPC Agreement is designated as Service Agreement No. 2617 under the NYISO’s Open Access Transmission Tariff (“OATT”).<sup>4</sup>

The EPC Agreement is entered into to facilitate the necessary modifications to the Holcim substation in order to accommodate NY Transco’s development of the New York Energy Solution Project (“Transmission Project”), which was selected by NYISO as the more efficient and cost-effective solution to its Public Policy Transmission Need solicitation.<sup>5</sup> The EPC

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> 18 C.F.R. §35.13 (2019).

<sup>3</sup> NYISO is a signatory to the EPC Agreement solely in its role as the independent system operator of transmission facilities within its service territory and its obligation to oversee and maintain the reliable operation of the New York transmission grid.

<sup>4</sup> The NYISO is submitting this filing in the Commission’s eTariff system on NY Transco’s behalf solely in its role as the Tariff Administrator. However, the burden of demonstrating that the EPC Agreement is just and reasonable rests on NY Transco, the sponsoring party. The NYISO takes no position on any substantive aspect of the filing at this time.

<sup>5</sup> Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachment P of the NYISO Open Access Transmission Tariff (“OATT”), and if not defined therein, in Attachments X or S of the NYISO OATT, or the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”).

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Agreement governs the rates, terms, and conditions regarding the engineering, procurement, and construction for the modifications to the Holcim substation.

NY Transco respectfully requests that the Commission accept the EPC Agreement for filing. Further, as described in Part III of this letter, NY Transco respectfully requests a waiver of the Commission's prior notice requirements<sup>6</sup> to make the EPC Agreement effective as of April 2, 2021, which is the date on which the agreement was fully executed by the parties.

## **I. BACKGROUND**

As part of the NYISO's Public Policy Transmission Planning Process ("Public Policy Process"), the New York Public Service Commission ("NYPSC") identified as transmission needs driven by Public Policy Requirements the need to increase Central East transfer capability in New York by at least 350 MW ("Segment A") and UPNY/SENY transfer capability in New York by at least 900 MW ("Segment B") to provide additional capability to move power from upstate to downstate New York (together, the "AC Transmission Needs").<sup>7</sup> On April 8, 2019, the NYISO selected in its Public Policy Process the New York Energy Solution Project proposed by NY Transco<sup>8</sup> as the more efficient or cost effective transmission solution to address Segment B of the AC Transmission Needs and directed NY Transco to proceed with the Transmission Project.<sup>9</sup>

In parallel with the NYISO's performance of its Public Policy Process to address the AC Transmission Needs, the NYISO evaluated the Transmission Project in its Transmission Interconnection Procedures located in Attachment P of the OATT. The Transmission Interconnection Studies identified 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. In addition, the Transmission Interconnection Studies for the Transmission Project identified certain other Affected Systems impacted by the Transmission Project and NYISO has determined that the Holcim substation,

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<sup>6</sup> See *Prior Notice and Filing Requirements Under part II of the Federal Power Act*, 64 FERC ¶ 61,139, clarified 65 FERC ¶ 61,081 (1993).

<sup>7</sup> See NYPSC Case No. 12-T-0502, *et al.*, Order Finding Transmission Needs Driven by Public Policy Requirements (December 17, 2015).

<sup>8</sup> The New York Energy Solution Project was initially proposed by NY Transco and Niagara Mohawk Power Corporation, d/b/a/ National Grid ("National Grid"). On January 10, 2020, the NYISO, NY Transco, and National Grid entered into a Public Policy Transmission Planning Process Development Agreement for the Transmission Project ("Development Agreement"). National Grid subsequently assigned its rights, duties, and obligations under the Development Agreement to NY Transco on March 19, 2020, giving NY Transco sole rights to the development of the Transmission Project. The NYISO determined that the assignment satisfied the requirement under Article 10 of the Development Agreement and consented to the assignment in a letter dated March 10, 2020.

<sup>9</sup> See NYISO Board of Directors' Decision on Approval of AC Transmission Public Policy Transmission Planning Report and Selection of Public Policy Transmission Projects (April 8, 2019), available at <https://www.nyiso.com/documents/20142/1390750/Board-Decision-AC-Transmission-2019-04-08.pdf/32323d32-f534-a790-1b03-2cb110033320>.

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which is a 115kV substation located in Ravena, New York, will require modifications to reliably accommodate the interconnection of the Transmission Project.

## **II. DESCRIPTION OF THE EPC AGREEMENT**

The need for the EPC Agreement arises because the NYISO Interconnection Studies have identified certain modifications to the relays located at the Holcim substation that are necessary for the reliable interconnection and integration of the Transmission Project. Specifically, as identified in the NYISO System Impact Study, transmission line #8 needs to be rerouted from Central Hudson Gas & Electric Corporation's Pleasant Valley 115kV Substation to the Churchtown Switching Station and as a result, the Holcim substation's existing transmission line #8 relays will need to be replaced with new relays. The EPC Agreement provides NY Transco with the necessary access rights to the Holcim substation in order for NY Transco to make these modifications to the relays. In accordance with the EPC Agreement, NY Transco will perform all of the necessary engineering, design, procurement and construction needs for the modifications to the Holcim substation, at the sole cost and expense of NY Transco.

Because NY Transco is responsible for the costs of the modifications as part of the Transmission Project, the EPC Agreement does not include any rate or any other form of compensation to NY Transco by Holcim.<sup>10</sup> The work to be performed by NY Transco at the Holcim substation is specified in Exhibit B to the EPC Agreement.

Under the EPC Agreement, Holcim's responsibilities are identified in Exhibit A and are limited to the provision of existing drawings, schematics, specifications, criteria and data related to the Holcim substation that will assist NY Transco in the orderly conduct of its work responsibilities included in Exhibit B. Holcim shall also provide timely reviews of NY Transco's engineering, and provide final approval of the technical designs, equipment specifications, construction drawings and relay settings as required. Holcim will perform its work under the EPC Agreement at no cost to Holcim, and the cost of the work done by NY Transco shall be paid directly by NY Transco to its contractor. The EPC Agreement will terminate upon the completion of the work thereunder.

The EPC Agreement specifies that upon completion of the work, NY Transco will have no on-going obligation for the operation and maintenance for any modified or upgraded equipment at the Holcim Substation, nor will NY Transco be responsible for any future repairs for any modified or upgraded equipment at the Holcim substation.

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<sup>10</sup> See EPC Agreement, Section 4.

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

NY Transco requests an effective date of April 2, 2021, for the EPC Agreement which is the date of its full execution. NY Transco respectfully requests that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted engineering, procurement and construction agreements to become effective upon the date of execution.<sup>11</sup> Here, the EPC Agreement is necessary for the development of the Transmission Project, which has a very tight development schedule. In addition, the EPC Agreement does not include any rate provisions as NY Transco is performing all of the work necessary for the modifications to the Holcim substation at its own expense.

### IV. COMMUNICATIONS AND CORRESPONDENCE

Communications and service in this proceeding should be directed to:<sup>12</sup>

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Counsel for NY Transco

\*Designated to receive service

### V. DOCUMENTS SUBMITTED

NY Transco submits the following documents with this letter:

- A clean version of the executed EPC Agreement (Attachment I).

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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 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> NY Transco respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2019) to permit prompt service on the necessary representatives in both Washington, D.C. and Hartford, CT.

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## VI. CONCLUSION

Wherefore, NY Transco respectfully requests that the Commission accept the EPC Agreement for filing with an effective date of April 2, 2021.

Respectfully submitted,

/s/ Evan C. Reese III

Evan C. Reese III

*Counsel for New York Transco, LLC*

cc: Michael Messonnier

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