

THIS FILING LETTER DOES NOT CONTAIN ANY CEII. ATTACHMENTS I, II, AND IV DO NOT CONTAIN ANY PRIVILEGED OR CONFIDENTIAL INFORMATION. ATTACHMENT III INCLUDES ONE-LINE DIAGRAMS AND SUBSTATION AND LINE PROTECTION DETAILS FOR WHICH CEII DESIGNATION IS REQUESTED IN PART III BELOW, AND IS SUBMITTED SEPARATELY.

May 13, 2021

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 Transmission Project Interconnection Agreement Among the New York Independent System Operator, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, and New York Power Authority; Request for Critical Energy Infrastructure Information Designation; and Request for Waiver of 60-Day Notice Period; Docket No. ER21-____-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 Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") (together, the "Joint Filing Parties") hereby tender for filing an executed Transmission Project Interconnection Agreement entered into by the NYISO, National Grid, as the Connecting Transmission Owner, and New York Power Authority ("NYPA"), as the Transmission Developer (the "Interconnection Agreement").³ The Interconnection Agreement is labeled as Service Agreement No. 2611 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing. Pursuant to Section 22.11.1 of Attachment P of the OATT, the Interconnection Agreement is based on and consistent with the *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") contained in Attachment X to the OATT, as modified to address a Transmission Project. The modifications are described in Part II of this letter. Further, as described in Part III of this letter, National Grid requests that the

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2019).

³ 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").

diagrams included in Appendix A of the Interconnection Agreement and the details concerning National Grid's substation equipment and line protection in Appendix A be protected from disclosure as Critical Energy Infrastructure Information. Finally, as described in Part IV of this letter, the Joint Filing Parties respectfully request a waiver of the Commission's prior notice requirements⁴ to make the Interconnection Agreement effective as of April 29, 2021, which is the date on which it was fully executed.

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 needs 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").⁵ On April 8, 2019, the NYISO selected in its Public Policy Process the Double-Circuit Proposal that was submitted by NYPA and North American Transmission (now LS Power Grid New York Corporation I or "LS Power") as the more efficient or cost effective transmission solution to address Segment A of the AC Transmission Needs ("Transmission Project").⁶ Details regarding the Transmission Project are set forth in Appendix C of the Interconnection Agreement. On February 3, 2020, the NYISO, NYPA, and LS Power entered into a Public Policy Transmission Planning Process Development Agreement for the Transmission Project ("Development Agreement").⁷

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.

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

⁶ 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>. In its report, the NYISO Board also selected the New York Energy Solution project proposed jointly by Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") and the New York Transco, LLC ("Transco") as the more efficient or cost-effective transmission solution to address Segment B of the AC Transmission Needs. This transmission project was also studied in the NYISO's Transmission Interconnection Procedures, and the NYISO will separately enter into interconnection agreements with Transco in connection with the Segment B project.

⁷ See *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (April 16, 2020) (accepting Development Agreement among NYISO, LS Power, and NYPA).

NYPA and LS Power will each separately own and operate certain portions of the Transmission Project that will interconnect at separate Points of Interconnection on National Grid's system. For this reason, the NYISO, National Grid, NYPA, and LS Power agreed to enter into two separate Transmission Project Interconnection Agreements. The Interconnection Agreement among the NYISO, National Grid, and NYPA concerns the interconnection of the "NYPA Transmission Facilities" portion of the Transmission Project. The separate Transmission Project Interconnection Agreement among the NYISO, National Grid, and LS Power concerns the interconnection of the "LS Power Transmission Facilities" portion of the Transmission Project ("LS Power Interconnection Agreement"). The Interconnection Agreement and LS Power Interconnection Agreement mirror each other, with both NYPA and LS Power each responsible for ensuring the Transmission Developer's obligations under the agreement for the reliable interconnection of the Transmission Project are satisfied by one or both of the parties, including the completion of the Network Upgrade Facilities. Once the Transmission Project and Network Upgrade Facilities are in-service, NYPA's and LS Power's requirements in the interconnection agreements concerning the ongoing interconnection of the NYPA Transmission Facilities and LS Power Transmission Facilities are subject to the respective, individual interconnection agreements. The Network Upgrade Facilities required for the Transmission Project are described in Appendix A of both interconnection agreements. NYPA's and LS Power's individual transmission facilities and the separate Points of Interconnection of these facilities with National Grid are described in Appendix C of their respective interconnection agreements.

The Transmission Interconnection Studies for the Transmission Project also identified certain other Affected Systems impacted by the Transmission Project and certain Network Upgrade Facilities required for these Affected Systems, which will be addressed through separate agreements.

II. DESCRIPTION OF THE INTERCONNECTION AGREEMENT

The Interconnection Agreement was fully executed on April 29, 2021, by the NYISO, National Grid, and NYPA. Section 22.11 of Attachment P of the OATT establishes the requirements in the NYISO's Transmission Interconnection Procedures for Transmission Project Interconnection Agreements. Pursuant to Section 22.11.1, a Transmission Project Interconnection Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Attachment X of the OATT, as modified to address a Transmission Project. Pursuant to these requirements, the Interconnection Agreement is based on and consistent with the Pro Forma LGIA, as modified to address the fact that the facility is a Transmission Project and the particular circumstances of the interconnection.

The Interconnection Agreement varies from the Pro Forma LGIA primarily as follows:

- The Interconnection Agreement concerns a Transmission Project and the related Network Upgrade Facilities determined pursuant to the NYISO's Transmission Interconnection Procedures located in Attachment P of the OATT, rather than a Large Generating Facility and the related Attachment Facilities, System Upgrade Facilities, and System Deliverability

Upgrades determined pursuant to the NYISO's Large Facility Interconnection Procedures in Attachments X and S of the OATT. For this reason, the Interconnection Agreement has been modified from the Pro Forma LGIA: (i) to reflect the Transmission Developer, Transmission Project, Network Upgrade Facilities, and other Transmission Interconnection Procedures terminology and rules used in Attachment P in place of the terminology concerning generation projects in the Pro Forma LGIA, (ii) to reflect that the Transmission Project is a transmission facility, which has different operating characteristics and requirements than is required for a generation facility under the Pro Forma LGIA, and (iii) to address the use of Network Upgrade Facilities in place of Attachment Facilities, System Upgrade Facilities, and System Deliverability Upgrades.

- As described above, the Interconnection Agreement concerns the interconnection of the NYPA Transmission Facilities, which term is used for the NYPA portion of the Transmission Project addressed in the agreement. The separate LS Power Interconnection Agreement uses the term LS Power Transmission Facilities for the LS Power portion of the Transmission Project addressed in that agreement.
- NYPA will be responsible for all of the work to design, construct, install, place in service, operate and maintain the NYPA Transmission Facilities. National Grid will be responsible for the design, construction, installation, and placing in service of the Network Upgrade Facilities. National Grid will then own and be responsible for the operation and maintenance of all Network Upgrade Facilities, which will be incorporated into National Grid's system and operated and maintained by National Grid in the same manner as the rest of its transmission facilities. For this reason, the Interconnection Agreement specifies the parties' design, procurement, construction, operation, and maintenance responsibilities concerning the NYPA Transmission Facilities and Network Upgrade Facilities.⁸ The Interconnection Agreement does not include the requirements in the Pro Forma LGIA concerning a Developer's responsibilities concerning a Large Generating Facility or its options or responsibilities to perform work concerning Attachment Facilities or Stand Alone System Upgrade Facilities.
- While NYPA and LS Power will each own and operate separate components of the Transmission Project, they are both equally responsible for ensuring the completion of the Network Upgrade Facilities required for the Transmission Project. Accordingly, both the Interconnection Agreement and LS Power Interconnection Agreement establish their joint responsibility to ensure the Transmission Developer's obligations under the agreements are satisfied.⁹ In addition, the parties modified the default, assignment, and third-party beneficiary provisions to account for the Transmission Developers' shared obligations under the separate interconnection agreements.¹⁰

⁸ See Articles 5.1, 5.2, 10.1, 10.2, 11.1, 11.2.

⁹ See Article 11.8.

¹⁰ See Articles 17.1, 19, 29.7.

- The NYISO selected the Transmission Project in its Public Policy Process and, as described above, the NYISO, NYPA, and LS Power have entered a Development Agreement for the Transmission Project. For this reason, the Interconnection Agreement has been amended to align its requirements with requirements in the Public Policy Process in Attachment Y of the OATT and in the Development Agreement. For example, the suspension and modification requirements in the Interconnection Agreement have been modified from the Pro Forma LGIA to account for related requirements in the Development Agreement and OATT.¹¹
- The NYISO's OATT and the Development Agreement establish the requirements for addressing the scenario in which the Transmission Developer is unable to complete the Transmission Project.¹² Under this scenario, the NYISO may elect to solicit bids for other developers to replace the Transmission Developer to complete the project and the Transmission Developer must work cooperatively with the new developer to transfer the project.¹³ For this reason, the parties agreed to revise the termination provisions in the Interconnection Agreement to provide for the parties to suspend, rather than terminate, the agreement if the NYISO undertakes a process to solicit and select a new developer and to provide for the assignment of the agreement to the new developer.¹⁴
- The parties agreed to remove the metering requirements as there is not metering associated with the work on the NYPA Transmission Facilities.¹⁵
- Section 22.11.1 of Attachment P of the OATT establishes that the Transmission Project Interconnection Agreement "shall provide the mechanism through which a Transmission Developer shall post Security for required Network Upgrade Facilities." Accordingly, the Interconnection Agreement has been modified to incorporate the standard Security and related cost allocation tariff requirements set forth in Attachment S of the NYISO OATT that are applicable to upgrades for Developers that are subject to the Pro Forma LGIA.¹⁶ The Commission has accepted the incorporation of these requirements in the NYISO's Transmission Project Interconnection Agreements.¹⁷ In particular, the Interconnection Agreement incorporates the OATT requirement that the Developer's Security is subject to forfeiture if it terminates or abandons its project and the Security is required to defray the

¹¹ See Articles 5.11, 5.14.

¹² OATT Section 31.4.12.3.

¹³ OATT Section 31.4.12.3.1.3; 31.7 Appx. D (Public Policy Transmission Planning Process Development Agreement) Section 8.3.

¹⁴ See Article 2.3.1.

¹⁵ See Article 7.

¹⁶ See Articles 2.4.1, 2.4.2, 11.4, 11.5, 11.6.

¹⁷ See *New York Independent System Operator Inc. and Niagara Mohawk Power Corporation*, Letter Order, Docket No. ER19-2645-000 (September 26, 2019) (accepting incorporation in Transmission Project Interconnection Agreement of NYISO's Security forfeiture and cost allocation rules for upgrades).

costs of constructing the upgrades relied upon by subsequent projects.¹⁸ In addition, the Interconnection Agreement incorporates the OATT requirements that address the allocation of costs that are less than or greater than the cost estimate amount determined in the interconnection studies.¹⁹ NYPA and National Grid have agreed that NYPA will be responsible for the costs that are greater than the estimated amount that are incurred in accordance with Good Utility Practice, except in cases where those costs resulted from the modification of other projects.²⁰ In such case, the costs will be the responsibility of the developers of the modified projects or will be covered by drawing on the cash that has been paid and the Security that has been posted for terminated projects, depending on the factors that caused the additional cost.

- NYPA and National Grid have agreed that NYPA will provide Security in the form of cash, which will be used to provide pre-payments for National Grid's work under the Interconnection Agreement. For this reason, the parties revised the Security and invoicing provisions in the agreement to accommodate the agreed-upon approach.²¹
- The parties agreed to revise the applicability of the insurance rules to subcontractors as certain subcontractors are unlikely to be able to satisfy the same extensive insurance rules applicable to NYPA and National Grid.²²
- The parties agreed to modify the tax provisions from the Pro Forma LGIA (as located in Article 5.11 of the Interconnection Agreement), so that the provisions apply to Network Upgrade Facilities, rather than to a Large Generating Facility and related Attachment Facilities and Upgrades.
- The parties agreed to revise the Breach and Default rules to provide that the parties may, by mutual agreement, extend the 90 day period for a party to cure a Breach to provide flexibility to the parties to address any issues for the Transmission Project that are curable, but may take more than 90 days.²³
- The parties agreed to revise the Confidentiality rules to address the applicability of the rules for the Transmission Developer's corporate structure and to ensure that the parties could

¹⁸ See Article 11.5; *see also* OATT Attachment S Section 25.8.5. The parties agreed to supplement the tariff Security forfeiture rules to provide a process for the Connecting Transmission Owner to obtain the forfeited Security from Developer if Developer's Security provided pursuant to the Interconnection Agreement is not in a form that can be readily drawn on. *See* Article 11.5.

¹⁹ See Article 11.6; *see also* OATT Attachment S Section 25.8.6.

²⁰ See Articles 11.6.2 and 11.6.3.

²¹ See Articles 11.4 and 12.

²² See Article 18.3.14.

²³ See Article 17.1.

abide by any Applicable Laws and Regulations concerning retaining confidential information.²⁴

- The Transmission Project was evaluated under the NYISO's Transmission Interconnection Procedures in Attachment P of the OATT. For this reason, the Interconnection Agreement incorporates defined terms from Attachment P, rather than the defined terms for Large Facilities from the Standard Large Facility Interconnection Procedures in Attachment X of the OATT.
- The NYPA Transmission Facilities will interconnect with National Grid's system at multiple Points of Interconnection. Accordingly, the Interconnection Agreement provides for multiple Points of Interconnection, which are described in Appendix C. In addition, the Network Upgrade Facilities and Transmission Project will enter into service across multiple dates. Accordingly, the Interconnection Agreement provides for these multiple dates.
- The Interconnection Agreement also includes minor additional clean-ups and revisions agreed upon among all of the parties that are consistent with the terms of the Interconnection Agreement.

III. REQUEST FOR CEII TREATMENT

Pursuant to Sections 388.112 and 388.113 of the Commission's regulations,²⁵ National Grid requests that that the figures included in Appendix A of the Interconnection Agreement and the substation equipment and line protection details set forth in Section II of Appendix A be protected from disclosure as Critical Energy Infrastructure Information ("CEII").²⁶

The figures and the substation equipment and line protection details in Appendix A, if disclosed, could pose a threat to the security and the reliability of the New York State bulk power system. The figures provide 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. In addition, the substation equipment

²⁴ See Articles 22.5, 22.10.

²⁵ 18 C.F.R. §§ 388.112 and 388.113 (2019).

²⁶ As required by Section 388.113(d)(1)(i) of the Commission's regulations, National Grid has described in the filing letter how the figures and substation and line protection information in Appendix A satisfy 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 pages of the Interconnection Agreement that contain critical energy infrastructure information are 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), National Grid requests that the Commission designate the CEII material submitted on May 13, 2021, with the full five-year CEII designation provided for in Section 388.113(e)(1) as the information provided in the figures and concerning the substation equipment and line protection will continue to satisfy the definition of critical energy infrastructure information for this entire period.

and line protection details provide specific information concerning National Grid's substation design and protection systems.

The figures and substation and line protection information, in National Grid's assessment, reveal such critical information related to the facilities depicted and described therein that, if disclosed, could be useful to a person seeking to disable the power grid. Therefore, the disclosure of such information 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 reveals CEII, which the Commission has determined to be exempt from mandatory disclosure under 5 U.S.C. § 552(b)(7)(F). The figures and substation and line protection information 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 figures and substation and line protection information are included only in the non-public version of the Interconnection Agreement in the filing. The non-public diagram and information are marked: **"FIGURE CONTAINS CEII – DO NOT RELEASE PURSUANT TO 18 C.F.R. §§ 388.112 and 388.113"** and **"SECTION II CONTAINS CEII – DO NOT RELEASE PURSUANT TO 18 C.F.R. §§ 388.112 and 388.113"**. The non-public information 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."**²⁷ A placeholder has been included in place of the non-public information in the public version of the Interconnection Agreement.

All communications relating to this request for privileged and confidential treatment should be addressed to National Grid's Counsel listed below.

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

The Joint Filing Parties request an effective date of April 29, 2021, 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.²⁸

²⁷ See Notice of Document Labelling Guidance for Documents Submitted to or Filed with the Commission or Commission Staff (Apr. 14, 2017) (unreported).

²⁸ See, e.g., *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).

V. COMMUNICATIONS AND CORRESPONDENCE

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

For the NYISO²⁹

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VI. DOCUMENTS SUBMITTED

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

- A clean Public version of the Interconnection Agreement (Attachment I);

²⁹ 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.

- 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).

VII. 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.

VIII. CONCLUSION

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the Interconnection Agreement for filing with an effective date of April 29, 2021.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan

Counsel for the

New York Independent System Operator, Inc.

/s/ Christopher J. Novak

Christopher J. Novak

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