

June 9, 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 Operating Agreement Between the New York Independent System Operator, Inc. and LS Power Grid New York Corporation I; 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 submits for filing an executed operating agreement entered into between LS Power Grid New York Corporation I ("LS Power") and the NYISO ("Operating Agreement").<sup>3</sup> The Operating Agreement is designated as Service Agreement No. 2627 under the NYISO's Open Access Transmission Tariff ("OATT").

The NYISO respectfully requests that the Commission accept the Operating Agreement for filing. LS Power is developing transmission facilities in New York that will be placed under the operational control of the NYISO. In accordance with Section 31.1.7.3 of the OATT, LS Power has executed the Operating Agreement with the NYISO. With the limited exceptions described in Part II of this letter, the Operating Agreement conforms to the NYISO's *pro forma* operating agreement that is contained in Section 31.11 of Attachment Y of the OATT ("Pro Forma Agreement"). Further, as described in Part III of this letter, the NYISO respectfully requests a waiver of the Commission's prior notice requirements<sup>4</sup> to make the Operating Agreement effective as of May 18, 2021, which is the date of its full execution.

**I. Background**

Section 31.1.7.3 of the OATT requires that a transmission owner that is not a party to an operating agreement with the NYISO and will own transmission facilities in the New York

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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 Y of the NYISO OATT and, if not defined therein, in Section 2 of the NYISO OATT and Section 2 of the NYISO Market Administration and Control Area Services Tariff.

<sup>4</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).

Control Area over which Transmission Service will be provided under the NYISO's Tariffs must enter into an operating agreement with the NYISO prior to energizing its transmission facilities. Section 31.11 of the OATT contains a *pro forma* operating agreement.

On April 8, 2019, the NYISO selected in its Public Policy Transmission Planning Process the Double-Circuit Proposal that was submitted by the New York Power Authority ("NYPA") and North American Transmission (now LS Power) as the more efficient or cost effective transmission solution to address Segment A of the AC Transmission Needs<sup>5</sup> ("Transmission Project").<sup>6</sup> LS Power and NYPA are in the process of constructing the Transmission Project, and LS Power will own transmission facilities in the New York Control Area over which Transmission Service will be provided under the NYISO Tariffs. LS Power is not currently a party to an operating agreement with the NYISO or the ISO/TO Agreement. Accordingly, the NYISO and LS Power have entered into the Operating Agreement.

## **II. The Operating Agreement Closely Conforms to the Pro Forma Agreement Contained in Section 31.11 of Attachment Y to the NYISO OATT**

The Operating Agreement was fully executed on May 18, 2021, between the NYISO and LS Power. The Operating Agreement largely conforms to the language in the Pro Forma Agreement located in Section 31.11 of Attachment Y to the OATT with the exceptions described below in this Part II. The limited changes are necessary to clarify LS Power's responsibilities concerning the maintenance of a local control center in accordance with applicable reliability requirements for its new transmission facilities in New York. The NYISO respectfully requests that the Commission accept the Operating Agreement with the limited, non-conforming changes.

### **A. Modifications to Clarify LS Power's Responsibilities for New Local Control Center**

LS Power will establish a control center in New York for the operation and coordination of its new transmission facilities, including those that are under the NYISO's operational control and for which the NYISO will be the Transmission Operator. The NYISO and LS Power agreed to limited revisions to Section 2.05 of the Operating Agreement to clarify that LS Power will maintain the local control center(s), as well as suitable backup operations, consistent with applicable reliability rules. In addition, the revisions clarify that all of LS Power's system operators in real-time communication with the NYISO or responsible for directing real-time

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<sup>5</sup> As part of the NYISO's Public Policy Transmission Planning Process, the New York Public Service Commission 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").

<sup>6</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>.

actions on LS Power's transmission facilities that are subject to the NYISO's operational control are required to maintain a NERC Transmission Operator or Reliability Operator certification. Finally, the revisions clarify LS Power's responsibilities to maintain Supervisory Control and Data Acquisition ("SCADA") systems and provide the SCADA information to the NYISO. These clarifications are required to ensure that the new control center will satisfy applicable reliability requirements, will permit the NYISO to meet its obligations as Transmission Operator, and will enable the required coordination between the NYISO and LS Power concerning the operation of LS Power's transmission facilities.

### **III. Proposed Effective Date and Request for Waiver of the 60-Day Notice Period**

The NYISO requests an effective date of May 18, 2021, for the Operating Agreement, which is the date of its full execution. The NYISO respectfully requests that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted operating agreements to become effective upon the date of execution.<sup>7</sup>

### **IV. Communications and Correspondence**

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

#### **For the NYISO<sup>8</sup>**

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<sup>7</sup> See, e.g., *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER16-1785-001 (July 19, 2016) (accepting operating agreement effective as of date of execution). The Commission has accepted non-conforming changes to other *pro forma* agreements as of the date of execution. See, e.g., *New York Indep. Sys. Operator, Inc. and New York State Elec. & Gas Corp.*, Letter Order, Docket No. ER11-2953-000 (April 7, 2011) (accepting interconnection agreement effective as of date of execution); see also *New York Indep. Sys. Operator, Inc. and Niagara Mohawk Power Corp.*, Letter Order, Docket No. ER08-985-000 (June 26, 2008) (same); *New York Indep. Sys. Operator, Inc. and New York Power Auth.*, Letter Order, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Indep. Sys. Operator, Inc. and New York Power Auth.*, Letter Order, Docket No. ER08-699-000 (May 16, 2008) (same).

<sup>8</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.

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\*Designated to receive service.

**V. Documents Submitted**

The NYISO submits the following documents with this filing letter:

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

**VI. 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).

**VII. Conclusion**

Wherefore, the NYISO respectfully requests that the Commission accept the Operating Agreement for filing with an effective date of May 18, 2021.

Respectfully submitted,

/s/ Brian R. Hodgdon

Brian R. Hodgdon

*Counsel for the*

*New York Independent System Operator, Inc.*

cc:	Janel Burdick	John C. Miller
	Matthew Christiansen	David Morenoff
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