

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 NextEra Energy Transmission New York, 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 Act¹ and Section 35.13 of the Commission's regulations,² the New York Independent System Operator, Inc. ("NYISO") hereby submits for filing an executed operating agreement entered into between NextEra Energy Transmission New York, Inc. ("NextEra") and the NYISO ("Operating Agreement").³ The Operating Agreement is designated as Service Agreement No. 2628 under the NYISO's Open Access Transmission Tariff ("OATT").

The NYISO respectfully requests that the Commission accept the Operating Agreement for filing. NextEra 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, NextEra 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 requirements⁴ to make the Operating Agreement effective as of May 25, 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

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 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.

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).

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 October 17, 2017, the NYISO selected in its Public Policy Transmission Planning Process the Empire State Line Proposal 1 project proposed by NextEra ("Transmission Project") as the more efficient or cost effective transmission solution to address the need for new transmission in Western New York to realize greater utilization of renewable energy from the Niagara hydroelectric facility and imports from Ontario.⁵ NextEra is in the process of constructing the Transmission Project and will own transmission facilities in the New York Control Area over which Transmission Service will be provided under the NYISO Tariffs. NextEra is not currently a party to an operating agreement with the NYISO or the ISO /TO Agreement. Accordingly, the NYISO and NextEra 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 25, 2021, between the NYISO and NextEra. 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 NextEra'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 NextEra's Responsibilities for New Local Control Center

NextEra 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 NextEra agreed to limited revisions to Section 2.05 of the Operating Agreement to clarify that NextEra 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 NextEra's system operators in real-time communication with the NYISO or responsible for directing real-time actions on NextEra's transmission facilities that are subject to the NYISO's operational control are required to maintain a NERC Transmission Operator or Reliability Operator certificate. Finally, the revisions clarify NextEra'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

⁵ See NYISO Board of Directors' Decision on Approval of Western NY Transmission Planning Report and Selection of Public Policy Transmission Project (October 17, 2017); *available at* <https://www.nyiso.com/documents/20142/1396390/Board%20Decision%20Re%20WNY%20Report%2020171017.pdf/de8832ca-0286-21b6-ecbb-bb1c754daefa>.

requirements, will permit the NYISO to meet its obligations as Transmission Operator, and will enable the required coordination between the NYISO and NextEra concerning the operation of NextEra'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 25, 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.⁶

IV. Communications and Correspondence

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

For the NYISO⁷

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⁶ 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).

⁷ 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.

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.

VII. Conclusion

Wherefore, the NYISO respectfully requests that the Commission accept the Operating Agreement for filing with an effective date of May 25, 2021.

Respectfully submitted,

/s/ Brian R. Hodgdon

Brian R. Hodgdon

Counsel for the

New York Independent System Operator, Inc.

cc: Janel Burdick
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