

EVAN C. REESE III

Attorney at Law

555 11th Street NW

Washington, DC 20004-1300

T: (202) 218-3917 F: (202) 513-8952

ereese@daypitney.com

August 13, 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 Agreement Among New York Transco, LLC, ADM Milling Co., and New York Independent System Operator, Inc.; Request for Waiver of the 60-Day Notice Period; Docket No. ER21-____-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act¹ and Section 35.13 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”),² New York Transco, LLC (“NY Transco”) hereby tenders for filing an executed Amended and Restated Engineering, Procurement & Construction Agreement (“EPC Agreement”), entered into by NY Transco, ADM Milling Co. (“ADM Milling”), and the New York Independent System Operator, Inc. (“NYISO”).³ The attached EPC Agreement is designated as Service Agreement No. 2643 under the NYISO’s Open Access Transmission Tariff (“OATT”).⁴

The EPC Agreement amends, restates, and replaces in its entirety, an original Engineering, Procurement & Construction Agreement entered into between NY Transco and ADM Milling on September 8, 2020.⁵ The EPC Agreement is entered into to facilitate the terms

¹ 16 U.S.C. § 824d (2012).

² 18 C.F.R. §35.13 (2019).

³ 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.

⁴ 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.

⁵ NY Transco and ADM Milling amend, restate and replace the September 8, 2020 agreement in order to add NYISO as a signatory pursuant to *American Electric Power Service Corporation*, 112 FERC ¶ 61,128 at P 10

August 13, 2021

Page 2

and conditions for conducting certain design and engineering activities and for access to the ADM Milling 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 or cost-effective solution to its Public Policy Transmission Need solicitation.⁶ The EPC Agreement governs the rates, terms, and conditions regarding the engineering, procurement, and construction for the modifications to the ADM Milling 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 requirements⁷ to make the EPC Agreement effective as of July 28, 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 the 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").⁸ On April 8, 2019, the NYISO selected in its Public Policy Process the New York Energy Solution Project proposed by NY Transco⁹ 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.¹⁰

(2005), to ensure that NYISO is kept fully aware of any reliability and planning issues that may arise as a result of the matters addressed herein.

⁶ 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").

⁷ See *Prior Notice and Filing Requirements Under part II of the Federal Power Act*, 64 FERC ¶ 61,139, clarified 65 FERC ¶ 61,081 (1993).

⁸ See NYPSC Case No. 12-T-0502, *et al.*, Order Finding Transmission Needs Driven by Public Policy Requirements (December 17, 2015).

⁹ 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.

¹⁰ 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>.

August 13, 2021

Page 3

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 ADM Milling substation, which is a 115 kV substation located in Hudson, 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 Transmission Interconnection Studies have identified certain modifications to the ADM Milling substation that are necessary for the reliable interconnection and integration of the Transmission Project. Specifically, as identified in the NYISO System Impact Study, the facility line #12 tap that connects existing Niagara Mohawk Power Corporation d/b/a/ National Grid ("National Grid") Hudson Substation to Central Hudson Gas and Electric Corporation Pleasant Valley 115kV Substation will be relocated to new line #12 between National Grid Hudson Substation to new NY Transco Churchtown Switching Station. Due to this change, the ADM Milling substation Line Panel will be renamed, drawings will be updated to reflect the changes, and line relay settings will be reviewed and updated as necessary. The EPC Agreement provides NY Transco with the necessary access rights to the ADM Milling substation in order for NY Transco to make these modifications and perform the design and engineering work necessary. 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 ADM Milling 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 ADM Milling.¹¹ The work to be performed by NY Transco at the ADM Milling substation is specified in Exhibit B to the EPC Agreement.

ADM Milling's responsibilities are identified in Exhibit A to the EPC Agreement and include support for design, engineering and procurement for the Transmission Project, as well as the provision of necessary ADM Milling design criteria and standards to assist NY Transco in the orderly conduct of its work responsibilities included in Exhibit B. ADM Milling 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. ADM Milling will perform its work under the EPC Agreement at no cost to ADM Milling, and the cost

¹¹ See EPC Agreement, Section 4.

August 13, 2021

Page 4

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 testing, verification and 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 ADM Milling substation, nor will NY Transco be responsible for any future repairs for any modified or upgraded equipment at the ADM Milling substation.

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

NY Transco requests an effective date of July 28, 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.¹² 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 ADM Milling substation at its own expense.

IV. COMMUNICATIONS AND CORRESPONDENCE

Communications and service in this proceeding should be directed to:¹³

¹² 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).

¹³ 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.

August 13, 2021

Page 5

*Evan C. Reese III
*Margaret Czepiel
Day Pitney LLP
555 11th Street NW
Washington, DC 20004
(202) 218-3917
ereese@daypitney.com
mczepiel@daypitney.com

*Lynn M. Fountain
Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103
(860) 275-0298
lfountain@daypitney.com

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).

VI. CONCLUSION

Wherefore, NY Transco respectfully requests that the Commission accept the EPC Agreement for filing with an effective date of July 28, 2021.

Respectfully submitted,
/s/ *Evan C. Reese III*
Evan C. Reese III
Counsel for New York Transco, LLC

August 13, 2021

Page 6

cc: Michael Messonnier

Senior Attorney

Hunton Andrews Kurth LLP

Riverfront Plaza, East Tower

951 East Byrd Street

Richmond, VA 23219

Sara Keegan

Senior Attorney

New York Independent System Operator

10 Krey Blvd

Rensselaer, NY 12144

Orla Muldoon

Chief Counsel Carbohydrate Solutions and Commercial Excellence

ADM

Global Headquarters

77 W. Wacker Drive, Suite 4600

Chicago, IL 60601