

December 30, 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 Large Generator Interconnection Agreement for the South Fork Offshore Wind Project Among the New York Independent System Operator, Inc., Long Island Lighting Company d/b/a LIPA, and South Fork Wind, LLC; Request for Waiver of the 60-Day Notice Period; Docket No. ER22-____-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 tenders for filing an executed Large Generator Interconnection Agreement for the South Fork Offshore Wind Project (NYISO Queue Nos. 612 and 695) entered into by the NYISO, Long Island Lighting Company d/b/a LIPA ("LIPA"), as the Connecting Transmission Owner, and South Fork Wind, LLC ("South Fork"), as the Developer (the "Interconnection Agreement").³ The Interconnection Agreement is labeled as Service Agreement No. 2671 under the NYISO's Open Access Transmission Tariff ("OATT").

The NYISO respectfully requests that the Commission accept the Interconnection Agreement for filing. With the limited exceptions described in Part I of this letter, the Interconnection Agreement conforms to the NYISO's *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the OATT. Further, as described in Part II of this letter, the NYISO respectfully requests a waiver of the Commission's prior notice requirements⁴ to make the Interconnection Agreement effective as of December 15, 2021, which is the date of its full execution.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2021).

³ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachments S or X of the NYISO OATT, and if not defined therein, in the NYISO OATT and 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).

I. Discussion

A. Background

South Fork is constructing a 138.6 MW wind generating facility located offshore on the submerged lands of the federal outer continental shelf in the Bureau of Ocean Energy Management lease area OCS-A-0517 (the “Facility”). Additional details regarding the Facility can be found in Appendix C of the Interconnection Agreement.

The Facility will interconnect to certain facilities of LIPA located in the Town of East Hampton, New York that are part of the New York State Transmission System. The Point of Interconnection is LIPA’s 69 kV East Hampton Substation. Figure A-1 in Appendix A of the Interconnection Agreement includes a one-line diagram showing the Point of Interconnection.

B. The Interconnection Agreement Closely Conforms to the Pro Forma LGIA Contained in Attachment X of the NYISO OATT

The Interconnection Agreement was fully executed on December 15, 2021, by the NYISO, LIPA, and South Fork. The Interconnection Agreement largely conforms to the language in the Pro Forma LGIA contained in Attachment X of the NYISO OATT with the exceptions described below in this Part I.B. The NYISO submits that the changes specified below satisfy the Commission’s standard for variations from the Pro Forma LGIA, because unique circumstances exist that require a non-conforming agreement.⁵ Therefore, the NYISO respectfully requests that the Commission accept the Interconnection Agreement with the non-conforming changes.

1. Modifications Required to Address LIPA’s Status as a Non-Jurisdictional, Tax-Exempt Municipal Utility

The Interconnection Agreement includes several modifications recognizing LIPA’s status as a non-jurisdictional municipal utility pursuant to Section 201(f) of the Federal Power Act (“FPA”).⁶ As a municipal utility, LIPA is not subject to certain federal and state tax laws. Further, LIPA holds, and has the authority to issue, tax-exempt debt for use in the construction, operation and maintenance of its transmission system. LIPA’s tax-exempt status and issuance of tax-exempt debt already is recognized under applicable terms of the NYISO OATT and related agreements. Accordingly, this Interconnection Agreement includes the following set of changes:

- The Recitals have been modified to note LIPA’s status as a non-jurisdictional municipal utility.

⁵ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh’g denied*, 112 FERC ¶ 61,282 (2005).

⁶ 16 U.S.C. § 824(f).

- Articles 2.1, 2.3.1 and 29.13 have been modified to delete the words “Connecting Transmission Owner” to reflect that the NYISO (in its role as the jurisdictional public utility) is individually making required filings with the Commission pursuant to the FPA. Article 29.13 is further modified, consistent with LIPA’s non-jurisdictional status, to reflect that any party may make a unilateral filing with the Commission to modify this Interconnection Agreement pursuant to FPA Section 206.
- Article 3 has been modified to clarify that the filing of the Interconnection Agreement with the Commission by the NYISO shall not be construed as a waiver of LIPA’s status as a non-jurisdictional municipal utility pursuant to FPA Section 201(f).
- Article 5.17, which governs tax matters, has been deleted to reflect LIPA’s tax-exempt status as a municipal utility. The parties have inserted “Reserved” into Article 5.17, so the numbering for subsequent sections does not need to be adjusted due to the deletion.

These modifications do not change the substantive procedures and standards for interconnection. The purpose of these modifications is to properly reflect LIPA’s non-jurisdictional and tax-exempt status. The Commission has previously accepted these types of modifications to the Pro Forma LGIA.⁷

In addition, the parties agreed to make certain revisions to reflect the fact that Long Island Electric Utility Servco LLC (“Servco”) will be executing the Interconnection Agreement on behalf of LIPA, as LIPA’s agent. In particular, the parties revised the preamble and the signature block to establish Servco’s role in the Interconnection Agreement, including, providing that Servco will not be a party to the Interconnection Agreement and will not have any liability under the Interconnection Agreement and clarifying that LIPA will have full liability for the obligations of the Connecting Transmission Owner under this Agreement. Further, the parties revised the indemnity requirements in Article 18.1 to provide that each party would indemnify the other parties “and their agents” to account for Servco in the indemnity rules.

2. Modification Required to Address Multiple NYISO Interconnection Queue Positions

The Facility will consist of two parts, each comprised of offshore wind turbines, that had separate interconnection requests and interconnection queue positions (NYISO Queue Nos. 612

⁷ See, e.g., *New York Independent System Operator*, Letter Order, Docket No. ER17-2151-000 (September 8, 2017) (accepting revisions to reflect LIPA’s status as a non-jurisdictional municipal utility); *New York Independent System Operator*, Letter Order, Docket No. ER11-1975-000 (December 15, 2010) (same) (re-filed by the NYISO to address an eTariff display issue; see *New York Independent System Operator*, Letter Order, Docket No. ER11-1975-001 (February 18, 2011)).

and 695). Details concerning the two parts of the Facility can be found in Appendix C of the Interconnection Agreement. The parties agreed to address both parts of the Facility, and thus both queue positions, in a single interconnection agreement. Accordingly, the Recitals have been modified to clarify that the Interconnection Agreement addresses the two interconnection queue positions.

3. Modification Required to Address the Existence of a Related Contractual Agreement

LIPA and South Fork are parties to a power purchase agreement pertaining to the Facility. Accordingly, the parties have agreed to modify Article 29.6 of the Interconnection Agreement to ensure that such agreement is not inadvertently superseded by the terms of the Interconnection Agreement. With respect to the interaction between the Interconnection Agreement and the power purchase agreement, Section 3(a) of Appendix C provides that “[i]t is the belief and intention of the Connecting Transmission Owner and the Developer that nothing in the Power Purchase Agreement conflicts in any material way with this Agreement.” Further, as provided in Section 3(a), if the parties become aware of a conflict, the parties will discuss: “amendment to the Power Purchase Agreement that would be appropriate under the circumstances.” The Commission has previously accepted this type of change.⁸

4. Modifications Related to Billing and Security Arrangements

As permitted by Article 11.5 of the Pro Forma LGIA, LIPA and South Fork have agreed on advance cash payment as the form of security for the costs of designing, engineering, constructing, and procuring the Connecting Transmission Owner’s Attachment Facilities.⁹ Article 12.1 of the Pro Forma LGIA provides that a Connecting Transmission Owner shall bill the applicable Interconnection Customer on a monthly basis for its design, engineering, construction, and procurement costs due for the preceding month. To reflect the security arrangement agreed to by LIPA and South Fork in which South Fork will make advance payments to LIPA, the parties have agreed to modify Article 12.1 in the Interconnection

⁸ See *New York Independent System Operator*, Letter Order, Docket No. ER17-2151-000 (September 8, 2017) (accepting revision to Article 29.6 that addressed requirements for Additional Agreements in Appendix C of the Interconnection Agreement); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER17-467-000 (January 23, 2017) (same); *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER11-2199-000 (December 28, 2010) (same).

⁹ Article 11.5 of the Pro Forma LGIA provides that “Developer shall provide Connecting Transmission Owner, at Developer’s option, a guarantee, a surety bond, letter of credit *or other form of security that is reasonably acceptable to Connecting Transmission Owner*” (emphasis added). For this interconnection, South Fork and LIPA agreed to use advanced cash payments as an “other form of security that is reasonably acceptable” to LIPA. South Fork initially provided a parent company guarantee to LIPA as Security. As described in Section 3(b) of Appendix B of the Interconnection Agreement, South Fork may, at its request, reissue to LIPA this guarantee following LIPA’s receipt of each advanced payment amount from South Fork to reduce the guarantee by the prepaid amount on a dollar for dollar basis.

Agreement to permit South Fork to make the advance payments as set forth in Section 3 of Appendix B of the Interconnection Agreement.¹⁰

5. Modifications Related to the Offshore Location of the Facility

As the Facility will be located offshore on the submerged lands of the federal outer continental shelf, the parties agreed to make the following modifications in the Interconnection Agreement to address the unique circumstances of the Facility's offshore location:

- Article 18.3.2 of the Pro Forma LGIA requires the Developer and the Connecting Transmission Owner to each obtain commercial general liability insurance with certain coverages to the extent normally available using Insurance Services Office, Inc. Commercial General Liability Coverage Form CG 00 01 04 13. Form CG 00 01 04 13 contains certain exclusions related to watercraft that are not appropriate for an offshore facility. Accordingly, the parties agreed to modify Article 18.3.2 of the Interconnection Agreement to strike the reference to Commercial General Liability Coverage Form CG 00 01 04 13.
- Article 28.1.1 of the Pro Forma LGIA requires Developer to represent that it is qualified to do business in the state in which the Facility, among other things, is located. The parties have agreed to modify Article 28.1.1 of the Interconnection Agreement to reflect that such representation should be made with respect to the State of New York, which is the state in which the interconnection is located, because the Facility is located on the federal outer continental shelf and not within any state.

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

The NYISO requests an effective date of December 15, 2021, for the Interconnection 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 interconnection agreements to become effective upon the date of execution.¹¹

¹⁰ The Commission has previously accepted a similar change to the NYISO's *pro forma* Small Generator Interconnection Agreement to reflect alternative billing and invoice arrangements agreed to by the parties. *See New York Independent System Operator, Inc. and Niagara Mohawk Power Corporation d/b/a National Grid*, Letter Order, Docket No. ER21-1088-000 (April 7, 2021) (accepting modifications to the *pro forma* Small Generator Interconnection Agreement to address alternative billing and invoicing procedures); *see also New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Letter Order, Docket No. ER19-589-000 (Feb. 1, 2019) (same).

¹¹ *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*

III. Communications and Correspondence

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

For the NYISO¹²

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IV. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

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

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).

¹² The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2021) to permit service on counsel in both Washington, D.C. and Richmond, VA.

V. 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 request that the Commission accept the Interconnection Agreement for filing with an effective date of December 15, 2021.

Respectfully submitted,

/s/ Sara Keegan

Sara B. Keegan

Counsel for the

New York Independent System Operator, Inc.

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