

February 23, 2023

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Filing of an Executed First Amended and Restated Development Agreement
Between the New York Independent System Operator, Inc. and New York
Transco LLC; Docket No. ER23-____-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 (“Commission”),² the New York Independent System Operator, Inc. (“NYISO”) hereby tenders for filing an executed First Amended and Restated Development Agreement for the New York Energy Solution project (“Project”) entered into between the NYISO and New York Transco LLC as the Developer (“Transco”) (the “Amended Agreement”).³ The Amended Agreement modifies and restates Service Agreement No. 2510 under the NYISO’s Open Access Transmission Tariff (“OATT”), which was filed with and accepted by the Commission in Docket No. ER20-865-000.⁴

The NYISO respectfully requests that the Commission accept the Amended Agreement for filing. As described in Part I of this letter, the Amended Agreement reflects changes to the Development Agreement among the NYISO, Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), and Transco for the Project as a solution to address Segment B of the AC Transmission Needs (“Original Agreement”) resulting from an assignment of rights, duties, and obligations and modifications to the Project. Further, as described in Part II of this letter, the NYISO respectfully requests a waiver of the Commission’s prior notice requirements⁵ to make the Amended Agreement effective as of January 19, 2023, which is the date of its full execution.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2023).

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 the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

⁴ *New York Indep. Sys. Operator, Inc.*, Executed Development Agreement Among NYISO, Niagara Mohawk Power Corp., and New York Transco LLC, Docket No. ER20-865-000 (January 23, 2020); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-865-000 (March 10, 2020).

⁵ 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

The Amended Agreement supersedes the Original Agreement. The Original Agreement is based on and largely conforms to the *pro forma* Public Policy Transmission Planning Process Development Agreement that was effective at the time the Original Agreement was executed.⁶ The Original Agreement includes limited non-conforming modifications that account for joint developers—Transco and National Grid, which the Commission accepted.

The Project is the competitive transmission project selected by the NYISO's Board of Directors to address Segment B of the AC Transmission Public Policy Transmission Needs ("AC Transmission Needs").⁷ The Project is mainly located in the Hudson Valley in New York. It consists of a new 345 kV/115 kV double-circuit transmission line from a new Knickerbocker switching station to the existing Pleasant Valley substation, as well as rebuilding the existing 115 kV transmission lines within the same corridor. In addition, the New York Public Service Commission ("NYPSC") identified certain other work that all solutions to Segment B of the AC Transmission Needs were required to include.

Subsequent to the effective date of the Original Agreement, National Grid assigned its rights, duties, and obligations under the Original Agreement to Transco. In accordance with the terms of the Original Agreement, the NYISO consented to the assignment of National Grid's rights, duties, and obligations to Transco on March 10, 2020.

During its development of the Project, Transco also notified the NYISO of several modifications, which are detailed in Appendices A and B to the Amended Agreement.⁸ Specifically, the modifications include (i) the installation of the proposed capacitor banks at a new Van Wagner substation instead of at the existing Pleasant Valley substation, (ii) rebuild of transmission facilities from the Rock Tavern to Sugarloaf substations to address the NYPSC-ordered work related to the Shoemaker to Sugarloaf 138 kV facilities, (iii) the replacement of equipment at the Coopers Corners and Rock Tavern substations to meet the existing conductor rating of the Marcy South path between the Coopers Corner and the East Transition substations, (iv) removal of certain terminal equipment upgrades on the 305 line between the Roseton substation and the East Fishkill substation from the Project scope, (v) the installation of phase-angle regulators to address the thermal transfer degradation identified in the System Impact

⁶ See *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER13-102-012, -013, -014 (June 5, 2018); compare *New York Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,098 (2020) ("February 2020 Order") (accepting revisions for the consideration of cost containment provisions in the OATT and revisions to the *pro forma* Public Policy Transmission Planning Process Development Agreement to implement a developer's commitment to contain costs).

⁷ National Grid and Transco jointly submitted the Project to address a transmission need driven by Public Policy Requirements to increase the UPNY/SENY interface in New York by at least 900 MW (commonly referred to as "Segment B"). See generally, NYPSC Case No. 12-T-0502, *et al.*, *Order Finding Transmission Needs Driven by Public Policy Requirements*, at PP 68 & Appendix A (December 17, 2015) ("NYPSC 2015 Order"); see also NYPSC Case No. 12-T-0502, *et al.*, *Order Addressing Public Policy Transmission Need for AC Transmission Upgrades* (January 24, 2017) (confirming the transmission needs).

⁸ See Attachments I and II.

Study for the Project conducted pursuant to the NYISO's Transmission Interconnection Procures in Attachment P to the OATT, and (vi) a technological change, at the request of the NYISO, to the series compensation system from a single-step (50%) device to a two-step system (33.3% and 16.7%) to enhance operational flexibility of the system.

These modifications to the Project address design changes based on detailed engineering and design of the Project after selection by the NYISO or necessary changes to address the reliable interconnection of the Project or to provide operational enhancements. The NYISO determined that while the proposed changes constitute "Significant Modifications" to the Project as defined in the Original Agreement, Transco satisfied the criteria under Article 3.5 of the Original Agreement for the NYISO to permit such changes. In particular, Transco demonstrated that the modifications: (i) do not impair the Project's ability to satisfy Segment B of the AC Transmission Needs, (ii) do not delay the In-Service Date of the Project beyond the Required Project In-Service Date, (iii) do not change the grounds upon which the NYISO selected the Project as the more efficient or cost-effective transmission solution, and (iv) will not result in a significant adverse impact to the reliability of the New York State Transmission System. As a result, the NYISO consented to the modifications.

Accordingly, the NYISO and Transco agreed to amend the Original Agreement to address the removal of National Grid as a party to the agreement and to address the modifications to the Project.

B. Description of the Amended Agreement

The Amended Agreement was fully executed on January 19, 2023, by the NYISO and Transco. The Amended Agreement makes limited revisions to the language of the Original Agreement to address the assignment and modifications to the Project.⁹ The NYISO submits that the changes are just and reasonable, and respectfully requests that the Commission accept the Amended Agreement.¹⁰

First, the Amended Agreement removes certain non-conforming revisions in the Original Agreement that were included, and accepted by the Commission, to address the joint development of the Project by National Grid and Transco. As National Grid is no longer jointly developing the Project with Transco and is no longer a party to the Amended Agreement, the NYISO and Transco have restored *pro forma* language in the preamble, the definitions in Article

⁹ The Amended Agreement uses the Original Agreement as the starting point for the revisions. The Original Agreement is based on the *pro forma* Development Agreement in effect at the time the Original Agreement was executed following selection in the Public Policy Transmission Planning Process. See *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-865-000 (March 10, 2020). Following execution of the Original Agreement, the Commission accepted revisions to the *pro forma* Development Agreement that incorporate cost containment measures for Public Policy Transmission Projects. See February 2020 Order at P 38 (accepting revisions to Articles 7.1, 14, 15.3 of the Development Agreement and the addition of a new Appendix D for the Project's voluntary cost cap). These requirements do not apply to this Project, and the Amended Agreement does not add these revised provisions.

¹⁰ See *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,054 (2016); *Southwest Power Pool, Inc.*, 132 FERC ¶ 61,159, at P 7 (2010); *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 (2005).

1, and the assignment provisions in Article 10 and removed National Grid from the notice provisions in Article 15.1.¹¹

Second, the parties also made limited revisions to the “Recitals” in the Amended Agreement to describe the events that transpired subsequent to execution of the Original Agreement.

Finally, the NYISO and Transco have made the following additional modifications to the Amended Agreement.

- Revised the cover page and preamble to reflect that this is the “First Amended and Restated” version of the agreement;
- Updated the Project Description in Appendix A and the Scope of Work in Appendix B in line with the project modifications described above; and
- Updated the project milestones in Appendix C.

Based on the foregoing, the NYISO respectfully requests that the Commission accept the Amended Agreement with these changes.

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

The NYISO requests an effective date of January 19, 2023 for the Amended 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 similar agreements to become effective upon the date of execution.¹²

III. Communications and Correspondence

All communications and service with regard to this filing should be directed to:

Robert E. Fernandez, Executive Vice President,
General Counsel, & Chief Compliance Officer
Karen Georgenson Gach, Deputy General Counsel
Raymond Stalter, Director of Regulatory Affairs
*Brian R. Hodgdon, Senior Attorney
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¹¹ OATT § 31.7, Appendix D.

¹² See, e.g., *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-865-000 (March 10, 2020) (accepting the Original Agreement as of date of execution); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (April 16, 2020) (accepting a Public Policy Transmission Planning Process Development Agreement effective as of date of execution); *New York Indep. Sys. Operator, Inc. and Niagara Mohawk Power Corporation d/b/a National Grid*, Letter Order, Docket No. ER22-2062-000 (August 5, 2022) (accepting interconnection agreement effective as of date of execution).

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* Persons designated for receipt of service.

IV. Documents Submitted

The NYISO submits the following documents with this filing letter:

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

V. Service

A complete copy of this filing will be posted on the NYISO's website at www.nyiso.com. The NYISO will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees. In addition, the NYISO will send an electronic copy of this filing to the New York Public Service Commission and to the New Jersey Board of Public Utilities.

VI. Conclusion

Wherefore, the NYISO respectfully requests that the Commission accept the Amended Agreement for filing with an effective date of January 19, 2023.

Respectfully submitted,

/s/ Brian R. Hodgdon

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