

December 21, 2023

By Electronic Delivery

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

Re: Joint Filing of an Executed Amended and Restated Engineering, Procurement, and Construction Agreement for the Ticonderoga Solar Project (NYISO Queue Position No. 734) Among the New York Independent System Operator, Inc., New York State Electric & Gas Corporation, ELP Ticonderoga Solar LLC, and Niagara Mohawk Power Corporation d/b/a National Grid; Request for Waiver of 60-Day Notice Period; Docket No. ER24-____-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") and New York State Electric & Gas Corporation ("NYSEG") (together, the "Joint Filing Parties") hereby tender for filing an executed Amended and Restated Engineering, Procurement, and Construction Agreement in connection with the Ticonderoga Solar project (NYISO Queue Position No. 734) ("Amended Agreement"). The Amended Agreement is among the NYISO, NYSEG, as the Affected System Operator, ELP Ticonderoga Solar LLC ("Ticonderoga"), as the Interconnection Customer, and Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid").³ The Amended Agreement is labeled as Service Agreement No. 2764 under the NYISO's Open Access Transmission Tariff ("OATT").

The Joint Filing Parties respectfully request that the Commission accept the Amended Agreement for filing. The Amended Agreement conforms to the NYISO's *pro forma* Large Generator Interconnection Agreement ("Pro Forma LGIA") that is contained in Attachment X to the OATT with the exceptions required to convert this agreement into an EPC Agreement, which changes were previously accepted by the Commission, and limited additional revisions described in Part I below. Further, as described in Part II of this letter, the Joint Filing Parties respectfully request a waiver of the Commission's prior notice requirements⁴ to make the Amended Agreement effective as of December 11, 2023, which is the date of its full execution.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 35.13 (2022).

³ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachments S, X, and Z of the NYISO OATT, and if not defined therein, the NYISO OATT or NYISO Market Administration and Control Area Services Tariff ("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

The Amended Agreement supersedes the Engineering, Procurement, and Construction Agreement among the NYISO, NYSEG, Ticonderoga, and National Grid that was filed as an unexecuted agreement with the Commission in its Docket No. ER23-1573-000 on April 5, 2023 (“Original Agreement”). As detailed in the transmittal letter for the Original Agreement, the Original Agreement established the rates, terms, and conditions regarding the engineering, procurement, and construction of upgrades on an Affected System – NYSEG’s system – required for the reliable interconnection of Ticonderoga’s 20 MW solar generating facility to National Grid’s transmission system, which is part of the New York State Transmission System. Consistent with the requirements in the NYISO’s OATT, the EPC Agreement is based on the NYISO’s Pro Forma LGIA, as modified to address only the engineering, procurement, and construction of the upgrades on the Affected System (“Affected System Upgrade Facilities”).⁵

For the Original Agreement, NYSEG and Ticonderoga disagreed concerning the amount to be included in the placeholder for Article 3.2.12 of the agreement, which provision concerns the dollar amount for NYSEG’s oversight of Ticonderoga’s construction of the Affected System Upgrade Facilities on NYSEG’s system. The NYISO filed the Original Agreement unexecuted at the Commission with the cost estimate amount of \$961,207 provided by NYSEG included in the placeholder. NYSEG and Ticonderoga then submitted comments at the Commission concerning their position on the appropriate insert for the placeholder. In a June 2, 2023, order, the Commission accepted the Original Agreement for filing with the \$961,207 figure.⁶

Section 4 of Appendix A of the Original Agreement established that the parties agreed to amend the agreement to insert the oversight cost amount determined at the Commission and the related form of security. Accordingly, the parties have executed the Amended Agreement to address these items. As revised, the Amended Agreement continues to conform to the NYISO’s Pro Forma LGIA with the exceptions required to convert this agreement into an EPC Agreement that were previously accepted by the Commission and with limited additional revisions addressed below.

The Joint Filing Parties submit that the additional 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.⁷ In particular, the parties agreed to modify Article 3.2.12 to provide: (i) consistent with NYSEG’s statements in the unexecuted agreement proceeding at the Commission that it would only charge actual oversight costs without markup or profit, (ii) to clarify the start date at which NYSEG would begin incurring such oversight costs, and (iii) to clarify that NYSEG would invoice such actual costs on a monthly basis. The parties

⁵ See OATT Attach. X § 30.3.5.

⁶ See *New York Independent System Operator, Inc., et al.*, 183 FERC ¶ 61,165 (June 2, 2023).

⁷ See, e.g., *PJM Interconnection, LLC*, 111 FERC ¶ 61,163 at PP 10-11, *reh’g denied*, 112 FERC ¶ 61,282 (2005).

agreed to make these changes to clarify the parties' rights and responsibilities under this Article 3.2.12.

In addition to these changes, the parties made the following changes to the Original Agreement:

- Modifications to reflect that this agreement is an "Amended and Restated Agreement";
- Clarifications in Appendix A regarding NYSEG's and National Grid's oversight responsibilities;
- Updates in Appendix A to the start date in the milestones table;
- Updates in Appendix A to the description of the security; and
- Updates to contact information listed in Appendix B.

The Amended Agreement was fully executed on December 11, 2023, by the NYISO, NYSEG, Ticonderoga, and National Grid. The Joint Filing Parties respectfully request that the Commission accept the Amended Agreement with the non-conforming changes.

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

The Joint Filing Parties request an effective date of December 11, 2023, for the Amended Agreement, which is the date of its full execution. The Joint Filing Parties respectfully request that the Commission waive its prior notice requirement to permit the requested effective date. The Commission has previously permitted such agreements to become effective upon the date of execution.⁸

⁸ 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 the 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).

III. Communications and Correspondence

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

For the NYISO⁹

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*Designated to receive service.

IV. Documents Submitted

The Joint Filing Parties submit the following documents with this filing letter:

- A clean version of the Amended Agreement (Attachment I);

⁹ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2022) to permit service on counsel in both Washington, D.C. and Richmond, VA.

- 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 Joint Filing Parties respectfully request that the Commission accept the Amended Agreement for filing with an effective date of December 11, 2023.

Respectfully submitted,

/s/ Michael J. Messonnier, Jr.

Michael J. Messonnier, Jr.

Counsel for the

New York Independent System Operator, Inc.

/s/ Jeffrey A. Rosenbloom

Jeffrey A. Rosenbloom

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