

January 12, 2024

**By Electronic Delivery**

Honorable Debbie-Anne A. Reese, Acting Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: Filing of an Executed Second Amended and Restated Development Agreement Between the New York Independent System Operator, Inc. and New York Transco LLC; Docket No. ER24-\_\_\_\_-000**

Dear Ms. Reese:

Pursuant to Section 205 of the Federal Power Act<sup>1</sup> and Section 35.13 of the Commission's regulations,<sup>2</sup> the New York Independent System Operator, Inc. ("NYISO") hereby tenders for filing an executed Second Amended and Restated Development Agreement between the NYISO and New York Transco LLC ("Transco") (hereinafter the "Second Amended Agreement").<sup>3</sup> The Second Amended Agreement modifies and restates Service Agreement No. 2510 under the NYISO's Open Access Transmission Tariff ("OATT"), which previously amended and restated the agreement originally filed and accepted by the Commission in Docket No. ER20-856-000.<sup>4</sup>

The NYISO respectfully requests that the Commission accept the executed Second Amended Agreement for filing. As described in Part I of this letter, the Second Amended Agreement includes a modification to the Required Project In-Service Date and related updates to the milestone schedule to complete the development of a remaining portion of the New York Energy Solution project ("Project"). While the majority of the Project is already in service, the modification to the Required Project In-Service Date is needed to accommodate the completion of a substation and two phase angle regulators ("PARs") that were identified to mitigate a transfer degradation in the System Impact Study for the Project conducted pursuant to the NYISO's Transmission Interconnection Procures in Attachment P to the OATT. As detailed in this letter, the additional time to complete the substation and PARs is due to delays attributable to an order of the New York State Supreme Court of Dutchess County vacating a local siting permit.

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<sup>1</sup> 16 U.S.C. § 824d (2023).

<sup>2</sup> 18 C.F.R. § 35.13 (2023).

<sup>3</sup> Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachment Y of the OATT, and if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

<sup>4</sup> *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 (Jan. 23, 2020); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-865-000 (Mar. 10, 2020).

As described in Part II of this letter, the NYISO also respectfully requests a waiver of the Commission's prior notice requirements<sup>5</sup> to make the Second Amended Agreement effective as of December 15, 2023, which is the date of its full execution.

## **I. Discussion**

### **A. Background**

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").<sup>6</sup> 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 identified certain other work that all solutions to Segment B of the AC Transmission Needs were required to include. The Project also includes the installation of a substation and two PARs in the Town of Dover ("Dover PARs") to mitigate a transfer degradation identified in the System Impact Study for the Project conducted pursuant to the NYISO's Transmission Interconnection Procures in Attachment P to the OATT.<sup>7</sup>

The Second Amended Agreement supersedes the First Amended and Restated Development Agreement that was accepted by the Commission for filing in Docket No. ER23-1168-000 ("First Amended Agreement").<sup>8</sup> The First Amended Agreement, which amended and restated the original agreement, largely conforms to the *pro forma* Public Policy Transmission Planning Process Development Agreement that was effective at the time the original agreement was executed.<sup>9</sup> The original agreement included certain non-conforming

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<sup>5</sup> See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, clarified, 65 FERC ¶ 61,081 (1993).

<sup>6</sup> 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 p 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* (Jan. 24, 2017) (confirming the AC Transmission Needs).

<sup>7</sup> See generally, February 2023 Filing at pp 2–3.

<sup>8</sup> *New York Indep. Sys. Operator, Inc.*, 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. ER23-1168-000 (Feb. 23, 2023) ("February 2023 Filing"); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-1168-000 (Apr. 12, 2023).

<sup>9</sup> Compare *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER13-102-012, -013, -014 (Jun. 5, 2018) with *New York Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,098 (2020) (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); and *New York Indep. Sys. Operator, Inc.*, 178 FERC ¶ 61,179 (2022) (accepting revisions to the *pro forma* Public Policy Transmission Planning Process Development Agreement related to the implementation of a right of first refusal for upgrades to existing facilities); and *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER23-1151-000 (Apr. 5, 2023) (accepting revisions to the *pro forma* Public Policy Transmission Planning Process Development Agreement related to the alignment of the provisions for the development, funding, and cost recovery of certain Network Upgrade Facilities with the associated, selected Public Policy Transmission Project).

modifications that accounted for the Project being jointly proposed by Transco and Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”). The First Amended Agreement addressed the assignment of National Grid’s rights and obligations to Transco and removed the non-conforming provisions related to National Grid’s involvement.<sup>10</sup> The First Amended Agreement also included modifications to the Project.<sup>11</sup>

During the development of the Project, Transco applied for and obtained a local permit from the Town of Dover Planning Board for the construction of the Dover PARs. In response to a petition challenging the environmental assessment supporting the local siting permit, the New York State Supreme Court of Dutchess County issued, on March 17, 2023, a temporary restraining order that first impacted the development of the Dover PARs. The court then issued a preliminary injunction on April 13, 2023 preventing development of the site beyond tree clearing as the court considered the petitioners’ challenge.<sup>12</sup> On August 13, 2023, the court issued a final order vacating the environmental assessment underlying the local permit for the Dover PARs site and remitted the matter to the Town of Dover Planning Board for further assessment of certain environmental impacts.<sup>13</sup>

To accommodate the completion of the Dover PARs, Transco requested, on November 21, 2023, a modification to the Required Project In-Service Date from December 31, 2023 to June 30, 2025. The NYISO determined that Transco satisfied the criteria under Article 3.4 of the First Amended Agreement for the NYISO to consent to the modification of the Required Project In-Service Date. Accordingly, the NYISO consented to a modification of the Required Project In-Service Date. Article 3.4.2 requires the First Amended Agreement to be amended to reflect the modified Required Project In-Service Date.

## **B. Description of the Second Amended Agreement**

The parties fully executed the Second Amended Agreement on December 15, 2023. The Second Amended Agreement makes limited modifications to the language of the First Amended Agreement. The NYISO submits that the changes are just and reasonable.<sup>14</sup>

The NYISO and Transco have made the following modifications to the Second Amended Agreement.

- Revised the cover page and preamble to reflect that this is the “Second Amended and Restated” version of the agreement;

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<sup>10</sup> February 2023 Filing at pp 3–4.

<sup>11</sup> *Id.*

<sup>12</sup> *Friends of the Great Swamp (Putnam & Dutchess Counties) Inc., et al., v. Town of Dover, NY, et al.*, Decision and Order, Index No. 2023-50796 (Sup. Ct. Dutchess County Apr. 13, 2023).

<sup>13</sup> *Friends of the Great Swamp (Putnam & Dutchess Counties) Inc., et al., v. Town of Dover, NY, et al.*, Decision and Order, Index No. 2023-50796 (Sup. Ct. Dutchess County Aug. 21 2023).

<sup>14</sup> 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, L.L.C.*, 111 FERC ¶ 61,163 (2005).

- Limited revisions to the “Recitals” to describe the events that necessitated an amendment to the First Amended Agreement; and
- Updated the project milestone schedule in Appendix C, including the modified Required Project In-Service Date of June 30, 2025.

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

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

The NYISO requests an effective date of December 15, 2023 for the Second 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 permitted similar agreements (*e.g.*, interconnection agreements) to become effective upon the date of execution.<sup>15</sup>

## **III. Communications and Correspondence**

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

Robert E. Fernandez, Executive Vice President, Chief Compliance Officer & General Counsel

Karen Georgenson Gach, Deputy General Counsel

Raymond Stalter, Director, Regulatory Affairs

\*Brian R. Hodgdon, Senior Attorney

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<sup>15</sup> See, *e.g.*, *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (Apr. 16, 2020) (the Original Agreement as of date of execution); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-865-000 (Mar. 10, 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 (Aug. 5, 2022) (accepting interconnection agreement effective as of date of execution).

\*Person designated to receive service.

#### IV. **Documents Submitted**

The NYISO submits the following documents with this filing letter:

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

#### V. **Service**

A complete copy of this filing will be posted on the NYISO's website at [www.nyiso.com](http://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 December 15, 2023.

Respectfully submitted,

/s/ Brian R. Hodgdon

Brian R. Hodgdon  
*Counsel for the  
New York Independent System Operator, Inc.*

cc:	Janel Burdick	Jaime Knepper
	Emily Chen	Kurt Longo
	Matthew Christiansen	David Morenoff
	Jignasa Gadani	Douglas Roe
	Leanne Khammal	Eric Vandenberg
	Jette Gebhart	