

January 19, 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 First Amended and Restated Development Agreement Among the New York Independent System Operator, Inc., LS Power Grid New York Corporation I, and the New York Power Authority; Docket No. ER24-____-000

Dear Ms. Reese:

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 First Amended and Restated Development Agreement among the NYISO, LS Power Grid New York Corporation I ("LS Power"), and the New York Power Authority ("NYPA") (hereinafter the "Amended Agreement") for the Segment A Double-Circuit Proposal ("Project").³ The Amended Agreement modifies and restates Service Agreement No. 2514 under the NYISO's Open Access Transmission Tariff ("OATT"), which was filed and accepted by the Commission in Docket No. ER20-1156-000.⁴

The NYISO respectfully requests that the Commission accept the executed Amended Agreement for filing. As described in Part I of this letter, the Amended Agreement reflects changes to the Development Agreement among the NYISO, LS Power, and NYPA for the Project as a solution to address Segment A of the AC Transmission Public Policy Transmission Needs ("Original Agreement"). While the major portions of the Project have entered service, the amendments include a modification to the Required Project In-Service Date to accommodate completion of work by the Connecting Transmission Owner and changes to the description of the Project to reflect post-selection changes.

¹ 16 U.S.C. § 824d (2023).

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 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.*, Filing of an Executed Development Agreement Among the New York Independent System Operator, Inc., LS Power Grid New York Corporation I, and the New York Power Authority, Docket No. ER20-1156-000 (Mar. 4, 2020); *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (Apr. 16, 2020).

As described in Part II of this letter, the NYISO also respectfully requests a waiver of the Commission's prior notice requirements⁵ to make the Amended Agreement effective as of December 28, 2023, which is the date of its full execution.

I. Discussion

A. Background

The Project is the competitive transmission project selected by the NYISO Board of Directors to address Segment A of the AC Transmission Public Policy Transmission Needs. The Project is located in the Mohawk Valley and Capital regions of New York. The Project largely consists of a new double-circuit 345 kV transmission line between the Edic 345 kV substation and the New Scotland 345 kV substation, as well as a new Princetown 345 kV substation and new Gordon Road 345 kV substation.⁶

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.⁷ The Original Agreement included certain non-conforming modifications that accounted for the joint development of the Project by LS Power and NYPA, the differences between LS Power having been a nonincumbent transmission developer and NYPA as an incumbent Transmission Owner, and NYPA's unique requirements as a public authority under New York law. The Commission accepted these non-conforming changes in Docket No. ER20-1156-000.⁸

1. Modification to the Required Project In-Service Date

During the study of the Project in the NYISO's Transmission Interconnection Procedures under Attachment P to the OATT, the NYISO, in coordination with the Connecting Transmission Owner,⁹ identified certain criteria violations that necessitated Network Upgrade Facilities for the Project. The Connecting Transmission Owner reported that it was not able to

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).

⁶ The Project originally described the 345 kV substation near Rotterdam, New York as the "new Rotterdam 345 kV substation." Over the course of the Project's development, that substation was renamed to be the "Gordon Road 345 kV substation."

⁷ 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).

⁸ *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (Apr. 16, 2020).

⁹ The Connecting Transmission Owner for the Project is Niagara Mohawk Power Corporation d/b/a National Grid.

complete the Network Upgrade Facilities until February 2029.¹⁰ The NYISO, LS Power, NYPA, and the Connecting Transmission Owner identified an interim configuration that allowed material components of the Project to enter service and allow it to operate until the Network Upgrade Facilities are completed in 2029.¹¹ Article 4.1 of the Original Agreement provides that all requirements under the TIP must be completed by the Required Project In-Service Date. Additionally, certain minor portions of the Project must wait until the Network Upgrade Facilities are constructed.

To accommodate the completion of the Network Upgrade Facilities by the Connecting Transmission Owner and remaining minor work of the Project, LS Power and NYPA requested a modification to the Required Project In-Service Date from December 31, 2023 to February 28, 2029. The NYISO determined that LS Power and NYPA satisfied the criteria under Article 3.4 of the Original Agreement for the NYISO to consent to the modification of the Required Project In-Service Date. Accordingly, the NYISO consented to 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.

2. Modifications to the Project

LS Power and NYPA also requested modifications to certain portions of the project, which are detailed in Appendices A and B to the Amended Agreement. 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. Most notably, the interim configuration, as detailed in the applicable Transmission Project Interconnection Agreements, required certain modifications to the Project (*e.g.*, an additional 345 kV/230 kV transformer to be installed at the new Gordon Road substation). LS Power also requested the addition of a control center for the operation of portions of the project that it will own and operate.

The NYISO determined that while the above-identified changes constituted “Significant Modifications” to the Project as defined in the Original Agreement, LS Power and NYPA satisfied the criteria under Article 3.5 for the NYISO to consent to such changes. In particular, the modifications: (i) do not impair the Project’s ability to satisfy the Public Policy Transmission Need, (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.

¹⁰ See generally, Transmission Project Interconnection Agreement Among the New York Independent System Operator, Inc., and Niagara Mohawk Power Corporation d/b/a National Grid, and LS Power Grid New York Corporation I, Service Agreement No. 2612, accepted for filing by *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER21-1687-000 (Jun. 4, 2021).

¹¹ *Id.* LS Power and NYPA placed the majority of the Project’s components into service in December 2023.

Lastly, Appendices A and B also reflect other modifications that did not meet the definition of a Significant Modification under the Original Agreement and, therefore, did not require NYISO's consent under the Original Agreement. However, these modifications are included for completeness of the Project description.

B. Description of the Amended Agreement

The parties fully executed the Amended Agreement on December 28, 2023. The Amended Agreement makes limited revisions to the language of the Original Agreement.¹² The NYISO submits that the changes are just and reasonable.¹³

The NYISO, LS Power, and NYPA have made the following 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;
- Limited revisions to the “Recitals” to describe the events that transpired subsequent to execution of the Original Agreement;
- Updated contact information for the “Developer;”
- 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, including the modified Required Project In-Service Date of February 28, 2029.

Based on the foregoing, the NYISO respectfully requests that the Commission accept the 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 28, 2023 for the Amended Agreement, which is the date of its full execution. The NYISO respectfully requests that the

¹² 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. ER20-1156-000 (Apr. 16, 2020). Following execution of the Original Agreement, the Commission accepted revisions to the *pro forma* Development Agreement. See footnote 5. These requirements do not apply to this Project, and the Amended Agreement does not add these revised provisions.

¹³ 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).

Commission waive its prior notice requirement to permit the requested effective date. The Commission has permitted similar agreements to become effective upon the date of execution.¹⁴

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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*Person designated to receive 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

¹⁴ See, e.g., *New York Indep. Sys. Operator, Inc.*, Letter Order, Docket No. ER20-1156-000 (April 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).

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 28, 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
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