

June 28, 2024

By Electronic Delivery

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

Re: Joint Filing of an Executed Engineering, Procurement, and Construction Agreement for the Trelina Solar Energy Center Project (NYISO Queue Position No. 720) Among the New York Independent System Operator, Inc., Rochester Gas and Electric Corporation, and Trelina Solar Energy Center, LLC; Request for Waiver of the 60-Day Notice Period; 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") and Rochester Gas and Electric Corporation ("RG&E") (together, the "Joint Filing Parties") hereby tender for filing an executed Engineering, Procurement, and Construction Agreement (the "EPC Agreement") in connection with the Trelina Solar Energy Center project (NYISO Queue Position No. 720) entered into by the NYISO, RG&E, as the Affected System Operator, and Trelina Solar Energy Center, LLC ("Trelina"), as the Developer (all parties to the EPC Agreement collectively, the "Parties").³ The EPC Agreement is labeled as Service Agreement No. 2844 under the NYISO's Open Access Transmission Tariff ("OATT").

Trelina is constructing a 79.8 MW solar facility to be located in Seneca County, New York (the "Facility"). The NYISO's Class Year Interconnection Facilities Study for Class Year 2019 ("Class Year Study") determined that certain upgrades on RG&E's system are required to reliably interconnect the Facility to the New York State Transmission System ("Affected System Upgrade Facilities"). The Parties have developed and executed the EPC Agreement to govern the rates, terms, and conditions regarding the engineering, procurement, and construction of the Affected System Upgrade Facilities on RG&E system. Pursuant to Section 30.3.5 of Attachment X of the NYISO OATT, the EPC Agreement is based on the NYISO's *pro forma* Standard Large Generator Interconnection Agreement ("Pro Forma LGIA") contained in Attachment X to the OATT and conforms to the Pro Forma LGIA except as described in Part II of this letter.

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 or X of the NYISO OATT, and if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff ("Services Tariff").

The Joint Filing Parties respectfully request that the Commission accept the EPC Agreement for filing. Further, as described in Part III of this letter, the Joint Filing Parties respectfully request a waiver of the Commission's prior notice requirements⁴ to make the EPC Agreement effective as of June 14, 2024, which is the date of its full execution.

I. BACKGROUND

The Facility to be developed by Trelina will interconnect to certain facilities of New York State Electric & Gas Corporation ("NYSEG") that are part of the New York State Transmission System. The NYISO, NYSEG, and Trelina fully executed a conforming Large Generator Interconnection Agreement on September 26, 2022 for the interconnection of the Facility.

The NYISO's Class Year Study for Class Year 2019 identified certain Affected System Upgrade Facilities that are required on the Affected System owned by RG&E – the Affected System Operator – to reliably interconnect the Facility to the New York State Transmission System.

Section 30.3.5 of the NYISO's Large Facility Interconnection Procedures in Attachment X to the NYISO OATT establishes the requirements for the NYISO and Developer to enter into an engineering, procurement, and construction agreement with an Affected System Operator for upgrades on the Affected System required to reliably interconnect a generating facility.⁵ Pursuant to the requirements in Section 30.3.5, the NYISO developed the EPC Agreement using the Pro Forma LGIA as modified to address only the engineering, procurement, and construction of the Affected System Upgrade Facilities.⁶ The NYISO, RG&E, and Trelina have entered into the EPC Agreement to govern the rates, terms, and conditions pursuant to which Trelina will engineer, procure, and construct the Affected System Upgrade Facilities on RG&E's system ("EPC Services").

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).

⁵ See OATT Section 30.3.5 ("... Upon completion of a Class Year Study in which a Developer accepts its Project Cost Allocation for System Upgrade Facilities and/or System Deliverability Upgrades and funds or commits to fund such upgrades as required by Attachment S, the Developer and Affected System Operator(s) will cooperate with the ISO in development of an Engineering, Procurement and Construction to provide for the engineering, procurement and construction of the System Upgrade Facilities and/or System Deliverability Upgrades on the Affected System. The Engineering, Procurement and Construction Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Appendix 2 to Attachment X of the OATT, modified to address only the engineering, procurement and construction of the System Upgrade Facilities and/or System Deliverability Upgrades. . . .").

⁶ See OATT Attach. X § 30.3.5. ("The Engineering, Procurement and Construction Agreement shall be consistent with the NYISO's Commission-approved Standard Large Generator Interconnection Agreement located in Appendix 2 to Attachment X of the OATT, modified to address only the engineering, procurement and construction of the System Upgrade Facilities and/or System Deliverability Upgrades.").

II. DESCRIPTION OF THE EPC AGREEMENT

The EPC Agreement was fully executed on June 14, 2024, by the NYISO, RG&E, and Trelina. Pursuant to Section 30.3.5 of Attachment X to the NYISO OATT,⁷ the EPC Agreement is based on the Pro Forma LGIA as modified to address only the engineering, procurement, and construction of the Affected System Upgrade Facilities, as described below. In particular, the Pro Forma LGIA has been modified: (i) to reflect the different purpose of the EPC Agreement, (ii) to reflect that the EPC Agreement concerns an Affected System Operator and System Upgrade Facilities on its Affected System, (iii) to allocate the parties' responsibilities for the performance of the EPC Services and payment for such performance, and (iv) to set forth the scope of work, cost estimate, and milestone schedule for the construction of the Affected System Upgrade Facilities. Accordingly, the Filing Parties respectfully request that the Commission accept the EPC Agreement for filing.

The EPC Agreement varies from the Pro Forma LGIA primarily as follows:

- The EPC Agreement concerns the Affected System Upgrade Facilities that will be constructed by Trelina and owned, operated, and maintained by RG&E as the Affected System Operator. For these reasons, the EPC Agreement has been modified from the Pro Forma LGIA to reflect the different purpose of the agreement and the different terminology (*e.g.*, Affected System Operator, Affected System Upgrade Facilities).
- The EPC Agreement addresses the performance of the EPC Services and will terminate upon the later of (i) the completion of the EPC Services and (ii) the payment of related invoices and release or refund of any remaining Security.⁸ For this reason, the EPC Agreement does not include the operating and maintenance

⁷ The NYISO submitted to the Commission new Standard Interconnection Procedures in a new Attachment HH to the NYISO OATT on May 1, 2024, in Docket No. ER24-1915-000 as part of the NYISO's compliance with Order Nos. 2023 and 2023-A with a requested effective date of May 2, 2024. The NYISO's compliance filing is currently pending with the Commission. Consistent with the requested May 2, 2024, effective date for the new procedures, the NYISO applied its proposed transition rules in Attachment HH for this EPC Agreement. In particular, the transition rules provide that "[f]or a Class Year Project for Class Year 2021 or prior Class Years . . . for which the ISO is negotiating with the Interconnection Customer, Connecting Transmission Owner, Affected System Operator, and/or Affected Transmission Owner, as applicable, an . . . Engineering, Procurement, or Construction Agreement(s) as of the effective date of the Standard Interconnection Procedures, the parties shall continue to negotiate, as applicable, the . . . Engineering, Procurement, or Construction Agreement pursuant to the terms and forms set forth, as applicable, in Attachment X or Attachment Z to the ISO OATT." OATT Attach. HH § 40.3.1.2. In this instance, the NYISO was negotiating the EPC Agreement for the Class Year 2019 Trelina project prior to the effective date of the new Standard Interconnection Procedures and, consistent with the transition rules, continued with the form agreement then under negotiation in accordance with the requirements in Section 30.3.5 of Attachment X of the OATT for purposes of completing this agreement. If the Commission were to subsequently determine not to accept the requested effective date or the transition procedures in the NYISO's Order No. 2023 compliance filing, then the applicable tariff provisions for this agreement would remain the rules in Section 30.3.5 of Attachment X, which the NYISO applied in this instance.

⁸ See EPC Agreement Article 2.2.

requirements from the Pro Forma LGIA. The Affected System Upgrade Facilities will be incorporated into RG&E's system and operated and maintained by RG&E in the same manner as the rest of its system.⁹

- Trelina will be responsible for all of the work to design, construct, install, and place in service the Affected System Upgrade Facilities. For this reason, the EPC Agreement does not include the requirements in the Pro Forma LGIA for a Developer's responsibilities concerning a Large Generating Facility or its options or responsibilities to perform work concerning Attachment Facilities or Stand Alone System Upgrade Facilities. Rather, the EPC Agreement describes Trelina's responsibilities with respect to the EPC Services.¹⁰
- The Parties agreed to modify the tax provisions from the Pro Forma LGIA (as located in Article 3.12 of the EPC Agreement), so that the provisions apply to Affected System Upgrade Facilities, rather than to a Large Generating Facility and related Attachment Facilities and Upgrades and to update references to currently applicable IRS notices.
- The Security and invoicing provisions have been modified to be consistent with the requirements concerning cost responsibility for the Affected System Upgrade Facilities in Attachment S of the NYISO OATT and to clarify the application of the Security.¹¹
- The EPC Agreement does not include the provisions of the Pro Forma LGIA that govern the NYISO's provision of interconnection service to Trelina, which is addressed under Trelina's interconnection agreement for the Facility.
- As the Parties have already completed the interconnection studies necessary to determine the impact of the interconnection of the Facility, the EPC Agreement does not include the provisions of the Pro Forma LGIA that address such studies.
- The EPC Agreement also includes minor clean-ups, updated cross-references, and revisions agreed upon among all of the Parties that are consistent with the terms of the EPC Agreement.

III. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER OF THE 60-DAY NOTICE PERIOD

The Joint Filing Parties request an effective date June 14, 2024, for the EPC Agreement, which is the date of its full execution. The Joint Filing Parties respectfully request that the

⁹ See EPC Agreement Article 3.7.

¹⁰ See EPC Agreement Articles 3-4.

¹¹ See EPC Agreement Articles 6 and 7.

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.¹²

IV. COMMUNICATIONS AND CORRESPONDENCE

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

For the NYISO¹³

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¹² See, e.g., *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER22-2036-000 (August 3, 2022) (accepting engineering, procurement, and construction agreement as of its date of execution); see also, 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) (same); *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); *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).

¹³ 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.

For RG&E

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*Designated to receive service.

V. DOCUMENTS SUBMITTED

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

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

VI. 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 State Public Service Commission and to the New Jersey Board of Public Utilities.

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VII. CONCLUSION

Wherefore, the Joint Filing Parties respectfully request that the Commission accept the EPC Agreement for filing with an effective date of June 14, 2024.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan

New York Independent System Operator, Inc.

/s/ Michael J. Messonnier Jr.

Michael J. Messonnier Jr.

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