

August 15, 2025

**By Electronic Delivery**

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

Re: Joint Filing of an Amended and Restated Executed Engineering, Procurement, and Construction Agreement for the Excelsior Energy Center Project (Queue Position No. 721) Among the New York Independent System Operator, Inc., NextEra Energy Transmission New York Inc., and Excelsior Energy Center, LLC; Request for Waiver of the 60-Day Notice Period; Docket No. ER25-\_\_\_\_ - 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") and NextEra Energy Transmission New York Inc. ("NEETNY") (together, the "Joint Filing Parties") hereby tender for filing an executed Engineering, Procurement, and Construction Agreement in connection with the Excelsior Energy Center solar project (NYISO Queue Position No. 721) entered into by the NYISO, NEETNY, as the Affected System Operator, and Excelsior Energy Center, LLC ("Excelsior"), as the Developer (the "Amended Agreement").<sup>3</sup> The Amended Agreement is labeled as Service Agreement No. 2690 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: (i) the changes required to convert this agreement into an engineering, procurement, and construction agreement, which changes were previously accepted by the Commission, and (ii) limited additional revisions for the amended version of the agreement described in Part I below.<sup>4</sup> Further, as described in Part II of this letter, the Joint Filing Parties

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. § 35.13 (2025).

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

<sup>4</sup> Excelsior's Facility participated in the NYISO's Class Year Interconnection Facilities Study for Class Year 2019. Pursuant to the transition rules of the NYISO's new Standard Interconnection Procedures, the NYISO, NEETNY, and Excelsior used the Standard Large Generator Interconnection Agreement located in Attachment X to the NYISO OATT for this Class Year 2019 project. NYISO OATT Attach. HH § 40.3.1.2 ("For a Class Year

respectfully request a waiver of the Commission's prior notice requirements<sup>5</sup> to make the Amended Agreement effective as of August 1, 2025, which is the date of its full execution.

## **I. Discussion**

### **A. Background**

The Amended Agreement supersedes the Engineering, Procurement, and Construction Agreement among the NYISO, NEETNY, and Excelsior that was filed with the Commission in Docket No. ER22-2647-000 on August 12, 2022, and was accepted by the Commission on October 5, 2022 ("Original Agreement").<sup>6</sup>

The Facilities Study for Class Year 2019 identified certain Affected System Upgrade Facilities that are required on the Affected System owned by NEETNY—the Affected System Operator—to reliably interconnect the Excelsior Energy Center facility to the New York State Transmission System. Pursuant to Section 30.3.5 of Attachment X of the OATT, the NYISO, NEETNY, and Excelsior entered into the Original Agreement to govern the rates, terms, and conditions pursuant to which NEETNY would engineer, procure, and construct the Affected System Upgrade Facilities ("EPC Services") on its system.<sup>7</sup>

Subsequent to the Commission's acceptance of the Original Agreement, Excelsior and NEETNY agreed to modify the allocation of each party's responsibilities for the EPC Services. Accordingly, the parties agreed to amend the Original Agreement to reflect certain changes in the parties' respective responsibilities for carrying out the EPC Services, to update the milestones associated with the EPC Services accordingly, and to update the Affected System Operator's

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Project for Class Year 2021 or prior Class Years or a Small Generating Facility for which the ISO is negotiating with the Interconnection Customer, Connecting Transmission Owner, Affected System Operator, and/or Affected Transmission Owner, as applicable, an interconnection agreement and/or 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 Standard Large Generator Interconnection Agreement, Small Generator Interconnection Agreement, and/or 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.").

<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> *New York Independent System Operator and NextEra Energy Inc.*, Letter Order, Docket No. ER22-2647-000 (Oct. 5, 2022).

<sup>7</sup> 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. . . .")

contact information. With these modifications, the EPC Agreement continues to be consistent with the Pro Forma LGIA, except as modified to address only the engineering, procurement, and construction of the Affected System Upgrade Facilities.

In particular, the parties made the following modifications to the Original Agreement:

- Revised the Recitals to clarify that EPC Services will now be performed by both the Developer and the Affected System Operator, rather than solely by the Affected System Operator;
- Revised Articles 2.4.1 and 2.4.2 to designate whichever party is performing the EPC Services—either the Affected System Operator or the Developer—as the “Performing Party” to clarify the application of the termination cost provisions to account for the updated work responsibilities;
- Revised the performance of EPC Services requirements in Article 3.1 to account for both the Developer and Affected System Operator performing EPC Services;
- Added Article 3.2 to establish the requirements for the Developer’s performance of EPC Services;
- Revised Article 3.5 to require the Affected System Operator and Developer to keep each other and the NYISO advised of their respective progress, and to permit any Party to request a progress report from the Affected System Operator or Developer;
- Revised Article 6.1 to account for both the Developer and Affected System Operator performing the EPC Services;
- Revised the insurance requirements in Article 12.3 to require that the Developer also be required to procure and maintain the specified insurance coverages due to its performance of EPC Services under the Amended Agreement;
- Revised Appendix A to reflect the Developer’s and Affected System Owner’s respective responsibilities for the EPC Services;
- Revised Appendix A to reflect updated milestone dates;
- Updated contact information in Appendix B; and
- Revised the cover page and preamble to provide that the agreement is the Amended and Restated version of the agreement.

**B. The Amended Agreement Closely Conforms to the Pro Forma LGIA Contained in Attachment X of the NYISO OATT**

The Amended Agreement was fully executed on August 1, 2025, by the NYISO, NEETNY, and Excelsior. Aside from the changes described above, the Amended Agreement does not contain any variations from the Pro Forma LGIA other than those already accepted by the Commission for the Original Agreement. As required by Section 30.3.5 of Attachment X of the NYISO OATT, the Amended Agreement with the additional modifications described above continues to be consistent with the Pro Forma LGIA, as modified to address only the engineering, procurement and construction of the Affected System Upgrade Facilities. Therefore, the Joint Filing Parties respectfully request that the Commission accept the Amended Agreement.

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

The Joint Filing Parties request an effective date of August 1, 2025 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.<sup>8</sup> The Commission has previously permitted such agreements to become effective upon the date of execution.<sup>9</sup>

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<sup>8</sup> The Commission generally grants waiver of the 60-day prior notice requirement when a service agreement is submitted for filing within 30 days of the agreement's effective date. *See* Prior Notice Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139 (1993).

<sup>9</sup> *See, e.g., New York Independent System Operator, Inc. and New York State Electric & Gas Corporation*, Letter Order, Docket No. ER15-2079-000 (Aug. 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 (Apr. 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 NYISO<sup>10</sup>**

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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);

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<sup>10</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2025) 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](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 Joint Filing Parties respectfully request that the Commission accept the Amended Agreement for filing with an effective date of August 1, 2025.

Respectfully submitted,

s/ Sara B. Keegan

Sara B. Keegan

*Counsel for the*

*New York Independent System Operator, Inc.*

s/ Travis M. Contratto

Travis M. Contratto

*Counsel for*

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