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Service Agreement No. 2497

UTILITY SERVICES AGREEMENT

This Utility Services Agreement (“**Agreement**”) made as of November 11, 2019 (“**Effective Date**”), by and between New York State Electric & Gas Corporation, a New York corporation with its principal place of business at 18 Link Drive, PO Box 5224, Binghamton NY 13902-5224 (“**NYSEG**”), and NextEra Energy Transmission New York, Inc., a New York corporation with its principal place of business located at 700 Universe Boulevard, Juno Beach, FL 33408 (“**NEETNY**”).

NYSEG and NEETNY are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**.”

WHEREAS, NEETNY filed an application with the New York State Public Service Commission (“**Commission**”) on August 10, 2018, seeking a Certificate of Environmental Compatibility and Public Need (“**Certificate**”) for the “**Empire State Line Project**” (“**ESL Project**”) to construct the ESL Project along sections of an existing NYSEG right-of-way in Case 18-T-0499, Application of NextEra Energy Transmission New York, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Construction of a 20 Mile 345 Kilovolt Transmission Line Located in the Town of Royalton, Niagara County, and the Towns of Alden, Newstead, Lancaster, and Elma in Erie County; and

WHEREAS, the ESL Project will ultimately include the project components set forth in the Certificate, as issued by the Commission in Case 18-T-0499, including the Environmental Management and Construction Plan, as approved by the Commission, and any compliance filings associated with the Certificate; and

WHEREAS, to accommodate the ESL Project, NYSEG or its affiliates or contractors must perform certain services for NEETNY, including but not limited to the services set forth in Exhibit A to this Agreement (collectively, “**Utility Services**”); and

WHEREAS, the ESL Project will also require the performance of some work by NYSEG as part of the interconnection process, as set forth in the relevant tariffs of the New York Independent System Operator and an Interconnection Agreement to be entered into between the Parties (“**NYSEG Interconnection Work**”); and

WHEREAS, NYSEG anticipates that it will be reimbursed for the NYSEG Interconnection Work pursuant to the interconnection process and the Interconnection Agreement and that the Utility Services shall not include the NYSEG Interconnection Work, provided that NYSEG is reimbursed as so anticipated for the NYSEG Interconnection Work; and

WHEREAS, the Parties desire to enter into this Agreement to memorialize the terms of NYSEG’s performance of the Utility Services and NEETNY’s reimbursement of the costs necessarily and otherwise reasonably incurred by NYSEG in performing the Utility Services;

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Retention of NYSEG. Subject to the terms and conditions set forth in this Agreement, NEETNY hereby retains NYSEG to perform the Utility Services, and NYSEG accepts such retention subject to such terms and conditions.

2. Term. The term of this Agreement shall commence as of the Effective Date and, unless earlier terminated in accordance with the terms of this Agreement, shall terminate on the later of July 1, 2022, and the in-service date of the ESL Project.

3. Utility Services. The Utility Services shall include the services set forth in Exhibit A to this Agreement and any such additional services as the Parties may agree in writing from time to time.

4. Compensation and Payment.

(a) Reimbursable Costs. NEETNY shall (i) reimburse NYSEG for all costs and expenses actually incurred by NYSEG and/or its “affiliates” (used here and elsewhere in this Agreement as defined by the Securities and Exchange Commission in Rule 12b-2 under the Securities Exchange Act of 1934, as amended) in performing the Utility Services (“**Reimbursable Costs**”); and (ii) pay to NYSEG fair market value for any easement or other real property interest conveyed by NYSEG to NEETNY pursuant to this Agreement. Reimbursable Costs shall include, but shall not be limited to, the actual cost and expenses (whether incurred before or after the effective date of this Agreement) of equipment, labor (including but not limited to internal labor), materials and services, all applicable overhead and applicable federal, state and local taxes (including but not limited to all taxes arising from amounts paid to NYSEG that are deemed to be contributions in aid of construction), all costs of outside experts, consultants, counsel, contractors and other third parties, all costs of obtaining any required rights, releases, permits, consents, authorizations and approvals, and other costs and expenses necessarily or otherwise reasonably incurred in the performance of the Utility Services.

(b) Security Deposit. To ensure the prompt payment of the Reimbursable Costs, NEETNY shall pay to NYSEG within five (5) days after the execution and delivery of this Agreement cash in the amount of three hundred thousand dollars (\$300,000) (“**Security Deposit**”), which shall be used to pay the Reimbursable Costs incurred by NYSEG each month under this Agreement. Each month under this Agreement, NYSEG shall deliver to NEETNY a statement showing the Reimbursable Costs incurred during the prior month and, if applicable, an invoice for any Reimbursable Costs that were not covered by the Security Deposit. Within thirty (30) days after NEETNY’s receipt from NYSEG of such a monthly statement that is accompanied by such an invoice, NEETNY shall pay to NYSEG within thirty (30) days after NEETNY’s receipt of such

monthly statement and invoice cash in the amount of three hundred thousand dollars (\$300,000) to replenish the Security Deposit. Upon completion of the Utility Services or the earlier termination of

this Agreement, NYSEG shall deliver to NEETNY a final statement showing the difference between (i) the aggregate amount paid by NEETNY to establish and replenish the Security Deposit and (ii) the aggregate amount of Reimbursable Costs. If the aggregate amount paid by NEETNY to establish and replenish the Security Deposit exceeds the aggregate amount of Reimbursable Costs, NYSEG shall pay to NEETNY the amount of the difference upon delivery of such final statement, and if the aggregate amount of Reimbursable Costs exceeds the aggregate amount paid by NEETNY to establish and replenish the Security Deposit, such final statement shall be accompanied by an invoice from NYSEG to NEETNY for the difference.

(c) Payment of Invoices. All undisputed amounts reflected in any invoices delivered by NYSEG to NEETNY pursuant to Section 4(b) shall be due and payable within thirty (30) days after the date of the applicable invoice. All such invoices shall be accompanied by copies of receipts and other documentation reasonably substantiating the Reimbursable Costs reflected thereon, provided that NYSEG shall not have any obligation to provide confidential or privileged information as part of any such documentation but shall provide a detailed explanation of, and justification for, any such claim of confidentiality or privilege. Except for amounts that NEETNY successfully disputes, if any payment due under this Agreement is not made when due in accordance with this Section 4(c), NEETNY shall pay to NYSEG the unpaid amount, plus interest thereon calculated in accordance with Section 35.19a of the Federal Energy Regulatory Commission's regulations (18 C.F.R. 35.19a).

5. Indemnification and Insurance. Each Party ("**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and its affiliates and its and their respective directors, managers, officers, employees and agents (collectively, "**Indemnified Parties**") from and against any and all actions, causes of action, claims, demands, damages, judgments, liabilities, losses and other costs and expenses of every nature and kind whatsoever, including reasonable attorneys' fees (collectively, "**Liabilities**"), suffered or incurred by an Indemnified Party and arising out of, or otherwise relating to, the negligence or willful misconduct of the Indemnifying Party or any of its affiliates or any of its or its affiliates' respective directors, managers, officers, employees, advisors, agents, contractors, subcontractors and other representatives (collectively, "**Representatives**") in connection with (a) the Indemnifying Party's performance of any of its obligations under this Agreement, (b) any breach of any provision of this Agreement by the Indemnifying Party or any of its affiliates or any of its or its affiliates' respective Representatives, or (c) any claim by any of the Indemnifying Party's or any of affiliates' respective Representatives. Except as may be otherwise expressly provided in this Agreement, an Indemnifying's indemnity obligation hereunder per occurrence shall not exceed the sum of one million dollars (\$1,000,000), provided that, if the Indemnifying Party is insured for liability in excess of one million dollars (\$1,000,000) for claims arising from a single occurrence, the Indemnifying Party's indemnity obligation hereunder shall extend up to, but shall not exceed, the higher limits of such insurance. The limits of the Indemnified Party's indemnification obligations under this Agreement shall not apply to its responsibility for payment of its taxes, its infringement of third-party intellectual property rights, and its failure to comply with laws, rules and regulations.

6. Status of NYSEG as Independent Contractor. NYSEG shall perform the Utility Services as an independent contractor and not as a subcontractor, agent or employee of NEETNY or any of NEETNY's affiliates, and NEETNY shall have no control over NYSEG or NYSEG's employees or over the manner or methods of performance of Utility Services. Neither Party shall have any authority to bind, or otherwise act on behalf or in the name of, the other Party.

7. Taxes. NYSEG shall be solely responsible for all taxes incurred by NYSEG in connection with its performance of Utility Services, including but not limited to (i) all withholding, social security and other taxes of NYSEG's employees and (ii) all taxes with respect to NYSEG's receipt of Fees.

8. Business Records. NYSEG shall maintain books and records supporting all costs for Utility Services, and during NYSEG's normal business hours during the term of this Agreement and for a period of one year thereafter, NEETNY shall have such access to such books and records as shall be required to verify Reimbursable Costs and otherwise ensure NYSEG's compliance with the terms of this Agreement.

9. Confidentiality.

(a) Each of the Parties shall hold Confidential Information in strict confidence, and the Party that receives Confidential Information ("**Receiving Party**") shall not (i) disclose Confidential Information without the prior written consent of the other Party ("**Disclosing Party**") or (ii) use Confidential Information for any purpose other than to perform Utility Services. For the purposes of this Agreement, "**Confidential Information**" means any and all information that the Disclosing Party considers to be proprietary, secret and/or confidential and (i) relates to the Disclosing Party's past, present or future business activities, research, development, products, software, services, intellectual property or technical knowledge, (ii) has been identified, orally or writing, by the Disclosing Party as proprietary, secret or otherwise confidential, or (iii) would be understood by a reasonable person to be confidential under the circumstances. Confidential Information may only be disclosed by a Receiving Party to its affiliates and its and their respective Representatives with a need to know the Confidential Information for the sole purpose of performing or otherwise fulfilling the Receiving Party's obligations under this Agreement, and the Receiving Party shall be responsible for any breach of any provision of this Section 9 by any of its affiliates or any of its or its affiliates' respective Representatives.

(b) Confidential Information shall not include any information that (i) is or, after its receipt by the Receiving Party, becomes a matter of public knowledge, except to the extent that such information becomes a matter of public knowledge as a result of a breach of any provision of this Section 9 by the Receiving Party or any of its affiliates or any of its or its affiliates' respective Representatives, (ii) is or, after its receipt by the Receiving Party, becomes available on a nonconfidential basis from a source that is not known by the Receiving Party to be prohibited from disclosing such information or (iii) is legally in the Receiving Party's possession without obligation of confidentiality prior to its disclosure by the Disclosing Party.

(c) If the Receiving Party is requested or required by any court or other governmental authority to disclose any Confidential Information, the Receiving Party shall promptly notify the Disclosing Party of such request or requirement prior to any such disclosure, so that the Disclosing Party may seek an appropriate protective order and/or waive compliance with the terms of this Agreement.

(d) Money Damages at law would not be an adequate remedy for the Disclosing Party if the Receiving Party were to breach any of the provisions of this Section 9; therefore, the Disclosing Party shall be entitled to an injunction restraining the Receiving Party from violating any of such provisions.

(e) Upon the termination of this Agreement or at any time upon the written request of the Disclosing Party, the Receiving Party shall promptly deliver to the Disclosing Party all drawings, manuals, notes, notebooks, reports, written correspondence and all other materials and copies thereof, including all Confidential Information, relating to the business of the Disclosing Party that are in the possession or control of the Receiving Party or any of its affiliates or any of its or its affiliates' respective Representatives. The obligations of confidentiality contained in this Section 9 shall survive the termination of this Agreement and shall remain in effect for the longer of (i) two years following such termination and (ii) the period during which the Receiving Party retains any of the Disclosing Party's Confidential Information.

(f) The Disclosing Party makes no representation or warranty as to the accuracy, completeness or reliability of any of its Confidential Information, and neither the Disclosing Party nor any of its affiliates shall be subject to any Liabilities resulting from the Receiving Party's use of any of the Disclosing Party's Confidential Information.

10. Publicity. NYSEG shall not make any public disclosures regarding NEETNY or the ESL Project for which it is performing the Utility Services without the prior written approval of NEETNY.

11. Standard of Performance. NYSEG shall perform the Utility Services in accordance with (i) the standards of care, diligence, skill and judgement normally exercised by professional firms and individuals with respect to services of a similar nature, (ii) recognized and sound utility practices, procedures and techniques, and (iii) all applicable laws and regulations.

12. Termination. If NEETNY fails to pay any amount due under the terms of this Agreement within fifteen (15) days after its receipt of NYSEG's written notice of such failure, NYSEG shall have the right, without prejudice to any other right or remedy, to terminate this Agreement, in whole or in part, and each Party shall thereupon discontinue its performance hereunder to the extent feasible, provided that nothing herein will restrict NYSEG's ability to complete such work as NYSEG must reasonably complete in order to return its applicable facilities and the applicable sites to a configuration that is in compliance with Good Utility Practice and all

applicable regulatory and other legal requirements. NYSEG shall also have the right to pursue any and all rights it may have against the NEETNY under applicable law. Additionally, upon thirty (30)

days' prior written notice to the other Party, either Party may terminate this Agreement in whole or in part at any time for its convenience, and in the event of such termination, NYSEG shall be paid for Utility Services provided prior to the date of its delivery or receipt (as the case may be) of such notice of termination.

13. Modifications. No amendment or other modification to this Agreement shall be effective unless made in writing and signed by both of the Parties.

14. Assignment. This Agreement and all of NYSEG's rights, duties and obligations hereunder are personal in nature and shall not be subcontracted, assigned, delegated or otherwise disposed of by NYSEG without the prior written consent of NEETNY. NEETNY may assign this Agreement to any of its affiliates upon prior written notice thereof to NYSEG.

15. Liability Limitation. Neither Party shall be liable to the other Party in contract, tort or otherwise for any special, indirect, incidental, consequential or similar damages arising out of, or otherwise relating to, the first Party's performance of this Agreement and its obligations hereunder.

16. Notice. All notices required under this Agreement shall be deemed given when sent by overnight courier or registered or certified mail, or when sent by facsimile or electronic mail and confirmed by overnight courier or registered or certified mail, addressed as follows:

If to NYSEG:

New York State Electric & Gas Corporation
18 Link Drive
PO Box 5224
Binghamton NY 13902-5224
Attention: Matt Maher
Title: Project Manager
Email: matthew.maher@avangrid.com
Phone: 203-302-8710

If to NEETNY:

NextEra Energy Transmission New York, Inc.
700 Universe Boulevard
Juno Beach, FL 33408
Attention: JohnBinh Vu
Title: Director
Email: johnbinh.vu@nexteraenergy.com
Facsimile: 561-691-2323

Either Party may change the address or name of the person to whom such notices are to be delivered by written notice to the other Party in accordance with this Section 16.

17. Law and Venue. This Agreement is made under, and shall be governed in all respects by and construed in accordance with, the laws of the State of New York without regard to the conflicts of law provisions thereof. Any litigation between the Parties shall be conducted in the state or federal courts of the State of New York.

18. Headings. The headings in this Agreement are provided for convenience of reference only and shall not affect the construction of the text of this Agreement.

19. Non-Waiver. No waiver of any provision of this Agreement shall constitute, or be deemed to constitute, a waiver of any other or similar provision hereof or shall constitute, or be deemed to constitute, a continuing waiver, and no waiver shall be binding unless it is in writing and signed by the Party making the waiver.

20. Cumulative Remedies. All rights and remedies of the Parties under this Agreement shall be cumulative, and the exercise of any one right or remedy shall not bar the exercise of any other right or remedy.

21. Severability. If any provision of this Agreement shall be held to be invalid, inoperative or otherwise unenforceable, such holding shall not affect the validity of any other provision of this Agreement.

22. Survival. The obligations of the Parties under this Agreement that, by their nature survive the termination of this Agreement, and/or the completion of the Utility Services, shall survive and inure to the benefit of the Parties. The provisions of this Agreement that provide for the limitation of any Party's liability or the protection of any Party against liability shall apply to the full extent permitted by law and shall survive termination of this Agreement and/or the completion of the Utility Services.

23. Complete Agreement. This Agreement includes all exhibits hereto and constitutes the entire and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements, representations, warranties and understandings of the Parties with respect to such subject matter.

24. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

25. Waiver of Trial by Jury. Each of the Parties hereby knowingly, voluntarily and intentionally waives any right it may have otherwise had to a trial by jury in any litigation arising out of, under, or in connection with, this Agreement. This provision is a material inducement for each of the Parties entering into this Agreement.


26. Authorization and Binding Obligations. Each Party hereby represents to the other Party that the execution, delivery and performance of this Agreement have been duly authorized, and the obligations contained herein constitute its valid and binding obligations.

27. Force Majeure.


(a) Definition. Except for any failure to make payments when due, neither Party shall be responsible for its failure to perform under this Agreement to the extent that such failure is caused by a Force Majeure Event or the acts or omissions of the other Party, including any of the other Party's affiliates or contractors or any other person or entity for whom or which the other Party or any of its affiliates is responsible. For the purposes of this Agreement, "**Force Majeure Event**" means any event or circumstance that, despite the commercially reasonable efforts of the Party claiming relief for such event or circumstance to avoid or mitigate the effects of such event or circumstance, is beyond the reasonable control of such Party and shall include, but shall not be limited to, blizzards, earthquakes, floods, hurricanes, tornados, windstorms, and other so-called acts of God, explosions, fires, riots, sabotage, terrorism or threat thereof, and war, strikes and other labor disputes and slow-downs, injunctions and other court orders (excluding any injunction or other court order pursuant to a claim by one Party against the other Party, or a dispute between the Parties, in connection with this Agreement), governmental action (including any change in applicable law or governmental regulation) or inaction (including but not limited to any delay by any governmental authority in issuing any applicable license, permit or approval), and unavailability of equipment, personnel, supplies, or other resources due to the diversion thereof to utility-related emergencies, including but not limited to emergencies caused by severe storms or other extreme weather conditions.

(b) Impacts. Upon the occurrence of a Force Majeure Event, the Party claiming relief for such Force Majeure Event shall be excused from the performance of its obligations under this Agreement, excluding payment obligations, for the duration of such Force Majeure Event to the extent that such performance is affected by such Force Majeure Event, provided that the Party claiming such Force Majeure Event shall have made all commercially reasonable efforts to avoid and mitigate the effects of such Force Majeure Event and shall continue to make all commercially reasonable efforts to mitigate and overcome the effects of such Force Majeure Event. At the conclusion of a Force Majeure Event, the price and time for performance under this Agreement shall be adjusted as reasonably necessary to overcome the effect of the delay occasioned by such Force Majeure Event. Within fifteen (15) business days after the occurrence of any Force Majeure Event, the Party claiming such Force Majeure Event shall give written notice to the other Party, specifying in reasonable detail the estimated impact of such delay.

NEXTERA ENERGY TRANSMISSION
NEW YORK, INC.

By: 
Name: ERIC GLEASON
Title: PRESIDENT

NEW YORK STATE ELECTRIC & GAS
CORPORATION

By: 
Name: Carl A. Taylor
Title: President and CEO, NYSEG and RG&E


By: 
Name: Joseph Syta
Title: VP-Controller & Treasurer

EXHIBIT A

UTILITY SERVICES SCOPE OF WORK

Services may include but are not limited to:

- Work with NEETNY to finalize an Easement agreement related to the Empire State Line project, including any inside or outside attorneys' fees NYSEG incurs related to the Easement.
- Review, provide feedback and define any NYSEG agreements/permits that would be required of any transmission line crossings, distribution line crossings, and gas pipeline crossings. Crossings can be an overhead electric overhead transmission line, or an access road for construction or maintenance purposes.
- Any work related to coordinating communication and protection schemes of the proposed Dysinger and East Stolle switchyard.
- Any work related to coordinating required outages during construction of the Empire State Line project.
- Any work required of NYSEG to finalize the design and allow NEETNY to construct the Empire State Line project, including related legal, environmental, engineering, permitting or other expenses.
- Any work performed by NYSEG will be performed pursuant to the NYISO interconnection process as set forth in the relevant tariffs of the New York Independent System Operator and an Interconnection Agreement to be entered into between the Parties.

EXHIBIT B
COMPENSATION

NYSEG shall submit a monthly invoice summarizing the Utility Services performed, the number of hours worked, and the expenses incurred with accompanying receipts. Payments for undisputed amounts shall be made within thirty (30) days from the receipt of an invoice.

NEETNY shall pay NYSEG to perform the Utility Services set forth in Exhibit A.

