

Effective Date shall mean the date on which the Standard Large Generator Interconnection Agreement becomes effective upon execution by the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Energy Resource Interconnection Service (“ERIS”) shall mean the service provided by NYISO to interconnect the Developer’s Large Generating Facility or Merchant Transmission Facility to the New York State Transmission System in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Large Generating Facility or Merchant Transmission Facility, pursuant to the terms of the NYISO OATT.

Engineering & Procurement (E&P) Agreement shall mean an agreement that authorizes Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

External CRIS Rights: A determination of deliverability within a New York Capacity Region, awarded by the NYISO for a term of five (5) years or longer, to specified Megawatts of External Installed Capacity that satisfy the requirements set forth in Section VII.K of Attachment S to the NYISO OATT.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Generating Facility shall mean Developer’s device for the production of electricity identified in the Interconnection Request, but shall not include the Developer’s Attachment Facilities.

Generating Facility Capacity shall mean the net seasonal capacity of the Generating Facility and the aggregate net seasonal capacity of the Generating Facility where it includes multiple energy production devices.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Developer, NYISO, Affected Transmission Owner, Connecting Transmission Owner, or any Affiliate thereof.

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Issued on: ~~May 4~~ October 28, 2009

Effective: October 5, 2008

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER04-449-005, *et al.*, issued January 15, 2009, 126 FERC ¶ 61,046 (2009). Filed to comply with order of the Federal Energy Regulatory Commission, Docket Nos. ER04-449-018 and ER04-449-019, issued June 30, 2009, 127 FERC ¶ 61,318 (2009).

The Interconnection Feasibility Study shall be conducted in accordance with Applicable Reliability Standards.

The Interconnection Feasibility Study will consider the Base Case and, if not already included in the Base Case, all generating and merchant transmission facilities (and with respect to (iii), any identified System Upgrade Facilities and, if security or cash has been posted in accordance with Attachment S, System Deliverability Upgrades, except for Highway facility upgrades that have not yet been triggered under Section VII.LK.3.a of Attachment S) that, on the date the Interconnection Feasibility Study is commenced: (i) are directly interconnected to the New York State Transmission System; (ii) are interconnected to Affected Systems and may have an impact on the Interconnection Request; (iii) have a pending higher queued Interconnection Request to interconnect to the New York State Transmission System; and (iv) have no Queue Position but have executed a Standard Large Generator Interconnection Agreement or requested that an unexecuted Standard Large Generator Interconnection Agreement be filed with FERC. The Interconnection Feasibility Study will consist of a power flow and short circuit analysis. The Interconnection Feasibility Study will provide a list of facilities and a non-binding good faith estimate of cost responsibility and a non-binding good faith estimated time to construct.

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generating and merchant transmission facilities (and with respect to (iii) below, any identified System Upgrade Facilities associated with such higher queued interconnection and, if security or cash has been posted in accordance with Attachment S, System Deliverability Upgrades, except for Highway facility upgrades that have not yet been triggered under Section VII.~~LK~~.3.a of Attachment S) that, on the date the SRIS is commenced: (i) are directly interconnected to the New York State Transmission System; (ii) are interconnected to Affected Systems and may have an impact on the Interconnection Request; (iii) have a pending higher queued Interconnection Request to interconnect to the New York State Transmission System; and (iv) have no Queue Position but have executed a Standard Large Generator Interconnection Agreement or requested that an unexecuted Standard Large Generator Interconnection Agreement be filed with FERC.

The Interconnection System Reliability Impact Study will consist of a short circuit analysis, a stability analysis, and a power flow analysis. The SRIS will state the assumptions upon which it is based; state the results of the analyses; and provide the requirements or potential impediments to providing Energy Resource Interconnection Service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. The SRIS will provide a list of facilities that are required as a result of the Interconnection

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EXTERNAL CRIS RIGHTS REQUEST

ARTICLE 1. THE UNDERSIGNED ENTITY (THE "REQUESTOR") SUBMITS THIS REQUEST TO OBTAIN EXTERNAL CRIS RIGHTS FOR THE NUMBER OF MEGAWATTS ("MW") OF EXTERNAL ICAP SPECIFIED BELOW, PURSUANT TO SECTION VII.K OF ATTACHMENT S TO THE NYISO OATT AND ISO PROCEDURES.

ARTICLE 2. THE REQUESTOR PROVIDES THE FOLLOWING INFORMATION:

- 2.1 _____ Years - The term of the requested Award Period (minimum five (5) years).
- 2.2 _____ MW of External CRIS requested for each month of Summer Capability Period.
The same number of MW must be supplied for all months of each Summer Capability Period throughout the Award Period.
- 2.3 _____ MW of External CRIS requested each month of Winter Capability Period (cannot exceed MW committed for Summer Capability Period). None required, but if Requestor does commit MW to any month of Winter Capability Period, Requestor must specify months requested below.
- November ☐
December ☐
January ☐
February ☐
March ☐
April ☐
- 2.4 _____ The External Interface(s) to be used for the External ICAP:
- _____

ARTICLE 3. A REQUESTOR MAY REQUEST EXTERNAL CRIS RIGHTS BY MAKING EITHER A CONTRACT COMMITMENT OR A NON-CONTRACT COMMITMENT FOR THE AWARD PERIOD. A REQUESTOR MUST INDICATE THE TYPE OF ITS COMMITMENT, AS FOLLOWS:

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- 3.1 _____ Contract commitment; or
- 3.2 _____ Non-contract commitment.

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FACILITIES STUDY AGREEMENT FOR EXTERNAL CRIS RIGHTS

THIS AGREEMENT is made and entered into this _____ day of _____, 20____ by and between _____, a _____ organized and existing under the laws of the State of _____, (“Requestor,”), and the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”). Requestor and NYISO each may be referred to as a “Party,” or collectively as the “Parties.”

RECITALS

WHEREAS, Requestor has, pursuant to Section VII.K of Attachment S to the NYISO OATT, requested External CRIS Rights for a specified number of MW of External CRIS; and

WHEREAS, the NYISO has determined that Requestor has submitted a complete External CRIS Rights Request, in accordance with the applicable requirements of the NYISO Tariffs and ISO Procedures; and

WHEREAS, Requestor has requested the NYISO to evaluate the specified number of MW of External ICAP in the currently open Class Year Deliverability Study to specify the Deliverable MW for its External ICAP, and also to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the System Deliverability Upgrades required for External CRIS Rights.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, the Parties agree as follows:

- 1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meaning indicated herein, or in Attachment S or Attachment X to the NYISO OATT, or in Article Z of the NYISO Services Tariff.
- 2.0 Requestor requests that the NYISO evaluate the deliverability of Requestor’s External CRIS Rights in accordance with Section VII.K of Attachment S to the NYISO OATT. Requestor’s External CRIS Rights are not subject to, and shall not be evaluated by applying the NYISO Minimum Interconnection Standard.

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- 3.0 Requestor shall provide a deposit of \$100,000 for the performance of the Facilities Study for its External CRIS Rights. The time for completion of the Class Year Deliverability Study is specified in Attachment A to this Agreement.

The NYISO shall invoice Requestor on a monthly basis for the expenses incurred by the NYISO on the Class Year Deliverability Study for Requestor each month as computed on a time and materials basis in accordance with the rates attached hereto. Requestor shall pay invoiced amount to the NYISO within thirty (30) Calendar Days of receipt of invoice. The NYISO shall continue to hold Requestor's deposit until settlement of the final invoice.

4.0 Miscellaneous

- 4.1 Accuracy of Information. Except as Requestor may otherwise specify in writing when it provides information to the NYISO under this Agreement, Requestor represents and warrants that the information it provides to NYISO shall be accurate and complete as of the date the information is provided. Requestor shall promptly provide NYISO with any additional information needed to update information previously provided.
- 4.2 Disclaimer of Warranty. In preparing the Class Year Deliverability Study, the NYISO and any subcontractor consultants employed by it shall have to rely on information provided by Requestor, and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, neither the NYISO nor any subcontractor consultant employed by the NYISO makes any warranties, express or implied, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession, or otherwise, including without limitation implied warranties of merchantability and fitness for a particular purpose, with regard to the accuracy, content, or conclusions of the Class Year Deliverability Study for External ICAP. Requestor acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.

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- 4.3 Limitation of Liability. In no event shall either Party or its subcontractor consultants be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under or in connection with this Agreement or the Class Year Deliverability Study for External ICAP, or any reliance on the Class Year Deliverability Study by the other Party or third parties, even if the other Party or its subcontractor consultants have been advised of the possibility of such damages. Nor shall either Party or its subcontractor consultants be liable for any delay in delivery or for the non-performance or delay in performance of its obligations under this Agreement.
- 4.4 Third-Party Beneficiaries. Without limitation of Sections 4.2 and 4.3 of this Agreement, Requestor further agrees that subcontractor consultants hired by NYISO to conduct or review, or to assist in the conducting or reviewing, a Class Year Deliverability Study shall be deemed third party beneficiaries of these Sections 4.2 and 4.3.
- 4.5 Terms and Termination. This Agreement shall be effective from the date hereof and unless earlier terminated in accordance with this Section 4.5, shall continue in effect until the Class Year Deliverability Study for Requestor's External CRIS Rights is completed, whichever event occurs first. Requestor or NYISO may terminate this Agreement upon the withdrawal of Requestor's External CRIS Rights Request under Section VII.K of Attachment S to the NYISO OATT.
- 4.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of laws provisions.
- 4.7 Severability. In the event that any part of this Agreement is deemed as a matter of law to be unenforceable or null and void, such unenforceable or void part shall be deemed severable from this Agreement and the Agreement shall continue in full force and effect as if each part was not contained herein.
- 4.8 Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as the original instrument.
- 4.9 Amendment. No amendment, modification or waiver of any term hereof shall be effective unless set forth in writing signed by the Parties hereto.

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- 4.10 Survival. All warranties, limitations of liability and confidentiality provisions provided herein shall survive the expiration or termination hereof.
- 4.11 Independent Contractor. The NYISO shall at all times be deemed to be an independent contractor and none of its employees or the employees of its subcontractors shall be considered to be employees of Requestor as a result of this Agreement.
- 4.12 No Implied Waivers. The failure of a Party to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a wavier or relinquishment to any extent of such Party's right to insist or rely on any such provision, rights and remedies in that or any other instances; rather, the same shall be and remain in full force and effect.
- 4.13 Successors and Assigns. This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

NYISO

[Insert name of Requestor]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 1
Attachment X

Original Sheet No. 838E

Attachment A To
Facilities Study Agreement
For External CRIS Rights

SCHEDULE FOR CONDUCTING THE
FACILITIES STUDY FOR EXTERNAL CRIS Rights

The NYISO shall use Reasonable Efforts to complete the study and issue a Class Year Deliverability Study report to Requestor within the following number of days after or receipt of an executed copy of this Agreement:

Scheduled completion date for Class Year 20 Deliverability Study required by
Section VII.K Attachment S to the NYISO OATT: / / .

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**DATA FORM TO BE PROVIDED BY REQUESTOR
WITH THE FACILITIES STUDY AGREEMENT FOR EXTERNAL ICAP**

- a. _____ MW of External ICAP certified to be supplied for each month of Summer Capability Period. The same number of MW must be supplied for all months of each Summer Capability Period throughout the Award Period
- b. _____ MW of External ICAP certified to be supplied for each month of Winter Capability Period. (cannot exceed MW committed for Summer Capability Period)
None required, but if Requestor does commit MW to any month of Winter Capability Period, Requestor must specify months covered by commitment.
- c. _____ The External Interface(s) to be used for the External ICAP.

OTHER ASSUMPTIONS

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