STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on February 16, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Robert E. Curry, Jr.
James L. Larocca

CASE 11-E-0619 – New York State Electric & Gas Corporation and Sheldon Energy LLC - Joint Petition for Approval of the Transfer of Facilities.

ORDER APPROVING TRANSFER

(Issued and Effective February 22, 2011)

BY THE COMMISSION:

BACKGROUND

In a petition filed on November 15, 2011, New York State Electric & Gas Corporation (NYSEG) and Sheldon Energy LLC (Sheldon)(collectively, the Petitioners) seek approval, pursuant to Public Service Law (PSL) §70, for the transfer of the ownership interests in certain electric Interconnection Facilities that tie Sheldon’s High Sheldon Wind Farm (High Wind Farm) in Wyoming County, New York to NYSEG’s existing transmission system. The Petitioners state that the transfer of the Interconnection Facilities is required by an Interconnection Agreement they entered into in 2008.

In conformance with State Administrative Procedure Act (SAPA) §202(1), notice of the petition was published in the State Register on December 28, 2011. The SAPA §202(1)(a) period for submitting comments in response to the notice expired on February 13, 2012. No comments have been received.

THE PETITION

The Petitioners begin by describing Sheldon's High Wind Farm as sized at up to 112.5 MW and as located in the Town of Sheldon, Wyoming County, New York. The Petitioners point out that the Wind Farm has been certified and is subject to lightened regulation.[1] Electric output from the High Wind Farm is sold at wholesale through bilateral contracts or into markets operated by the New York Independent System Operator, Inc. (NYISO).

As the Petitioners describe it, Sheldon designed and constructed all of the facilities extending from the High Wind Farm to NYSEG's existing transmission system. These facilities include the Interconnection Facilities, consisting primarily of a switchyard and appurtenant equipment, that will be transferred to NYSEG ownership. The Interconnection Facilities are located between NYSEG's transmission line and a designated point where control over and ownership of the facilities, leading from the Wind Farm to the NYSEG transmission line, changes from Sheldon to NYSEG. Sheldon will continue to own the equipment and facilities sited between the designated point of change of control and the High Wind Farm. The Parties explain that these arrangements were agreed to in the Interconnection Agreement Sheldon and NYSEG executed in 2008.[2]

Now that construction of the High Wind Farm and the Interconnection Facilities is complete, Sheldon proposes to transfer the Interconnection Facilities to NYSEG pursuant to the

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[1] Case 07-E-0213, Sheldon Energy LLC, Order Granting Certificate of Public Convenience and Necessity and Providing For Lightened Regulation (issued January 17, 2008).

[2] The Federal Energy Regulatory Commission (FERC) accepted the filing of that Interconnection Agreement in Docket No. ER09-309-000, Sheldon Energy LLC, the New York Independent System Operator, Inc. and New York State Electric & Gas Corporation (Filing dated October 12, 2008).

Interconnection Agreement. The Petitioners claim that NYSEG is the most appropriate owner and operator of the Interconnection Facilities, which justifies the Interconnection Agreement arrangement whereby Sheldon would design and construct the Interconnection Facilities and then would transfer ownership of them to NYSEG. Sheldon will retain certain easements over the property where the Interconnection Facilities are located that it will use to properly access its equipment and facilities located adjacent to the Interconnection Facilities but on its side of the point of change of control. After the transaction is consummated, Sheldon can focus its attention on operating the High Wind Farm that was previously certified as in the public interest.

The Petitioners ask that transfer of the Interconnection Facilities and the underlying real property be approved pursuant to PSL §70. The public interest, they maintain, is satisfied because NYSEG, the new owner, is an experienced manager of transmission facilities that is expected to operate the Interconnection Facilities properly and safely as an adjunct to its transmission system, pursuant to NYISO rules and requirements.

DISCUSSION AND CONCLUSION

Environmental Quality Review

Under the State Environmental Quality Review Act (SEQRA), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR §617 and 16 NYCRR §7), we must determine whether the actions we are authorized to approve may have a significant impact on the environment. Other than our approval of the action proposed here, no additional state or local permits are required, so a coordinated review under SEQRA is not needed. We will assume Lead Agency status under SEQRA and conduct an environmental review.

SEQRA requires applicants to submit a complete EAF describing and disclosing the likely impacts of the actions they propose.[3] The Petitioners have submitted a narrative and short-form EAF Part 1 that substantially comply with this requirement.

The proposed action over which we have jurisdiction is the transfer of ownership interests in the Interconnection Facilities connecting Sheldon's High Wind Farm to NYSEG's transmission system. The proposed action does not meet the definition of Type 1 or Type 2 actions listed in 6 NYCRR §§617.4, 617.5 and 16 NYCRR §7.2, so it is classified as an "unlisted" action requiring SEQRA review. After review of the petition we conclude, based on the criteria for determining significance listed in 6 NYCRR §617.7(c), that there will be no changes to the operation of the generation facility underlying the proposed transfer will result in adverse environmental impacts. Our Staff has completed the short-form EAF Part 2.

As Lead Agency, we determine that the proposed action will not have a significant impact on the environment and adopt a negative declaration pursuant to SEQRA. Because no adverse environmental impacts were found, no public notice requesting comments is required or will be issued. A negative declaration concerning this unlisted action is attached. The completed EAF will be retained in our files.

The Transfer

Under PSL §70(1), our approval is required before an electric corporation may transfer ownership interests in electric plant. In conducting a review under §70 that pertains to a lightly-regulated electric corporation operating in wholesale electric markets, we examine the potential for harm to

[3] 6 NYCRR §617.6(a)(3).

captive ratepayer interests. Under these circumstances, the review also encompasses the effect of the transaction on the ratepayers of the regulated utility, NYSEG, that is acquiring the Interconnection Facilities.

The transfer of the Interconnection Facilities adjacent to the High Wind Farm that the Petitioners propose resembles the arrangements made for the similar transfer of facilities interconnecting a wind farm and the NYSEG transmission system approved in the Noble Wethersfield Order.[4] As decided there, the integration of electric facilities like these Interconnection Facilities into NYSEG’s regulated utility transmission system does not adversely affect the safety, adequacy or reliability of transmission service. It is expected that NYSEG will be a capable operator of the Interconnection Facilities and that its ownership of these Interconnection Facilities will assist it in properly operating its transmission system for the benefit of its ratepayers.

Since the Interconnection Agreement required Sheldon to bear the costs of designing and constructing the Interconnection Facilities, NYSEG will acquire them without incurring a payment obligation. NYSEG proposes to account for the transferred facilities by debiting Account 101 – Operating Property (Conveyed Assets) and crediting Account 101 – Operating Property (Contribution in Aid of Construction) in the same amount. As a result, the Petitioners maintain, the assets will be classified in the appropriate accounts at a zero basis.

[4] Case 10-M-0158, Noble Wethersfield Wind Park LLC and New York State Electric & Gas Corporation, Order Approving Transfer of Property and Partial Transfer of Certificate of Environmental Compatibility and Public Need (issued May 20, 2011).

The accounting treatment NYSEG proposes is proper.[5] It appropriately reflects the contribution in aid of construction provided by Sheldon.

Therefore, NYSEG’s acquisition of the Interconnection Facilities contributes towards its safe and reliable operation of its transmission system for the benefit of ratepayers, and it proposes to properly account for the cost of the Interconnection Facilities. The transfer also does not pose any potential for harm to captive ratepayer interests. Accordingly, the transaction and NYSEG’s proposed accounting are approved, as in the public interest.

The Commission orders:

1. The transfer of the ownership interests in the Interconnection Facilities described in the petition filed in this proceeding and in the body of this Order is approved.

2. New York State Electric & Gas Corporation is directed to debit Account 101 – Operating Property (Conveyed Assets) and credit Account 101 – Operating Property (Contribution in Aid of Construction) in the same amount.

3. This proceeding is closed.

By the Commission,

Jaclyn A. Brilling
Digitally Signed by Secretary
New York Public Service Commission

(SIGNED) JACLYN A. BRILLING
Secretary

[5] The actual amount appropriate for accounting purposes will be supplied when the transaction closes; Sheldon has estimated the installed cost at $6.4 million, which is within the range that NYSEG is expecting.

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NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

NOTICE is hereby given that an Environmental Impact Statement will not be prepared in connection with the approval by the Public Service Commission of the transfer of ownership of certain electric Interconnection Facilities, owned by Sheldon Energy LLC in Wyoming County, New York, to New York State Electric & Gas Corporation (NYSEG), based on our determination, in accordance with Article VIII of the Environmental Conservation Law, that such action will not have a significant adverse affect on the environment. The exercise of this approval constitutes an "unlisted" action, as is defined in 6 NYCRR §617.2(ak).

Based on our review of the record, we find that the proposed action, which will lead to the ownership and operation of the Interconnection Facilities by NYSEG instead of the existing owner, will not have a significant adverse environmental impact. A change in the identity of the owner of the interconnection plant will not otherwise cause any physical alterations to the generation plant or its surroundings.

The address of the Public Service Commission, the Lead Agency for the purposes of the environmental quality review of this project, is Three Empire State Plaza, Albany, New York 12223-1350. Questions may be directed to Leonard Van Ryn at (518) 473-7136 or at the address above.

JACLYN A. BRILLING
Secretary