

188 FERC ¶ 61,116  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

August 8, 2024

In Reply Refer To:  
New York Independent System Operator, Inc.  
Niagara Mohawk Power Corporation  
Docket Nos. ER23-973-003  
ER23-973-001  
ER23-973-002

National Grid USA  
170 Data Drive  
Waltham, MA 02451

Attention: David Lodemore, Esq.  
Attorney for Niagara Mohawk Power Corporation

Dear David Lodemore:

1. On January 30, 2023, New York Independent System Operator, Inc. (NYISO) filed, on behalf of Niagara Mohawk Power Corporation (Niagara Mohawk), proposed revisions to Niagara Mohawk's Transmission Service Charge (TSC) under NYISO Open Access Transmission Tariff (OATT) Attachment H,<sup>1</sup> a proposed new Rate Schedule 18,<sup>2</sup> and a request for authorization to include 100% of prudently incurred Construction Work in Progress (CWIP) for the Smart Path Connect Project (Project).<sup>3</sup> On July 28, 2023, the Commission accepted the proposed tariff record in Rate Schedule 18, effective April 1, 2023, and granted Niagara Mohawk's request for the CWIP incentive, effective April 1, 2023. The Commission accepted in part, and rejected in part, the proposed TSC tariff record, and suspended it for a nominal period, effective April 1, 2023, subject to a compliance filing, and established hearing and settlement judge procedures.<sup>4</sup> The Commission's acceptance was

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<sup>1</sup> NYISO, NYISO Tariffs, NYISO OATT, §§ 14.2-14.2.1 (Attachment 1 to Attachment H) (26.0.0), Schedules 15a-15e (Schedule 15).

<sup>2</sup> NYISO, NYISO Tariffs, NYISO OATT, § 6.18 (Schedule 18 Rate Mechanism for the Recovery) (4.0.0) (Rate Schedule 18).

<sup>3</sup> NYISO Filing, Docket No. ER23-973-000 (filed Jan. 30, 2023).

conditioned upon Niagara Mohawk making a compliance filing with a revised TSC tariff record to clarify how excess and deficient accumulated deferred income taxes will be reconciled to Accounts 182.3 and 254, and to remove a proposed regulatory asset line item for cost of removal amounts.

2. On August 28, 2023, NYISO submitted, on Niagara Mohawk's behalf, revisions to the NYISO OATT to comply with the Commission's compliance requirements in the July 28 Order.<sup>5</sup>

3. Notice of the August 28, 2023 Compliance Filing was published in the *Federal Register*, 88 Fed. Reg. 60,447 (Sept. 1, 2023) with interventions and protests due on or before September 18, 2023. None was filed.

4. On June 3, 2024, NYISO filed, on Niagara Mohawk's behalf, a Settlement Agreement and Offer of Settlement (Settlement) addressing Niagara Mohawk's recovery of costs associated with its capital investments in the Project.<sup>6</sup> On June 24, 2024, Commission Trial Staff filed comments supporting the Settlement.<sup>7</sup> On July 12, 2024, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>8</sup>

5. Article VI of the Settlement provides that:

The standard of review for any proposed change to the terms of this Settlement sought by fewer than all of the Settling Parties and opposed by any other Settling Party shall be the "public interest" application of the just and reasonable standard of review set forth in *United Gas Pipeline Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). With respect to proposed changes to

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<sup>4</sup> *N.Y. Indep. Sys. Operator, Inc.*, 184 FERC ¶ 61,059, at PP 1, 61-65 (2023) (July 28 Order).

<sup>5</sup> NYISO, Compliance Filing, Docket No. ER23-973-002 (filed Aug. 28, 2023) (August 28, 2023 Compliance Filing); *see also* NYISO Tariffs, NYISO OATT, §§ 14.2-14.2.1 (Attachment 1 to Attachment H (27.0.0)).

<sup>6</sup> Niagara Mohawk, Settlement, Docket No. ER23-973-003 (filed June 3, 2024).

<sup>7</sup> Commission Trial Staff, Comments, Docket No. ER23-973-003 (filed June 24, 2024).

<sup>8</sup> *N.Y. Indep. Sys. Operator, Inc.*, 188 FERC ¶ 63,003 (2024).

the terms of this Settlement agreed to by all of the Settling Parties or sought by a party other than a Settling Party, or by the Commission acting *sua sponte*, the standard of review shall be the ordinary just and reasonable standard.

6. The Commission finds that Niagara Mohawk's August 28, 2023 Compliance Filing in Docket No. ER23-973-002 complies with the July 28 Order, and accordingly we accept the Compliance Filing effective April 1, 2023, as requested.

7. The Settlement resolves all issues set for hearing in Docket No. ER23-973-001.<sup>9</sup> The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

8. Niagara Mohawk, in conjunction with NYISO, is directed to make a compliance filing with revised tariff records in eTariff format,<sup>10</sup> within 30 days of the date of this order, to reflect the Commission's action in this order.

By direction of the Commission. Commissioner See is not participating.  
Commissioner Chang is not participating.

Debbie-Anne A. Reese,  
Acting Secretary.

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<sup>9</sup> July 28 Order, 184 FERC ¶ 61,059.

<sup>10</sup> See *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *order on reh'g*, Order No. 714-A, 147 FERC ¶ 61,115 (2014). Niagara Mohawk and NYISO are reminded to use an eTariff Record Effective Priority Order number higher than used in Docket No. ER23-973-001 to ensure the tariff records approved as part of the Settlement become the effective rate.