

October 17, 2018

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: Niagara Mohawk Power Corporation  
Docket No. ER19-\_\_\_\_-000**

**Filing to Revise Niagara Mohawk Depreciation Rates Under the  
NYISO OATT**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations,<sup>2</sup> Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk”) submits updates to the depreciation rates set forth in the provisions of Attachment H to the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”) regarding Niagara Mohawk’s Wholesale Transmission Service Charge (“Wholesale TSC”) formula rate.<sup>3</sup> This depreciation rate update is supported by the testimony of Tiffany M. Forsyth and supporting exhibits, including a depreciation rate study already accepted by the New York Public Service Commission (“NYSPSC”).

Niagara Mohawk submits the depreciation rate revisions as a single-issue filing pursuant to Section 205 of the FPA and requests waiver of the full filing requirements of Part 35 of the Commission’s regulations. Niagara Mohawk respectfully requests that the Commission accept the revenue requirement revisions to become effective for

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. Part 35.

<sup>3</sup> Under the terms of Attachment H to the NYISO OATT, Transmission Owners, which include Niagara Mohawk, have rights to amend the components of their respective Wholesale TSC rates on their own initiative by making the requisite filings for Commission approval pursuant to Section 205 of the FPA. *See* NYISO OATT, Attachment H, Sections 14.1.2.1.3, 14.1.9.3, 14.1.9.4.3.6. The NYISO is submitting this filing in the Commission’s eTariff system on Niagara Mohawk’s behalf solely in its role as the Tariff Administrator. However, the burden of demonstrating that the proposed tariff revisions are just and reasonable rests on Niagara Mohawk, the sponsoring party. The NYISO takes no position on any substantive aspect of the filing at this time.

Wholesale TSC rates that will be charged as of July 1, 2019. Consistent with precedent, Niagara Mohawk requests that the Commission allow the updated depreciation rates for its amended revenue requirement component to take effect as of April 1, 2018, the same date that these depreciation rates were approved to become effective by the NYPSC.

## **I. Background**

Niagara Mohawk is a regulated utility operating in the State of New York. It is engaged in the transmission, distribution, and wholesale and retail sale of electric power and natural gas in Buffalo, Albany, Syracuse, and other portions of upstate New York. All of Niagara Mohawk's bulk transmission facilities are subject to the operational control of the NYISO.

Niagara Mohawk provides service to a number of customers, including municipal electric utilities and customers external to the NYISO, pursuant to the Niagara Mohawk Wholesale TSC formula rate set forth in Attachment H to the NYISO OATT. Among the inputs to the Annual Transmission Revenue Requirement ("RR") component of that formula rate is Depreciation Expense for Transmission Plant in Service, which is defined to equal depreciation expenses calculated using fixed annual depreciation rates for various specified Commission and Niagara Mohawk accounts. The definition and the depreciation rates are listed in Section 14.1.9.1.14 of Attachment H to the NYISO OATT.<sup>4</sup> Niagara Mohawk last filed revisions to the depreciation rates in 2012, which the Commission accepted for filing as submitted.<sup>5</sup>

## **II. Revisions to the Depreciation Rates**

As discussed in the testimony of Tiffany M. Forsyth provided in Exhibit NMP-1 to this filing and the schedule of approved rates included in Exhibit NMP-4 hereto, Niagara Mohawk proposes to revise some of the depreciation rates listed in Section 14.1.9.1.14 of Attachment H to the NYISO OATT. Specifically, Niagara Mohawk proposes to revise the depreciation rates as shown in the table below.

### **Comparison of Current and Revised Depreciation Rates**

<b>Account No.</b>	<b>Account Name</b>	<b>Current Rate</b>	<b>Revised Rate</b>
350	Land – Rights of Way and Easements	1.32%	1.32% (no change)

<sup>4</sup> The components of the formula rate are set forth in Section 14.1.2.1 of Attachment H to the NYISO OATT.

<sup>5</sup> *Niagara Mohawk Power Corp.*, Commission Letter Order, Docket No. ER12-1394-000 (May 29, 2012).

352	Structures and Improvements	2.08%	2.42%
353	Station Equipment	2.44%	2.53%
353.55	Station Equipment – EMS	3.40%	4.20%
354	Towers and Fixtures	1.71%	1.80%
355	Poles and Fixtures	2.00%	2.23%
356	Overhead Conductors and Devices	1.60%	1.69%
357	Underground Conduit	1.33%	1.24%
358	Underground Conductors and Devices	1.48%	1.59%
359	Roads and Trails	1.33%	1.33% (no change)
370	Large Meters – Bare Costs	5.05%	5.05% (no change)
	Large Meters – Installation Costs	5.05%	5.05% (no change)

The NYPSC approved the same depreciation rates listed above in an order issued in Docket Number 17-E-0238 on March 15, 2018.<sup>6</sup> The rates were determined based on the Niagara Mohawk-sponsored testimony and a depreciation study by Dr. Kimbugwe A. Kateregga as well as on NYPSC Staff testimony included in Exhibits NMP-2 and NMP-3, respectively, to this filing. The methodology employed in the depreciation study is explained in detail in the testimony and the exhibits submitted by Niagara Mohawk and NYPSC Staff. The difference in the rates effective April 1, 2018 and the previously-approved rates is primarily attributable to adjustments in service life and net salvage statistics recommended in the most recent study.

<sup>6</sup> *Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans*, 2018 WL 1456247. This NYPSC order is also available at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=17-E-0238>.

For the reasons explained in this filing, the Commission should allow Niagara Mohawk to update the depreciation rates in its Wholesale TSC formula in Attachment H to the NYISO OATT to reflect the depreciation rates approved by the NYPSC. In 2012, the Commission accepted a comparable Niagara Mohawk filing to update the depreciation rates in its Wholesale TSC formula to reflect depreciation rates approved by the NYPSC in 2011.<sup>7</sup> The Commission has allowed other public utilities to update the depreciation rate component of their Commission-jurisdictional rates to reflect depreciation rate decisions of state utility regulators.<sup>8</sup>

### III. Effect on Transmission Charges

Based on the 2018 Annual Update to its Wholesale TSC under the NYISO OATT submitted in Docket No. ER08-552-000, adjusted for purposes of this filing to reflect a 21% federal income tax rate effective January 1, 2018 and removing the impact of the tax rate change from the tax rate adjustment component of the 2018 forecasted revenue requirement, Niagara Mohawk estimates that the proposed change in depreciation rates would result in an annual impact on its transmission revenue requirement of \$3.82 million, reflected on line 43 of Schedule 1 in Exhibit NMP-7 to this filing. The resulting increase to Wholesale TSC customers would be 8% of that amount, or \$294,838.

While use of the updated depreciation rates produce an estimated annual increase to customers under the Niagara Mohawk's formula rate of about \$295 thousand, the Commission should find that the changes in depreciation rates do not affect the total amount of costs recovered over time, only the timing of this recovery, and thus while there is an increase in the revenue requirement, it will be offset in future years. The Commission made similar findings when it has approved other public utility depreciation rate changes. For example, in response to a depreciation rate filing by Ameren Illinois Company, the Commission found that Ameren Illinois "seeks to change one component of its rate which only affects the timing of the costs and does not change the overall amount of recovery. The change to the depreciation accrual rates does not change the value of the underlying asset, and would not result in any over- or under-recovery of costs. In this circumstance, we find that it is appropriate to consider the change in depreciation alone, consistent with [the Commission's] *Xcel* and *Michigan*

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<sup>7</sup> See transmittal letter for Niagara Mohawk filing to amend Attachment H to the NYISO OATT, Docket No. ER12-1394-000, at 4 (Mar. 30, 2012) (explaining that "[t]he depreciation rates set forth in this docket were approved by the NYPSC on January 20, 2011 with an effective date of January 24, 2011 in NYPSC Docket Number 10-E-0050.").

<sup>8</sup> See, e.g., *Fla. Power Corp.*, 134 FERC ¶ 61,145, at PP 3, 18-19 (2011) (accepting tariff revisions to reflect revised depreciation rates previously approved by the Florida Public Service Commission); *S. Cal. Edison Co.*, Commission Letter Order (Docket No. ER13-1253-000 (May 22, 2013) (accepting tariff revisions to reflect revised depreciation rates previously approved by the California Public Utilities Commission).

*Electric* [precedent].”<sup>9</sup> The Commission should reach a similar conclusion with regard to Niagara Mohawk’s depreciation rate revisions.

Niagara Mohawk submits these depreciation rate revisions as a single-issue filing pursuant to Section 205 of the FPA. The Commission has found that single-issue Section 205 filings are appropriate to update depreciation rates.<sup>10</sup> Such filings have the advantage of narrowing the scope of a proceeding in which only one rate component – in this case, the depreciation rate – is being revised. Further, the use of a single-issue Section 205 filing for revisions to depreciation rates is appropriate because such revisions do not change the overall amount of costs recovered but instead only the timing of the recovery.<sup>11</sup>

#### **IV. Request for Waiver of Part 35 Filing Requirements**

To the extent necessary, Niagara Mohawk requests waiver of the full requirements of Section 35.13 of the Commission’s regulations.<sup>12</sup> This is a single-issue filing under Section 205 of the FPA, and Niagara Mohawk explains in the filing the basis for the revisions to the depreciation rates and the rate impact of the revisions. Further, the revisions will not affect the amount of depreciation recovered by Niagara Mohawk, only the timing of that recovery. The Commission has granted waiver of the

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<sup>9</sup> *Ameren Ill. Co.*, 141 FERC ¶ 61,264 at P 32 (2012)(citing *Xcel Energy Services, Inc.*, 121 FERC ¶ 61,284, at P 72 n.81 (2007); *Mich. Elec. Transmission Co.*, 117 FERC ¶ 61,314, at P 17 (2006), *order on reh’g*, 118 FERC ¶ 61,139 (2007)) (other citations omitted). In *Ameren Illinois*, the Commission set the issue of the depreciation accrual rates for hearing and settlement judge procedures (*see Ameren Illinois* at P 35), but doing so did not undermine the Commission findings quoted above. *See also PJM Interconnection, L.L.C.*, 158 FERC ¶ 61,089, at P 112 (2017) (rejecting a protest of Transource’s proposed depreciation rates because the change to depreciation rates would not result in any over- or under-recovery of costs).

<sup>10</sup> *See, e.g., S. Cal. Edison Co.*, Commission Letter Order, Docket No. ER13-1253-000 (May 22, 2013); *Ga. Power Co.*, Commission Letter Order, Docket No. ER11-4284-000 (Sept. 16, 2011).

<sup>11</sup> *See, e.g., Ameren Illinois* at P 32 (“We are not persuaded . . . that Ameren Illinois’ updated depreciation accrual rates should be rejected as an impermissible single-issue filing. . . . In this circumstance, we find that it is appropriate to consider the change in depreciation alone, consistent with *Xcel* and *Michigan Electric*.”). Niagara Mohawk also notes that Attachment H to the NYISO OATT specifies that a Section 205 filing to modify the Wholesale TSC formula rate inputs for depreciation rates will not be deemed to open for review any other components of the formula rate. NYISO OATT, Attachment H, Section 14.1.9.3.

<sup>12</sup> 18 C.F.R. § 35.13.

full requirements of Section 35.13 in similar circumstances in other proceedings.<sup>13</sup> For these reasons, good cause exists to grant the requested waiver.

In addition, the information submitted with this filing substantially complies with the requirements of Part 35 of the Commission's regulations applicable to filings of this type. Niagara Mohawk requests a waiver of any applicable requirement of Part 35 for which a waiver is not specifically requested, if necessary, in order to permit this filing to become effective as proposed.

#### **V. Effective Date, Request for Waiver**

Pursuant to Section 35.11 of the Commission's regulations,<sup>14</sup> and to the extent necessary, Niagara Mohawk respectfully requests that the Commission grant waiver of the notice requirements set forth in Section 35.3(a)(1) of its regulations,<sup>15</sup> to permit the revisions to Attachment H of the NYISO OATT to reflect the modified depreciation rates to go into effect as of April 1, 2018, the same date that the NYPSC allowed such rates to go into effect. As noted above, the revised depreciation rate will be used for establishing the Wholesale TSC rate to be charged beginning July 1, 2019.

Good cause exists for the Commission to grant this waiver. Niagara Mohawk is seeking to revise the Wholesale TSC in order to ensure that the depreciation rates in the revenue requirement for its Wholesale TSC formula rate are identical to, and become effective on the same date as, those recently approved by the NYPSC in state-jurisdictional Case 17-E-0238. This will permit Niagara Mohawk to have a consistent set of depreciation rates on its books and ensure that both electric retail customers and Wholesale TSC customers are consistently charged the same depreciation rates. In previous orders, the Commission has authorized effective dates for depreciation rates under Commission-jurisdictional tariffs that were the same as the effective dates approved by state commissions for the corresponding retail depreciation rates.<sup>16</sup> For these reasons, the Commission should grant the requested waiver.

#### **VI. Exhibits and Attachment**

In addition to this transmittal letter, this filing includes the following exhibits and attachment:

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<sup>13</sup> See, e.g., *Ameren Illinois* at P 38; *DATC Midwest Holdings, LLC.*, 139 FERC ¶ 61,224, at P 98 (2012); *Midwest Independent Transmission System Operator, Inc.*, 138 FERC ¶ 61,234, at P 19 (2012).

<sup>14</sup> 18 C.F.R. § 35.11.

<sup>15</sup> 18 C.F.R. § 35.3(a)(1).

<sup>16</sup> See, e.g., *Niagara Mohawk Power Corp.*, Commission Letter Order, Docket No. ER12-1394-000 (May 29, 2012); *Fla. Power Corp.*, 134 FERC ¶ 61,145, at PP 5, 18.

- Exhibit NMP-1 – Direct Testimony of Tiffany M. Forsyth
- Exhibit NMP-2 – Depreciation Rate Study Niagara Mohawk
- Exhibit NMP-3 – Depreciation Rate Study – NYPSC Staff
- Exhibit NMP-4 – Depreciation and Amortization Rates approved by the NYPSC’s March 15, 2018 order
- Exhibit NMP-5 – Clean Attachment H to the NYISO OATT
- Exhibit NMP-6 – Redlined Attachment H to the NYISO OATT
- Exhibit NMP-7 – Summary of the Estimated Rate Changes
- Exhibit NMP-8 – Formula Rate Spreadsheets - 2018 Annual Update
- Exhibit NMP-9 – Formula Rate Spreadsheets - Adjusted 2018 Annual Update before proposed changes to depreciation rates
- Exhibit NMP-10 – Formula Rate Spreadsheets - Adjusted 2018 Annual Update after proposed changes to depreciation rates
- Attachment A – Service Listing
- Attachment B – A clean version of Section 14.1 of the NYISO OATT incorporating tariff revisions that have, or have been proposed to, become effective subsequent to the April 1, 2018 effective date requested for the tariff revisions proposed herein<sup>17</sup>

## **VII. Communications and Service**

Communications regarding this filing should be addressed to the following individuals, whose names should be entered on the official service list maintained by the Secretary for this proceeding.

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<sup>17</sup> NYISO OATT Section 14.1 was filed on: February 15, 2018 in Docket No. ER18-861-000, effective April 17, 2018; May 14, 2018 in Docket No. ER18-1598-000, effective July 1, 2018; and July 20, 2018 in Docket No. ER18-2048-000, effective September 19, 2018.

The Honorable Kimberly D. Bose

October 17, 2018

Page 8

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Copies of this filing have been served on the entities listed in Attachment A to this filing, which include all of the customers that receive service pursuant to the Niagara Mohawk Wholesale TSC formula rate, the NYISO, and the NYPSC.

#### **VIII. Conclusion**

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the revisions to Attachment H to the NYISO OATT contained in this filing without suspension, condition, or modification.

Respectfully submitted,

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