

May 5, 2011

**VIA ELECTRONIC FILING**

Ms. Kimberley Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**RE: Niagara Mohawk Power Corporation  
Docket No. ER11-\_\_\_\_\_  
Construction Services Agreement between Niagara Mohawk Power  
Corporation and the Village of Churchville, New York**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> Part 35 of the Commission’s regulations,<sup>2</sup> and Order No. 714,<sup>3</sup> Niagara Mohawk Power Corporation (“Niagara Mohawk”), d/b/a National Grid submits for Commission acceptance a Construction Services Agreement (“Services Agreement”) between Niagara Mohawk and the Village of Churchville, New York (“Churchville”).<sup>4</sup> The Services Agreement is designated under the New York Independent System Operator, Inc. (“NYISO”) open access transmission tariff (“OATT”), FERC Electric Tariff, Original Volume No. 1 as Service Agreement No. 1752.

Niagara Mohawk respectfully requests waiver of the Commission’s prior notice requirements to permit the Services Agreement to go into effect as of the date of execution, April 27, 2011.

**I. Background**

Churchville owns and operates a municipal electric system which is currently interconnected to and receives transmission services from Niagara Mohawk at Churchville’s existing substation on Richmond Avenue in the Village of Churchville (the “Existing Substation”). Churchville is constructing a transmission line and substation located at 54 Sanford Road North, Village of Churchville, in accordance with the

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<sup>1</sup> 16 U.S.C. § 824d.

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

<sup>3</sup> Electronic Tariff Filings, FERC Stats. & Regs. ¶ 31,276 (2008).

<sup>4</sup> While it is not completely clear whether the Services Agreement is subject to Commission filing requirements under Section 205 of the FPA, Niagara Mohawk is submitting this filing out of an abundance of caution and reserves the right to take the position in the future that such authorization is not required.

standards and requirements of Niagara Mohawk along with approximately 420 feet of 34.5 kV sub-transmission line to interconnect with Niagara Mohawk's 34.5 kV sub-transmission line number 201 located in the Village of Churchville, Monroe County.

## **II. Services Agreement**

The Services Agreement provides for Niagara Mohawk to engineer, procure and construct certain facilities to interconnect the new, second substation to Niagara Mohawk's existing 34.5 kV transmission system. Section 6.0 of the Services Agreement provides that Niagara Mohawk shall perform this work in return for reimbursement of Niagara Mohawk's actual costs,<sup>5</sup> which include labor and materials. Niagara Mohawk has provided Churchville with a conceptual estimate for the service identified (*see* Section 3.2), however, Churchville is responsible for all actual costs incurred. Pursuant to Section 2.1, the Services Agreement is in effect until final payment is received by Niagara Mohawk.

Churchville is constructing the Tap Line from the new substation to Niagara Mohawk's existing 34.5 kV sub-transmission line. Pursuant to Section 11.0 of the Services Agreement, ownership of the Tap Line will be transferred from Churchville to Niagara Mohawk not later than 15 days prior to the Anticipated Energization Date, subject to the receipt of any required regulatory approvals.

## **III. Effective Date**

Niagara Mohawk requests waiver of the Commission's 60-day notice requirement to permit the Services Agreement to become effective on April 27, 2011. Good cause exists for such a waiver. Niagara Mohawk is responding to Churchville's request that Niagara Mohawk perform work under the Services Agreement beginning prior to May 1, 2011. Churchville's projected milestone schedule lists May 1, 2011 as the date by which it expects to complete building of the 34.5 kV Tap Line. As of this date, Niagara Mohawk is to complete its review and approval of the drawings submitted by Churchville and begin construction work. *See* Section 5.0 of the Services Agreement. Granting the requested waiver will allow Niagara Mohawk to accommodate Churchville and is in the public interest and consistent with the standard set forth by the Commission in *Central Hudson*.<sup>6</sup> For these reasons, the Commission should find that good cause exists to grant an effective date of April 27, 2011.

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<sup>5</sup> "Actual Costs" is a defined term pursuant to Section 1.0 of the Services Agreement.

<sup>6</sup> *See Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106 at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

#### **IV. Communications and Service**

Communications and correspondence with respect to this matter should be addressed to the following individuals, and the following should be included on the official service list for this proceeding:<sup>7</sup>

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#### **V. Conclusion**

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Services Agreement effective April 27, 2011.

Copies of this filing have been served on Churchville, New York state regulators, and the NYISO.

Respectfully submitted,

*/s/ Daniel Galaburda*

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Corporation, d/b/a National Grid*

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<sup>7</sup> Niagara Mohawk requests waiver of 18 C.F.R. § 385.203(b) to allow three persons to be added to the service list in this proceeding.