

October 24, 2019

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

**Re: Niagara Mohawk Power Corporation  
Docket No. ER20-\_\_\_\_-000**

**Filing of Cost Reimbursement Agreement with  
O'Brien and Gere Inc. of North America**

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 ("Niagara Mohawk") submits a Cost Reimbursement Agreement ("Reimbursement Agreement") between Niagara Mohawk and O'Brien and Gere Inc. of North America ("O'Brien and Gere").<sup>3</sup> The Reimbursement Agreement is designated as Service Agreement No. 2486 under the New York Independent System Operator, Inc.'s ("NYISO") Open Access Transmission Tariff ("OATT").

The Reimbursement Agreement is an undisputed agreement to facilitate the performance of certain work that O'Brien and Gere has requested Niagara Mohawk to do to remove and modify certain transmission structures and related facilities on a transmission line owned by Niagara Mohawk. Niagara Mohawk requests that the Commission accept the Reimbursement Agreement effective as of September 25, 2019, the effective date agreed to by the Parties.

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<sup>1</sup> 16 U.S.C. § 824d.

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

<sup>3</sup> Together, Niagara Mohawk and O'Brien and Gere are referred to in the Reimbursement Agreement and in this transmittal letter as the "Parties."

## **I. Background**

Niagara Mohawk is a public utility subject to the Commission's jurisdiction that owns transmission facilities located in New York which have been placed under the operational control of the NYISO.

O'Brien and Gere is a company having an office and place of business in Syracuse, New York. O'Brien and Gere is not a transmission customer under the NYISO OATT.

O'Brien and Gere has requested that Niagara Mohawk perform certain work to remove transmission structures #9 through #14 and related conductor and attachments on Niagara Mohawk's 115 kV Geres Lock – Matthews Ave. #12 ("GL-MA 12") transmission line located in Solvay, New York, and to modify transmission structure #8 on the GL-MA 12 line to remain in place and be a dead-end structure. Niagara Mohawk is willing to perform this work subject to: (i) reimbursement by O'Brien and Gere of all actual costs and expenses incurred by Niagara Mohawk in connection with the work; (ii) O'Brien and Gere's acquisition and delivery of certain real property interests as contemplated in the Reimbursement Agreement; (iii) O'Brien and Gere's performance of all other duties, responsibilities, and obligations set forth in the Reimbursement Agreement, including, without limitation, specified actions to be taken by O'Brien and Gere; and (iv) receipt of any and all required approvals as set forth in the Reimbursement Agreement, in a form acceptable to Niagara Mohawk.<sup>4</sup>

## **II. Description of the Reimbursement Agreement and Filing Requirements**

Pursuant to the Reimbursement Agreement, O'Brien and Gere will reimburse Niagara Mohawk for the actual costs and expenses incurred in connection with the work described above. The Reimbursement Agreement sets forth the terms and conditions of this work and certain related commitments by O'Brien and Gere. The Reimbursement Agreement includes provisions addressing the performance and schedule of the work, liability and indemnification, insurance, regulatory and governmental approvals, and various other standard provisions included in comparable utility cost reimbursement agreements.

Section 205 of the FPA authorizes the Commission to require public utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional transmission service or sales of electric energy.<sup>5</sup> The Reimbursement Agreement relates to Niagara Mohawk's recovery of costs for performing procurement, construction, and other work to remove and modify transmission structures and related facilities on Niagara Mohawk's GL-MA 12 transmission line as described above. Although O'Brien and Gere is not a transmission customer under the NYISO OATT, Niagara Mohawk recognizes that the Commission may find the Reimbursement Agreement to be a jurisdictional agreement that must be

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<sup>4</sup> Reimbursement Agreement, Recitals, Articles 3.0, 7.0, and 18.0, and Exhibits A and C.

<sup>5</sup> 16 U.S.C. §§ 824d(a)-(c).

filed.<sup>6</sup> For these reasons, Niagara Mohawk is filing the Reimbursement Agreement for Commission acceptance.

The price of the work to be performed pursuant to the Reimbursement Agreement will be just and reasonable because Niagara Mohawk will perform the work at actual cost.<sup>7</sup> The Commission should therefore accept the Reimbursement Agreement.

### **III. Effective Date**

Niagara Mohawk requests that the Commission accept the Reimbursement Agreement effective as of September 25, 2019, the effective date agreed to by the Parties. The Commission's regulations require service agreements to be filed not more than 30 days after service under such an agreement has commenced.<sup>8</sup> Niagara Mohawk is filing the Reimbursement Agreement within 30 days of the requested September 25 effective date.

### **IV. Attachments**

In addition to this transmittal letter, this filing includes the Reimbursement Agreement in Attachment A hereto.

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<sup>6</sup> See, e.g., *Niagara Mohawk Power Corp.*, Commission Letter Order, Docket No. ER19-1401-000 (May 7, 2019) (accepting for filing a cost reimbursement agreement between Niagara Mohawk and Greenway Conservancy for the Hudson River Valley ("Greenway Conservancy"), which Niagara Mohawk explained was not a transmission customer under the NYISO OATT, to facilitate the performance of certain work that Greenway Conservancy requested Niagara Mohawk to do with respect to a portion of specified facilities to be relocated as described in the cost reimbursement agreement).

<sup>7</sup> See Reimbursement Agreement, Articles 1.0 (at definition of "Company Reimbursable Costs") and 7.0.

<sup>8</sup> 18 C.F.R. § 35.3(a)(2).

**V. 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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Copies of this filing have been served on O'Brien and Gere, the NYISO, and the New York Public Service Commission.

**VI. Conclusion**

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Reimbursement Agreement effective as of September 25, 2019.

Respectfully submitted,

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