

December 31, 2020

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

**Re: Niagara Mohawk Power Corporation  
Docket No. ER21-\_\_\_\_-000**

**Filing of Reimbursement Agreement with New York Transco, LLC**

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 a Reimbursement Agreement (“Reimbursement Agreement”) between Niagara Mohawk and New York Transco, LLC (“NY Transco”).<sup>3</sup> The Reimbursement Agreement is designated as Service Agreement No. 2590 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 NY Transco has requested Niagara Mohawk to do with respect to the mitigation of the impact of the New York Energy Solution (“NYES”) Project on Niagara Mohawk’s transmission system. The Reimbursement Agreement amends, restates, and replaces an existing Engineering & Procurement Agreement (“E&P Agreement”) between the Parties that is on file with the Commission, in order to add certain construction activities to the work contemplated in the E&P Agreement. Niagara Mohawk requests that the Commission accept the Reimbursement Agreement effective as of December 11, 2020, 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 NY Transco 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.

NY Transco is a limited liability company organized and existing under the laws of New York. NY Transco is owned by subsidiaries of National Grid USA (of which Niagara Mohawk is another subsidiary), Consolidated Edison Company of New York, Inc., AVANGRID, Inc., and CH Energy Group, Inc.

In 2015, the New York Public Service Commission issued an order finding a transmission need driven by Public Policy Requirements<sup>4</sup> to increase transfer capability on the Central East interface in New York ("Segment A") by at least 350 MW and to increase transfer capability on the UPNY/SENY interface in New York ("Segment B") by at least 900 MW to provide additional transmission capacity to move power from upstate to downstate New York (collectively, the "AC Transmission Needs"). In 2016, the NYISO issued a solicitation for solutions to the AC Transmission Needs pursuant to the Public Policy Process set forth in the NYISO OATT. Niagara Mohawk and NY Transco jointly submitted the NYES Project as a solution to address Segment B of the AC Transmission Needs, which the NYISO Board of Directors selected in 2019.<sup>5</sup>

NY Transco is proposing to interconnect the NYES Project at various locations to the Niagara Mohawk transmission system. Consistent with the NYISO OATT, the Parties entered into the E&P Agreement to facilitate Niagara Mohawk's performance of certain engineering and procurement activities with respect to the mitigation of the NYES Project's impact on, and the proposed interconnection of the NYES Project to, Niagara Mohawk's transmission system,<sup>6</sup> prior to issuance of a Facilities Study Report for the NYES Project pursuant to the transmission interconnection procedures set forth in Attachment P to the NYISO OATT.<sup>7</sup>

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<sup>4</sup> Capitalized terms used in this section of the transmittal letter and not defined herein have the meanings set forth in the NYISO OATT.

<sup>5</sup> See transmittal letter for compliance filing to implement terms of settlement between NY Transco and other parties regarding rate treatment of the NYES Project under the NYISO OATT ("Settlement"), Docket No. ER15-572-007, at 2-3 (May 8, 2019); Commission letter order, Docket No. ER15-572-007 (Oct. 29, 2019) (accepting Settlement for filing); transmittal letter for filing of executed Public Policy Transmission Planning Process Development Agreement ("Development Agreement") among the NYISO, Niagara Mohawk, and NY Transco, Docket No. ER20-865-000, at 2 (Jan. 23, 2020); Commission letter order, Docket No. ER20-865-000 (Mar. 10, 2020) (accepting Development Agreement for filing). The NYISO Board of Directors selected a joint proposal by North America Transmission and the New York Power Authority to address Segment A of the AC Transmission Needs.

<sup>6</sup> The Commission accepted the original version of the E&P Agreement for filing by letter order issued in Docket No. ER20-1584-000 on June 15, 2020. The Commission later accepted an amended version of the E&P Agreement for filing by letter order issued in Docket No. ER21-120-000 on December 14, 2020.

<sup>7</sup> Section 22.10 of Attachment P to the NYISO OATT states that prior to executing a Transmission Project Interconnection Agreement, a Transmission Developer (in this case, NY Transco) may, in order to advance the implementation of its interconnection, request and the Connecting Transmission Owner (in this case, Niagara Mohawk) shall offer the Transmission Developer, an engineering and procurement

The Parties subsequently entered into the Reimbursement Agreement to amend, restate, and replace the E&P Agreement in its entirety, in order to add certain construction activities to the work contemplated in the E&P Agreement. The scope of Niagara Mohawk's work is described in Section 3.0 and Exhibit A of the Reimbursement Agreement. Niagara Mohawk is willing to perform this work subject to: (i) reimbursement by NY Transco of all actual costs and expenses incurred by Niagara Mohawk in connection with the work; (ii) NY Transco's performance of all other duties, responsibilities, and obligations set forth in the Reimbursement Agreement, including, without limitation, specified actions to be taken by NY Transco; and (iii) receipt of any and all required approvals as set forth in the Reimbursement Agreement, in a form acceptable to Niagara Mohawk.<sup>8</sup>

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

Pursuant to the Reimbursement Agreement, NY Transco will reimburse Niagara Mohawk for the actual costs and expenses incurred in connection with the engineering, procurement, and construction work described in Section 3.0 and Exhibit A of the Reimbursement Agreement. The Reimbursement Agreement sets forth the terms and conditions of this work and certain related commitments by NY Transco. 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>9</sup> The Reimbursement Agreement relates to Niagara Mohawk's recovery of costs for performing procurement, construction, and other work in connection with the NYES Project. Niagara Mohawk recognizes that the Commission may find the Reimbursement Agreement to be a jurisdictional agreement that must be filed. For these reasons, Niagara Mohawk is submitting the Reimbursement Agreement for Commission acceptance.<sup>10</sup>

The price of the services to be performed pursuant to the Reimbursement Agreement will be just and reasonable because Niagara Mohawk will perform these services at actual cost.<sup>11</sup> The Commission should therefore accept the Reimbursement Agreement.

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agreement that authorizes the Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection.

<sup>8</sup> Reimbursement Agreement, Recitals, Articles 3.0, 7.0, and 18.0, and Exhibits A and B.

<sup>9</sup> 16 U.S.C. §§ 824d(a)-(c).

<sup>10</sup> Following Commission acceptance of the Reimbursement Agreement, Niagara Mohawk will file a notice of cancellation of the E&P Agreement.

<sup>11</sup> Reimbursement Agreement, Article 1.0 at definition of "Company Reimbursable Costs."

### **III. Effective Date**

Niagara Mohawk requests that the Commission accept the Reimbursement Agreement effective as of December 11, 2020, the effective date agreed to by the Parties.<sup>12</sup> The Commission's regulations require service agreements to be filed not more than 30 days after service under the agreements has commenced.<sup>13</sup> Niagara Mohawk is submitting this filing within 30 days of the requested December 11, 2020 effective date.

### **IV. Attachment**

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

### **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 NY Transco, the NYISO, and the New York State Public Service Commission.

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<sup>12</sup> *Id.*, Preamble and Article 1.0 at definition of "Effective Date."

<sup>13</sup> 18 C.F.R. § 35.3(a)(2).

**VI. Conclusion**

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Reimbursement Agreement effective as of December 11, 2020.

Respectfully submitted,

/s/ Christopher J. Novak

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