

April 28, 2021

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 Small Generator Interconnection Agreement with
Tesla, Inc.**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations,² Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk”) submits for filing a Small Generator Interconnection Agreement (“Agreement”) between Niagara Mohawk and Tesla, Inc. (“Tesla”), designated as Service Agreement No. 2624 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).³ Niagara Mohawk requests that the Commission accept the Agreement effective as of the date agreed to by the parties and set forth in the Agreement, March 29, 2021.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

³ The Agreement is captioned as a Small Generator Interconnection Agreement (“SGIA”) because its terms and conditions are based upon the terms and conditions of the Commission-approved *pro forma* SGIA that was set forth in Appendix 7 of Attachment Z to the NYISO OATT at the time the Agreement was finalized. Niagara Mohawk uses this “modified SGIA” to document the interconnection of generators when Commission jurisdiction does not attach or the NYISO is not required to be a party to the interconnection agreement. Interconnection pursuant to the Agreement is not subject to the NYISO’s Small Generator Interconnection Procedures (Attachment Z to the NYISO OATT). The Agreement does not involve a new interconnection request to the NYISO, and thus the Agreement does not need to be a three-party agreement that also includes the NYISO as a party and tracks the NYISO *pro forma* SGIA. *See New Eng. Power Co.*, 109 FERC ¶ 61,364, at PP 12-13 (2004).

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.

Tesla is a corporation organized and existing under the laws of the State of Delaware. Tesla will own and operate a generating facility ("Facility") located in Buffalo, New York that will consist of numerous solar voltaic modules connected to solar inverters totaling 1,976.4 kW of alternating current peak generation, installed on the rooftop of a building. The Facility will be a Qualifying Facility ("QF")⁴ interconnected to Niagara Mohawk's transmission system that will solely make unbundled retail power sales.

II. Filing Requirements and Description of the Agreement

Section 205 of the FPA authorizes the Commission to require utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional transmission or sales of electric energy.⁵ The Commission has provided guidance regarding some of the specific agreements that must be filed under this authority. The Commission has found that "[i]nterconnection agreements between utilities come within section 205 of the FPA."⁶ The Commission also has "jurisdiction over 'transmission' facilities, which may be used for wholesale sales or unbundled retail sales and which are subject to an OATT."⁷ Further, pursuant to Commission policy, "[w]hen an electric utility interconnecting with a QF does not purchase all of the QF's output and instead transmits the QF's power in interstate commerce, the Commission exercises jurisdiction over the rates, terms, and conditions affecting or related to such service, such as interconnections."⁸

Niagara Mohawk recognizes that the Commission may find the Agreement to be a jurisdictional agreement that must be filed. Therefore, Niagara Mohawk is submitting the Agreement for Commission acceptance.

⁴ See Tesla Certification of QF Status, Docket No. QF20-1338-000 (Sept. 2, 2020).

⁵ 16 U.S.C. §§ 824d(a), -(c).

⁶ *Prior Notice and Filing Requirements Under Section II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,991 (1993).

⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190, at P 51 (2005).

⁸ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, at P 516 (citation omitted) (2005) ("Order No. 2006").

The Agreement submitted in this filing generally conforms with the *pro forma* SGIA set forth in Appendix 7 of Attachment Z to the NYISO OATT, with only limited modifications that include:

- Making Niagara Mohawk and Tesla the only parties to the Agreement and omitting the NYISO as a party;
- Specifying that the Agreement has a term of five years,⁹ rather than the ten-year term contained in the NYISO *pro forma* SGIA;
- Describing the Facility, the respective Tesla and Niagara Mohawk interconnection facilities, the respective scope of work and responsibilities of Tesla and Niagara Mohawk, and estimated costs (approximately \$10,000) that will be reconciled to actual costs at project completion and refunded or invoiced based on the actual costs;¹⁰
- Specifying that Tesla must comply with all applicable NYISO tariffs and procedures, and must comply with Niagara Mohawk's operating instructions and requirements and Electric System Bulletins to the extent they are not inconsistent with the terms of the Agreement, the NYISO OATT, or applicable NYISO procedures.¹¹

A red-lined document showing the differences between the Agreement and the NYISO *pro forma* SGIA is provided in Attachment B to this filing.

III. Effective Date

Niagara Mohawk requests that the Commission accept the Agreement effective as of the date agreed to by the parties and set forth in the Agreement, March 29, 2021. The Commission's regulations require service agreements to be filed not more than 30 days after service under such an agreement has commenced.¹² Niagara Mohawk is filing the Agreement within 30 days of the requested effective date.

⁹ Agreement, Article 3.2.

¹⁰ Agreement, Attachment 2.

¹¹ Agreement, Attachment 5.

¹² 18 C.F.R. § 35.3(a)(2).

IV. Attachments

In addition to this transmittal letter, this filing includes the following attachments:

Attachment A The Agreement between Niagara Mohawk and Tesla; and

Attachment B A red-lined document showing the differences between the Agreement and the NYISO *pro forma* SGIA.

V. Communications

Communications and correspondence regarding this filing should be addressed to the following individuals:

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VI. Service

Copies of this filing have been served on Tesla, the NYISO, and the New York Public Service Commission.

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VII. Conclusion

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Agreement effective as of March 29, 2021.

Respectfully submitted,

/s/ Christopher J. Novak

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