



Daniel Galaburda  
Assistant General Counsel and Director

January 6, 2012

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

**Re: Niagara Mohawk Power Corporation  
Notice of Termination of Service Agreement No. 1711  
Engineering, Procurement & Construction Services  
Agreement with Nine Mile Point Nuclear Station, LLC  
Docket No. ER12-\_\_\_\_\_**

Dear Secretary Bose:

Pursuant to Section 35.15 of the Federal Energy Regulatory Commission's ("Commission") regulations, 18 C.F.R. § 35.15 (2011), Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk") encloses for filing a Notice of Termination of an Engineering, Procurement & Construction Services Agreement (the "EPC Agreement"), designated Service Agreement No. 1711, between Niagara Mohawk and Nine Mile Point Nuclear Station, LLC ("Nine Mile"). The EPC Agreement governed certain terms and conditions for work performed by Niagara Mohawk in connection with an uprate of the Nine Mile Unit 2 nuclear generation facility (the "Facility"). As explained below, the EPC Agreement expired by its own terms on September 8, 2011, the date on which a new interconnection agreement addressing the uprate of the Nine Mile Unit 2 nuclear generation facility became effective.

## **I. Background and Justification for Termination**

Nine Mile, Niagara Mohawk, and New York State Electric & Gas Corporation ("NYSEG") negotiated a three-party interconnection agreement for the Facility in 2001. The Facility's original interconnection agreement was designated Service Agreement 309 ("SA 309") under the Open Access Transmission Tariff ("OATT") of the New York Independent System Operator, Inc. ("NYISO"). This original interconnection agreement was filed unexecuted and accepted by the Commission in Docket No. ER01-1986 in 2001.<sup>1</sup> An updated and signed version of SA 309 was accepted by letter order issued in Docket No. ER02-1067 on April 23, 2002, and an amendment to SA 309 was accepted in Docket No. ER02-2494 on October 4, 2002.

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<sup>1</sup> *Niagara Mohawk Power Corp., et al.*, 96 FERC ¶ 61,027 (June 6, 2001).

In 2011, Nine Mile commenced an uprate project to expand the Facility's capacity by 168 MW. The proposed uprate to this existing generation facility has been studied in the NYISO interconnection process. The uprate project will require Niagara Mohawk to undertake certain work, including upgrades at the Scriba Substation in Oswego County, New York. During 2011, Nine Mile and Niagara Mohawk negotiated a new interconnection agreement for the Unit 2 facility with the NYISO and NYSEG. This agreement (the "New Unit 2 Interconnection Agreement") addressed the Unit 2 uprate project. While the New Unit 2 Interconnection Agreement was finalized, Nine Mile and Niagara Mohawk determined that it would be appropriate to address certain terms related to the uprate project through the EPC Agreement. In accordance with Section 30.9 of the Standard Large Facility Interconnection Procedures in Attachment X of the NYISO OATT, Niagara Mohawk submitted the EPC Agreement on March 11, 2011 in Docket No. ER11-3058-000. The EPC Agreement was accepted by Commission letter order on April 29, 2011.<sup>2</sup>

As the March 11, 2011 filing explained, certain provisions in the EPC Agreement relate to the implementation of the New Unit 2 Interconnection Agreement. As relevant here, Article 2 of the EPC Agreement included a termination clause stating that the EPC Agreement will terminate when the New Unit 2 Interconnection Agreement becomes effective following execution of that agreement by all parties. NYISO, Niagara Mohawk, NYSEG and Nine Mile executed the New Unit 2 Interconnection Agreement, designated Service Agreement No. 1757, on September 8, 2011. On September 23, 2011, in Docket No. ER11-4621-000, the parties filed the New Unit 2 Interconnection Agreement. National Grid submitted a Notice of Termination of SA 309 on September 29, 2011 in Docket No. ER11-4714-000. Both the filing of Notice of Termination for SA 309 and the filing to submit the New Unit 2 Interconnection Agreement requested effective dates retroactive to the New Unit 2 Interconnection Agreement's execution—September 8, 2011. On November 4, 2011, the Commission issued letter orders to accept the filings, making both effective September 8, 2011 as requested.<sup>3</sup>

As noted above, the effectiveness of the New Unit 2 Interconnection Agreement terminated the EPC Agreement, pursuant to Article 2 of the EPC Agreement's terms. Article 2 also provided that all parties' rights, obligations and remedies under the agreement would terminate on the New Unit 2 Interconnection Agreement's execution. Thus, the EPC Agreement is no longer in effect.

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<sup>2</sup> *Niagara Mohawk Power Corp., et al.*, Docket No. ER11-3058-000 (April 29, 2011)(unpublished letter order).

<sup>3</sup> *New York Independent System Operator, Inc.*, Docket No. ER11-4621-000 (Nov. 4, 2011)(unpublished letter order); *National Grid*, Docket No. ER11-4714 (Nov. 4, 2011)(unpublished letter order).

## II. Requested Effective Date and Waiver of Prior Notice Requirement

Niagara Mohawk requests that this Notice of Termination be accepted effective as of September 8, 2011. Consistent with the terms of the EPC Agreement, and with the Commission's orders accepting SA 309's Notice of Termination and the filing of New Unit 2 Interconnection Agreement, it respectfully requests that the Commission waive the prior notice requirement to permit the requested effective date, consistent with the express terms and conditions of the EPC Agreement accepted by the Commission.

## III. Attachments

Attachment A            Notice of Termination

## IV. Communications

All communications regarding this filing should be directed to the following individuals, whose names should be entered on the official service list created by the Secretary in this proceeding:

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Copies of this filing have been served upon Nine Mile Point Nuclear Station, LLC, the NYISO, NYSEG, and the New York Public Service Commission.

Respectfully submitted,

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