

December 6, 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 Small Generator Interconnection Agreement with  
GR Catalyst Two 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 for filing a Small Generator Interconnection Agreement (“Agreement”) between Niagara Mohawk and GR Catalyst Two LLC (“GR Catalyst Two”), designated as Service Agreement No. 2498 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).<sup>3</sup> 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, November 26, 2019.

## **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

---

<sup>1</sup> 16 U.S.C. § 824d.

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

<sup>3</sup> 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. Differences between the *pro forma* SGIA and the “modified SGIA” include the fact that the former is a three-party agreement including NYISO, while the latter is written to be bilateral between Niagara Mohawk and the generator. Niagara Mohawk and GR Catalyst Two are executing this two-party Agreement because NYISO notified Niagara Mohawk and GR Catalyst Two that the proposed interconnection is not subject to NYISO’s Small Generator Interconnection Procedures (Attachment Z to the NYISO OATT).

operational control of the NYISO. GR Catalyst Two is a limited liability company organized and existing under the laws of the State of New York.

GR Catalyst Two owns and operates a 12.265 MW small generating facility located in Greenwich, New York (the “Plant”) that began commercial operation in 1987.<sup>4</sup> The Plant is a Qualifying Facility (“QF”).

On January 22, 1987, Niagara Mohawk entered into a power purchase agreement (“PPA”) with Stevens & Thompson Paper Company (“Stevens & Thompson”, the previous owner of the Plant), pursuant to which Stevens & Thompson agreed to sell and deliver, and Niagara Mohawk agreed to purchase and accept, all of the electric output produced by the Plant. The PPA expired on December 31, 2016. The interconnection and power purchase arrangements between Niagara Mohawk and GR Catalyst Two were then set forth in a Letter of Agreement (the “First LOA”) between Niagara Mohawk and Stevens & Thompson, executed by Niagara Mohawk on December 12, 2016 and by Stevens & Thompson on December 2, 2016. The First LOA was extended by a Letter of Agreement (the “Second LOA”) between Niagara Mohawk and Stevens & Thompson, executed by Niagara Mohawk on December 19, 2017 and by Stevens & Thompson on December 15, 2017. The Second LOA was extended by a Letter of Agreement (the “Third LOA”) between Niagara Mohawk and Stevens & Thompson, executed by Niagara Mohawk on November 5, 2018 and by Stevens & Thompson on November 7, 2018. A Consent to Assignment of Letter of Agreement was executed by Niagara Mohawk on April 2, 2019 and by Stevens & Thompson and GR Catalyst Two LLC on March 28, 2019. Following the fulfillment of Niagara Mohawk and GR Catalyst Two obligations under the Agreement, including but not limited to the installation of certain interconnection equipment, GR Catalyst Two can begin selling the output of the Plant to entities other than Niagara Mohawk at wholesale in interstate commerce.

## **II. Filing Obligation**

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.<sup>5</sup> 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.”<sup>6</sup> The Commission has also explained that its jurisdiction over an agreement “is limited to the provisions of the agreement that facilitate the exchange of energy between the parties, *i.e.*, the sale of electric energy at

---

<sup>4</sup> The Plant was formerly owned and operated by Stevens & Thompson Paper Company, Inc. (“Stevens & Thompson”). *See Stevens & Thompson Paper Co., Inc. and GR Catalyst Two, LLC*, 167 FERC ¶ 62,071 (2019) (order approving transfer of license for the Plant to GR Catalyst Two).

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

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

wholesale in interstate commerce.”<sup>7</sup> As the activities covered by the provisions of the Agreement described above all relate to activities needed to facilitate the delivery of the Plant’s energy to the grid for sales at wholesale in interstate commerce, Niagara Mohawk believes that these provisions bring the Agreement within the Commission’s jurisdiction and make it subject to the Commission’s filing requirements.

Pursuant to Commission policy, “[w]hen an electric utility . . . purchases the QF’s total output, the state has authority over the interconnection and the allocation of interconnection costs. But when 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.”<sup>8</sup> Further, where the interconnected utility is on notice that a QF plans to make wholesale sales of its output to a third party, either by way of contractual provisions or otherwise, the Commission has exclusive jurisdiction over the interconnection between the QF and the interconnected utility from the date the utility receives this notice, even where the QF has not engaged in third-party sales or where the interconnected utility is still purchasing the full output of the QF.<sup>9</sup>

GR Catalyst Two has notified Niagara Mohawk that it intends to terminate the Third LOA upon the Commission’s acceptance of the Agreement and following the fulfillment of Niagara Mohawk and GR Catalyst Two obligations under the Agreement, including but not limited to the installation of certain interconnection equipment required to facilitate GR Catalyst Two’s participation in NYISO wholesale markets.

### **III. The Charges Authorized Under the Agreement Are Just and Reasonable**

The Agreement states that Niagara Mohawk will bill GR Catalyst Two for the design, engineering, construction, and procurement costs of interconnection facilities and upgrades contemplated by the Agreement.<sup>10</sup> The Agreement also states that GR Catalyst Two is responsible for its share of all reasonable expenses, including overheads,

---

<sup>7</sup> *PSI Energy, Inc.*, 56 FERC ¶ 61,237, at 61,908 n.4 (1991).

<sup>8</sup> *Standardization of Small Generator Interconnection Agreement and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, at P 516 (citation omitted) (2005) (“Order No. 2006”).

<sup>9</sup> In Order No. 2006, the Commission explained that:

This Final Rule applies when the owner of the QF seeks interconnection with a facility subject to the OATT to sell any of the output of the QF to a third party. This applies to a new QF that plans to sell any of its output to a third party and to an existing QF interconnected with an electric utility or on-site customer that decides in the future to sell any of its output to a third party.

*Id.* at P 517. *See also Florida Power & Light Co.*, 133 FERC ¶ 61,121, at P 22 (2010).

<sup>10</sup> Agreement, Article 6 (first paragraph).

associated with operating, maintaining, repairing, and replacing the Niagara Mohawk interconnection facilities defined in the Agreement.<sup>11</sup>

#### **IV. 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, November 26, 2019. The Commission's regulations require service agreements to be filed not more than 30 days after service under such an agreement has commenced.<sup>12</sup> Niagara Mohawk is filing the Agreement within 30 days of the requested effective date.

#### **V. Attachments**

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

- |              |  |
|--------------|--|
| Attachment A | Agreement between Niagara Mohawk and GR Catalyst Two LLC dated November 26, 2019.  |
| Attachment B | Red-lined document showing differences between Agreement between (1) Niagara Mohawk and GR Catalyst Two LLC dated November 26, 2019 and (2) NYISO <i>pro forma</i> SGIA. |

With the minor variations as depicted in Attachment B to this filing, the Agreement follows the NYISO *pro forma* SGIA. Therefore, the Commission should accept the Agreement as a two-party agreement.

---

<sup>11</sup> Agreement, Article 4 (second paragraph).

<sup>12</sup> 18 C.F.R. § 35.3(a)(2).

## **VI. Communications**

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

Christopher J. Novak  
Senior Counsel  
National Grid USA Service Company, Inc.  
40 Sylvan Road  
Waltham, MA 02451-1120  
(781) 907-2112  
[Chris.Novak@nationalgrid.com](mailto:Chris.Novak@nationalgrid.com)

Sean Atkins  
Bradley R. Miliauskas  
Alston & Bird LLP The  
Atlantic Building 950 F  
Street, NW  
Washington, DC 20004  
(202) 239-3300  
[sean.atkins@alston.com](mailto:sean.atkins@alston.com)  
[bradley.miliauskas@alston.com](mailto:bradley.miliauskas@alston.com)

Kathryn Cox-Arslan  
Director, Commercial Services  
National Grid USA Service Company, Inc.  
40 Sylvan Road  
Waltham, MA 02451-1120  
(781) 907-2406  
[Kathryn.Cox@nationalgrid.com](mailto:Kathryn.Cox@nationalgrid.com)

## **VII. Service**

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

## **VIII. Conclusion**

For the reasons stated herein, National Grid respectfully requests that the Commission accept the Agreement effective as of November 26, 2019.

Respectfully submitted,

/s/ Christopher J. Novak

Christopher J. Novak  
Senior Counsel  
National Grid USA Service Company, Inc.  
40 Sylvan Road  
Waltham, MA 02451

*Counsel for National Grid USA*