

March 11, 2011

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission 888
First Street, NE, Room 1A
Washington, D.C. 20426

**RE: Niagara Mohawk Power Corporation
Engineering, Procurement & Construction Services Agreement with
Nine Mile Point Nuclear Station, LLC
Docket No. ER11-_____
Service Agreement No. 1711**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35.12 of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") regulations, 18 C.F.R. Part 35.12 (2010), Niagara Mohawk Power Corporation, d/b/a National Grid ("Niagara Mohawk"), submits for filing an Engineering, Procurement & Construction Services Agreement ("EPC Agreement") between Niagara Mohawk and Nine Mile Point Nuclear Station, LLC ("Nine Mile"). Pursuant to Order No. 714, this agreement has been designated as Service Agreement No. 1711 under the New York Independent System Operator, Inc. ("NYISO") open access transmission tariff ("OATT"), FERC Electric Tariff, Original Volume No. 1. As explained below, the EPC Agreement governs certain terms and conditions for work performed by Niagara Mohawk in connection with the planned uprate of Nine Mile's Unit 2 nuclear generation facility.

I. Background and Description of the EPC Agreement

The Nine Mile Point Unit 2 nuclear generation facility is the subject of an interconnection agreement ("Existing Unit 2 Interconnection Agreement") among Nine Mile, Niagara Mohawk, and New York State Electric & Gas Corporation ("NYSEG"). This agreement is designated as Service Agreement No. 309 under the NYISO OATT. An unexecuted version of the Existing Unit 2 Interconnection Agreement was first accepted by the Commission in Docket No. ER01-1986.¹ An

¹ *Niagara Mohawk Power Corp. et al.*, 96 FERC ¶ 61,027 (July 6, 2001)

updated and signed version of the Existing Unit 2 Interconnection Agreement was accepted by the Commission by an unpublished letter order issued in Docket No. ER02-1067 on April 23, 2002. An amendment to the Existing Unit 2 Interconnection Agreement was accepted by the Commission by an unpublished letter order issued in Docket No. ER02-2494 on October 4, 2002.

Nine Mile plans to uprate the Unit 2 nuclear generation facility. The proposed uprate to this existing generation facility has been studied in the NYISO interconnection process. The uprate will require certain work to be undertaken by Niagara Mohawk, including upgrades at the Scriba Substation located in Oswego County, New York. Nine Mile and Niagara Mohawk are negotiating a new interconnection agreement for the Unit 2 facility with the NYISO and NYSEG. This agreement (the "New Unit 2 Interconnection Agreement") will address the Unit 2 uprate project.

Under Section 30.9 of Attachment X to the NYISO OATT, prior to finalization of an interconnection agreement, "a Developer may, in order to advance the implementation of its interconnection, request and Connecting Transmission Owner shall offer the Developer, an [Engineering & Procurement] Agreement that authorizes the Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection." Nine Mile requested such an agreement in this instance, and the parties have agreed to the attached EPC Agreement.

Niagara Mohawk does not believe that engineering & procurement agreements entered into pursuant to Section 30.9 of Attachment X to the NYISO OATT generally need to be filed with the Commission. In this instance, however, the parties have agreed to a provision in the EPC Agreement which will affect the implementation of the New Unit 2 Interconnection Agreement once it is finalized.² Under Article 2 of the EPC Agreement, the EPC Agreement will terminate once the New Unit 2 Interconnection Agreement is executed by all parties or otherwise is accepted to become effective by the Commission. Under Article 7.5 of the EPC Agreement, any remaining balance of prepayments made to Niagara Mohawk by Nine Mile under the EPC Agreement will be applied to invoices charged to Nine Mile under the New Unit 2 Interconnection Agreement.³ Article 7.5 also provides that Niagara Mohawk will adjust the security to be provided under the New Unit 2 Interconnection Agreement to reflect such prepayments. This provision is intended to facilitate the transition from the EPC Agreement to the New Unit 2 Interconnection Agreement.

² Because the New Unit 2 Interconnection Agreement will, by necessity, have a number of differences from the NYISO *pro forma* large generator interconnection agreement, Niagara Mohawk understands that it will be filed with the Commission when it is finalized.

³ Section 30.9 of Attachment X provides for a Developer to make prepayments for work under an engineering & procurement agreement.

II. Requested Effective Date and Waiver of Prior Notice Requirement

Niagara Mohawk requests that the EPC Agreement be made effective as of March 8, 2011 and, to the extent applicable, requests waiver of the 60-day prior notice requirement. The requested effective date will enable Niagara Mohawk to begin providing the services under the EPC Agreement as soon as practicable. Niagara Mohawk is authorized to state that Nine Mile supports the requested effective date. Granting the requested effective date will be consistent with Commission precedent granting waivers of the 60-day prior notice requirement for an uncontested agreement when supported by the customer of a public utility.⁴

III. 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 the docket established with respect to this filing:

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⁴ See, e.g. *Central Hudson Gas & Electric Corp. et al.*, 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992).

IV. Enclosed Documents

Enclosed please find:

- i. This filing letter;
- ii. Service Agreement No. 1711

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

Respectfully submitted,

/s/ Daniel Galaburda

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Enclosures