

December 18, 2012

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

**Re: Niagara Mohawk Power Corporation, d/b/a National Grid  
Notice of Termination of Service Agreement No. 1742  
ER13-\_\_\_\_-000**

Dear Secretary Bose:

Pursuant to section 205 of the Federal Power Act (16 U.S.C. § 824d (2006)), and sections 35.15 and 35.7 of the Commission's regulations (18 C.F.R. §§ 35.15, 35.7 (2012)), National Grid, on behalf of itself and its subsidiary Niagara Mohawk Power Corporation, submits for filing the attached electronic version of a Notice of Termination of the Amended And Restated Agreement For The Retail Transmission Of Replacement Power, designated New York Independent System Operator Service Agreement 1742 ("SA 1742"), between Niagara Mohawk Power Corporation and the Power Authority of the State of New York (collectively, the "Parties").

**Background**

SA 1742 is a bilateral agreement between the Power Authority of the State of New York ("NYPA") and National Grid governing the retail transmission portion of delivery service for Replacement Power ("RP"), a category of low-cost NYPA hydropower, allocations of which are made to qualifying industrial and commercial end-users under criteria established by New York State law.<sup>1</sup> National Grid has provided retail delivery service for RP since February 10, 1961.<sup>2</sup> The transmission service provided under SA 1742 predated the formation of the NYISO, and so was included in the list of grandfathered transmission agreements contained in Attachment L of the NYISO Open Access Transmission Tariff ("OATT"). Under Attachment L, grandfathering of SA 1742 is scheduled to terminate on December 31, 2012.

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<sup>1</sup> See N.Y. Pub. Auth. Law § 1005(13).

<sup>2</sup> Niagara Contract NS-1 Governing the Sale, Transmission and Distribution of Power to Niagara Mohawk, dated February 10, 1961. The retail transmission portion of this delivery service was subsequently filed with the Commission as Niagara Mohawk Power Corporation FERC Rate Schedule No. 19.

In order to provide for a gradual transition from the retail transmission rates prescribed by SA 1742 to those prescribed by the NYISO OATT, National Grid, NYPA, and certain National Grid industrial customers negotiated an Agreement Regarding Treatment of Allocations of New York Power Authority Expansion Power and Replacement Power Beginning January 1, 2012 and Thereafter (the "Phase-In Agreement"). Under the Phase-In Agreement, SA 1742 is to be terminated effective December 31, 2012, and retail transmission rates for RP will thereafter be as provided in the Phase-In Agreement until expiration of the rate phase-in period thereunder. On November 2, 2011, National Grid submitted to the Commission a filing amending SA 1742 consistent with the Phase-In Agreement regime.<sup>3</sup> The Commission accepted this submission on December 8, 2011.<sup>4</sup>

### **Notice of Termination**

Pursuant to Attachment L to the NYISO OATT and the Commission's December 8, 2011 Letter Order approving the Phase-In Agreement documents, SA 1742 will be terminated by the mutual consent of the parties, effective December 31, 2012. Attachment A to this filing includes an electronic version of a Notice of Termination pursuant to the Commission's regulations. 18 C.F.R. § 35.7. National Grid respectfully requests that the Commission accept the Notice of Termination.

### **Requested Effective Date**

National Grid requests an effective date of December 31, 2012 for the Notice of Termination, and thus for termination of SA 1742. While the Commission's regulations call for notices of termination to be filed at least 60 days prior to their effective dates, for good cause shown the Commission may waive the 60-day notice period. 18 C.F.R. § 35.15(a).

In the present case, good cause exists for such a waiver.<sup>5</sup> NYPA, the transmission customer under SA 1742, has agreed to the December 31, 2012 termination date. Furthermore, the December 31, 2012 termination date for SA 1742 has long been a matter of public record under NYISO OATT Attachment L. National Grid requested

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<sup>3</sup> Filing submitted by the New York Independent System Operator on behalf of National Grid via its eTariff system on November 2, 2011 in Docket No. ER12-331-000.

<sup>4</sup> Letter Order issued Dec. 8, 2011 in Docket No. ER12-331-000. The Phase-In Agreement itself was filed by National Grid on November 9, 2011 in Docket No. ER12-367-000, and accepted by Letter Order issued Dec. 8, 2011 in Docket Nos. ER12-331-000, ER12-333-000, and ER12-367-000.

<sup>5</sup> Note that the Commission has previously found good cause for waiver of the 60-day prior notice rule where a change in a New York Grandfathered Transmission Service Agreement was in accordance with the provisions of the NYISO OATT, Attachment L. *See e.g. Niagara Mohawk Power Corp.*, 96 FERC ¶ 61,363, at 62,365 (2001). Rate Schedule 19, as SA 1742 was previously designated, is listed in Attachment L as terminating on December 31, 2012.

termination of SA 1742 effective December 31, 2012 in a November 2, 2011 filing in Docket No. ER12-331-000, and the Commission accepted this filing on December 8, 2011 via a Letter Order in the same Docket.<sup>6</sup> The December 31, 2012 termination of SA 1742 is also an integral part of the rate phase-in regime established in the Phase-In Agreement, which was accepted by the Commission via the December 8, 2011 Letter Order in Docket Nos. ER12-331-000, ER12-333-000, and ER12-367-000. Consequently, National Grid respectfully submits that good cause exists to approve an effective date for termination of SA 1742 of December 31, 2012, and requests that the Commission do so.

### **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 with respect to this docket:

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Copies of this filing have been served on NYPA and NYISO.

### **Commission Regulations**

This filing substantially complies with the requirements of Part 35 applicable to filings of this kind. Niagara Mohawk requests waiver of any applicable requirement of Part 35 for which it has not specifically requested waiver or supplied data so that this filing may become effective as proposed.

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<sup>6</sup> The Commission will find that good cause exists to waive the 60-day prior notice rule where “a rate increase and its effective date are prescribed by a contract on file with the Commission or by a settlement agreement accepted by the Commission.” *Central Hudson Gas & Electric Corp.*, 61 FERC ¶ 61,089, at 61,354 (1992). In this case, both of these conditions are met. SA 1742 specifies that it “shall remain in effect through and until December 31, 2012.” SA 1742, Art. IX. The Phase-in Agreement itself provides that SA 1742 will be terminated on December 31, 2012 and deliveries formerly governed by it will be provided under a new schedule of rates contained in the Phase-In Agreement. Phase-In Agreement, Secs. 1) and 11) d. Both SA 1742 and the Phase-In Agreement were accepted for filing by Letter Order issued December 8, 2011 in Docket Nos. ER12-331-000, ER12-333-000, and ER12-367-000.

**Conclusion**

For the reasons stated above, National Grid respectfully requests that the Commission accept termination of SA 1742 effective as of December 31, 2012.

Respectfully submitted,

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