

February 11, 2016

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
Docket No. ER16-____-000
Large Generator Interconnection Agreement with
Indeck-Corinth Limited Partnership**

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 (“National Grid”) submits a Large Generator Interconnection Agreement (“Agreement”) between National Grid and Indeck-Corinth Limited Partnership (“Indeck-Corinth”).³ The attached Agreement is designated as Service Agreement No. 2260 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The Agreement is an undisputed agreement between National Grid and Indeck-Corinth for the continued provision of interconnection service to the Indeck-Corinth Energy Center generating facility located in Corinth, New York (“Facility”). National Grid requests that the Commission accept the Agreement as of the effective date set forth therein, November 19, 2015.

I. Background

National Grid is a public utility with a transmission system in the State of New York. National Grid’s transmission facilities have been placed under the operational control of the NYISO.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

³ In this transmittal letter and the Agreement, National Grid and Indeck-Corinth are each sometimes referred to individually as a “Party” and are sometimes referred to together as the “Parties.” See Agreement at Article 1 (definition of “Party or Parties”).

Indeck-Corinth owns and operates the Facility, a 128 MW combined-cycle, natural gas-fueled power plant.

National Grid and Indeck-Corinth are parties to an interconnection agreement (“IA”) regarding the Facility that the Commission accepted for filing in Docket No. ER94-252-000.⁴ Pursuant to that existing IA, National Grid provides interconnection service to the Facility using the transmission system owned by National Grid.

II. Agreement

National Grid and Indeck-Corinth have entered into the Agreement to provide for continued interconnection service to the Facility using the transmission system owned by National Grid, pursuant to the terms of the Agreement. The Parties intend the Agreement to supersede and replace the existing IA for the Facility that was accepted in Docket No. ER94-252. The new Agreement is intended to become effective as of November 19, 2015, as set forth in the Agreement.⁵ Upon acceptance of this Agreement, National Grid intends to file to terminate the superseded IA.

With minor variations, the Agreement follows the *pro forma* Large Generator Interconnection Agreement (“LGIA”) set forth in Appendix 6 of Attachment X to the NYISO OATT. The main difference between the Agreement and the NYISO *pro forma* LGIA is that the Agreement is a two-party agreement between the transmission owner (National Grid) and the generation facility owner (Indeck-Corinth), whereas the NYISO *pro forma* LGIA is a three-party agreement among the transmission owner, the generation facility owner, and the NYISO.⁶

Commission precedent supports acceptance of the Agreement as a two-party agreement. In proceedings on two-party LGIAs between National Grid and generation subsidiaries of Alliance Energy that were modeled on the NYISO *pro forma* LGIA,⁷ the Commission found that the NYISO did not need to be a party to certain two-party LGIAs, for the following reasons:

[T]hey are not the type of new generator interconnection agreements envisioned by Order No. 2003; rather they are more like after-the-fact interconnection operating agreements that govern the terms, conditions, and

⁴ The existing IA between National Grid and Indeck-Corinth is designated as National Grid FERC Electric Rate Schedule No. 200. See Commission letter order, Docket Nos. ER94-252-000, *et al.* (May 26, 1994) (accepting existing IA for filing).

⁵ See Agreement at Recitals, Article 1 (definition of “Effective Date”), and Article 2.1. National Grid will submit a separate filing to terminate the existing IA that was accepted in Docket No. ER94-252-000.

⁶ Attachment B to this filing shows the differences between the Agreement and the NYISO *pro forma* LGIA in black-line format.

⁷ These LGIAs were filed and accepted pursuant to Commission proceedings in Docket Nos. ER07-1019, ER07-1020, and ER07-1021.

rates associated with the continued operation and maintenance of previously constructed facilities built to accommodate the interconnection of the Alliance generators to Niagara Mohawk's transmission system. Accordingly, we will not require NYISO to be a signatory to these unexecuted IAs.⁸

Like the LGIAs in that case, the Agreement is not a new generator interconnection agreement of the type envisioned by Order No. 2003. Instead, the Agreement governs the terms, conditions, and rates associated with the continued operation and maintenance of the previously constructed facilities built to accommodate the interconnection of the existing Facility to the National Grid transmission system. Therefore, the Commission should accept the Agreement as a two-party agreement.

The NYISO *pro forma* LGIA contains a number of provisions that are applicable to new interconnections but are not applicable to existing interconnections, such as the interconnection for the Facility. However, National Grid and Indeck-Corinth have agreed to retain those provisions in the Agreement.⁹ This approach is consistent with the approach authorized in *PJM Interconnection, L.L.C.*¹⁰ In that order, the Commission rejected a proposal to delete inapplicable provisions from an LGIA, stating that "[i]f a provision of a contract is not applicable, it is not applicable," and concluding that "[u]nless confusion is likely, modifications to a pro forma agreement that 'clarify' matters not in doubt are not necessary."¹¹

National Grid and Indeck-Corinth have agreed to a twenty-year term for the Agreement, which differs from the ten-year term contained in the NYISO *pro forma* LGIA.¹² National Grid and Indeck-Corinth have also included clarifying provisions in the Agreement that differ from provisions in the NYISO *pro forma* LGIA. In Article 27.2, the Parties have changed the arbitration provisions so that, if they fail to agree upon a single arbitrator, the arbitration will be performed by a three-member panel consisting of (1) an arbitrator selected by National Grid, (2) an arbitrator selected by Indeck-Corinth, and (3) an arbitrator selected by the first two arbitrators, or, if they cannot agree on a selection, an arbitrator selected in accordance with the rules of the American Arbitration Association. The Parties have made this change to reflect the fact that the Agreement is a two-party rather than a three-party

⁸ *Niagara Mohawk Power Corp. d/b/a National Grid*, 121 FERC ¶ 61,104, at P 22 (2007) (citation omitted). The Commission also stated that "any interconnections involving the interconnection of a new generating facility or involving increases in capacity or material modifications to the operating characteristics of existing generating facilities interconnected to Niagara Mohawk's or any other NYISO member's transmission system will require the NYISO to be a signatory to that IA." *Id.* However, the Facility is already interconnected to the transmission system owned by National Grid, and there has been no increase in capacity or material modifications to the operating characteristics of the Facility. Therefore, the NYISO does not need to be a signatory to the Agreement.

⁹ See Agreement at Appendix I.

¹⁰ 111 FERC ¶ 61,098 (2005). *Id.*

¹¹ at P 14.

¹² See Agreement at Article 2.2.

agreement. In Article 27.4, the Parties have changed the allocation of arbitration costs from a total of one-third per Party to one-half per Party, again because the Agreement is between two rather than three parties. In Appendix E to the Agreement, the Parties have replaced the developer certification statement concerning trial operation and commencement of commercial operation with a statement that Indeck-Corinth commenced commercial operation of the Facility on July 1, 1995. The purpose of this modification is to specify the date on which the Facility was interconnected and began commercial operation. The Commission has accepted comparable LGIAs containing similar clarifying provisions. In new Appendix H to the Agreement, the Parties have clarified that, in accordance with Article 10.5 of the Agreement, Indeck-Corinth will be responsible for all reasonable operation and maintenance expenses and will pay such expenses to National Grid under one of two procedures set forth in Appendix H.

III. Effective Date and Request for Waiver

Pursuant to Section 35.11 of the Commission's regulations,¹³ National Grid respectfully requests waiver of the notice requirement contained in Section 35.3 of the Commission's regulations¹⁴ to the extent necessary to allow the Agreement to become effective upon the effective date set forth in the agreement, *i.e.*, November 19, 2015.¹⁵

Good cause exists for the Commission to grant this waiver. Granting the waiver will accord with the intent of National Grid and Indeck-Corinth to make the Agreement effective as of November 19, 2015, as stated in the Agreement. Therefore, no prejudice will result to any party from granting the waiver. For these reasons, the Commission should find that good cause exists to grant an effective date of November 19, 2015.

IV. Documents Enclosed

In addition to this filing letter, attached are the following documents:

- i. The Agreement (Service Agreement No. 2260 under the NYISO OATT), provided in clean format (Attachment A)
- ii. Black-lined revisions showing the differences between the Agreement and the NYISO *pro forma* LGIA (Attachment B)

¹³ 18 C.F.R. § 35.11.

¹⁴ 18 C.F.R. § 35.3.

¹⁵ Article 2.1 of the Agreement states that the Agreement "shall become effective upon execution by the Parties, subject to acceptance by FERC." As shown in the signature block at the end of the body of the Agreement, it was executed on November 19, 2015.

V. 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 this proceeding:

Amanda C. Downey
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451
(781)907-2136
amanda.downey@nationalgrid.com

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

Kathryn Cox-Arslan
Director, Transmission Commercial
National Grid USA
40 Sylvan Road
Waltham, MA 02451
(781) 907-2406
kathryn.cox@nationalgrid.com

Copies of this filing have been served on Indeck-Corinth, the NYISO, and the New York State Public Service Commission.

VI. Conclusion

For the reasons stated herein, National Grid respectfully requests that the Commission accept the Agreement effective as of November 19, 2015.

Respectfully submitted,

/s/ Amanda C. Downey

Amanda Downey
Counsel
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451

*Attorney for Niagara Mohawk Power
Corporation d/b/a National Grid*