

September 20, 2016

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

**Re: Niagara Mohawk Power Corporation  
Docket No. ER16-\_\_\_\_-000  
Filing of Amended Cost Reimbursement Agreement with the  
Oneida Indian Nation**

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 (“Niagara Mohawk”) submits an amended Cost Reimbursement Agreement (“Amended Reimbursement Agreement”) between Niagara Mohawk and the Oneida Indian Nation (the “Nation”).<sup>3</sup> The Amended Reimbursement Agreement is designated as Service Agreement No. 2264 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The Amended Reimbursement Agreement is an undisputed agreement to facilitate the performance of certain work that the Nation has requested Niagara Mohawk to do with respect to a portion of a specified transmission line to be relocated as described in the Amended Reimbursement Agreement. Niagara Mohawk respectfully requests that the Commission permit the Amended Reimbursement Agreement to go into effect as of August 22, 2016, the effective date agreed to by the Parties.

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<sup>1</sup> 16 U.S.C. § 824d.

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

<sup>3</sup> Together, Niagara Mohawk and the Nation are referred to in the Amended Reimbursement Agreement and in this transmittal letter as the “Parties.” The Amended Reimbursement Agreement amends the original version of that agreement (“Original Reimbursement Agreement”). Capitalized terms not otherwise defined herein have the meanings set forth in the Amended Reimbursement Agreement.

## **I. Background**

Niagara Mohawk is a public utility with a transmission system in the State of New York. Niagara Mohawk's transmission facilities have been placed under the operational control of the NYISO.

The Nation is a sovereign Indian nation with an office and place of business in Verona, New York.

Niagara Mohawk and the Nation entered into the Original Reimbursement Agreement to facilitate Niagara Mohawk's performance of the engineering, design, and construction work required to relocate a portion of an existing 115 kV transmission line from lands owned by Niagara Mohawk that are adjacent to the Nation's Turning Stone Resort Casino property, to Nation-owned property, subject to terms and conditions specified in the Original Reimbursement Agreement. The Commission accepted the Original Reimbursement Agreement for filing effective December 14, 2015, as requested by the Parties.<sup>4</sup>

Since the Commission accepted the Original Reimbursement Agreement for filing, the Nation has elected to suspend the work to be performed by Niagara Mohawk pursuant to the agreement while the Nation considers potential changes to its own project to expand the Turning Stone Resort Casino.

## **II. The Amended Reimbursement Agreement**

The Parties have revised Section 5.3 in the Amended Reimbursement Agreement (entitled "Project Plan Work; Commencement of Implementation of Work") as follows to ensure that the agreement remains in effect during the suspension of work described above:

- The Notice Period set forth in Section 5.3 has been extended from ninety (90) Days to one hundred eighty (180) Days, terminating on October 24, 2016; and
- The last sentence of Section 5.3 has been revised to state that if Developer, (*i.e.*, the Nation) delivers a Cancellation Notice, or, if Developer has failed to deliver either a Notice to Proceed or a Cancellation Notice by the end of the Notice Period, either Party shall have the right to terminate the Amended Reimbursement Agreement upon written notice to the other Party, subject to specified provisions of the agreement.

As is true under the Original Reimbursement Agreement, Niagara Mohawk is performing services at actual cost as set forth in Articles 1.0 and 7.0 to the Amended

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<sup>4</sup> See Commission Letter Order, Docket No. ER16-979-000 (Mar. 31, 2016).

Reimbursement Agreement. The Commission should find the price of the services to be performed pursuant to the Amended Reimbursement Agreement to be just and reasonable because Niagara Mohawk will perform these services at actual cost.

### **III. Effective Date**

Pursuant to section 35.3(a)(2) of the Commission's regulations,<sup>5</sup> Niagara Mohawk respectfully requests that the Commission allow the Amended Reimbursement Agreement to become effective as of August 22, 2016, the effective date agreed to by the Parties.<sup>6</sup>

### **IV. Attachments**

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

- A clean version of the Amended Reimbursement Agreement (Attachment A);
- A document showing in red-line the differences between the Original Reimbursement Agreement and the Amended Reimbursement Agreement (Attachment B); and
- An agreement between the Parties to revise the Original Reimbursement Agreement as reflected in the Amended Reimbursement Agreement (Attachment C).

### **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:

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<sup>5</sup> 18 C.F.R. § 35.3(a)(2).

<sup>6</sup> See the agreement between the Parties contained in Attachment C to this filing.

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

## **VI. Conclusion**

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Amended Reimbursement Agreement effective as of August 22, 2016.

Respectfully submitted,

/s/ Amanda C. Downey

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