



January 30, 2017

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
Modifications to Transmission Service Charge Formula Rate
Under the NYISO OATT
Docket No. ER17-_____**

Pursuant to Section 205 of the Federal Power Act¹ and Part 35.13 of the Commission's Regulations,² Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid" or the "Company") submits modifications to its Transmission Service Charge ("TSC") formula rate (the "Formula Rate") set forth in Attachment H to the New York Independent System Operator, Inc.'s ("NYISO") Open Access Transmission Tariff ("NYISO OATT").

First, National Grid is proposing to modify the calculation of transmission-related Accumulated Deferred Income Taxes ("ADIT") related to accelerated depreciation within the forecast component of the Formula Rate. The modification will incorporate the proration methodology of the Internal Revenue Service's ("IRS") regulations, consistent with guidance recently provided by the IRS, in the calculation of the Company's projected test year revenue requirement. The modification is intended to maintain compliance with the IRS's normalization rules and to thereby ensure the continued ability of the Company to claim accelerated depreciation. This modification is primarily reflected in new Schedule 13 to the Formula Rate template. The Formula Rate template is set forth in Attachment 1 to Attachment H of the NYISO OATT.

Second, National Grid is proposing a ministerial change to Schedule 2 of the Formula Rate template (Attachment 1 to Attachment H) to modify the definition of the Forecasted Transmission Revenue Requirement ("FTRR") to include two line items for "Transmission Support Payments" and "Other Billing Adjustments" (defined below). This change will ensure that the definition in the Formula Rate template is consistent with the narrative terms of the Formula Rate set forth in Attachment H.

¹ 16 U.S.C. § 824d (2006).

² 18 C.F.R. Part 35.13 (2015).

Third, National Grid is proposing changes to Schedule 2 of the Formula Rate template (Attachment 1 to Attachment H) to ensure that the components of FTRR appear in order and are consistent with the Formula Rate under Attachment H, Section 14.1.9.2 (b).

Fourth, National Grid is proposing changes to the Formula Rate template (Attachment 1 to Attachment H) to update the source references to the Formula Rate components and to correct certain typographical errors.

As discussed in more detail in Section II(C) below, the impact of incorporating the ADIT proration methodology into the Formula Rate likely will cause an initial rate increase in the FTRR. However, customers ultimately will not pay higher charges because these prorated amounts will be trued-up to actual costs in the following year using actual ADIT data from the FERC Form 1. In short, the ADIT changes to the Formula Rate simply result in a timing difference, which is necessary to comply with IRS regulations. The other changes to the Formula Rate template proposed herein will have no rate impact.

I. Background

National Grid is a regulated utility operating in the State of New York. It is engaged in the transmission, distribution and wholesale and retail sale of electric power and natural gas in Buffalo, Albany, Syracuse and other portions of upstate New York. National Grid is a founding member of the NYISO and a signatory to the ISO-TO Agreement.³ It also is a participant in the NYISO electricity markets on behalf of certain of its end-use customers and serves as load-serving entity to its customers.

On February 11, 2008, as supplemented on May 30, 2008, National Grid submitted a filing under Section 205 of the Federal Power Act to replace its stated TSC rates in Attachment H to the NYISO OATT with formula TSC rates to become effective May 1, 2008. On July 29, 2008, the Commission accepted and suspended the proposed formula rates, to become effective October 1, 2008, subject to refund, and established hearing and settlement judge procedures.⁴

On April 6, 2009, National Grid filed a settlement intended to resolve all issues set for hearing in the proceeding. Among other things, the settlement set forth the terms of the TSC Formula Rate, as well as procedures for the annual adjustment of certain

³ The ISO-TO Agreement can be found at:
http://www.nyiso.com/public/webdocs/markets_operations/documents/Legal_and_Regulatory/Agreements/NYISO/nyiso_to_agreement.pdf

⁴ *Niagara Mohawk Power Corp.*, Order Accepting and Suspending Formula Rate Subject to Refund and Establishing Hearing and Settlement Judge Procedures, 124 FERC ¶ 61,106 (2008) (“July 29 Order”). Certain Settling Parties requested rehearing of aspects of the July 29 Order. On February 25, 2009, the Commission issued an Order that denied rehearing in part and granted rehearing in part. 126 FERC ¶ 61,173 (2009).

inputs to the formula rate. In a letter order issued June 22, 2009, the Commission approved the settlement.⁵

National Grid calculates and updates its transmission rates annually using the formulas and Formula Rate template contained in Attachment 1 of Attachment H and in accordance with the update procedures set forth in Section 14.1.9.4 of Attachment H.

II. Description of Filing

A. Modifications to the Formula Rate

1. ADIT Calculation and Recent IRS Rulings

Under the TSC Formula Rate, National Grid's transmission revenue requirement is equal to: (a) the Historical Transmission Revenue Requirement ("HTRR"), plus (b) the FTRR, plus (c) the Annual True-Up.

The TSC Formula Rate uses end-of-year transmission ADIT balances, of which a significant portion represents deferred tax liabilities related to accelerated depreciation. ADIT balances are included in the Company's transmission revenue requirement for in-service transmission facilities (i.e., the HTRR) and, through a carrying charge (referred to as the Annual Forecast Transmission Revenue Requirement Factor), in the projected revenue requirement for facilities expected to be placed in service in the coming rate year (i.e., the FTRR). The ADIT balances are employed as a reduction to rate base.

To be eligible to claim accelerated depreciation, National Grid must maintain compliance with the normalization requirements of the Internal Revenue Code.⁶ The IRS's normalization rules contain a specific methodology – the proration calculation – to be used when projected ADIT balances are included in a forward-looking formula rate. Section 1.167(l)-1(h)(6)(ii) of the IRS's regulations requires that, if a utility uses a future period (projected test year) to determine depreciation, "the amount of the reserve account for the period is the amount of the reserve at the beginning of the period and a pro rata portion of the amount of any projected increase to be credited or decrease to be charged to the account during such period."⁷ The pro rata amount of any increase during the future period is determined by multiplying the increase by a fraction, the numerator of which is the number of days remaining in the period at the time the increase is to accrue and the denominator of which is the total number of days in the future period.⁸

In several recent Private Letter Rulings ("PLRs"), the IRS has clarified the applicability of these rules to public utilities that use a formula rate with a projected

⁵ See *Niagara Mohawk Power Corp.*, 127 FERC ¶ 61,289 (2009).

⁶ 26 U.S.C. § 168(f)(2) (accelerated depreciation does not apply to public utility property if the taxpayer does not use a normalization method of accounting).

⁷ 26 C.F.R. § 1.167(l)-1(h)(6)(ii) (2015).

⁸ *Id.*

revenue requirement and a true-up.⁹ For example, in IRS PLR 14324114, attached hereto as Attachment C, the IRS concluded that a public utility that used projected data to populate a forward-looking formula rate was using “future period,” and that the utility must therefore use the proration calculation for projections of ADIT balances included in its rates.¹⁰ In addition, the IRS concluded that the fact that the utility’s formula rate incorporates a true-up adjustment does not mean that the utility is basing its rates upon a historical test year.¹¹

In order to conform to these recent IRS PLRs, National Grid is proposing to modify its Formula Rate to incorporate the IRS proration calculation for projections of ADIT balances included in its transmission rates. The proposed modifications will apply only to the FTRR, as the calculation of ADIT in the true-up calculation under Attachment H will continue to use actual data from FERC Form 1.¹² The Commission has accepted similar filings in a number of recent cases.¹³ This modification is primarily reflected in new Schedule 13 to the Formula Rate template, which is set forth in Attachment 1 to Attachment H of the NYISO OATT.

2. Ministerial Change With Respect to Dunkirk Costs and Other Billing Adjustments

Under the terms of the Formula Rate set forth in Attachment H of the NYISO OATT, National Grid is permitted to recover transmission operation and maintenance expenses, which include “Transmission Support Payments.” The Formula Rate defines Transmission Support Payments as expenses that National Grid incurs pursuant to agreements entered into with generators or other similar resources for the purpose of supporting transmission reliability that have been submitted to FERC for review.¹⁴ These include costs that the Company incurs pursuant to two reliability support services agreements entered into between Niagara Mohawk and Dunkirk Power, LLC, less a sum total of \$35 million (“Dunkirk Costs”).¹⁵

⁹ The Commission has recognized that the IRS’s PLRs on the ADIT proration calculation represent guidance as to how the IRS interprets its regulations. *Midcontinent Independent System Operator, Inc.*, 153 FERC ¶ 61,371 at P 40 (2015).

¹⁰ See IRS PLR 14324114 at 6-7 (July 6, 2015). See also IRS PLR 14012014 (April 14, 2015).

¹¹ *Id.* at 7 (“The addition of the true up increases the ultimate accuracy of the rates but does not convert a future test period into a historical test period as those terms are used in the normalization regulations.”).

¹² *Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,371 at P 38 (2015); order granting clarification, 156 FERC ¶ 61,203 (2016).

¹³ *Id.*; *ISO New England Inc. and Participating Transmission Owners Administrative Committee*, Docket No. ER16-2378-000, Letter Order dated September 26, 2016; *Pub. Serv. Co. of Colorado*, 155 FERC ¶ 61,028 (2016); *PJM Interconnection, LLC, et al.*, 154 FERC ¶ 61,126 (2016).

¹⁴ NYISO OATT, Attachment H, § 14.1.9.1.67.

¹⁵ *Id.* The Dunkirk Costs are recovered under the Company’s Formula Rate pursuant to a Commission-approved settlement. See *New York Independent System Operator, Inc. and Niagara Mohawk Power Corporation*, 153 FERC ¶ 61,325 (2015).

Although the terms of the Formula Rate expressly provide for the recovery of the Dunkirk Costs as Transmission Support Payments, the definition of FTRR under Schedule 2 of the Formula Rate template does not include a specific line item for these costs. To correct this oversight, National Grid is proposing a ministerial change to the Formula Rate template to modify the definition of FTRR to include a line item for the Dunkirk Costs. This change will ensure that the definition of FTRR in the Formula Rate template set forth in Attachment 1 to Attachment H is consistent with the narrative terms of the Formula Rate set forth in Attachment H.

Additionally, National Grid proposes to modify the definition of FTRR to exclude “Other Billing Adjustments.” This will ensure that any billing adjustments, including but not limited to revisions resulting from any Commission proceedings to consider the Annual Update, within the HTRR are excluded from the forecast component of the Formula Rate.

3. *Related Changes to Schedule 2 of the Formula Rate Template*

In light of the changes proposed in paragraphs 1 and 2 of this Section II(A) (above), it is necessary to rearrange the components of the FTRR on Schedule 2 of the Formula Rate template in order to be consistent with the definition of FTRR under Section 14.1.9.2 (b) of the NYISO OATT. As a result, National Grid has modified the order in which the components appear on Schedule 2.

4. *Changes to the Formula Rate Component Source References and Correction of Typographical Errors in the Formula Rate Template*

Finally, National Grid proposes to update the references to the sources of the formula rate components on Schedule 4, Schedule 7, Schedule 9 and Schedule 12 of the Formula Rate template (Attachment 1 to Attachment H). Some of these changes are updates to the line items reported on the annual FERC Form 1 reports, while others are references to the schedules of the Formula Rate template. In addition, the Company has made changes throughout the Formula Rate template to correct certain typographical errors.

B. Description of the Proposed Revisions to Formula Rate

As indicated earlier, the Attachment H Formula Rate currently applies a carrying charge factor to estimated plant additions in order to approximate the expected return and costs associated with the additions during the future period. This approach is used to approximate ADIT for the estimated transmission plant additions as well. Because Attachment H uses a “future test period,” the Company must revise the formula to reflect the IRS’s guidance. However, the proposed revisions will apply only to the FTRR under Attachment H; the calculation of ADIT in the true-up calculation under Attachment H will continue to use actual data from the FERC Form 1.

In the enclosed revisions, the Company has modified the calculation of the FTRR in Schedule 2 of the Formula Rate template (Attachment 1 to Attachment H) in order to, first, eliminate the existing noncompliant ADIT calculation and second, incorporate a separate, compliant ADIT calculation. The first revision in the Formula Rate template “cancels out” the existing calculation of ADIT in the FTRR. The revision replaces the Annual Forecast Transmission Revenue Requirement Factor with a new “Adjusted Annual Forecast Transmission Revenue Requirement Factor” (“AFTRRF”). The AFTRRF removes ADIT less the Accumulated Deferred Investment Tax Credits in the FERC Account 255 from the calculation of the FTRR.

Second, the Company has revised Schedule 2 of the Formula Rate template to include a new definition of Forecasted ADIT (“FADIT”) that requires the projected change in ADIT related to accelerated depreciation and associated with transmission plant to be calculated in accordance with IRS regulation, Section 1.167(l)-1(h)(6). After cancelling out ADIT from the AFTRRF as described above, the impacts of FADIT will be calculated as a separate step. Namely, the Company proposes that FADIT be multiplied by the Cost of Capital Rate, which is already defined in Schedule 8 of the Formula Rate template and the resulting value is added to the FTRR.

Third, the Company has modified the definition of the FTRR in Schedule 2 to exclude transmission support payments in order to be consistent with the definition described under Section 14.1.9.2 (b) of Attachment H.

Fourth, the Company modified the definition of the FTRR in Schedule 2 to exclude any prior year billing adjustments.

Fifth, the Company reordered the components of the FTRR in Schedule 2 in order to be consistent with the definition described under Section 14.1.9.2(b) of Attachment H.

Sixth, the Company has added a new Schedule 13 to the Formula Rate template, which demonstrates the application of the ADIT proration calculation over the rate period described above. Under new Schedule 13, the expected change in ADIT is prorated during the future period by multiplying the increase by a fraction, the numerator of which is the number of days remaining in the period at the time the increase is to accrue and the denominator of which is the total number of days in the future period.

Finally, National Grid has updated the source references to the formula rate components on Schedule 4, Schedule 7, Schedule 9 and Schedule 12 of the Formula Rate template (Attachment 1 to Attachment H). The changes to Schedules 7, 9 and 12 are the updates to the line items reported on the annual FERC Form 1 reports. The changes to Schedule 4 are reference updates to the schedules of the Formula Rate template. In addition, the Company has made changes throughout the Formula Rate template to correct certain typographical errors. These minor corrections appear in all of the schedules.

C. Effect on Rates and Revenues

The effect of the Formula Rate modifications proposed in this filing will vary from year to year based on National Grid's projected level of planned investment. As with similar formula rate modifications accepted by the Commission for other regions,¹⁶ the impact of incorporating the ADIT proration calculation into the Attachment H formula will likely cause an initial rate increase in the FTRR. However, customers ultimately will not pay higher charges because these prorated amounts will be trued-up to actual costs in the following year using actual ADIT data from the FERC Form 1. Thus, to the extent the FTRR is increased in a particular year due to the ADIT proration calculation, customers will be returned any excess amounts, with interest, as part of the true-up calculation in the following year. The Attachment H changes simply result in a timing difference, which is necessary to comply with IRS regulations as recently clarified.

For example, for the rate beginning July 1, 2016, the adjustment for the ADIT proration calculation in the FTRR would have resulted in a rate increase by \$0.00537/MWh - from \$11.14898/MWh to \$11.15435/MWh. As explained above, however, there will be no actual rate increase to customers over time because, where the revenue requirement increases in any particular year due to the ADIT proration calculation, the customers will be returned any excess amounts, with interest, as part of the true-up calculation in the following year. In Attachment D to this filing, the Company includes workpapers showing the impact of the ADIT proration calculation on the Transmission Revenue Requirement for the rate year starting July 1, 2016. The impact of including the ADIT proration calculation in the FTRR is summarized in the table below:

Period	Transmission Revenue Requirement without ADIT Proration	Transmission Revenue Requirement with ADIT Proration	Difference
Current Year Rates Effective July 1, 2016	414,416,678	414,618,655	201,977

The other changes to the Formula Rate template proposed herein will have no rate impact. As discussed herein, those changes are ministerial and are being made to ensure that the components of FTRR appear in order and are consistent with the Formula Rate and to update the source references to the Formula Rate components.

III. Proposed Effective Date

In IRS PLR 14324114, the IRS held that, while the utility in question had not complied with the normalization requirements due to its failure to use the proration calculation, the utility would not be sanctioned with a denial of accelerated

¹⁶ See *supra*, n. 13.

depreciation.¹⁷ The IRS found that the utility had acted in good faith, had attempted to comply with the normalization rules and had made an effort to incorporate the proration calculation in its next rate change. The IRS also provided guidance that “[w]here nonconforming rates cannot be adjusted or corrected to conform to the requirements of this ruling due to the operation of state or federal regulatory law, then such correction must be made in the next regulatory filing or proceeding in which Taxpayer’s rates are considered.”¹⁸

Consistent with the IRS’s guidance discussed above, National Grid wishes to have the proposed modifications to the Formula Rate in place for purposes of “the next regulatory filing” in which its rates will be considered. For National Grid, that filing is its next Formula Rate annual update scheduled to be submitted on or before June 14, 2017. Thus, National Grid requests an effective date of **April 1, 2017** – 61 days after the date of this filing - for the proposed revisions to the Formula Rate. This proposed effective date will ensure that the proposed modifications are in place for purposes of National Grid’s next Formula Rate annual update.

IV. Additional Information

A. Communications

Please place the names of the following persons on the official service list established by the Secretary in this proceeding:

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¹⁷ IRS PLR 14324114 at 10-11.

¹⁸ *Id.* at 10.

* Designated to receive service. Pursuant to 18 C.F.R. § 385.2010, National Grid respectfully requests waiver to permit more than two individuals to receive service in this proceeding.

B. List of Documents Submitted With Filing

Together with this filing letter, National Grid submits the following:

1. Clean Formula Rate Tariff Records (Attachment A);
2. Marked Formula Rate Tariff Records Showing Changes (Attachment B);
3. IRS PLR 14324114 (Attachment C); and
4. Supporting Workpapers (Attachment D).

C. Additional 35.13 Filing Requirements and Requests for Waiver

Pursuant to the filing requirements of 18 C.F.R. §§ 35.13(b) and 35.13(c), National Grid submits the following information.

18 C.F.R. § 35.13(b) Requirements

1. A list of documents submitted with the filing: *See* Section IV.B.
2. The date on which the utility proposes to make the rate change effective: April 1, 2017.
3. The names and addresses of persons to whom a copy of the rate change has been posted: Pursuant to Section 32.5(d) of the Commission's Regulations, the Company has served a copy of this filing electronically on the Company's customers taking service under the rate affected by this filing, on the New York State Public Service Commission and on the NYISO.
4. A brief description of the rate change: *See* Section II.
5. A statement of the reasons for the rate change: *See* Sections I and II.
6. A showing that all requisite agreement to the rate change, or to the filing of the rate change, including any agreement required by contract, has in fact been obtained: No agreement to the rate change, or to the filing of the rate change, is required.
7. A statement showing any expenses or costs that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices: No such expenses or costs exist.

18 C.F.R. § 35.13(c) Requirements

1. A table or statement comparing sales and services and revenues from sales and services under the rate schedule, tariff, or service agreement to be superseded and under the rate change, by applying the components of each such rate schedule or tariff to the billing determinants for each class of service, for each customer and for each delivery point or set of delivery points that constitutes a billing unit.

As required under the Commission's regulations at 18 C.F.R. § 35.13(c), the Company is providing information concerning the revenues under the current Formula Rate and under the Formula Rate as revised in this filing. *See* Attachment D. This information provides a sample comparison of the Company's transmission revenue requirements produced under the current Formula Rate and produced under the Formula Rate as modified by this filing.

2. A comparison of the rate change and the utility's other rates for similar wholesale for resale and transmission services: Not applicable. The Company has no other open access transmission rates.

3. If any specifically assignable facilities have been or will be installed or modified in order to supply service under the rate change, an appropriate map or sketch and single line diagram showing the additions or changes to be made: Not applicable. No assignable facilities have been or will be installed or modified in order to supply service under the rate change.

To the extent that waivers of the Commission's cost support regulations in 18 C.F.R. § 35.13 are necessary, National Grid respectfully requests such waivers. Good cause exists for waiver. The information, documents and attachments accompanying this filing, together with the Company's publicly available FERC Form 1 information, substantially comply with the Commission's cost support regulations and provide ample support for the reasonableness of the proposed Formula Rate changes. Further, as noted above, cost of service statements typically are not needed where the proposed rates are formulaic and will be based on actual costs as reflected in the applicant's audited books and records.¹⁹ As a result, waiver, if necessary, would be consistent with Commission precedent for a formula rate filing of this nature.

¹⁹ *Southern California Edison Co.*, 136 FERC ¶ 61,074 at P 29 (2011) (granting waiver of Period I and II data); *Pub. Serv. Elec. & Gas Co.*, 124 FERC ¶ 61,303 at PP 23-24 (2008) (granting waiver of Sections 35.13(d)(1)-(2), 35.13(d)(5) and 35.13(h)); *Oklahoma Gas & Elec. Co.*, 122 FERC ¶ 61,071 at P 41 (2008) (same); *Am. Elec. Power Serv. Corp.*, 120 FERC ¶ 61,205 at P 41 (2007) (granting waiver of Period I and II data); *Commonwealth Edison Co.*, 119 FERC ¶ 61,238 at PP 92-94 (2007) (granting waiver of Period I and II data and cost-of-service statements); *Trans-Allegheny Interstate Line Co.*, 119 FERC ¶ 61,219 at P 57 (2007) (same); *Duquesne Light Co.*, 118 FERC ¶ 61,087 at P 79 (2007) (granting waiver of Sections 35.13(d)(1)-(2) and 35.13(h)); *Idaho Power Co.*, 115 FERC ¶ 61,281 at P 20 (2006) (granting waiver of Period II data); *Allegheny Power Sys. Operating Cos.*, 111 FERC ¶ 61,308 at PP 55-56 (2005) (granting waiver of Period I and II data).

Finally, the information submitted with this filing substantially complies with the requirements of Part 35 of the Commission's rules and regulations applicable to filings of this type. National Grid requests a waiver of any applicable requirement of Part 35 for which a waiver is not specifically requested, if necessary, in order to permit this filing to become effective as proposed.

D. Service

Pursuant to Section 32.5(d) of the Commission's Regulations, National Grid has served a copy of this filing electronically on the Company's customers taking service under the rate affected by this filing, on the New York State Public Service Commission and on the NYISO.

Please contact the undersigned if you have any questions.

Respectfully submitted,

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