

August 1, 2017

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

**Re: Niagara Mohawk Power Corporation
Docket No. ER17-____-000
Filing of Cost Reimbursement Agreement with
New York State Electric & Gas Corporation**

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 (“Niagara Mohawk”) submits a Cost Reimbursement Agreement (“Reimbursement Agreement”) between Niagara Mohawk and New York State Electric & Gas Corporation (“NYSEG”).³ The Reimbursement Agreement is designated as Service Agreement No. 2357 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The Reimbursement Agreement is an undisputed agreement to facilitate the performance of certain work that NYSEG has requested Niagara Mohawk to do in connection with NYSEG’s rebuilding of its Silver Creek substation. Niagara Mohawk requests that the Commission grant acceptance of the Reimbursement Agreement effective as of May 3, 2017, the effective date agreed to by the Parties.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

³ Together, Niagara Mohawk and NYSEG are referred to in the Reimbursement Agreement and in this transmittal letter as the “Parties.”

I. Background

Niagara Mohawk and NYSEG are both public utilities subject to the Commission's jurisdiction that own transmission facilities located in New York which have been placed under the operational control of the NYISO.

NYSEG is rebuilding its existing Silver Creek substation located in Silver Creek, New York. This station is energized from Niagara Mohawk's Gardenville – Dunkirk #141 and #142 115 kV transmission lines. NYSEG has requested that Niagara Mohawk perform the work specified in the Reimbursement Agreement in order to supply NYSEG's new switch/receiving structure from both the #141 and #142 lines. Niagara Mohawk is willing to perform this work, subject to reimbursement by NYSEG of all costs and expenses incurred by Niagara Mohawk in connection with the work.⁴

II. Description of the Reimbursement Agreement and Filing Requirements

Pursuant to the Reimbursement Agreement, NYSEG will reimburse Niagara Mohawk for the actual costs and expenses incurred in connection with the work described above. The Reimbursement Agreement sets forth the terms and conditions of this work and certain related commitments by NYSEG. The Reimbursement Agreement includes provisions addressing the performance and schedule of the work, liability and indemnification, insurance, regulatory and governmental approvals, and various other standard provisions included in comparable utility cost reimbursement agreements.

Section 205 of the FPA authorizes the Commission to require public utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional transmission service or sales of electric energy.⁵ In the Prior Notice Order, the Commission stated that the types of agreements that a public utility must file include "a jurisdictional CIAC agreement," which is defined as an "agreement providing for the customer payment of contributions-in-aid-of-construction" of facilities used to provide jurisdictional service, either in a single lump sum or over a period of time.⁶ Commission precedent also indicates that engineering and pre-construction agreements related to jurisdictional facilities can be construed as CIAC agreements.⁷

⁴ Reimbursement Agreement, Recitals, Articles 3.0 and 7.0, and Exhibit A.

⁵ 16 U.S.C. §§ 824d(a)-(c).

⁶ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,974, 61,988-91 (1993) ("Prior Notice Order").

⁷ For example, in *Southern California Edison Company*, 98 FERC ¶ 61,304, at 62,300-01 (2002), the Commission required the filing of seven letter agreements related to pre-interconnection activities in anticipation of certain generator interconnections, "including procurement, engineering, and limited construction." See also *GenPower Anderson, LLC v. Duke Energy Corp. and Duke Electric Transmission*, 101 FERC ¶ 61,038 (2002) (requiring Duke Energy to file an engineering and design letter agreement that was entered into pending execution of an interconnection and operating agreement).

The Reimbursement Agreement relates to Niagara Mohawk's recovery of costs for providing installation, removal, and modification services on transmission facilities as described in the Reimbursement Agreement, in connection with NYSEG's rebuilding of its Silver Creek substation. Niagara Mohawk recognizes that the Commission may find the Reimbursement Agreement to be a jurisdictional CIAC agreement that must be filed. For these reasons, Niagara Mohawk is filing the Reimbursement Agreement for Commission acceptance.

The price of the services to be performed pursuant to the Reimbursement Agreement will be just and reasonable because Niagara Mohawk will perform these services at actual cost.⁸ The Commission should therefore accept the Reimbursement Agreement.

III. Effective Date and Request for Waiver

As discussed above, the Parties intend the Reimbursement Agreement to go into effect as of May 3, 2017, *i.e.*, fewer than 30 days before the date the Reimbursement Agreement is being filed. Therefore, pursuant to Section 35.11 of the Commission's regulations,⁹ Niagara Mohawk respectfully requests that the Commission grant waiver of the notice requirements set forth in Section 35.3(a)(2) of its regulations,¹⁰ to permit the Reimbursement Agreement to go into effect as of May 3, 2017.

Good cause exists for the Commission to grant this waiver. Granting the waiver will accord with the intent of the Parties to make the Reimbursement Agreement effective as of May 3, 2017, pursuant to the provisions of 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 May 3, 2017.

IV. Attachment

In addition to this transmittal letter, this filing includes the Reimbursement Agreement that is provided in Attachment A hereto.

⁸ See Reimbursement Agreement, Article 1.0 at definition of "Company Reimbursable Costs."

⁹ 18 C.F.R. § 35.11.

¹⁰ 18 C.F.R. § 35.3(a)(2).

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:

David Lodemore
Senior Counsel
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451
(781) 907-3704
david.lodemore@nationalgrid.com

Sean 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, Commercial Services
National Grid USA
40 Sylvan Road
Waltham, MA 02451
(781) 907-2406
kathryn.cox-arslan@nationalgrid.com

Copies of this filing have been served on NYSEG and the NYISO.

VI. Conclusion

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Reimbursement Agreement effective as of May 3, 2017.

Respectfully submitted,

/s/ David Lodemore
David Lodemore
Senior Counsel
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451

*Attorney for Niagara Mohawk Power
Corporation*