

November 9, 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. ER18-____-000
Filing of Reimbursement Agreement with
Mid-Atlantic Interstate Transmission, LLC**

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 letter agreement (“Reimbursement Agreement”) between Niagara Mohawk and Mid-Atlantic Interstate Transmission, LLC (“MAIT”).³ The Reimbursement Agreement is designated as Service Agreement No. 2386 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff.

The Reimbursement Agreement is an undisputed agreement to facilitate the performance of certain work that Niagara Mohawk is required to do as a result of MAIT’s upgrades to its Erie East 230 kV Substation. Niagara Mohawk requests that the Commission grant acceptance of the Reimbursement Agreement effective as of October 11, 2017, the effective date agreed to by the Parties.

I. Background

Niagara Mohawk is a public utility subject to the Commission’s jurisdiction that owns transmission facilities located in New York which have been placed under the operational control of the NYISO. MAIT is a public utility subject to the Commission’s jurisdiction that owns and operates transmission facilities located in Pennsylvania which have been placed under the functional control of PJM Interconnection, L.L.C. (“PJM”).

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

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

Certain system protection modifications to Niagara Mohawk's South Ripley Substation, at its 230 kV Line 69, are required as a result of MAIT's upgrades to its Erie East 230 kV Substation as defined in PJM Regional Transmission Expansion Plan b2371. MAIT has requested that Niagara Mohawk perform the system protection modification work pursuant to the Reimbursement Agreement. Niagara Mohawk is willing to perform this work, subject to reimbursement by MAIT of all costs and expenses incurred by Niagara Mohawk in connection with the work.

II. Description of the Reimbursement Agreement and Filing Requirements

Pursuant to the Reimbursement Agreement, MAIT 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 MAIT. The Reimbursement Agreement includes provisions addressing the performance of the work, liability and indemnification, force majeure, 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.⁴ 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.⁵ Commission precedent also indicates that engineering and pre-construction agreements related to jurisdictional facilities can be construed as CIAC agreements.⁶

The Reimbursement Agreement relates to Niagara Mohawk's recovery of costs for performing system protection modifications on transmission facilities as described in the Reimbursement Agreement that are required due to MAIT's upgrades to the Erie East 230 kV 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.

⁴ 16 U.S.C. §§ 824d(a)-(c).

⁵ *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").

⁶ 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 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. The Commission should therefore accept the Reimbursement Agreement.

III. Effective Date

The Commission's regulations require service agreements to be filed not more than 30 days after service under the agreements has commenced.⁷ As discussed above, the Parties intend the Reimbursement Agreement to go into effect as of October 11, 2017, *i.e.*, fewer than 30 days before the date the Reimbursement Agreement is being filed.⁸

IV. Attachment

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

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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Copies of this filing have been served on MAIT, the NYISO, and PJM.

⁷ 18 C.F.R. § 35.3.

⁸ Section 1 of the miscellaneous provisions in the Reimbursement Agreement states that the agreement will become effective as of the date of the agreement, which is October 11, 2017.

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VI. Conclusion

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Reimbursement Agreement effective as of October 11, 2017.

Respectfully submitted,

/s/ Christopher J. Novak

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