

July 24, 2020

Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Niagara Mohawk Power Corporation d/b/a National Grid,
Docket No. ER20-2051-___**

Amended Order No. 864 Compliance Filing

Dear Secretary Bose:

On June 15, 2020, to comply with the Federal Energy Regulatory Commission's ("FERC" or "Commission") Order No. 864,¹ Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk") submitted for filing revisions to its Transmission Service Charge ("TSC") formula rate, which sets Niagara Mohawk's Wholesale TSC under Attachment H to the New York Independent System Operator, Inc. ("NYISO") Open Access Transmission Tariff ("NYISO OATT") in this proceeding ("June 15 Filing"). In light of changed circumstances, Niagara Mohawk now submits this amendment to its pending compliance filing to address how accumulated deferred income taxes ("ADIT") associated with the Tax Cuts and Jobs Act of 2017 will be treated in the TSC.²

I. AMENDMENTS TO JUNE 15 COMPLIANCE FILING

In the June 15 Filing, Niagara Mohawk requested leave to submit the proposed amortization period to be used in the TSC for unprotected excess or deficient ADIT associated with the Tax Cuts and Jobs Act to the FERC in a subsequent compliance filing after the New York Public Service Commission ("NYPSC") approves an amortization period for unprotected excess or deficient ADIT in Niagara Mohawk's upcoming retail rate case. On July 6, 2020, the

¹ *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 84 Fed. Reg. 65,281, 169 FERC ¶ 61,139 (2019) ("Order No. 864"), *order on reh'g and clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

² NYISO submits this filing on behalf of Niagara Mohawk solely in its role as administrator of the NYISO OATT. The burden of demonstrating that the proposed tariff amendments are just and reasonable rests with Niagara Mohawk, the sponsoring party. The NYISO takes no position on any substantive aspect of this filing at this time. Capitalized terms not otherwise defined herein shall have the meaning specified in the NYISO OATT.

New York Association of Public Power (“NYAPP”) filed a protest of the June 15 Filing (“NYAPP Protest”) opposing the requested deferral.³

This amendment to Niagara Mohawk’s pending Order No. 864 compliance filing includes the proposed amortization period to be used in the TSC for unprotected excess or deficient ADIT associated with the Tax Cuts and Jobs Act, thereby addressing concerns raised in the NYAPP Protest. Niagara Mohawk intends to submit a retail rate filing to the NYPSC by the end of July. In light of the NYAPP Protest and after consideration of the various ADIT issues to be addressed in the upcoming retail rate filing, Niagara Mohawk has concluded that the submission of proposed amortization periods to be used in the TSC for excess or deficient ADIT associated with the federal income tax rate change need not wait until conclusion of the NYPSC rate case.

Consistent with the Tax Cuts and Jobs Act, protected excess or deficient ADIT associated with the federal income tax rate change to be returned or collected through the TSC will be amortized in accordance with the Average Rate Assumption Method (“ARAM”).⁴ Niagara Mohawk also proposes to use ARAM for amortizing in the TSC its unprotected plant-based excess or deficient ADIT resulting from the Tax Cuts and Jobs Act of 2017. The Commission recently has approved the use of ARAM to amortize unprotected plant-based ADIT.⁵ The criticism of that method in the NYAPP Protest therefore is unfounded. Niagara Mohawk further proposes a 10-year amortization period for unprotected non-plant based deficient ADIT resulting from the Tax Cuts and Jobs Act. This 10-year amortization period aligns with the estimated average remaining lives of the balances giving rise to a deficient balance.

Niagara Mohawk anticipates beginning to reflect excess or deficient ADIT resulting from the Tax Cuts and Jobs Act of 2017 in its next annual TSC update after the Commission accepts this amendment to Niagara Mohawk’s pending compliance filing. For example, if the Commission accepts the proposed amortization periods by December 2020, Niagara Mohawk will enter a cumulative amortization entry in Form No. 1 from the January 27, 2020, effective date, and the amortization will be reflected in the annual TSC update in June 2021. Acceptance of the proposed amortization periods after December 2020 will be reflected in the next applicable Form No. 1. In light of this amendment to the pending compliance filing, NYAPP’s concerns about the timing for ADIT to be reflected in the TSC rate will be fully addressed.⁶

³ NYAPP states that its affected members are the following wholesale transmission customers: Green Island Power Authority, Jamestown Board of Public Utilities, Oneida-Madison Electric Cooperative, and Sherrill Power & Light.

⁴ See Order No. 864 at P 44.

⁵ See *PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,083 at PP 7, 32, 33 (2019); see also *S. Cal. Edison Co.*, 166 FERC ¶ 61,006 at P 23 (2019) (Commission finding it just and reasonable for Southern California Edison Company to amortize excess or deficient protected or unprotected property related ADIT amounts using ARAM.).

⁶ NYAPP Protest 4. The requested effective date for the tariff changes remains unchanged from the June 15 Filing.

This amendment to Niagara Mohawk's pending compliance filing includes a populated ADIT worksheet illustrating its calculations and proposed amortization periods. This will address NYAPP's concerns about the lack of a populated ADIT Worksheet in the June 15 Filing. Niagara Mohawk also has added information in footnote (a) to Schedule 14 to provide more detail on how the relevant ADIT accounts were re-measured as a result of the Tax Cuts and Jobs Act.⁷

II. SERVICE

In addition to the official service list in this proceeding, copies of this filing are being served on each of the Interested Parties who receive service of informational filings of annual updates to the TSC formula rate in accordance with the settlement approved by the Commission in Docket No. ER08-552. The list of Interested Parties is included as Attachment D to this filing, and is identical to the list of Interested Parties that Niagara Mohawk served in its June 15 Filing.

III. DOCUMENTS INCLUDED IN THIS FILING

In addition to this transmittal letter, the following documents are provided in support of this filing:

Attachment A	Clean version of Section 14.2.1 to Attachment H to the NYISO OATT
Attachment B	Redlined version of Section 14.2.1 to Attachment H to the NYISO OATT ⁸
Attachment C	Populated ADIT Worksheet showing the ADIT effects of the Tax Cuts and Jobs Act in the Niagara Mohawk TSC
Attachment D	List of Interested Parties upon whom this filing was served

⁷ Niagara Mohawk separately proposes to include a minus sign to Schedule 9, line 46, column "FERC Form 1/PSC Report". This addresses a potential ambiguity in the tariff revisions submitted in the June 15 Filing, making it clear that the value used for line 46 will be the negative of the value for Schedule 14, line 5, column K.

⁸ The redlined version highlights three minor incremental modifications to Section 14.2.1 to Attachment H necessary to implement the above noted changes. It is redlined against the clean version of Section 14.2.1 to Attachment H that was submitted as part of the June 15 Filing.

IV. CONCLUSION

Niagara Mohawk respectfully requests that the Commission find this amendment to its pending compliance filing, along with the unamended portions of the June 15 Filing, to comply with Order No. 864 with respect to the TSC formula rate and accept the proposed amendments to the NYISO OATT.

Respectfully submitted,

/s/ Patrick J. Tarmey

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Dated: July 24, 2020

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, pursuant to the requirements of rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 24th day of July, 2020.

/s/ Daniel Klein

Daniel Klein

Davis Wright Tremaine LLP