

October 20, 2020

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

**Re: Niagara Mohawk Power Corporation
Docket No. ER21-____-000**

**Filing of Engineering & Procurement Agreement with
LS Power Grid New York Corporation I**

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 an Engineering & Procurement Agreement (“E&P Agreement”) between Niagara Mohawk and LS Power Grid New York Corporation I (“LS Power”).³ The E&P Agreement is designated as Service Agreement No. 2568 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The E&P Agreement is an undisputed agreement to facilitate the performance of certain work that LS Power has requested Niagara Mohawk to do with respect to the mitigation of the impact of Segment A of the public policy transmission project the NYISO selected in order to meet identified public policy needs (“Segment A Project”) on Niagara Mohawk’s transmission system. Niagara Mohawk requests that the Commission accept the E&P Agreement effective as of September 21, 2020, 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 LS Power are referred to in the E&P Agreement and in this transmittal letter as 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.

LS Power is a transmission-only company whose business is to develop, own, and operate transmission facilities in the NYISO region, organized under the laws of the State of New York.

In 2015, the New York Public Service Commission issued an order finding a transmission need driven by Public Policy Requirements⁴ to increase transfer capability on the Central East interface in New York (Segment A) by at least 350 MW and to increase transfer capability on the UPNY/SENY interface in New York (Segment B) by at least 900 MW to provide additional transmission capacity to move power from upstate to downstate New York (collectively, the "AC Transmission Needs"). The NYISO subsequently issued a solicitation for solutions to the AC Transmission Needs pursuant to the Public Policy Process set forth in the NYISO OATT. In 2019, the NYISO Board of Directors selected a joint proposal by North America Transmission, LLC (now doing business as LS Power) and the New York Power Authority to address Segment A of the AC Transmission Needs.⁵

LS Power is proposing to interconnect the Segment A Project at various locations to the Niagara Mohawk transmission system. Consistent with the NYISO OATT, the Parties have entered into the E&P Agreement to facilitate Niagara Mohawk's performance of certain engineering and procurement activities with respect to the mitigation of the Segment A Project's impact on, and the proposed interconnection of the Segment A Project to, Niagara Mohawk's transmission system, prior to issuance of a Facilities Study Report for the Segment A Project pursuant to the transmission interconnection procedures set forth in Attachment P to the NYISO OATT.⁶ Niagara Mohawk is willing to perform this work subject to: (i) reimbursement by LS Power of all actual costs and expenses incurred by Niagara Mohawk in connection with the work; (ii) LS Power's performance of all other duties, responsibilities, and obligations set forth in

⁴ Capitalized terms used in this section of the transmittal letter and not defined herein have the meanings set forth in the NYISO OATT.

⁵ See NYISO Board of Directors' Decision on Approval of AC Transmission Public Policy Transmission Planning Report and Selection of Public Policy Transmission Projects (Apr. 8, 2019), available at <https://www.nyiso.com/documents/20142/1390750/Board-Decision-AC-Transmission-2019-04-08.pdf/32323d32-f534-a790-1b03-2cb110033320>. The NYISO Board of Directors selected a joint proposal by Niagara Mohawk and New York Transco, LLC to address Segment B of the AC Transmission Needs.

⁶ Section 22.10 of Attachment P to the NYISO OATT states that prior to executing a Transmission Project Interconnection Agreement, a Transmission Developer (in this case, LS Power) may, in order to advance the implementation of its interconnection, request and the Connecting Transmission Owner (in this case, Niagara Mohawk) shall offer the Transmission Developer, an engineering and procurement agreement that authorizes the Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection.

the E&P Agreement, including, without limitation, specified actions to be taken by LS Power; and (iii) receipt of any and all required approvals as set forth in the E&P Agreement, in a form acceptable to Niagara Mohawk.⁷

II. Description of the E&P Agreement and Filing Requirements

Pursuant to the E&P Agreement, LS Power will reimburse Niagara Mohawk for the actual costs and expenses incurred in connection with the work described above. The E&P Agreement sets forth the terms and conditions of this work and certain related commitments by LS Power. The E&P 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 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.⁸ The E&P Agreement relates to Niagara Mohawk’s recovery of costs for performing procurement and other work in connection with the Segment A Project. Niagara Mohawk recognizes that the Commission may find the E&P Agreement to be a jurisdictional agreement that must be filed. For these reasons, Niagara Mohawk is filing the E&P Agreement for Commission acceptance.

The price of the work to be performed pursuant to the E&P Agreement will be just and reasonable because Niagara Mohawk will perform the work at actual cost.⁹ The Commission should therefore accept the E&P Agreement for filing.

III. Effective Date

Niagara Mohawk requests that the Commission accept the E&P Agreement effective as of September 21, 2020, the effective date agreed to by the Parties.¹⁰ The Commission’s regulations require that a service agreement be filed within 30 days of its effective date unless otherwise specified by the Commission.¹¹ Niagara Mohawk is filing the E&P Agreement within 30 days of its effective date.

⁷ E&P Agreement, Recitals, Articles 3.0, 7.0, and 18.0, and Exhibits B and C.

⁸ 16 U.S.C. §§ 824d(a)-(c).

⁹ See E&P Agreement, Article 1.0, at definition of “Company Reimbursable Costs”.

¹⁰ See E&P Agreement, Preamble and Article 1.0, at definition of “Effective Date”.

¹¹ 18 C.F.R. § 35.3(a)(2).

IV. List of Filing Documents

In addition to this transmittal letter, this filing includes the E&P Agreement 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 LS Power, the NYISO, and the New York Public Service Commission.

VI. Conclusion

For the reasons stated herein, Niagara Mohawk requests that the Commission accept the E&P Agreement effective as of September 21, 2020.

Respectfully submitted,

/s/ Christopher J. Novak

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