

May 27, 2022

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 Nos. ER20-2051-000 et al.
Order No. 864 Compliance Filing in Response to March 31 Order**

Dear Secretary Bose:

Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk”) submits this compliance filing in response to the Order on Compliance issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on March 31, 2022, in the above-captioned dockets conditionally accepting Niagara Mohawk’s Order No. 864 compliance filings (the “March 31 Order”).¹ As explained below, Niagara Mohawk also proposes minor Order No. 864 compliance tariff revisions in this filing to reflect a recent change to Niagara Mohawk’s FERC Form No. 1 submissions that provides greater transparency to customers and interested parties.

I. BACKGROUND

On June 15, 2020, Niagara Mohawk submitted in this proceeding a filing to comply with the Commission’s Order No. 864 (the “June 15 Compliance Filing”).² The June 15 Compliance Filing addressed the compliance of Niagara Mohawk with Order No. 864 with respect to Niagara Mohawk’s 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”).³

On July 6, 2020, the New York Association of Public Power (“NYAPP”) filed a protest opposing one aspect of the June 15 Compliance Filing (“NYAPP Protest”). On July 24, 2020, Niagara Mohawk submitted an amendment to its June 15 Compliance Filing in Docket No. ER20-2051-001 addressing the concerns raised in the NYAPP Protest (“July 24 Amended Compliance Filing”).

¹ *New York Indep. Sys. Operator, Inc.*, 178 FERC ¶ 61,248 (2022).

² *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019), *order on reh’g and clarification*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

³ NYISO submitted the June 15 Compliance Filing and all subsequent Order No. 864 compliance filings on behalf of Niagara Mohawk—including the present filing—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.

On May 4, 2021, Commission Staff issued a deficiency letter requesting that Niagara Mohawk provide additional information with respect to the June 15 Compliance Filing, as amended by the July 24 Amended Compliance Filing (“May 4 Deficiency Letter”). On June 3, 2021, the Commission granted an extension of time until July 2, 2021, to respond to the May 4 Deficiency Letter. On July 1, 2021, Niagara Mohawk submitted a response to the May 4 Deficiency Letter in Docket No. ER20-2051-002 (“July 1 Deficiency Response”).

In the March 31 Order, the Commission accepted Niagara Mohawk’s proposed revisions in the June 15 Compliance Filing, as amended by the July 24 Amended Compliance Filing and July 1 Deficiency Response, subject to Niagara Mohawk’s submission of a further compliance filing within 60 days.⁴

II. COMPLIANCE FILING

Niagara Mohawk hereby submits this compliance filing in response to the directives in the March 31 Order.⁵

A. Rate Base Adjustment Mechanism

The March 31 Order found that Niagara Mohawk’s Rate Base Adjustment Mechanism does not fully comply with the requirements of Order No. 864.⁶ Specifically, the March 31 Order requested clarification as to whether the inputs in lines 8-10 of Schedule 7 of Niagara Mohawk’s formula rate (as set forth in Section 14.2.1 of Attachment H to the NYISO OATT) are sourced from excess and deficient Accumulated Deferring Income Tax (“ADIT”) amounts in the ADIT Worksheet in Schedule 14 (i.e., Schedule 14, line 2, column Q) that already include gross-up, as Niagara Mohawk’s formula rate indicates that its rate base is then grossed-up as part of Niagara Mohawk’s cost of capital calculation in Schedule 8, potentially resulting in a double gross-up.⁷ The March 31 Order directed Niagara Mohawk to explain whether its formula rate computes a double gross-up on excess and deficient ADIT in rate base.⁸ If so, the March 31 Order directed Niagara Mohawk to revise its formula rate to remove the double gross-up of excess and deficient ADIT.⁹

In response to this directive, Niagara Mohawk respectfully submits that the inputs in lines 8-10 of Schedule 7 of its formula rate are correctly sourced from excess and deficient ADIT

⁴ March 31 Order at PP 1, 14, Ordering Paragraph (B).

⁵ On March 4, 2022, Niagara Mohawk submitted a filing in Docket No. ER22-1201 requesting to (1) incorporate in the NYISO OATT a new Smart Path Connect Facilities Charge (“SPC-FC”), (2) amend Niagara Mohawk’s TSC to reflect the SPC-FC, and (3) make certain ministerial modifications to Niagara Mohawk’s TSC. The revisions pending in Docket No. ER22-1201 are unrelated to the revisions proposed in this compliance filing. Following Commission action on both filings, Niagara Mohawk commits to submit a compliance filing to reflect all changes to Niagara Mohawk’s TSC accepted by the Commission in either docket.

⁶ March 31 Order at P 19.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

amounts in the ADIT Worksheet in Schedule 14 that include gross-up. The gross-up included in the unamortized excess or deficient ADIT recorded to the regulatory liability account (Account 254) or regulatory asset account (Account 182) offsets grossed-up balances included in the remeasured ADIT accounts (Accounts 190, 282, and 283) and preserves rate neutrality in rate base. As the resulting impact to rate base is neutral, there is no double gross-up on excess and deficient ADIT in rate base when rate base is grossed-up as part of Niagara Mohawk's cost of capital calculation in Schedule 8 of its formula rate.

B. ADIT Worksheet

1. Category 1: How any ADIT accounts were remeasured and the excess or deficient ADIT contained therein

The March 31 Order found that Niagara Mohawk's ADIT Worksheet partially complies with the requirements of Order No. 864, but that the populated worksheets in Schedule 14 and 14(a) of Niagara Mohawk's formula rate include combined amounts from multiple originating accounts.¹⁰ Therefore, to provide transparency as to the source of excess or deficient ADIT in Schedule 14, as well as each remeasured amount in Schedule 14(a), the March 31 Order required Niagara Mohawk to revise both schedules to separately specify each originating account.¹¹

In response to the Commission's findings in the March 31 Order, Niagara Mohawk has updated the populated ADIT worksheets in Schedules 14 and 14(a) to separately identify each originating account for each line item related to the Tax Cuts and Jobs Act, as reflected in lines 1a through 1i of the populated ADIT worksheets submitted as Attachment C hereto.

2. Category 4: The identification of accounts to which the excess or deficient ADIT are amortized

The March 31 Order found that Niagara Mohawk's ADIT Worksheet does not comply with this Order No. 864 requirement because it does not show the accounts to which excess or deficient ADIT amounts are amortized.¹² The March 31 Order required Niagara Mohawk to revise its ADIT Worksheet to identify the deficient ADIT amounts that are included in Account 410.1 and the excess ADIT amounts that are included in Account 411.1 (*e.g.*, by adding new columns and/or rows).¹³

In this compliance filing, Niagara Mohawk proposes to update its ADIT Worksheet by adding a new column labeled "FERC Account No." This column will provide increased transparency with respect to the FERC account that will be utilized for the amortization of

¹⁰ *Id.* at PP 31-32.

¹¹ *Id.* at P 32.

¹² *Id.* at P 45.

¹³ *Id.*

excess/deficient ADIT amounts. Specifically, deficient ADIT would be amortized to Account 410.1, and excess ADIT would be amortized to Account 411.1.¹⁴

III. ADDITIONAL ORDER NO. 864 COMPLIANCE REVISIONS

In addition to the updates to comply with the March 31 Order outlined above, Niagara Mohawk proposes several minor revisions intended to increase the transparency of its ADIT Worksheet. Niagara Mohawk's 2021 FERC Form No. 1 report included additional regulatory liability line items that were added to separately identify excess ADIT by line of business. In addition, Niagara Mohawk included additional regulatory line items to reflect the impact of certain tax make whole provisions. In the 2021 Niagara Mohawk FERC Form No. 1, these lines document the impact of a rate case approved by the New York Public Service Commission on January 20, 2022.¹⁵ Because a portion of the ADIT amounts that would otherwise be reflected in lines 3a, 3b, and 3d of Niagara Mohawk's ADIT Worksheet are embedded in the "Make Whole Provision Impact – Gas" and "Make Whole Provision Impact – Electric" lines of Niagara Mohawk's FERC Form No. 1, the references in the ADIT Worksheet are no longer able to be correctly reconciled with the detail page of Niagara Mohawk's FERC Form No. 1. Niagara Mohawk intends to provide additional granularity in its FERC Form No. 1 reports related to comparable regulatory liability and asset issues that may arise in the future.

To fully reconcile to amounts reported in the FERC Form No. 1 and provide transparency in its ADIT Worksheet to reflect this FERC Form No. 1 enhancement, Niagara Mohawk proposes to modify its ADIT Worksheet to remove lines based on the previous aggregate reporting and to cross-reference only the balances which impact the calculation of the TSC formula rate to the separately identified functional detail provided in FERC Form No. 1.¹⁶ This revision will ensure that the ADIT Worksheet accurately reflects the additional granularity of Niagara Mohawk's FERC Form No. 1 going forward, while avoiding future reconciliation issues.

IV. PROPOSED EFFECTIVE DATE

Consistent with the directives of Order No. 864,¹⁷ Niagara Mohawk continues to request an effective date of January 27, 2020, for all revisions to Attachment H to the NYISO OATT proposed in this proceeding.

¹⁴ See also footnote (g) to the ADIT Worksheet, which states the deficient ADIT is amortized to Account 410.1 and excess ADIT is amortized to Account 411.1.

¹⁵ See *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service*, Case No. 20-E-0380 (New York Public Service Commission Jan. 20, 2022).

¹⁶ Niagara Mohawk specifically proposes to remove existing lines in 3a, 3b, and 3d in Schedule 14. The new Schedule 14, line 3a will reference the "FAS 109 – Electric" balances previously reflected in Schedule 14, line 3c. As a result, Niagara Mohawk also proposes to update the FERC Form 1 Reference in Schedule 7, line 9 to now reference Schedule 14, line 3a, rather than line 3c.

¹⁷ Order No. 864 at P 100.

V. DOCUMENTS INCLUDED IN THIS FILING

In addition to this transmittal letter, Niagara Mohawk submits the following materials in this compliance 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 showing changes from the current version on file with the Commission
Attachment C	Populated ADIT Worksheet showing the ADIT effects of the Tax Cuts and Jobs Act for Niagara Mohawk Power Corporation d/b/a National Grid

VI. CONCLUSION

The information submitted with this filing fully satisfies the Commission's requirements in the March 31 Order and its directives in Order No. 864. Accordingly, Niagara Mohawk respectfully requests that the Commission accept this filing as in compliance with the March 31 Order.

Respectfully submitted,

/s/ Patrick J. Tarmey

Patrick J. Tarmey

National Grid

40 Sylvan Road

Waltham, MA 02451

patrick.tarmey@nationalgrid.com

Sean A. Atkins

Shannon E. O'Neil

Davis Wright Tremaine LLP

1301 K Street NW

Suite 500 East

Washington, D.C. 20005

(202) 973-4200

seanatkins@dwt.com

shannononeil@dwt.com

*Counsel to Niagara Mohawk
d/b/a National Grid*

Dated: May 27, 2022

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served upon all 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 27th day of May, 2022.

/s/ Daniel Klein
Daniel Klein
Davis Wright Tremaine LLP
1301 K Street NW
Suite 500 East
Washington, D.C. 20005
(202) 973-4209