

March 8, 2023

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

Re: Niagara Mohawk Power Corporation
Docket No. ER23-_____

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” or “FERC”) regulations,² the New York Independent System Operator, Inc. (“NYISO”), as administrator of the NYISO Open Access Transmission Tariff (“OATT” or “Tariff”), submits via eTariff on behalf of Niagara Mohawk Power Corporation (“NMPC”)³ amendments to the NYISO OATT to reflect the addition of a new Rate Schedule 20 to provide for NMPC’s recovery of costs associated with its capital investments in two portions of Segment A of the AC Transmission Public Policy Transmission Project (“Segment A Project”), involving modifications to facilities and rights of way owned and operated by NMPC,⁴ as agreed to by LS Power Grid New York Corporation I (“LS Power”), the New York Power Authority (“NYPA”), and NMPC.

Proposed Rate Schedule 20 is closely modelled on Rate Schedule 17 of the NYISO OATT, which is the Commission-approved mechanism through which NMPC recovers its investment in upgrades associated with the Western New York Public Policy Transmission Need. NMPC also proposes minor revisions to Rate Schedule 17 in this filing in order to update

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35 (2022).

³ NYISO submits this filing on behalf of NMPC 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 NMPC, the sponsoring party. 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.

⁴ The Segment A Project is intended to address public policy transmission needs identified by the New York Public Service Commission (“NYPSC”) by providing a minimum of 350 MW of transfer capability across Central East New York. See *Order Finding Transmission Needs Driven by Public Policy Requirements*, NYPSC Case 14-E-0454 (Dec. 17, 2015) and *Order Addressing Public Policy Transmission Need For AC Transmission Upgrades*, NYPSC Case 14-E-0454 (Jan. 24, 2017), available at <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=14-e-0454&submit=Search>. Accord NYISO, AC Transmission Public Policy Transmission Plan (Apr. 8, 2019), available at <https://www.nyiso.com/documents/20142/5990681/AC-Transmission-Public-Policy-Transmission-Plan-2019-04-08.pdf>, Addendum at 3 (“Public Policy Transmission Plan”). Segment B of the AC Transmission Public Policy Transmission Project (together with the Segment A Project, the “AC Transmission Projects”) includes upgrades designed to provide a minimum of 900 MW of Upstate New York/Southeast New York transfer capability. *Id.*

a discrete line reference in that rate schedule, provide a direct cross-reference to the applicable tariff section containing the approved cost allocation methodology, and clarify the accounting of certain project-related settlements in the event that such settlements commenced prior to provision of the first non-zero revenue requirement for recovery through Rate Schedule 17.

NMPC respectfully requests that the Commission accept this filing by no later than May 8, 2023, to allow the amendments proposed herein to be implemented as part of NMPC's next Formula Rate Annual Update, which is scheduled to be submitted to the Commission through an informational filing on or before June 14, 2023.

I. BACKGROUND

A. Description of Filing Party

NMPC is a Commission-regulated public utility company organized and operated under the laws of the State of New York. It provides electric service to over 1.5 million customers and natural gas service to over 540,000 customers in upstate New York. NMPC owns and operates transmission facilities in New York, all of which are subject to the operational control of the NYISO. NMPC recovers its transmission revenue requirements pursuant to formula rates under the NYISO OATT.⁵

The outstanding common shares of NMPC are wholly owned by National Grid USA. National Grid USA is an indirect, wholly owned subsidiary of National Grid plc, a company incorporated in England and Wales. National Grid USA is a public utility holding company. Direct and indirect subsidiaries of National Grid USA are engaged in: (i) electric transmission under Commission jurisdiction in New York, Massachusetts, Vermont, and New Hampshire;⁶ (ii) electric distribution to residential, commercial, and industrial customers in New York and Massachusetts; and (iii) the distribution of natural gas to residential, commercial, and industrial customers in New York and Massachusetts. These various subsidiary companies operate and maintain power lines, substations, and/or natural gas distribution facilities; provide metering, billing, and customer service; design and build electric and/or gas facilities; and provide related products and services, including energy efficiency programs for customers. National Grid USA is also affiliated with entities that own, operate, or control qualifying facilities, distributed generation, behind-the-meter solar, and other renewable generating capacity.

NMPC is the only National Grid USA subsidiary that owns or operates transmission facilities in New York. National Grid USA also indirectly owns four New York generation subsidiaries: (1) National Grid Generation LLC, (2) National Grid Glenwood Energy Center LLC, (3) National Grid Port Jefferson Energy Center LLC, and (4) National Grid Generation Ventures, LLC. The energy and capacity of these public utility subsidiaries on Long Island are wholly committed to the Long Island Power Authority under long-term contracts.

⁵ See NYISO OATT, Attachment H.

⁶ National Grid's electric transmission facilities in New York and New England are under the operational control of the NYISO and ISO New England Inc., respectively.

B. The Segment A Project

The Segment A Project is one portion of a group of transmission projects in New York known as the “AC Transmission Projects.” The AC Transmission Projects were selected by the NYISO Board of Directors pursuant to the NYISO’s Public Policy Transmission Planning Process set forth in Section 31.4 of Attachment Y of the NYISO OATT and consistent with the requirements of Order No. 1000.⁷

Following a competitive public solicitation process, the NYISO Board of Directors selected NYPA and LS Power as joint developers of the Segment A Project on April 8, 2019.⁸ On December 31, 2019, in Docket No. ER20-716-000, the NYISO filed on behalf of LS Power a transmission formula rate template and formula rate implementation protocols—proposed for inclusion as Attachment 1 to Rate Schedule 10 of the NYISO OATT—to recover the costs of LS Power’s investment in the Segment A Project facilities, together with a request for certain incentive rate treatments.

On May 26, 2020, the Commission accepted LS Power’s submittal for filing, suspended it for a nominal period, and established hearing and settlement judge procedures regarding certain matters.⁹ On April 1, 2021, LS Power submitted an offer of settlement (“LS Power Settlement”) on behalf of a number of settling parties resolving all issues set for hearing in Docket No. ER20-716-001. Among other things, the LS Power Settlement set forth the cost allocation that will govern the Segment A Project, which, in accordance with Section 31.8.2 of Appendix E to Attachment Y of the NYISO OATT, provides that “(i) 25 percent of the costs will be allocated to all Load Zones in the [New York Control Area] based upon load-ratio share, and (ii) 75 percent of the costs will be allocated to those Load Zones that would economically benefit from the implementation of the AC Transmission Project based on the relative reduction in energy payments.”¹⁰ The Commission issued a letter order approving the LS Power Settlement and accepting LS Power’s revised tariff records, including Attachment 1 to Rate Schedule 10 of the NYISO OATT (Section 6.10.7).¹¹

Construction activities began in early 2021, and the anticipated in-service date for the AC Transmission Projects is December 2023. Portions of the scope of work established for the Segment A Project involve modifications to transmission facilities and rights of way owned and operated by NMPC. LS Power, NYPA, and NMPC discussed and agreed that NMPC will make

⁷ See *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁸ See NYISO, 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>, at 2 (“NYISO Approval Decision”). The NYISO Approval Decision refers to LS Power by its former name (*i.e.*, North America Transmission Corporation).

⁹ *New York Independent System Operator, Inc. et al.*, 171 FERC ¶ 61,159 (2020).

¹⁰ See LS Power Settlement, art. III.B, section 3.7.

¹¹ *New York Independent System Operator, Inc. et al.*, 175 FERC ¶ 61,210 (2021) (letter order).

the capital investment in, and recover the costs of, two such portions of the Segment A Project. These two portions are: (1) all work required within the existing and expanded fence-line of National Grid's Edic Substation; and (2) all work required to remove the existing conductor and install new 345 kV conductor on existing towers owned by NMPC (in place of NMPC's existing #30 line) for approximately 12 miles in and between Oneida County, New York and Herkimer County, New York.

II. DESCRIPTION OF THE PROPOSED TARIFF REVISIONS

The enclosed revisions to the NYISO OATT are submitted in order to facilitate NMPC's cost recovery related to the two portions of the Segment A Project, indicated above, for which NMPC will own and recover the costs (the "NMPC Segment A Facilities"),¹² including a reasonable return on investment.¹³

The tariff revisions proposed herein consist of a new Rate Schedule 20 ("Rate Mechanism for the Recovery of Niagara Mohawk Segment A Facilities"), which establishes the Niagara Mohawk Segment A Facilities Charge ("NMSA-FC") for the recovery of NMPC's investment in the NMPC Segment A Facilities. Section 6.20.3.1 under proposed Rate Schedule 20 provides that the NYISO will calculate and bill the NMSA-FC separately for the NMPC Segment A Facilities and will collect the NMSA-FC from specified New York load-serving entities ("LSEs", and collectively, the "Responsible LSEs").¹⁴ Consistent with Section 31.8.2 of Appendix E to Attachment Y of the NYISO OATT, and as set forth in the LS Power Settlement accepted by the Commission, the costs of the NMPC Segment A Facilities shall be allocated to the LSEs in accordance with the Commission-approved AC Transmission Public Policy Transmission Need Cost Allocation Methodology, which allocates 75 percent of costs to a designated transmission project's beneficiaries and allocates the remaining 25 percent of costs on the basis of load-ratio share.

Proposed Section 6.20.3.5 sets forth the formula that will govern the NYISO's calculation of the NMSA-FC for each Responsible LSE. NMPC, in turn, will determine the NMSA-FC revenue requirement each year as part of the Annual Update process set forth in its existing wholesale Transmission Service Charge ("TSC") (Section 14.1.9.4 of Attachment H of the NYISO OATT). The revenue requirement for the NMPC Segment A Facilities will be

¹² The modifications to the NMPC Segment A Facilities are estimated to cost a total of \$38,881,000, with the work required within the existing and expanded fence-line of NMPC's Edic Substation estimated at \$22,310,000, and the costs for the removal of existing conductor and installation of new 345 kV conductor on existing towers owned by NMPC in and between Oneida and Herkimer Counties estimated at \$16,571,000.

¹³ Rate Schedule 20 will allow NMPC to earn the same return on equity for the NMPC Segment A Facilities that applies to NMPC's wholesale Transmission Service Charge. That return on equity is currently based on a settlement accepted by the Commission in 2015. *See N.Y. Ass'n of Pub. Power v. Niagara Mohawk Power Corp.*, 151 FERC ¶ 61,121 (2015).

¹⁴ Section 1.12 of the NYISO OATT defines an LSE as, "An entity, including a municipal electric system and an electric cooperative, authorized or required by law, regulatory authorization or requirement, agreement, or contractual obligation to supply Energy, Capacity and/or Ancillary Services to retail customers located within the [New York Control Area], including an entity that takes service directly from the ISO to supply its own load in the NYCA."

calculated using a carrying charge approach, whereby the revenue requirement shall equal the product of NMPC's historical TSC revenue requirement multiplied by the ratio of the NMPC Segment A Facilities to NMPC's gross transmission plant in service.

In order to avoid double-charging NMPC's TSC customers, payments received by NMPC for the NMSA-FC will be treated as a credit to NMPC's TSC revenue requirement. The Commission-accepted formula rate protocols that apply to NMPC's TSC will also apply to the determination of the NMSA-FC revenue requirement, which will equal the annual Historical Transmission Revenue Requirement for NMPC's TSC. The NMSA-FC revenue requirement will be separately stated in the Annual Update, and NMPC will provide supporting documentation for the calculation of the NMSA-FC as part of that process. Each Responsible LSE shall be an "Interested Party" that will have the right to review and challenge the calculation of the NMSA-FC revenue requirement.

Rate Schedule 20 is closely modeled upon other NYISO rate schedules previously accepted by the Commission, including rate schedules establishing charges for facilities relating to public policy transmission projects selected under Attachment Y to the NYISO OATT. This approach is just and reasonable, as it utilizes a Commission-accepted method for calculation and allocation of the costs associated with NMPC's capital investments in public policy transmission projects. In particular, Rate Schedule 20 replicates many of the provisions found in Rate Schedule 17, which establishes the Western New York Facilities Charge to provide for the recovery of the costs of certain upgrades made by NMPC to non-bulk transmission facilities related to public policy transmission projects.

NMPC is also proposing minor tariff revisions to Rate Schedule 17 to reflect changes made in compliance with the Commission's Order No. 864, as well as clarify certain other provisions.¹⁵ Specifically, NMPC proposes to update Section 6.17.3.2(a) of Rate Schedule 17 to reflect that NMPC's historical TSC revenue requirement is now equal to Attachment 1 to Attachment H, Schedule 1, line 18—rather than line 17—following the addition of a new line 17 to Rate Schedule 1 as part of NMPC's Commission-approved Order No. 864 compliance changes. Additionally, NMPC proposes to update the description of the applicable cost allocation methodology in Section 6.17.3.1 of Rate Schedule 17 for its charges under Rate Schedule 17 with a cross reference to the tariff section that contains such allocation methodology (*i.e.*, Section 31.8.4 of Appendix E to Attachment Y of the NYISO OATT). NMPC further proposes to clarify the procedures applicable in the event that settlements related to the revenue offset for any Incremental TCCs awarded to the applicable NMPC non-bulk transmission facilities commence prior to provision of its first revenue requirement for recovery pursuant to Rate Schedule 17. Under these circumstances, any such revenue offset related settlements would

¹⁵ See *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). The Commission approved NMPC's proposed Order No. 864 compliance changes effective January 27, 2020. See *New York Indep. Sys. Operator, Inc.*, Docket No. ER20-2051-003 (Oct. 7, 2022) (delegated letter order).

be accounted for by NMPC through its annual revenue true-up mechanism associated with recoveries under Rate Schedule 17.

III. REQUESTED WAIVERS AND SERVICE

In order to support the ongoing development of the Segment A Project, NMPC requests that the Commission accept this filing to be effective on May 8, 2023 (*i.e.*, the first day following the end of the statutory 60-day notice period). Issuance of a Commission order accepting this filing as soon as practicable, but no later than May 8, 2023, will ensure that the amendments proposed herein are in place for purposes of NMPC's next Formula Rate Annual Update, which is scheduled to be submitted to the Commission through an informational filing on or before June 14, 2023. NMPC respectfully requests waiver of any applicable requirements in 18 C.F.R. § 35.13 as necessary in order to permit this filing to become effective as proposed.

NMPC has served a copy of this filing electronically on the NYPSC and on the NYISO. NMPC has confirmed with the NYISO that a complete copy of this filing will be posted on the NYISO's website at www.nyiso.com. The NYISO has also informed NMPC that it will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees. This will ensure that all New York LSEs receive notice of this filing.

IV. DOCUMENTS INCLUDED IN THIS FILING

In addition to this transmittal letter, NMPC submits the following in support of this compliance filing:

- Attachment A: Clean Version of Proposed Rate Schedule 20 to the NYISO OATT
- Attachment B: Marked Version of Proposed Rate Schedule 20 to the NYISO OATT
- Attachment C: Clean Version of Rate Schedule 17 to the NYISO OATT
- Attachment D: Marked Version of Rate Schedule 17 to the NYISO OATT

V. CORRESPONDENCE AND COMMUNICATIONS

All notices, correspondence, and communications regarding this filing should be directed to the following individuals:

David Lodemore
Senior Counsel
National Grid USA
170 Data Drive
Waltham, MA 02451
Tel: (781) 907-3704
David.Lodemore@nationalgrid.com

Michael Kunselman
Davis Wright Tremaine
1301 K Street NW
Suite 500 East
Washington, DC 20005
Tel: (202) 298-1800
michaelkunselman@dwt.com

The Honorable Kimberly D. Bose

March 8, 2023

Page 7

VI. CONCLUSION

For the reasons set forth above, NMPC respectfully requests that the Commission accept the proposed amendments to the NYISO OATT attached hereto with an effective date of May 8, 2023.

Respectfully submitted,

Michael Kunselman
Shannon E. O'Neil
Davis Wright Tremaine
1301 K Street NW
Suite 500 East
Washington, DC 20005

/s/ David Lodemore
David Lodemore
Senior Counsel
National Grid USA
170 Data Drive
Waltham, MA 02451

*Counsel for Niagara Mohawk Power
Corporation*