

June 1, 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-____-000**

**Filing of Small Generator Interconnection Agreement with
Northbrook Lyons Falls 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 d/b/a National Grid (“Niagara Mohawk”) submits for filing a Small Generator Interconnection Agreement (“Agreement”) between Niagara Mohawk and Northbrook Lyons Falls LLC (“Lyons Falls”), designated as Service Agreement No. 2780 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).³ The Agreement follows the terms of the NYISO *pro forma* SGIA with only minor revisions primarily to reflect that it is a two-party agreement. Niagara Mohawk requests that the Commission accept the Agreement effective as of the date agreed to by the parties and set forth in the Agreement, May 2, 2023.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

³ The Agreement is captioned as a Small Generator Interconnection Agreement (“SGIA”) because its terms and conditions are based upon the terms and conditions of the Commission-approved *pro forma* SGIA that was set forth in Appendix 7 of Attachment Z to the NYISO OATT at the time the Agreement was finalized. Niagara Mohawk uses this “modified SGIA” to document the interconnection of generators when Commission jurisdiction does not attach or the NYISO is not required to be a party to the interconnection agreement. Interconnection pursuant to the Agreement is not subject to the NYISO’s Small Generator Interconnection Procedures (Attachment Z to the NYISO OATT). The Agreement does not involve a new interconnection request to the NYISO, and thus the Agreement does not need to be a three-party agreement that also includes the NYISO as a party and tracks the NYISO *pro forma* SGIA. See *New Eng. Power Co.*, 109 FERC ¶ 61,364, at PP 12-13 (2004).

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.

Lyons Falls is a limited liability company organized and existing under the laws of the State of New York. Lyons Falls owns and operates eight hydroelectric generating units with a total nameplate capacity of approximately 8.59 MW (collectively, the "Facility"), located on the Black River and Moose River in Lyons Falls, County of Lewis, New York.

The Facility is a Qualifying Facility ("QF")⁴ interconnected to Niagara Mohawk's transmission system and is currently subject to an existing generator interconnection agreement ("IA") between Niagara Mohawk and Lyons Falls that the Commission accepted for filing.⁵ Niagara Mohawk does not purchase all of the Facility's QF output and uses its transmission system to transmit power from the Facility in interstate commerce.

II. Filing Requirements and Description of the Agreement

Section 205 of the FPA authorizes the Commission to require utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional transmission or sales of electric energy.⁶ The Commission has provided guidance regarding some of the specific agreements that must be filed under this authority. The Commission has found that "[i]nterconnection agreements between utilities come within section 205 of the FPA."⁷ The Commission also has "jurisdiction over 'transmission' facilities, which may be used for wholesale sales or unbundled retail sales and which are subject to an OATT."⁸ Further, pursuant to Commission policy, "[w]hen an electric utility interconnecting with a QF does not purchase all of the QF's output and instead transmits the QF's power in interstate commerce, the Commission exercises jurisdiction over the rates, terms, and conditions affecting or related to such

⁴ See Lyons Falls recertification of QF status, Docket No. QF00-54-002 (Jan. 20, 2010).

⁵ See *Niagara Mohawk Power Corp.*, Commission letter order, Docket No. ER08-290-000 (Jan. 8, 2008).

⁶ 16 U.S.C. §§ 824d(a), -(c).

⁷ *Prior Notice and Filing Requirements Under Section II of the Federal Power Act*, 64 FERC ¶ 61,139, at 61,991 (1993).

⁸ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190, at P 51 (2005).

service, such as interconnections.”⁹ In addition, the IA is already on file with the Commission, and the Agreement will supersede and replace the IA.¹⁰

Niagara Mohawk recognizes that the Commission may find the Agreement to be a jurisdictional agreement that must be filed. Therefore, Niagara Mohawk is submitting the Agreement for Commission acceptance.

The Agreement submitted in this filing generally conforms with the *pro forma* SGIA set forth in Appendix 7 of Attachment Z to the NYISO OATT, with only limited modifications that include:

- Making Niagara Mohawk and Lyons Falls the only parties to the Agreement and omitting the NYISO as a party;
- Specifying that the Agreement has a term of 20 years,¹¹ rather than the ten-year term contained in the NYISO *pro forma* SGIA;
- Describing the Facility, the respective Lyons Falls and Niagara Mohawk interconnection facilities, and the respective scope of work and responsibilities of Lyons Falls and Niagara Mohawk;¹²
- Specifying that Lyons Falls must comply with all applicable NYISO tariffs and procedures, and must comply with Niagara Mohawk’s operating instructions and requirements and Electric System Bulletins to the extent they are not inconsistent with the terms of the Agreement, the NYISO OATT, or applicable NYISO procedures.¹³

A red-lined document showing the differences between the Agreement and the NYISO *pro forma* SGIA is provided in Attachment B to this filing.

III. Effective Date

Niagara Mohawk respectfully requests that the Commission accept the Agreement effective as of May 2, 2023, the effective date agreed to by the Parties.¹⁴ The

⁹ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, at P 516 (citation omitted) (2005) (“Order No. 2006”).

¹⁰ Niagara Mohawk will file a notice of cancellation of the IA following Commission acceptance of the Agreement for filing.

¹¹ Agreement, Article 3.2.

¹² Agreement, Attachment 2.

¹³ Agreement, Attachment 5.

¹⁴ *See* Agreement, Preamble and Article 3.1.

Commission’s regulations require that a service agreement be filed within 30 days of its effective date or such other date as may be specified by the Commission.¹⁵ Niagara Mohawk is filing the Agreement within 30 days of the effective date described above.

Good cause exists for the Commission to grant the requested May 2, 2023 effective date. Granting this effective date will effectuate the express intent of the Parties and, because the Agreement is a generator interconnection service agreement between those Parties, will not prejudice or otherwise have an adverse impact on any other entity. Further, as noted above, the Agreement submitted in this filing generally conforms with the *pro forma* SGIA set forth in the NYISO OATT, with only limited modifications. But for those limited modifications, the Agreement would fully conform with the *pro forma* SGIA and would therefore normally go into effect as of the date it was executed by the parties.¹⁶ Conversely, if the Commission does not grant the requested effective date and instead requires a later effective date, that will delay the provision of generator interconnection service under the Agreement. Such a delay would be contrary to the Commission’s policy objective of expediting generator interconnections, including amendments to existing interconnection agreements to reflect changed circumstances.¹⁷ For these reasons, Niagara Mohawk respectfully requests that the Commission grant the effective date of May 2, 2023, agreed to by the Parties and specified in the Agreement.¹⁸

IV. Attachments

In addition to this transmittal letter, this filing includes the following attachments:

- | | |
|--------------|---|
| Attachment A | The Agreement between Niagara Mohawk and Lyons Falls; and |
| Attachment B | A red-lined document showing the differences between the Agreement and the NYISO <i>pro forma</i> SGIA. |

¹⁵ 18 C.F.R. § 35.3(a)(2).

¹⁶ Article 3.1 of the *pro forma* SGIA set forth in the NYISO OATT states in relevant part that “[t]his Agreement shall become effective upon execution by the Parties subject to acceptance by FERC (if applicable).”

¹⁷ See, e.g., *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006-A, 113 FERC ¶ 61,195, at P 25 (2005) (“The very purpose of the SGIP [Small Generator Interconnection Procedures] and SGIA is to expedite interconnections of Small Generating Facilities by removing unnecessary delays wherever possible.”); *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,277, at P 2 (2008) (stating that the Commission’s generator interconnection “policy [i]s to minimize opportunities for undue discrimination and expedite the development of new generation, while protecting reliability and ensuring that rates are just and reasonable.”).

¹⁸ To the extent necessary and for the same reasons explained above, Niagara Mohawk also respectfully requests waiver of the Commission’s notice requirement. See 18 C.F.R. § 35.11.

The Honorable Kimberly D. Bose

June 1, 2023

Page 5

V. Communications

Communications and correspondence regarding this filing should be addressed to the following individuals:

Christopher J. Novak
Senior Counsel
National Grid USA
Service Company, Inc.
170 Data Drive
Waltham, MA 02451
(781) 907-2112
chris.novak@nationalgrid.com

Sean Atkins
Bradley R. Miliauskas
Davis Wright Tremaine LLP
1301 K Street NW
Suite 500 East
Washington, DC 20005
(202) 973-4200
seanatkins@dwt.com
bradleymiliauskas@dwt.com

Kevin C. Reardon
Director, Commercial Services
National Grid
170 Data Drive
Waltham, MA 02451
(781) 906-3988
kevin.reardon@nationalgrid.com

VI. Service

Copies of this filing have been served on Lyons Falls, the NYISO, and the New York Public Service Commission.

VII. Conclusion

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Agreement effective as of May 2, 2023.

Respectfully submitted,

/s/ Christopher J. Novak

Christopher J. Novak
Senior Counsel
National Grid USA
Service Company, Inc.
170 Data Drive
Waltham, MA 02451

Counsel for Niagara Mohawk Power Corporation