

August 28, 2023

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

**Re: New York Independent System Operator, Inc. and  
Niagara Mohawk Power Corp.  
Docket Nos. ER23-973-001 and ER23-974-001  
Compliance Filing in Response to July 28 Order**

Dear Secretary Bose:

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”)<sup>1</sup> this compliance filing in response to the Order on Tariff Filings, and Establishing Hearing and Settlement Judge Proceedings issued in the above-referenced dockets by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on July 28, 2023 (“July 28 Order”). Among other things, the July 28 Order accepted, in part, proposed revisions to NMPC’s Transmission Service Charge (“TSC”) formula rate (“Formula Rate”), which sets NMPC’s Wholesale TSC under Attachment H to the NYISO OATT<sup>2</sup> to recover the costs of its investment in a new transmission project, the Smart Path Connect Project (the “SPC Project” or the “Project”). As explained below, NMPC proposes additional revisions to Schedules 15c and 15d of its Formula Rate in this filing to address the compliance items in the July 28 Order, as well as de minimis updates to reflect changes in line numbering as a result of the same. As explained below, NMPC also includes conforming tariff revisions in this filing to incorporate intervening amendments to its Formula Rate that were accepted by the Commission separately from its review of the revisions accepted in the July 28 Order.<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> NYISO, NYISO Tariffs, NYISO OATT, §§ 14.2-14.2.1 (Attachment I to Attachment H) (26.0.0), Schedules 15a-15e.

<sup>3</sup> On January 20, 2023, the NYISO submitted revisions to the NYISO OATT on NMPC’s behalf in Docket No. ER23-907-000. The revisions submitted in Docket No. ER23-907-000 were accepted by the Commission in a letter order issued February 16, 2023, and are unrelated to the authorizations approved in the July 28 Order. *See Niagara Mohawk Power Corp.*, Docket No. ER23-907-000 (Feb. 16, 2023) (delegated letter order). NMPC committed to submit a conforming compliance filing to reflect all changes accepted by the Commission in Docket No. ER23-907-000 and the above-captioned dockets following Commission action in all three dockets.

## **I. BACKGROUND**

The SPC Project was identified and selected as a “priority transmission project” by the New York State Public Service Commission and is needed on an expedited basis in order to meet New York State’s legislatively-enacted clean energy policies and provide benefits to consumers throughout the State. By alleviating existing and well-known transmission deliverability constraints, the SPC Project will unlock northern New York’s potential as a significant site for renewable development, serve as a foundation for the State to meet its clean energy goals, and result in substantial congestion cost savings and lower capacity market costs, thereby reducing the cost of delivered power for consumers.

The Project is significant in scope and will be developed as a joint undertaking between NMPC and the New York Power Authority (“NYPA”). On January 30, 2023 (the “January 30 Filing”), as amended on May 30, 2023, the NYISO submitted for filing on behalf of NMPC proposed revisions to the Formula Rate to recover the costs of NMPC’s investment in the Project in Docket No. ER23-973-000.<sup>4</sup> Concurrently, NMPC submitted a Cost Allocation Agreement for NMPC’s portion of the SPC Project for filing in Docket No. ER23-974-000.

In the July 28 Order, the Commission accepted the amendments to the NYISO OATT proposed in the January 30 Filing, as amended by the May 30 Filing, subject to NMPC’s submission of a compliance filing within 30 days.<sup>5</sup> NMPC is submitting this letter and attachments in response to the compliance requirements outlined in the July 28 Order. NMPC respectfully requests that the Commission act within 60 days and issue an Order approving the compliance revisions proposed herein on or before October 27, 2023, in order to enable NYPA and NMPC to place the Project in service by December 2025.

## **II. COMPLIANCE FILING**

NMPC respectfully submits this compliance filing in response to the directives in the July 28 Order. In the May 30 Filing, NMPC proposed revisions to footnote (a) within Schedule 15c of its Formula Rate to provide additional clarity and reflect NMPC’s full compliance with the directives of the Commission’s Order No. 864.<sup>6</sup> NMPC committed to incorporate these revisions in a compliance filing to be submitted following Commission action on the May 30 Filing. Accordingly, and as directed by the Commission in the July 28 Order,<sup>7</sup> NMPC incorporates the

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<sup>4</sup> The January 30 Filing was amended by a subsequent deficiency letter response filed on May 30, 2023 (the “May 30 Filing”). Attachment B to this filing shows the compliance changes to Section 14.2.1 to Attachment H of the NYISO OATT proposed herein as incremental redline revisions to the version of Section 14.2.1 to Attachment H proposed in the May 30 Filing and accepted by the Commission in the July 28 Order.

<sup>5</sup> July 28 Order at PP 63, 64, Ordering Paragraph (D).

<sup>6</sup> Schedules 15c and 15d of the Formula Rate are the permanent and remeasurement worksheets developed to account for any excess or deficient Accumulated Deferred Income Taxes (“ADIT”) that arise related specifically to the SPC Project.

<sup>7</sup> July 28 Order at P 63, Ordering Paragraph (D).

proposed revisions to footnote (a) within Schedule 15c of the Formula Rate in the tariff records filed herewith.

Additionally, NMPC proposes to revise Schedule 15a of the Formula Rate to remove placeholder line items for Project-related regulatory assets in lines 5 and 13 of Schedule 15a.<sup>8</sup> To effectuate this change, NMPC also proposes conforming revisions to reflect line numbering adjustments as a result of the removal of lines 5 and 13 from Schedule 15a, address minor clean up items, and update various cross references elsewhere in the Formula Rate.

NMPC also proposes revisions to its Formula Rate in this filing to incorporate intervening amendments that were still pending at the time of the January 30 Filing, but were subsequently accepted by the Commission in Docket No. ER23-907-000.<sup>9</sup> In addition to addressing minor clean up items, the revisions accepted in Docket No. ER23-907-000 allow NMPC to maintain compliance with the Internal Revenue Service's ADIT proration methodology. NMPC committed in the January 30 and May 30 Filings to submit a conforming compliance filing to reflect all changes accepted by the Commission in Docket Nos. ER23-907, ER23-973, and ER23-974. The changes accepted by the Commission in all three dockets are reflected in the tariff records filed herewith.

### **III. PROPOSED EFFECTIVE DATE**

Consistent with the effective date established by the Commission in the July 28 Order,<sup>10</sup> NMPC requests an effective date of April 1, 2023, for the compliance revisions to Attachment H to the NYISO OATT proposed herein.

### **IV. DOCUMENTS INCLUDED IN THIS FILING**

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

Attachment A	Clean version of the proposed revisions to the NYISO OATT
Attachment B	Redlined version of the proposed revisions to the NYISO OATT showing changes from the version submitted as part of the May 30 Filing

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<sup>8</sup> See *id.* at P 64, Ordering Paragraph (D).

<sup>9</sup> See *Niagara Mohawk Power Corp.*, Docket No. ER23-907-000 (Feb. 16, 2023) (delegated letter order).

<sup>10</sup> July 28 Order at P 2.

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**V. CONCLUSION**

The information submitted with this filing fully satisfies the Commission's requirements in the July 28 Order. Accordingly, NMPC respectfully requests that the Commission accept the revisions proposed herein, effective April 1, 2023, as in compliance with the July 28 Order.

Respectfully submitted,

/s/ David Lodemore

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Dated: August 28, 2023

## **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 28th day of August, 2023.

/s/ Daniel Klein

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