

October 31, 2024

Honorable Debbie-Anne A. Reese
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Niagara Mohawk Power Corporation
Docket No. ER25-__-000
VIA E-Tariff**

**Filing of Large Generator Interconnection Agreement with Sterling Power
Partners, L.P. (Alliance Energy), Fourth Revised Service Agreement No. 1144**

Dear Secretary Reese:

Pursuant to Section 205 of the Federal Power Act (“FPA”),¹ Section 35.13 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) regulations,² Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk”) hereby tenders for filing an unexecuted amended and restated Large Generator Interconnection Agreement (“Amended and Restated LGIA”) between Niagara Mohawk and Sterling Power Partners L.P. (“Sterling Power Partners”) to supersede the Sterling LGIA currently on file with the Commission that is currently designated as the Third Revised Service Agreement No. 1144 (“Sterling LGIA”) under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).³ The attached Amended and Restated Sterling LGIA is designated as the Fourth Revised Service Agreement No. 1144 under the NYISO OATT.

In accordance with Article 29.13 of the Sterling LGIA, Niagara Mohawk has the right to make unilateral filings with the Commission to modify the Sterling LGIA with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under Section 205. Sterling Power Partners has refused to execute the Amended and Restated Sterling LGIA. Niagara Mohawk has provided in this filing its comments on the dispute concerning the unexecuted Amended and Restated Sterling LGIA.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35 (2023).

³ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Attachments S or X of the NYISO OATT, and if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

I. OVERVIEW OF FILING

As explained in Section II below, the Sterling Generating Facility owned by Sterling Power Partners has been interconnected to Niagara Mohawk's transmission system for decades under the terms of previous interconnection agreements entered into between Sterling Power Partners and Niagara Mohawk.⁴ Therefore, the Amended and Restated Sterling LGIA is not the result of a request for new interconnection service under the NYISO OATT. Moreover, there are no proposed increases in capacity of, nor changes to, the characteristics of the Sterling Generating Facility. However, the Connecting Transmission Owner Attachment Facilities relevant to this interconnection are at the end of their useful life. To mitigate the obsolescence of these facilities and to continue to ensure reliability of the facilities exclusively used by Niagara Mohawk to transmit to the New York Transmission System power produced by the Sterling Generating Facility the Connecting Transmission Owner Attachment Facilities identified in Appendix A to the Sterling LGIA must be replaced. Therefore, this Amended and Restated Sterling LGIA is intended to supersede the Third Revised Service Agreement No. 1144 entered between the parties that is currently on file with the Commission.

The Amended and Restated Sterling LGIA conforms in form with the NYISO's Large Generator Interconnection Agreement ("Attachment X LGIA") that is contained in Appendix 6 to Attachment X to the NYSIO OATT. Other than the set of revisions to the Sterling LGIA proposed in this filing, any differences between the Attachment X LGIA and the Sterling LGIA were previously authorized by the Commission in separate orders.⁵ Further, as described in Part III of this letter, Niagara Mohawk respectfully requests a waiver of the Commission's prior notice requirements⁶ to make the Amended and Restated Sterling LGIA effective as of November 1, 2024, which is one day following the submission of this filing.

II. BACKGROUND

A. Description of Filing Parties

Niagara Mohawk is a Commission-regulated public utility company organized and operated under the laws of the State of New York. It provides electric delivery service and interconnection service to over 1.5 million New York customers. Niagara Mohawk owns and operates transmission facilities in New

⁴ See e.g., *Niagara Mohawk Power Corp.*, Docket No. ER13-736-000 (filed Jan. 9, 2013).

⁵ *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,104 (2007) ("October 2007 Order"), *order on reh'g*, 123 FERC ¶ 61,144 (2008); *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-005, *et al.* (letter order, Aug. 7, 2008) (accepting compliance filing); *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-002, *et al.* (letter order, Dec. 17, 2007) (accepting refund report).

⁶ See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

York, all of which are subject to the operational control of the NYISO and under the jurisdiction of the Commission.

Sterling Power Partners is the owner of a 62 megawatt combined-cycle natural gas-fired cogeneration electric generating facility located in Sherrill, New York (“Sterling Generating Facility”). Sterling Power Partners has received authority to sell power at market-based rates.⁷ The output of the Sterling facility is sold into NYISO’s wholesale markets. The terms of Sterling’s interconnection to Niagara Mohawk’s transmission system date back to November 22, 1991.

B. Origin and Evolution of Sterling’s Interconnection

As of the onset of Sterling Power Partner’s November 22, 1991 interconnection agreement, Sterling had already entered into a New York State Public Service Commission approved power purchase agreement with Niagara Mohawk. At that time, Sterling Power Partners had certified the Sterling Generating Facility as a Qualifying Facility and because Niagara Mohawk had agreed to purchase the total output of the Sterling Generating Facility, the terms of the Sterling interconnection agreement were subject to New York State jurisdiction rather than federal jurisdiction,⁸ and therefore, Niagara Mohawk did not have the interconnection agreement on file with the Commission.

On June 30, 1998, as a result of a Master Restructuring Agreement (“MRA”) entered into between Niagara Mohawk and a number of independent power producers including Sterling Power Partners, Niagara Mohawk and Sterling Power Partners agreed to terminate their power purchase agreement and enter into an amended and restated interconnection agreement.

Although Sterling Power Partners and Niagara Mohawk entered into a Commission jurisdictional interconnection agreement in 1998, the parties did not place the Sterling interconnection agreement on file with the Commission until June 8, 2007. In its 2007 filing, Niagara Mohawk acknowledged that it should have placed the Sterling interconnection agreement on file with the Commission in 1998 contemporaneous with its termination of the power purchase agreement and identified the operation and maintenance charge collections plus interest that it agreed to refund to Sterling Power Partners attendant to interconnection service provided during that 9-year period. In the October 2007 Order, the Commission accepted the 2007 Sterling interconnection agreement, subject to conditions, approved an uncontested settlement between Sterling Power Partners and Niagara Mohawk related to certain refunds associated with prior interconnection agreements among the parties, and directed Niagara Mohawk to file a refund report. Niagara Mohawk subsequently filed and obtained Commission acceptance of the required changes

⁷ *Power City Partners, L.P., et al.*, Docket No. ER98-2782-000 (June 17, 1998) (unpublished letter order).

⁸ *See Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 FR 49845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003) (“Order No. 2003”) (“When an electric utility is obligated to interconnect under Section 292.303 of the Commission’s Regulations, that is, when it purchases the QF’s total output, the relevant state authority exercises authority over the interconnection and the allocation of interconnection costs.”).

to the interconnection agreement and refund report.⁹ The Commission accepted the 2007 Sterling interconnection agreement effective as of June 8, 2007.¹⁰

On January 9, 2013, Niagara Mohawk filed to extend the term of interconnection service under the Sterling interconnection agreement and to make other non-substantive updates.¹¹ The Commission accepted the 2013 Sterling LGIA for filing by letter order on March 1, 2013.¹²

III. PROPOSED REVISIONS TO THE STERLING LGIA

The Sterling LGIA reflects the terms contained in the NYISO's Attachment X LGIA, but many of the terms are not applicable to the interconnection agreement as previously settled between the parties. This is because this interconnection is governed by a two-party grandfathered interconnection agreement that pre-dates the NYISO OATT. When the parties amended and restated the 1998 interconnection agreement in 2007, they sought to adapt it to the *pro forma* version of the LGIA contained in the NYISO OATT at the time, but to omit terms that would not necessarily be applicable to a generation facility already in commercial operation. To effectuate this intent, the parties included non-conforming Appendix H, which identifies a list of Attachment X LGIA provisions that, although reflected in the amended and restated agreement text, are expressly rendered inapplicable by way of Appendix H.

First, the driving need to amend and restate the Sterling LGIA is to account for the necessary replacement of certain of Niagara Mohawk's Connecting Transmission Owner Attachment Facilities that are exclusively required to provide interconnection service to the Sterling Generating Facility. Complete replacement of Niagara Mohawk's portion of a 115-kV tie line supporting the Sterling Generating Facility as well as replacement of certain breakers, switches, controls, protection, communication and power equipment facilities are estimated to cost nearly \$2.5 million. For current, *pro forma* interconnection customers, Niagara Mohawk requires provision of security for construction of replacement Attachment Facilities of this nature. However, Appendix H to the Sterling LGIA, currently excludes Article 11.5 from applicability. In the Amended and Restated Sterling LGIA, Niagara Mohawk proposes to instate the *pro forma* requirements of Article 11.5 and to remove the provision from Appendix H's list of excluded terms.

Sterling Power Partners has refused to execute the Amended and Restated Sterling LGIA because it takes the position that funding replacement of the relevant Connecting Transmission Owner Attachment Facilities is not its responsibility under the Sterling LGIA. However, Sterling Power Partners is required,

⁹ *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-005, et al. (Aug. 7, 2008) (accepting compliance filing); *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-002, et al. (Dec. 17, 2007) (accepting refund report for filing).

¹⁰ *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,104 (2007), *order on reh'g*, 123 FERC ¶ 61,144 (2008); *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-005, et al. (letter order, Aug. 7, 2008) (accepting compliance filing).

¹¹ *Niagara Mohawk Power Corp.*, Amended LGIAs with Alliance Energy Subsidiaries, Docket No. ER13-736 (filed Jan 9, 2013).

¹² *Niagara Mohawk Power Corp.*, Docket No. ER13-736 (Mar. 1, 2013) (unpublished letter order).

on the other hand, pursuant to Article 11.2 of the Sterling LGIA to fund Connecting Transmission Owner's Attachment Facilities.¹³ Moreover, Article 10.5 of the Sterling LGIA provides that the "Developer shall be responsible for all reasonable expenses including overheads associated with: . . . (2) . . . repair and replacement of Transmission Owner's Attachment Facilities." On the same token, Sterling Power Partners refuses to accept Niagara Mohawk's proposal to require the provision of security in accordance with Article 11.5. The requirements of Article 11.5 are required by both the Commission's *pro forma* LGIA and the terms of the NYISO's Attachment X LGIA and Niagara Mohawk submits that it is just and reasonable to require the provision of security "in an amount sufficient to cover the cost for [Sterling Power Partner's] share of constructing, procuring and installing the applicable portion of Connecting Transmission Owner's Attachment Facilities[.]" The Connecting Transmission Owner's Attachment Facilities relevant to Sterling Power Partner's interconnection are sole use facilities and operated and maintained exclusively to provide interconnection service to the Sterling Generating Facility. As such, it is entirely appropriate that Sterling Power Partners be required to provide security in a form required by Attachment X to the NYISO OATT that is acceptable to Niagara Mohawk in order to mitigate Niagara Mohawk's risk in the engineering, procurement and construction of replacement Attachment Facilities to support safe and reliable interconnection service to the Sterling Generating Facility.

Second, Niagara Mohawk proposes to update the Sterling LGIA to include all terms required in the current effective version of the LGIA included in Attachment X to the NYISO OATT.¹⁴ Although all of the Attachment X LGIA terms are proposed to be reflected in the text of the Amended and Restated Sterling LGIA, some continue to be rendered inapplicable by Appendix H to the agreement, which has been the case since the Commission first accepted the interconnection agreement for filing in its October 2007 Order and companion compliance order.¹⁵

Third, Niagara Mohawk proposes to update its description of the Connecting Transmission Owner Attachment Facilities contained in Appendix A as well as to describe the circumstances and specifications regarding those Attachment Facilities slated for replacement between June 2025 and May 2027. Niagara

¹³ See Article 11.2 of the Sterling LGIA ("Transmission Owner shall design, procure, construct, install own and/or control the Transmission Owner's Attachment Facilities described in Appendix A hereto, at the sole expense of the Developer.").

¹⁴ The NYISO, in its Order No. 2023 Compliance filing proposed to adopt new Attachment HH to the NYISO OATT as its *pro forma* LGIA with an effective date of May 2, 2024. See, *N. Y. Indep. Sys. Operator*, Compliance Filings for Order Nos. 2003 and 2003-A, Docket No. ER24-1915-000 (filed May 1, 2024). The NYISO has since utilized the filed version of Attachment HH as its *pro forma* interconnection agreement for Interconnection Agreements tendered but not finalized prior to May 2, 2024, and to Interconnection Agreements tendered on or after the May 2, 2024 requested Order No. 2023 Compliance effective date. Because the Commission has not yet issued an order in Docket No. ER24-1915 on the NYISO's Order No. 2023 compliance and Sterling Power Partners is not an Interconnection Customer in the NYISO's interconnection process, Niagara Mohawk, out of an abundance of caution has elected to continue to use the current version of Attachment X of the NYISO OATT to govern the rates, terms and conditions for the Amended and Restated Sterling LGIA.

¹⁵ *Niagara Mohawk Power Corp.*, 121 FERC ¶ 61,104 (2007), *order on reh'g*, 123 FERC ¶ 61,144 (2008); *Niagara Mohawk Power Corp.*, Docket Nos. ER07-1019-005, *et al.* (letter order, Aug. 7, 2008) (accepting compliance filing).

Mohawk estimates that replacement of certain of the Attachment Facilities will cost approximately \$2,473,000 in 2024 dollars.

Fourth, Niagara Mohawk proposes to add a description of the methodologies Niagara Mohawk uses to calculate the Operating and Maintenance Expense charge it assesses to interconnection customers, in accordance with Article 10.5 of the Sterling LGIA. Sterling Power Partners currently reimburses Niagara Mohawk for the actual O&M expense incurred no more frequently than on a quarterly basis as applicable. Niagara Mohawk also permits interconnection customers to reimburse Niagara Mohawk for O&M expense applicable to Attachment Facilities on a fixed on-going charge basis, which is calculated using an O&M allocation factor applied to the gross plant of any applicable Attachment Facility. Niagara Mohawk proposes to include information regarding the O&M Expense charge methodologies in Appendix A to the Amended and Restated Sterling LGIA to provide Sterling Power Partners greater transparency on how Niagara Mohawk calculates O&M Expense. The proposed revisions also acknowledge Sterling Power Partner's rights to elect between the two O&M Expense charge methodologies. O&M Attachment 1 defines Niagara Mohawk's O&M Expense Allocation Factor and shows the fixed ongoing charge available to Sterling Power Partners should it opt not to be billed O&M Expense on an actual cost incurred basis.

Fifth, Niagara Mohawk proposes to update the contact information listed and attendant to the Notice provisions in Appendix F.

III. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER OF THE 60-DAY NOTICE PERIOD

Niagara Mohawk requests an effective date of November 1, 2024, for the Amended and Restated Sterling LGIA, which is the date one day following the date of this filing. Niagara Mohawk respectfully requests that the Commission waive its prior notice requirements to permit the requested effective date. The Commission has previously permitted interconnection agreements to become effective upon execution or, in the case of an unexecuted interconnection agreement, upon the date of filing.¹⁶ Good cause exists for this waiver request because Niagara Mohawk has already begun to incur engineering and procurement costs associated with the replacement of the Connecting Transmission Owner Attachment Facilities described in Appendix A to the Amended and Restated Sterling LGIA.

¹⁶ See, e.g., *N.Y. Indep. Sys. Operator, Inc. and Consolidated Edison Co. of N.Y., Inc.*, Docket No. ER08-618-000 (Apr. 29, 2008) (unpublished letter order accepting unexecuted interconnection agreement effective as of the date of filing as requested by the parties); see also, e.g., *N.Y. Indep. Sys. Operator, Inc. and N.Y. State Elec. & Gas Corp.*, Docket No. ER11-2953-000 (Apr. 7, 2011) (unpublished letter order accepting interconnection agreement effective as of the date of execution as requested by the parties); *N.Y. Indep. Sys. Operator, Inc. and Niagara Mohawk Power Corp.*, Docket No. ER08-985-000 (June 26, 2008) (unpublished letter order); *N.Y. Indep. Sys. Operator, Inc. and N.Y. Power Auth.*, Docket No. ER08-861-000 (May 27, 2008) (unpublished letter order); *N.Y. Indep. Sys. Operator, Inc. and N.Y. Power Auth.*, Docket No. ER08-699-000 (May 16, 2008) (unpublished letter order).

IV. DOCUMENTS INCLUDED WITH THIS FILING

In addition to this transmittal letter, the following documents are provided in support of this filing:

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| Attachment A | Clean version of the Amended and Restated Sterling LGIA; and |
| Attachment B | Redlined version of the Amended and Restated Sterling LGIA showing changes from the most-recent version of the Sterling LGIA accepted by the Commission. |

V. COMMUNICATIONS

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

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Copies of this filing have been served on Sterling Power Partners, the New York State Public Service Commission, and the NYISO.

VI. CONCLUSION

For the reasons stated herein, Niagara Mohawk respectfully requests that the Commission accept the Amended and Restated Sterling LGIA proposed in this filing to be effective November 1, 2024, without suspension, condition, or modification.

Respectfully submitted,

/s/ Christopher J. Novak

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Dated: October 31, 2024