nationalgrid

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November 13, 2024

The Honorable Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Niagara Mohawk Power Corporation
Docket No. ER25-____
Request for Order Authorizing Abandoned Plant Incentive

Dear Secretary Reese:

Pursuant to Sections 205 and 219 of the Federal Power Act ("FPA"),[1] Part 35 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") regulations,[2] and Order No. 679,[3] the New York Independent System Operator ("NYISO"), as administrator of the NYISO Open Access Transmission Tariff ("OATT" or "Tariff"), submits via eTariff on behalf of Niagara Mohawk Power Corporation d/b/a National Grid ("NMPC")[4] this filing to request authorization to recover 100 percent of prudently incurred costs associated with transmission projects NMPC is developing in support of New York State public policy goals (the "NMPC Phase 2 Projects") a subset of which NMPC anticipates will be subject to New York State siting approval processes that address reliability and/or congestion in a manner contemplated by FPA Section 219 ("New York State Siting Approval"),[5] in the event the NMPC Phase 2 Projects are cancelled or abandoned for reasons beyond NMPC's control (the "Abandoned Plant Incentive").

The NMPC Phase 2 Projects are located in New York State, and have a total estimated cost of approximately $2.1 billion. The NMPC Phase 2 Projects are necessary to enable New York State to meet specific renewable and zero-emission energy targets and, ultimately, to reduce carbon emissions from the electricity sector. The New York State Public Service Commission ("NYPSC") approved the NMPC Phase 2 Projects, along with projects that will be developed by other New York transmission owners, in a February 16, 2023 order ("Phase 2 Order").[6]

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1 16 U.S.C. §§ 824d, 824s; *see* 18 C.F.R. § 35.35(d) (2024).

2 18 C.F.R. Part 35.

3 *Promoting Transmission Investment through Pricing Reform*, Order No. 679, 2006–2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,222, *order on reh'g*, Order No. 679-A, 2006–2007 FERC Stats. & Regs., Regs. Preambles ¶ 31,236 (2006), *order on reh'g*, Order No. 679-B, 119 FERC ¶ 61,062 (2007) ("Order No. 679").

4 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.

5 A list of the NMPC Phase 2 Projects is provided as Attachment A to this filing.

6 *Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Order Approving Phase 2 Areas of Concern Transmission*

NMPC requests Commission authorization for the Abandoned Plant Incentive with respect to NMPC's investments in the NMPC Phase 2 Projects, consistent with the requirements of Order No. 679 and the Commission's regulations. First, as discussed in greater detail below, the NMPC Phase 2 Projects will be subject to additional New York State transmission permitting processes. NMPC is requesting the Abandoned Plant Incentive with the expectation that individual NMPC Phase 2 Projects will receive New York State Siting Approval, including determinations that individual NMPC Phase 2 Projects will address reliability and reduce congestion as contemplated by FPA Section 219 and Order No. 679.[7] Second, the NMPC Phase 2 Projects face significant risks and challenges that could result in abandonment or cancellation. Authorization of the Abandoned Plant Incentive would address those risks and challenges.[8] Accordingly, NMPC respectfully requests that the Commission issue an order authorizing the Abandoned Plant Incentive for the NMPC Phase 2 Projects effective January 13, 2025 (*i.e.*, 61 days after the date this filing was submitted).[9]

I. Background

A. Niagara Mohawk Power Corporation d/b/a National Grid

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 approximately 1.7 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

Upgrades, N.Y. Pub. Serv. Comm'n, Case No. 20-E-0197 (Feb. 16, 2023). The Phase 2 Order is provided as Attachment B to this filing.

[7] Those of the NMPC Phase 2 Projects that NMPC currently expects to proceed through the New York State Siting Approval process are separately indicated in Attachment A. However, as recognized in the recent incentives proceeding in Docket Nos. ER24-1967 and ER24-1968, the list of projects that ultimately proceed through the New York State Siting Approval process is subject to change in light of ongoing New York State siting reforms. *See Rochester Gas and Elec. Corp., et al.*, 188 FERC ¶ 61,001; *order on reh'g*, 189 FERC ¶ 61,001 (granting requested incentives for investment in RG&E and NYSEG's Phase 2 projects conditioned upon receiving New York State Siting Approval for the subject projects that addresses reliability and/or congestion in the manner contemplated by FPA Section 219). Following receipt of New York State Siting Approval for individual NMPC Phase 2 Projects, NMPC commits to submit compliance filings demonstrating that the New York State Siting Approval process adequately considered and found that the relevant NMPC Phase 2 Projects satisfy the Commission's rebuttable presumption standard for transmission incentive eligibility.

[8] This filing is additionally supported by the attached testimony of Marc Quesnel that address the risks and challenges that the NMPC Phase 2 Projects face. *See* Attachment C to this filing.

[9] The NYISO makes this filing on behalf of NMPC through eTariff by including a duplicate of the existing tariff record of the cover sheet (Section 14) to Attachment H of the NYISO OATT with an updated effective date of January 13, 2025, *i.e.*, the same effective date that NMPC requests for the Abandoned Plant Incentive. The duplicate tariff record is provided as Attachment D to this filing. NMPC's submittal of this duplicate tariff record, in conjunction with its request for a Commission order authorizing the requested Abandoned Plant Incentive, is consistent with the direction provided in the Commission's *Notice of Procedures for Making Statutory Filings When Authorization for New or Revised Tariff Provisions Is Not Required*, Docket No. RM01-5-000 (June 3, 2020). Apart from providing an updated effective date, NMPC does not propose any changes to Section 14 of Attachment H of the NYISO OATT or propose any other tariff revisions or rate changes in this filing.

control of the NYISO. NMPC recovers its transmission revenue requirements pursuant to formula rates under the NYISO OATT.[10]

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. National Grid USA is not a public utility because it does not directly own or operate FPA-jurisdictional facilities (or any electric facilities), nor does it engage in the sale, transmission, or distribution of electric power.

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;[11] (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 administering 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 electric transmission and distribution 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.

B. New York State Policy

On July 18, 2019, the New York legislature enacted the Climate Leadership and Community Protection Act ("CLCPA").[12] The CLCPA is grounded in legislative findings that climate change is adversely affecting the economic well-being, public health, natural resources, and environment of New York and that numerous benefits will accrue to New York residents through reducing and eliminating anthropogenic greenhouse gas emissions. CLCPA requires a 40% statewide reduction in greenhouse gas emissions from 1990 levels by 2030 and an 85% reduction by 2050. Further, CLCPA requires that (1) a minimum of 70% of statewide electric generation be produced by renewable energy by 2030; (2) the electric demand system be 100% emissions-free by 2040; and (3) the State meet the following procurement targets: 9 GW of

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[10] *See* NYISO OATT, Attachment H (Sections 14.1.9 and 14.2.1).

[11] 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.

[12] N.Y. Laws 2019, ch. 106.

offshore wind by 2035, 6 GW of photovoltaic solar generation by 2025, and 3 GW of energy storage resources by 2030 (collectively, the "CLCPA Requirements").[13]

In recognition of the significant changes and upgrades that must be made to New York's power grid infrastructure to meet the CLCPA Requirements, the New York legislature in 2020 enacted the Accelerated Renewable Energy Growth and Community Benefit Act ("AREGCBA").[14] AREGCBA requires the State to provide for the construction of expanded transmission and distribution infrastructure sufficient to ensure the cost-effective and timely development of the renewable energy generation projects needed to meet the CLCPA Requirements.[15]

In furtherance of this goal, AREGCBA, Section 7, mandated that the New York State Department of Public Service Staff ("DPS Staff"), in collaboration with other stakeholders,[16] conduct a thorough study to identify the necessary or appropriate distribution upgrades, local transmission upgrades, and bulk transmission investments to facilitate the timely achievement of the CLCPA Requirements.[17] Additionally, AREGCBA required the NYPSC to initiate a proceeding to establish a distribution and local transmission capital plan for each New York utility.[18] This capital plan is intended to address the distribution and local transmission upgrades identified by DPS Staff's study as necessary or appropriate to meet the CLCPA Requirements.[19]

Collectively, the CLCPA and AREGCBA set ambitious renewable and zero-carbon energy goals for New York State. Among other initiatives, they provide a vision and roadmap

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[13] CLCPA §§ 2(1)(a) and 7(a); Energy Conservation Law § 75–0107(1); N.Y. Pub. Serv. Law § 66-p(2), (5). While AREGCBA calls them "CLCPA targets," the legislation indicates that these are binding requirements:

> "CLCPA targets" shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

AREGCBA § 4(2)(b).

[14] N.Y. Laws 2020, ch. 58, Part JJJ.

[15] AREGCBA § 2 ("The state shall take appropriate action to ensure that . . . renewable energy can be efficiently and cost effectively injected into the state's distribution and transmission system for delivery to regions of the state where it is needed. In particular, the state shall provide for timely and cost effective construction of new, expanded and upgraded distribution and transmission infrastructure as may be needed to access and deliver renewable energy resources."). Consistent with these requirements, AREGCBA also provides that the public interest would be served by "expediting the regulatory review for the siting of major renewable energy facilities and transmission infrastructure necessary to meet the CLCPA [Requirements]." *Id.* § 4(a).

[16] AREGCBA specifically requires DPS Staff to consult with the New York State Energy Research and Development Authority ("NYSERDA"), the New York Power Authority ("NYPA"), the Long Island Power Authority ("LIPA"), the NYISO, and the state's utilities. *See* AREGCBA § 7(2).

[17] *See id.*

[18] AREGCBA § 7(3).

[19] *Id.* §§ 7(3) and 7(4).

for expanding New York's electric transmission system to support the necessary growth of clean energy to achieve these goals. The NMPC Phase 2 Projects are a significant element of this proposed expansion, and certainty as to the availability of the Abandoned Plant Incentive for individual NMPC Phase 2 Projects is critical to their development.

C. Anticipated Changes to New York State's Transmission Permitting Process

Pursuant to the Regulatory Accountability and Process Improvement ("RAPID") Act,[20] New York State is implementing reforms to its siting review and permitting process, including the current transmission permitting process under which the NYPSC reviews projects in compliance with Article VII of the New York Public Service Law ("Article VII Approval"). Relevant to the NMPC Phase 2 Projects, the RAPID Act will transfer the Office of Renewable Energy Siting ("ORES") from the New York State Department of State to the New York State Department of Public Service. ORES will then be responsible for the approval of major electric transmission facilities and will make project need determinations consistent with the rebuttable presumption in Order No. 679.

While the proposed reforms aim to expedite and clarify the permitting process, the revised process and associated regulations will closely align with the existing Article VII Approval process, meaning the new process will be substantively similar. The revised process is anticipated to be initially implemented in Q3 2025. Entities that have initiated the Article VII Approval process before that date may opt into the new process if their Article VII proceeding remains pending. Due to the RAPID Act's implementation timeline, it is likely that some of the NMPC Phase 2 Projects will proceed through the existing Article VII Approval process, while others may receive New York State Siting Approval through the revised process.

D. The CLCPA Phase 2 Projects

1. Phase 2 Projects Overview

The May 14, 2020 NYPSC order in Case No. 20-E-0197 ("Initiating Order") formally initiated the proceeding required under AREGCBA to establish a distribution and local transmission capital investment plan for each New York utility.[21] The NYPSC directed New York utilities, including NMPC, to submit a comprehensive report to the NYPSC on November 2, 2020 (the "2020 CLCPA Study"), which identified proposed local transmission and distribution investments. In the 2020 CLCPA Study, the utilities recommended dividing local transmission projects into phases. Phase 1 projects would address the Initiating Order's discussion of "business as usual" transmission projects—those already needed under existing planning criteria but also providing incremental headroom for renewable energy.[22] Recovery of

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[20] N.Y. Laws 2024, ch. 58 § 11 (Part O).

[21] *See Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Order on Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act*, N.Y. Pub. Serv. Comm'n, Case No. 20-E-0197, at 3 (May 14, 2020).

[22] Phase 2 Order at 3.

Phase 1 projects is planned through existing transmission and distribution rates, starting with the next NYPSC rate plan commencing in May 2026. Phase 2 projects, including the NMPC Phase 2 Projects, include additional transmission projects proposed primarily to increase transmission system headroom in support of renewable energy development.[23]

On September 9, 2021, the NYPSC issued an order identifying specific "Areas of Concern" in New York ("Areas of Concern Order"), characterized by existing renewable generation already experiencing curtailments and a strong level of developer interest exceeding the local transmission system's capability.[24] To address these local transmission deficiencies, the NYPSC ordered NMPC, along with Central Hudson Gas & Electric Corporation ("Central Hudson"), New York State Electric & Gas Corporation ("NYSEG"), and Rochester Gas and Electric Corporation ("RG&E") to consult with DPS Staff regarding the presentation of a minimum of two options for transmission upgrades to address the needs in each Area of Concern.[25] These options, identifying the most cost-effective Phase 2 upgrades on a dollar-per-megawatt basis, were to be filed within 180 days of the Areas of Concern Order's issuance.[26]

Consistent with the mandate in the Areas of Concern Order, on March 8, 2022, NMPC, joined by Central Hudson, NYSEG, and RG&E (together, the "Applicants"), consulted with DPS Staff and submitted a joint petition for approval of Phase 2 local transmission projects designed to address the transmission system deficiencies identified in the Areas of Concern Order. On February 16, 2023, the NYPSC issued the Phase 2 Order, approving the Applicants' Phase 2 projects.[27]

On June 17, 2022, NMPC, Consolidated Edison Company of New York, Inc. ("Con Edison"), Orange and Rockland Utilities, Inc. ("O&R"), Central Hudson, NYSEG, and RG&E entered into a Cost Sharing and Recovery Agreement ("CSRA"). The CSRA and the associated Rate Schedule 19 of the NYISO OATT memorialize the executing parties' acknowledgment of their local transmission development obligations pursuant to the CLCPA and AREGCBA, and that the costs of associated NYPSC-approved projects shall be shared on a statewide basis and recovered on a volumetric load-ratio basis. The Commission approved the CSRA and the associated cost allocation methodology in an order issued August 19, 2022.[28]

2. The NMPC Phase 2 Projects

The NMPC Phase 2 Projects include twenty-seven local transmission projects approved by the NYPSC in its Phase 2 Order to support the achievement of New York's renewable energy

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23 *See id.* at 3-4.

24 *See Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals*, N.Y. Pub. Serv. Comm'n, Case No. 20-E-0197 (Sept. 9, 2021).

25 *See id.* at 37-38.

26 *Id.* at Ordering Clause Number 6.

27 *See* Phase 2 Order at 2.

28 *Consol. Edison Co. of N.Y., Inc., et al.*, 180 FERC ¶ 61,106 (2022).

policy goals while increasing reliability and reducing congestion.[29] To further the timely pursuit of these goals, National Grid intends to move forward promptly with the development of the NMPC Phase 2 Projects and anticipates project in-service dates as early as 2024. Detailed descriptions of each of the NMPC Phase 2 Projects are included in the project list provided as Attachment A to this filing, and the risks and challenges associated with the development of each are discussed in the testimony of Marc Quesnel provided as Attachment C hereto ("Quesnel Testimony").[30] Attachment A also includes a list of those of the NMPC Phase 2 Projects that NMPC currently expects will be subject to New York State Siting Approval. However, in light of the ongoing New York State siting reforms, the subset of NMPC Phase 2 Projects included on this list is subject to change.

As noted in the Phase 2 Order, by building off the groundwork laid by the Phase 1 projects, the NMPC Phase 2 Projects will reduce renewable curtailment; increase the ability of the power system to cost-effectively deliver additional energy output from generators to load; and enhance the safety, reliability, and resiliency of the local transmission system.[31] As described in greater detail below, those of the NMPC Phase 2 Projects that ultimately proceed through the New York State Siting Approval process will be subject to a review of those projects' role in addressing reliability and congestion concerns in the manner contemplated by FPA Section 219.

II. The Commission Should Authorize Recovery of 100 Percent of Prudently Incurred Costs in the Event that Individual NMPC Phase 2 Projects Are Abandoned for Reasons Beyond NMPC's Control

In anticipation of its upcoming investments in the NMPC Phase 2 Projects, NMPC requests that the Commission authorize the Abandoned Plant Incentive—*i.e.*, the recovery of 100 percent of prudently incurred costs in the event that individual NMPC Phase 2 Projects are abandoned for reasons beyond NMPC's control.

Recognizing the need to encourage investment in transmission infrastructure, Congress in 2005 added Section 219 to the FPA, which directed the Commission to establish rules for transmission incentive-based rate treatments for the purpose of benefitting consumers by ensuring reliability and reducing transmission congestion.[32] In response to this directive, the Commission issued Order No. 679 to set forth procedures by which utilities may seek incentive-based rate treatments for their investments in new transmission projects.

Applicants seeking incentive rate treatments under Order No. 679 must demonstrate (1) that the facilities for which incentives are sought either ensure reliability or reduce congestion, and (2) that there is a nexus between the incentives sought and the investment being made, *i.e.*,

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29 *See* Phase 2 Order, Appendix, Table 8 (listing approved Phase 2 projects for all utilities).

30 *See* Quesnel Testimony at 6:1-14:15.

31 *See* Phase 2 Order, Appendix, Technical Assessment at 8-15.

32 Energy Policy Act of 2005, Pub. L. No. 109-58, § 1241, 119 Stat. 594 (2005). FPA Section 219 is now contained in 16 U.S.C. § 824s.

the applicant must show that the incentives requested are rationally related to the investments being proposed.[33] Applicants may satisfy this nexus test if they can demonstrate that the requested abandoned plant incentive is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project.[34]

A. The NMPC Phase 2 Projects Qualify for the Rebuttable Presumption That They Promote Reliability and Reduce the Cost of Delivered Power

Order No. 679 provides that to obtain a transmission rate incentive under Section 219 of the FPA, an applicant must demonstrate that the proposed transmission project will "either ensure reliability or reduce the cost of delivered power by reducing transmission congestion."[35] Order No. 679 established a rebuttable presumption that this standard is met if: (1) the transmission project results from a fair and open regional planning process that considers and evaluates the project for reliability and/or congestion; or (2) the transmission project has received construction approval from an appropriate state commission or state siting authority.[36]

In Order No. 679, the Commission additionally stated that it "carefully consider[s] the views of any state bodies having jurisdiction" over project siting and permitting in determining whether a project qualifies for incentives, and that it will adopt the rebuttable presumption for "projects approved by an appropriate state commission or siting authority."[37] In Order No. 679-A, the Commission further clarified that it created the rebuttable presumption "for the purpose of avoiding duplication in determining whether a project maintains reliability or reduces congestion," stating that the Commission "do[es] not wish to repeat the work of state siting authorities, regional planning processes, or the DOE in evaluating these issues."[38]

As discussed above, prior to its issuance of the Phase 2 Order, the NYPSC reviewed the 2020 CLCPA Study, as well as congestion studies conducted by the NYISO,[39] and approved the proposed Phase 2 projects in light of their anticipated reliability and capacity benefits.[40] The NMPC Phase 2 Projects will also be subject to additional New York State transmission permitting processes and approval. Specifically, the New York State Siting Approval for individual NMPC Phase 2 Projects—whether obtained through the existing Article VII Approval

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33 *See* Order No. 679 at PP 26, 48; Order No. 679-A at PP 20-21. The Commission has emphasized that, to meet the nexus requirement, the applicant does not need to satisfy a "but for" test to show that the project would not be built without the incentives. Order No. 679 at P 48; Order No. 679-A at PP 25-26.

34 Order No. 679-A at PP 21, 115; *Promoting Transmission Investment through Pricing Reform*, 141 FERC ¶ 61,129, at P 10 (2012) ("Incentives Policy Statement"); 18 C.F.R. § 35.35(d).

35 Order No. 679 at P 76; 18 C.F.R. § 35.35(d).

36 Order No. 679 at P 58; Order No. 679-A at P 49; 18 C.F.R. § 35.35(i).

37 *Id.* at P 54.

38 Order No. 679-A at P 46.

39 *See* New York Independent System Operator 2019 Congestion Assessment and Resource Integration Study (July 24, 2020), available at https://www.nyiso.com/documents/20142/2226108/2019-CARIS-Phase1-Report-Final.pdf.

40 *See* Phase 2 Order at 5, 24-25. *See also id.* at 31-36 (determining that the Phase 2 projects will mitigate deliverability violations, reduce curtailments, and provide additional headroom necessary to meet the deliverability needs of existing and expected renewables).

process or the forthcoming revised process—will include a thorough review of those NMPC Phase 2 Projects' attributes, including project-specific determinations regarding anticipated reliability benefits and congestion costs savings.

B. The New York State Siting Approval Process Satisfies Order No. 679's State Construction Approval Prong

The Commission should find that those of the NMPC Phase 2 Projects that proceed through the New York State Siting Approval process qualify for the rebuttable presumption under the state construction approval prong articulated in Order No. 679. As required to obtain New York State Siting Approval, NMPC will submit Applications for a Certificate of Environmental Compatibility and Public Need for each of the relevant NMPC Phase 2 Projects. New York State's review of the individual applications will include an analysis of the need for the individual NMPC Phase 2 Projects and the environmental impacts of the Projects' siting, design, construction, and operation.[41] Where this review includes an analysis of the degree to which the proposed transmission projects will reduce congestion, resulting in substantial cost savings to customers and improved reliability, the resulting New York State Siting Approval constitutes a qualifying construction approval from an appropriate state commission or state siting authority.[42]

Although NMPC has not yet received New York State Siting Approval for any of the NMPC Phase 2 Projects, the Commission has previously found that it is appropriate to grant incentives to projects that are still undergoing state approval conditioned upon receipt of that construction approval by the state commission or siting authority.[43] Most notably, the Commission recently granted RG&E and NYSEG's jointly filed request to authorize the Abandoned Plant Incentive for RG&E and NYSEG's Phase 2 Projects, conditioned on RG&E and NYSEG obtaining New York State Siting Approval for those projects that addresses reliability and/or congestion in the manner contemplated by FPA Section 219.[44] The NMPC Phase 2 Projects were selected through the same state process and individual projects will be subject to the same reviews prior to receiving New York State Siting Approval, thereby justifying a similar grant of the Abandoned Plant Incentive.

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41 *See* New York Public Service Law, Chapter 48, Article VII, Siting of Major Utility Transmission Facilities.

42 *Rochester Gas and Elec. Corp., et al.*, 188 FERC ¶ 61,001 at P 20 ("Because the [New York State Siting Approval] process may adequately consider and evaluate the reliability and/or congestion-relieving impacts of these Phase 2 Projects, they may satisfy the rebuttable presumption.").

43 *See id.*; *see also Rochester Gas and Elec. Corp., et al.*, 189 FERC ¶ 61,001 at P 23 (conditioning grant of Abandoned Plant Incentive upon the Commission's acceptance of compliance filing(s) demonstrating that the New York State Siting Approval process adequately considered and found that the relevant Phase 2 Projects will ensure reliability and/or reduce the cost of delivered power by mitigating congestion, consistent with Order No. 679-A); *Niagara Mohawk Power Corp.*, 178 FERC ¶ 61,173, at P 28 (2022) (granting Abandoned Plant Incentive request for investment in the Smart Path Connect Project conditioned upon NMPC receiving New York State Siting Approval for the Smart Path Connect Project that addressed reliability and/or congestion in the manner contemplated by FPA Section 219).

44 *Rochester Gas and Elec. Corp., et al.*, 188 FERC ¶ 61,001 at PP 20, 37; *order on reh'g*, 189 FERC ¶ 61,001 at P 23.

Because the NMPC Phase 2 Projects are subject to further review and approval by New York State in a proceeding that will evaluate individual NMPC Phase 2 Projects' anticipated contributions to system reliability and reductions in the costs of delivered power—including ultimate determinations regarding the need for the respective NMPC Phase 2 Projects—there is no need for the Commission to duplicate the work of the State in evaluating whether specific NMPC Phase 2 Projects meet the FPA Section 219 criteria. Rather, obtaining New York State Siting Approval for individual NMPC Phase 2 Projects will require NMPC to undergo a state construction approval process that includes consideration and identification of the NMPC Phase 2 Projects' reliability and congestion benefits, thereby satisfying the criteria set forth in Section 219 of the FPA. As such, the Commission should find that those of the NMPC Phase 2 Projects that obtain New York State Siting Approval are entitled to the rebuttable presumption under Order No. 679.

III. A Nexus Exists Between the Abandoned Plant Incentive and the Risks and Challenges Faced by NMPC in Developing the NMPC Phase 2 Projects

Applicants seeking the abandoned plant incentive under Order No. 679 must also demonstrate that there is a nexus between the incentives sought and the investment being made, *i.e.*, the applicant must show that the incentives requested are rationally related to the investments being proposed.[45] This nexus test is met if the applicant demonstrates that the abandoned plant incentive it requests is tailored to address the demonstrable risks or challenges faced by the applicant in undertaking the project.[46] The nexus test is fact-specific.[47]

As discussed below, the NMPC Phase 2 Projects face considerable risks and challenges associated with NMPC's investment in the projects. The Abandoned Plant Incentive requested herein is designed to mitigate those risks if the NMPC Phase 2 Projects are abandoned for reasons beyond NMPC's control. In Order No. 679, the Commission found that abandonment cost recovery effectively reduces the risk of non-recovery of costs and promotes transmission development.[48] The Commission also noted that the abandoned plant incentive is less of an incentive and more accurately described as a reduction to a regulatory barrier.[49]

A. NMPC Faces Significant Financial and Construction-Related Risks in Connection with Developing the NMPC Phase 2 Projects

The NMPC Phase 2 Projects add to NMPC's already substantial planned investment in New York State's transmission infrastructure. NMPC's annual investment in the NMPC Phase 2 Projects is projected to be approximately $211.2 million in fiscal year 2025, $390.7 million in

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45 *See* Order No. 679 at PP 26, 48; Order No. 679-A at PP 20-21.

46 *Id.* at PP 21, 115; Incentives Policy Statement at P 10; 18 C.F.R. § 35.35(d).

47 Incentives Policy Statement at P 20.

48 Order No. 679 at P 163.

49 *Id.* at P 28.

fiscal year 2026, and $579.3 million in fiscal year 2027.[50] This is compared to a 5-year average annual capital investment in transmission of $249 million over fiscal years 2019-2023.[51] In fiscal year 2025 alone, NMPC's investment in the NMPC Phase 2 Projects represents a 39 percent increase in capital expenditure on transmission,[52] representing an unprecedented level of capital investment that brings with it significant financial and construction-related risks.

1. Financial Risks

There are a variety of significant financial risks and challenges facing NMPC in connection with the development of the NMPC Phase 2 Projects. The NMPC Phase 2 Projects represent a series of major transmission investments for NMPC that have the potential to adversely impact NMPC's finances. Given the size of NMPC's proposed investment compared to its current average annual transmission investment, NMPC will face financial risk as a result of its development of the NMPC Phase 2 Projects. In terms of all transmission capital projects undertaken by NMPC, most are much smaller than the Projects, with 87% of all capital projects budgeted at less than $20 million.[53]

There are risks inherent in the development of major transmission projects. In New York, these risks are particularly challenging. The Commission has acknowledged that "no single utility [is] obligated to build" new high voltage lines and upgraded infrastructure necessary to support the wholesale power markets no matter the generation source.[54] The lack of obligation to assume the financial risks of the construction of bulk power transmission to support wholesale power markets makes clear why there has been only limited New York transmission development in the past 30 years, even in historically constrained areas of the State. Accordingly, NMPC's investment in the NMPC Phase 2 Projects is by definition an effort that "exceed[s] the normal risks undertaken by a utility."[55]

2. Project Construction Risks

In addition to obtaining the regulatory approvals necessary to proceed with construction of the NMPC Phase 2 Projects—namely, receipt of New York State Siting Approval for individual projects—there are substantial risks associated with the construction of the NMPC Phase 2 Projects that have the potential to substantially increase the expected costs of and/or delay the NMPC Phase 2 Projects' construction. These risks are amplified due to the need for expeditious development of the NMPC Phase 2 Projects. As detailed in the Quesnel Testimony, sequential, utility-scale construction projects like the NMPC Phase 2 Projects require careful

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50 Quesnel Testimony at 6:4-9. All references to fiscal years are to National Grid's fiscal years. National Grid's fiscal years start April 1 of the prior year, continuing to the next March 31 (*e.g.*, fiscal year 2025 runs from April 1, 2024 through March 31, 2025).

51 *See id.* at 7:7, Figure 2 (showing historical and projected annual capital investment in transmission).

52 *Id.* at 7:14-16.

53 *Id.* at 8:9-11.

54 Order No. 679 at P 25.

55 *Id*. at P 27.

planning to ensure continued system reliability in consideration of how outages and construction processes affect other resources.[56]

Most of the NMPC Phase 2 Projects are in close proximity to each other and are expected to be built on an accelerated timeline to meet New York State's renewable energy policy goals.[57] Energization of NMPC Phase 2 Projects is dependent on other NMPC projects funded in NMPC's pending rate case with the NYPSC. Any delay to funding those projects would put NMPC Phase 2 Projects at risk. Furthermore, development of the NMPC Phase 2 Projects will require coordination between NMPC and neighboring utilities, over whom NMPC has no operational control, and reliance on the deployment of a high volume of new renewable generation resources. The NMPC Phase 2 Projects will also be constructed in areas with high interest in renewable generation development, and the interconnection work done in parallel with construction is anticipated to cause unique planning challenges.[58] The Abandoned Plant Incentive will help to mitigate the impact of prospective changes in actual resource development, such as a determination by the NYPSC that the NMPC Phase 2 Projects are no longer necessary due to unanticipated trends in generation resource development in New York State (*e.g.*, less renewable resource development than currently anticipated).[59]

The NMPC Phase 2 Projects also face material procurement risks, as the concentration of projects to be built under the AREGCBA Phase 2 process—with many proposed to be developed on an expedited timeline—is likely to exacerbate existing supply chain and procurement challenges.[60] Inflationary pressures and supply chain constraints have significantly strained new project development across the energy sector, and competition for labor, materials, and construction resources will be significantly heightened during the construction of the NMPC Phase 2 Projects.[61] Uncertainty around material procurement and costs presents a significant risk to project development that is appropriately mitigated by the Abandoned Plant Incentive.

Additionally, the NMPC Phase 2 Projects are subject to significant siting and permitting requirements. Based on the current development plan, individual NMPC Phase 2 Projects will likely require permits from some or all of the following regulatory bodies: U.S. Army Corps of Engineers, New York State Department of Transportation, New York State Department of Environmental Conservation, New York State Department of Public Service, and the Federal Aviation Administration.[62] Engagement with and coordination among these entities is a complex and time-consuming process. Additionally, to the degree that development of the NMPC Phase 2 Projects requires NMPC to secure new and expanded rights of way or pursue parkland alienation, successfully completing those processes is likely to involve extended negotiations

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56 *See* Quesnel Testimony at 10:7-10, 12:1-16.

57 *See id.* at 10:7-13, 12:5-9.

58 *See id.* at 10:10-18.

59 *Id.* at 10:14-18

60 *See id.* at 10:7-10, 13:1-20.

61 *See id.*

62 *Id.* at 10:19-11:22.

with municipalities and landowners, as well as other stakeholder engagement involving affected customers and non-governmental organizations.[63]

While siting and permitting are foundational to any project's success, these activities represent particular risks in the context of the accelerated timelines and development-intensive areas associated with the NMPC Phase 2 Projects. While NMPC is taking steps to minimize the risks associated with development of the NMPC Phase 2 Projects,[64] the Abandoned Plant Incentive provides appropriate protection in light of the challenges presented by the complex siting, permitting, construction, and stakeholder coordination challenges of the NMPC Phase 2 Projects. This protection will enable NMPC to continue to finance important capital projects in New York State, including projects necessary to ensure continued reliable service to its customers, as well as providing congestion relief.

B. The Abandoned Plant Incentive Will Address the Identified Risks and Challenges

As discussed above, NMPC will be subject to project and financial risks and challenges when developing the NMPC Phase 2 Projects, and therefore faces at least some possibility that individual NMPC Phase 2 Projects will need to be abandoned for reasons outside of NMPC's control. NMPC's request for the Abandoned Plant Incentive directly addresses, and is tailored to, the specific risks posed by NMPC's investment of capital in the NMPC Phase 2 Projects. Accordingly, NMPC requests that it be authorized to recover 100 percent of prudently incurred costs if some or all of the NMPC Phase 2 Projects are abandoned due to factors beyond its control.[65]

The Commission has held that recovery of 100 percent of abandoned plant costs is an "effective means to encourage transmission development by reducing the risk of non-recovery of costs" in the event the project is abandoned for reasons "outside the control of [the developer]."[66] The Commission has found that "in addition to the challenges presented by the scope and size of a project, factors like various federal and state siting approvals introduce a significant element of risk" that can be mitigated by the Abandoned Plant Incentive.[67] As a result, the Commission has determined that abandoned plant cost recovery is appropriate when a project developer, for instance, is unable to obtain the requisite regulatory approvals or necessary property rights,[68] or

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63 *See id.* at 10:3-6, 11:23-32, 13:21-14:8.

64 *Id.* at 14:16-16:2.

65 Consistent with the Commission's precedent, in the event the Commission approves the Abandoned Plant Incentive and NMPC incurs abandoned plant costs, NMPC would submit a separate FPA Section 205 filing demonstrating that any costs it seeks to recover were prudently incurred and that the abandonment was due to events outside of NMPC's reasonable control. *See* Order No. 679 at P 166.

66 *Id.* at P 163.

67 Incentives Policy Statement at P 14.

68 Order No. 679 at P 165. *See also S. Cal. Edison Co.*, 129 FERC ¶ 61,246, at P 68 (2009), *reh'g denied*, 134 FERC ¶ 61,200 (2011); *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 (2009), *clarified by* 130 FERC ¶ 61,044 (2010).

cannot complete the project because a relevant planning entity determines that the project is no longer needed.[69]

The risks and challenges that NMPC faces with regard to the NMPC Phase 2 Projects could lead to delays or eventual abandonment for reasons outside of NMPC's control. The Abandoned Plant Incentive will help mitigate these risks and ensure NMPC's finances are not compromised due to its development of the NMPC Phase 2 Projects. Providing the assurance that NMPC will be entitled to recover prudently incurred costs associated with the development of the NMPC Phase 2 Projects, in the event that individual projects are abandoned for reasons beyond NMPC's control, will enhance NMPC's ability to continue to finance important capital projects like the NMPC Phase 2 Projects. To reduce the loss of capital associated with the potential cancellation of the NMPC Phase 2 Projects, the Commission has good cause to grant NMPC the requested Abandoned Plant Incentive.[70]

IV. Correspondence And Communications

All notices, correspondence, and communications regarding this filing should be directed to the following individuals:[71]

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V. Requested Effective Date and Service

NMPC respectfully requests that the Commission issue an order that authorizes the Abandoned Plant Incentive for the NMPC Phase 2 Projects effective January 13, 2025 (*i.e.*, 61 days after the date this filing was submitted).[72] Prompt Commission action is appropriate

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69 *PJM Interconnection, L.L.C.*, 141 FERC ¶ 61,177 (2012), *reh'g denied*, 153 FERC ¶ 61,308 (2015).

70 In addition to satisfying the nexus requirement discussed in Section III of this filing, NMPC must "demonstrate that the total package of incentives is tailored to address the demonstrable risks or challenges." Order No. 679-A at P 27 (internal emphasis omitted). For purposes of the instant filing, NMPC is requesting only one incentive—the Abandoned Plant Incentive—to mitigate the risks of unrecovered investments in the event that the NMPC Phase 2 Projects are cancelled or abandoned for reasons outside of NMPC's reasonable control.

71 NMPC respectfully requests waiver of 18 C.F.R. § 203(b)(3) to permit more than two individuals to be listed on the official service list. *See* 18 C.F.R. § 203(b)(3).

72 Granting the Abandoned Plant Incentive effective as of the requested date accords with Commission policy. *See, e.g.*, *Midcontinent Indep. Sys. Operator, Inc.*, 182 FERC ¶ 61,039, at P 28 (2023) ("Consistent with Commission policy, the Abandoned Plant Incentive for the Projects will be available to GRE for 100% of prudently-incurred costs expended on and after the date of this order if the Projects were to be abandoned for reasons beyond GRE's control."); *NextEra Energy Transmission Sw., LLC*, 180 FERC ¶ 61,032, at P 19 (2022) (same).

because NMPC expects to substantially increase its level of investment in the NMPC Phase 2 Projects in the near future.

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.

VI. Contents Of Filing

In addition to the request for the Abandoned Plant Incentive set forth herein, this filing contains the following supporting exhibits:

Attachment A	List of NMPC Phase 2 Projects
Attachment B	NYPSC Phase 2 Order
Attachment C	Prepared Direct Testimony of Marc Quesnel (Exhibit No. NMPC-100)
Attachment D	Clean Tariff Record of the cover sheet to Section 14 of Attachment H of the NYISO OATT

VII. Conclusion

For the foregoing reasons, NMPC respectfully requests that the Commission issue an order authorizing the Abandoned Plant Incentive without suspension or hearing, effective January 13, 2025.

Respectfully submitted,

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