

November 21, 2013

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

**Re: Niagara Mohawk Power Corporation d/b/a National Grid
Docket No. ER14-____-000
Filing of Cost Reimbursement Agreement with
New York State Electric & Gas Corporation and
Request for Confidential Treatment of CEII**

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 (“National Grid”) submits a Cost Reimbursement Agreement (“Reimbursement Agreement”) between National Grid and New York State Electric & Gas Corporation (“NYSEG”). The Reimbursement Agreement is designated as Service Agreement No. 2056 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”), FERC Electric Tariff, Original Volume No. 1.

The Reimbursement Agreement is an undisputed agreement between National Grid and NYSEG to facilitate the connection of a new NYSEG station to an existing National Grid substation, the Luther Forest station, located in Saratoga County, New York. National Grid respectfully requests that the Commission permit the Reimbursement Agreement to go into effect as of October 1, 2013, the effective date set forth in the Reimbursement Agreement.

I. Background

National Grid and NYSEG are both public utilities subject to the Commission’s jurisdiction that own transmission facilities located in New York.

¹ 16 U.S.C. § 824d.

² 18 C.F.R. Part 35.

NYSEG is proceeding with the construction of a new 115 kV-34.5 kV station, located adjacent to the existing National Grid substation, the Luther Forest station, located in Saratoga County, New York. NYSEG's new station will connect to National Grid's Luther Forest station via the two existing 115 kV busses at the station. NYSEG has requested that National Grid perform work to facilitate the connection. National Grid is willing to perform the work subject to reimbursement by NYSEG of all costs and expenses incurred by National Grid in connection with the work.³

II. Description of the Reimbursement Agreement and Filing Requirements

Pursuant to the Reimbursement Agreement, NYSEG will pay for or reimburse National Grid for the actual costs and expenses incurred in connection with the work performed by National Grid to facilitate the connection of NYSEG's new station to the two existing busses at National Grid's existing Luther Forest station as described above. The Reimbursement Agreement sets forth the terms and conditions of this work and certain related commitments by NYSEG. The Reimbursement Agreement includes provisions addressing the performance and schedule of the work, liability and indemnification, insurance, regulatory and governmental approvals, and various standard provisions for utility cost reimbursement agreements.

Section 205 of the FPA authorizes the Commission to require public utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional transmission service or sales of electric energy.⁴ In the Prior Notice Order, the Commission stated that the types of agreements that a public utility must file include "a jurisdictional CIAC agreement," which is defined as an "agreement providing for the customer payment of contributions-in-aid-of-construction" of facilities used to provide jurisdictional service, either in a single lump sum or over a period of time.⁵ Commission precedent also indicates that engineering and pre-construction agreements related to jurisdictional facilities can be construed as CIAC agreements.⁶

The Reimbursement Agreement relates to the recovery of costs for jurisdictional facilities and engineering, procurement, and construction services necessary to facilitate the connection of NYSEG's new station to the two existing busses at National Grid's existing Luther Forest station. Therefore, the Commission will likely find it to be a CIAC agreement that must be filed.

³ Reimbursement Agreement, Recitals, Article 3.0, and Exhibit A.

⁴ 16 U.S.C. §§ 824d(a)-(c).

⁵ *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 (1993) ("Prior Notice Order").

⁶ For example, in *Southern California Edison Company*, 98 FERC ¶ 61,304, at 62,300-01 (2002), the Commission required the filing of seven letter agreements related to pre-interconnection activities in anticipation of certain generator interconnections, "including procurement, engineering, and limited construction." See also *GenPower Anderson, LLC v. Duke Energy Corp. and Duke Electric Transmission*, 101 FERC ¶ 61,038 (2002) (requiring Duke Energy to file an engineering and design letter agreement that was entered into pending execution of an interconnection and operating agreement).

National Grid is performing these services at actual cost as set forth in Article 1.0 to the Reimbursement Agreement.⁷ The Commission should find the price of the services to be performed pursuant to the Reimbursement Agreement to be just and reasonable because National Grid will perform these services at actual cost.

III. Request for Confidential Treatment

The public clean text of the Reimbursement Agreement provided in Attachment A to this filing contains redactions of certain portions, namely, some of the contents of Exhibit D to the Reimbursement Agreement. These redactions have been made pursuant to the Commission's Critical Energy Infrastructure Information ("CEII") regulations at 18 C.F.R. § 388.112. National Grid believes that the information redacted is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should be withheld from public disclosure.⁸

National Grid provides the entire, unredacted version of Exhibit D to the Reimbursement Agreement in Attachment B to this filing, which is designated as non-public. National Grid submits that public disclosure of the redacted materials would unnecessarily reveal sensitive information, and thus requests Commission acceptance of this filing with this information withheld from the public version of Exhibit D to the Reimbursement Agreement.

IV. Effective Date and Request for Waiver

Pursuant to Section 35.11 of the Commission's regulations,⁹ National Grid respectfully requests waiver of the notice requirement contained in Section 35.3 of the Commission's regulations¹⁰ to allow the Reimbursement Agreement to become effective upon the effective date set forth in the agreement, *i.e.*, October 1, 2013.

Good cause exists for the Commission to grant this waiver. Granting the waiver will accord with the intent of National Grid and NYSEG to make the Reimbursement Agreement effective as of October 1, 2013, as stated in the preamble to the agreement. Therefore, no prejudice will result to any party from granting the waiver. Further, National Grid and NYSEG have agreed to project milestones that anticipate completion of the work pursuant to the Reimbursement Agreement in 2015.¹¹ Granting the requested

⁷ Article 7.0 of the Reimbursement Agreement provides that National Grid will invoice NYSEG for an initial prepayment of \$500,000 ("Initial Prepayment") and NYSEG will pay the Initial Prepayment within 30 days of the invoice due date; however, National Grid has not invoiced NYSEG nor collected any funds pursuant to the Reimbursement Agreement, and will not do so until after the Commission accepts the Reimbursement Agreement for filing.

⁸ See 18 C.F.R. §388.112(a)(1).

⁹ 18 C.F.R. § 35.11.

¹⁰ 18 C.F.R. § 35.3.

¹¹ Pursuant to the milestones listed in Exhibit B to the Reimbursement Agreement, the work is expected to require a total of 75-85 weeks to complete.

effective date will facilitate the connection of a new station to existing busses at an existing station and is therefore consistent with the standard set forth by the Commission in *Central Hudson*.¹² For these reasons, the Commission should find that good cause exists to grant an effective date of October 1, 2013.

V. Attachments

In addition to this transmittal letter, this filing includes the Reimbursement Agreement, the public version of which is provided in Attachment A hereto, with those portions for which National Grid is requesting confidential CEII treatment submitted as Attachment B under a non-public designation.

VI. Communications and Service

Communications regarding this filing should be addressed to the following individuals, whose names should be entered on the official service list maintained by the Secretary for this proceeding:

Amanda C. Downey
Counsel
National Grid USA
Service Company, Inc.
40 Sylvan Road
Waltham, MA 02451
(781) 907-2136
amanda.downey@nationalgrid.com

Sean Atkins
Bradley R. Miliauskas
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
(202) 239-3300
sean.atkins@alston.com
bradley.miliauskas@alston.com

William L. Malee
Director, Transmission Commercial
National Grid USA
40 Sylvan Road
Waltham, MA 02451
(781) 907-2422
bill.malee@nationalgrid.com

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

¹² See *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

The Honorable Kimberly D. Bose

November 21, 2013

Page 5

VII. Conclusion

For the reasons stated herein, National Grid respectfully requests that the Commission accept the Reimbursement Agreement effective as of October 1, 2013.

Respectfully submitted,

/s/ Amanda C. Downey

Amanda C. Downey

Counsel

National Grid USA

Service Company, Inc.

40 Sylvan Road

Waltham, MA 02451

*Attorney for Niagara Mohawk Power
Corporation d/b/a National Grid*