

February 23, 2015

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

**Re: Niagara Mohawk Power Corporation, d/b/a National Grid  
Docket No. ER15-\_\_\_\_-000**

**Filing of Amended and Restated Interconnection Agreement  
with Covanta Niagara, L.P. and Request for Waiver of  
Commission Notice Requirement**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”),<sup>1</sup> and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations,<sup>2</sup> Niagara Mohawk Power Corporation d/b/a/ National Grid (“National Grid”) submits an Amended and Restated Interconnection Agreement (the “Covanta Niagara IA”) between National Grid and Covanta Niagara, L.P. (“Covanta Niagara”). The Covanta Niagara IA is an amended and restated version of an interconnection agreement previously accepted by the Commission. The Covanta Niagara IA is designated as Service Agreement No. 2205 under the New York Independent System Operator, Inc.’s (“NYISO”) Open Access Transmission Tariff (“OATT”).

The Covanta Niagara IA is an undisputed agreement between National Grid and Covanta Niagara for the continued provision of interconnection service to the generating facility owned by Covanta Niagara and located in the Town of Niagara Falls, County of Niagara, New York (the “Plant”). National Grid requests waiver of the Commission’s prior notice requirement to allow the Covanta Niagara IA to go into effect as of the effective date set forth therein, December 30, 2014.

**I. Background**

National Grid is a public utility with a transmission system in the State of New York. National Grid’s transmission facilities have been placed under the operational control of the NYISO.

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. Part 35.

Covanta Niagara owns and operates the Plant, which is located in the Town of Niagara Falls, County of Niagara, New York and has a nominal installed capacity not to exceed 42,400 kW.

Until 2005, Covanta Niagara was named American Ref-Fuel of Niagara, L.P. (“Amer-Ref Fuel”). In 1994, National Grid and Amer-Ref Fuel entered into an interconnection agreement (the “Amer-Ref Fuel IA”) regarding the Plant. Although the Amer-Ref Fuel IA was not originally subject to the Commission’s filing requirements, that agreement became subject to those filing requirements due to a later change in circumstances, and National Grid filed the Amer-Ref Fuel IA for Commission acceptance in Docket No. ER07-1285 on August 14, 2007. The Commission accepted the Amer-Ref Fuel IA by letter order issued December 31, 2007.<sup>3</sup> By its own terms, the Amer-Ref Fuel IA expired upon the expiration of a related Power Purchase Agreement between Amer-Ref Fuel and National Grid, *i.e.*, on December 29, 2014.

## **II. The Covanta Niagara IA**

National Grid and Covanta Niagara have entered into the Covanta Niagara IA to provide for continued interconnection service to the Plant using the transmission system owned by National Grid, pursuant to the terms of the Covanta Niagara IA, beyond the December 29, 2014, expiration date of the Amer-Ref Fuel IA. The parties intend the Covanta Niagara IA to amend and restate the Amer-Ref Fuel IA.<sup>4</sup>

The Covanta Niagara IA is largely the same as the Amer-Ref Fuel IA. The following is a summary of the significant differences between the original and the amended agreements:

- The Covanta Niagara IA contains updated Recitals to reflect relevant intervening events since the execution of the Amer-Ref Fuel IA;
- The Covanta Niagara IA replaces the defined term “Niagara Mohawk” with “National Grid,” and replaces the defined term “Producer” with “Interconnection Customer,” throughout the Covanta Niagara IA;
- Section 1.2 of the Covanta Niagara IA replaces the Amer-Ref Fuel IA definition of good utility practice with the definition found in the NYISO *pro forma* Large Generator Interconnection Agreement;
- Section 6.1 of the Covanta Niagara IA eliminates a reference to a power purchase agreement);

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<sup>3</sup> The December 31, 2007, letter order directed National Grid to refile the interconnection agreement to correct its effective date to October 14, 2007. National Grid did so and the Commission accepted the refiled interconnection agreement by letter order issued October 6, 2008.

<sup>4</sup> See Covanta Niagara IA at Recitals and Section 11.1. National Grid will submit a separate filing to cancel the Amer-Ref Fuel IA.

- Section 7.3 of the Covanta Niagara IA includes an updated reference to National Grid's P.S.C. No. 220 Schedule for Electric Service in place of an outdated reference in the Amer-Ref Fuel IA to P.S.C. 207;
- Article 10 of the Covanta Niagara IA contains updated information for National Grid and Covanta Niagara for purposes of making written notifications;
- Section 11.1 of the Covanta Niagara IA contains an updated provision stating that the Covanta Niagara IA will be in effect from December 30, 2014, to December 29, 2019, subject to acceptance for filing or approval by the Commission;
- Section 11.2 of the Covanta Niagara IA contains an updated provision stating that, upon expiration of the Covanta Niagara IA, if Covanta Niagara desires to remain interconnected to the transmission system thereafter, then National Grid and Covanta Niagara will enter into a new interconnection agreement substantially consistent with the then-current NYISO *pro forma* Large Generator Interconnection Agreement; and
- Article 22 of the Covanta Niagara IA contains an updated provision stating that the Covanta Niagara IA sets forth the entire understanding and agreement between National Grid and Covanta Niagara IA as to the subject matter of the Covanta Niagara IA, and merges and supersedes all prior and contemporaneous understandings, oral or written, between National Grid and Covanta Niagara as to that subject matter.<sup>5</sup>

Commission precedent supports acceptance of the Covanta Niagara IA as a two-party agreement. In proceedings on two-party generator interconnection agreements between National Grid and generation subsidiaries of Alliance Energy (collectively, the "Alliance Energy IAs"),<sup>6</sup> the Commission found that the NYISO did not need to be a party to the two-party Alliance Energy IAs, for the following reasons:

[T]hey are not the type of new generator interconnection agreements envisioned by Order No. 2003; rather they are more like after-the-fact interconnection operating agreements that govern the terms, conditions, and rates associated with the continued operation and maintenance of previously constructed facilities built to accommodate the interconnection of the Alliance generators to Niagara Mohawk's transmission system. Accordingly, we will not require NYISO to be a signatory to these unexecuted IAs.<sup>7</sup>

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<sup>5</sup> Attachment B to this filing shows the differences between the Covanta Niagara IA and the Amer-Ref Fuel IA in black-line format.

<sup>6</sup> The Alliance Energy IAs were filed and accepted pursuant to Commission proceedings in Docket Nos. ER07-1019, ER07-1020, and ER07-1021.

<sup>7</sup> *Niagara Mohawk Power Corp. d/b/a National Grid*, 121 FERC ¶ 61,104, at P 22 (2007) (citation omitted). The Commission also stated that "any interconnections involving the interconnection of a new generating facility or involving increases in capacity or material modifications to the operating

Like the Alliance Energy IAs, the Covanta Niagara IA is not a new generator interconnection agreement of the type envisioned by Order No. 2003. Instead, the Covanta Niagara IA governs the terms, conditions, and rates associated with the continued operation and maintenance of the previously constructed facilities built to accommodate the interconnection of the existing Plant to the National Grid transmission system. Therefore, the Commission should accept the Covanta Niagara IA as a two-party agreement.

### **III. Effective Date and Request for Waiver**

As discussed above, the Covanta Niagara IA is intended to go into effect as of December 30, 2014, *i.e.*, more than 30 days after the date the Covanta Niagara IA is being filed. Therefore, National Grid respectfully requests waiver of the 30-day notice requirement so that the Covanta Niagara IA can be effective December 30, 2014.<sup>8</sup>

Good cause exists for the Commission to grant this waiver. Granting the waiver will accord with the intent of National Grid and Covanta Niagara to make the agreement effective as of December 30, 2014. No prejudice will result to any party from granting the waiver. Granting the requested waiver will continue the terms of interconnection of the Plant without interruption, benefitting a generator interconnected to the transmission system, and is therefore consistent with the standard set forth by the Commission in *Central Hudson*.<sup>9</sup> The Commission has previously permitted interconnection agreements to become effective on their execution dates.<sup>10</sup>

### **IV. Documents Enclosed**

In addition to this filing letter, attached are the following documents:

- i. The Covanta Niagara IA (Service Agreement No. 2205 under the NYISO OATT), provided in clean format (Attachment A)
- ii. Red-lined revisions showing the differences between the Covanta Niagara IA and the Amer-Ref Fuel IA (Attachment B)

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characteristics of existing generating facilities interconnected to Niagara Mohawk's or any other NYISO member's transmission system will require the NYISO to be a signatory to that IA." *Id.* However, the Plant is already interconnected to the transmission system owned by National Grid, and there has been no increase in capacity or material modifications to the operating characteristics of the Plant. Therefore, the NYISO does not need to be a signatory to the Covanta Niagara IA.

<sup>8</sup> Specifically, pursuant to of Section 35.11 of the Commission's regulations (18 C.F.R. § 35.11), National Grid requests waiver of Section 35.3 of the Commission's regulations (18 C.F.R. § 35.3).

<sup>9</sup> *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

<sup>10</sup> *See, e.g., New York Independent System Operator, Inc.*, 135 FERC ¶ 61,264 (2011); Commission Letter Order, Docket No. ER11-4140-000 (Sept. 21, 2011).

**V. 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:

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

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**VI. Conclusion**

For the reasons stated herein, National Grid respectfully requests that the Commission accept the Covanta Niagara IA effective as of December 30, 2014.

Respectfully submitted,

/s/ Amanda C. Downey

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