

NYISO OATT SERVICE AGREEMENT No. 2386

AGREEMENT

BETWEEN

NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID

AND

MID-ATLANTIC INTERSTATE TRANSMISSION, LLC



October 11, 2017

Valerie L. Davin
FERC & Wholesale Connection Support
Mid- Atlantic Interstate Transmission, LLC
c/o FirstEnergy Service Company
800 Cabin Hill Drive, GCH-C201
Greensburg, PA 15601

Re: South Ripley Relay Changes Project

Dear Ms. Davin:

This letter sets forth the agreement ("Agreement") between Niagara Mohawk Power Corporation d/b/a National Grid ("NMPC") and Mid-Atlantic Interstate Transmission, LLC ("MAIT") under which NMPC will perform certain system protection modifications to its South Ripley Substation at the 230kv Line 69, as described below, that are required as a result of MAIT's upgrades to its Erie East 230 kV Substation as defined in PJM Interconnection LLC's Regional Transmission Expansion Plan (RTEP) b2371, subject to the terms and conditions hereof, including, without limitation, MAIT's reimbursement of NMCP's incurred costs, as set forth herein. NMPC and MAIT may be referred to hereunder, individually, as a "Party" and, collectively, as the "Parties."

In accordance with the terms and conditions of this Agreement, NMPC will perform the Scope of Work described below (the "NMPC Scope of Work"):

NMPCs Scope of Work

- A. Prepare and provide temporary relay settings for NMPC/MAIT 230kV Line 69 protection at National Grid's South Ripley Substation. Revised settings will be created for both "A" and "B" protection schemes for this Line. The "B" package communication based protection scheme will be disabled while the Line is being protected by the temporary settings.
- B. Existing tone-based Direct Transfer Trip (DTT) schemes to MAIT at the South Ripley Substation will also be disabled while the temporary line settings are in service.
- C. Update related as-built drawings, as needed.

- D. Apply & test above-referenced new 230kV “A” and “B” package relay settings at South Ripley Substation.
- E. Provide related energization support calls/field support as needed.

Total estimated cost: Forty Thousand US Dollars (\$40,000) plus or minus 25%

MAIT’s Scope of Work (the “*MAIT Scope of Work*”)

- A. Coordinate with NMPC in developing and reviewing relay settings for the South Ripley line protection schemes referred to above.

MAIT agrees to reimburse NMPC for all NMPC’s actual and verifiable costs incurred to perform the NMPC Scope of Work defined above (“*NMPC Costs*”).

MAIT shall provide NMPC with an initial prepayment in the amount of \$40,000 (“*Initial Prepayment*”). NMPC shall not be obligated to commence performance of any work in connection with this Agreement until it has received the Initial Prepayment.

MAITs responsibility to reimburse NMPC for NMPC Costs shall include, but not be limited to, actual quantities of labor and material expended by NMPC and/or its contractor(s) for performance of the NMPC Scope of Work. NMPC will invoice MAIT for all NMPC Costs at the completion of the NMPC Scope of Work, which invoice shall reflect the application of a credit in the amount of the Initial Prepayment paid by MAIT under this Agreement and be accompanied by reasonable documentation of the costs incurred; MAIT shall pay such invoiced amount no later than 45 days following MAITs receipt of the invoice. If NMPC will be unable to complete the NMPC Scope of Work, MAIT may terminate this Agreement upon written notice to NMPC and NMPC shall return the Initial Prepayment to MAIT less any NMPC Costs incurred through the effective date of termination (inclusive of NMPC’s reasonable costs and expenses incurred as a result of such termination which cannot reasonably be avoided or mitigated by NMPC including, without limitation, wind-up costs, equipment rental fees, and subcontractor fees).

Payment instructions: All payments made under this Agreement shall be made in immediately available funds. Unless otherwise directed by NMPC, payments to NMPC shall be made by wire transfer to:

Wire Payment: JPMorgan Chase
Bank Routing Number (ABA): 021000021
Credit: National Grid USA
Bank Acct. Number: 777149642.

A copy of related invoice(s) should be included with payment.

Neither Party shall be liable hereunder for failure to meet any estimated completion date, any milestone, or any other projected or preliminary schedule in connection with this Agreement or the work contemplated herein. The Parties shall perform their respective Scope of Work using qualified and competent personnel and in a manner consistent with applicable law and Good Utility Practice. For purposes of this Agreement, the term “Good Utility Practice” shall mean the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any practices, methods and acts which, in the exercise of good judgment in light of the facts known at the time the decision was made, would have been reasonably expected to accomplish the desired result consistent with good business practices, safety, and law. Good Utility Practice is not intended to require or contemplate the optimum practice, method or act, to the exclusion of all others, but rather to be reasonably acceptable practices, methods, or acts generally accepted in the region in which the applicable work is to be performed.

Each Party shall keep the other Party informed as to the progress of its Scope of Work. NMPC shall keep accurate and complete accounting records, including but not limited to invoices, receipts, procurement files, correspondence, electronic data and hard copy files, as reasonably necessary to substantiate and document NMPC’s work and expenses under this Agreement. These records and files shall be kept in accordance with generally accepted accounting principles and practices. MAIT or its designee shall have the right to audit (at its sole cost) such records and files to the extent pertaining to the NMPC Scope of Work at any reasonable time with reasonable advance notice, during normal working hours.

Miscellaneous provisions:

1. This Agreement will become effective as of the date first above referenced upon its execution by both Parties. Any material change, modification, increase or reduction to the NMPC Scope of Work shall be subject to the prior mutual written agreement of the Parties, provided, however, that NMPC may make any changes to the NMPC Scope of Work as it deems necessary or prudent in order to meet the requirements of governmental authorities, laws, regulations, ordinances, Good Utility Practice (as such term is defined in this Agreement) and/or applicable codes or standards, without MAIT’s consent or agreement.
2. The Parties acknowledge that Force Majeure events may affect the performance of this Agreement and agree that the Parties shall not be liable to each other for any breach or failure to perform under this Agreement (other than a failure to pay any amount when due hereunder) caused by Force Majeure. The term “Force Majeure” as used herein means those causes beyond the reasonable control of the Party affected, and which wholly or in part prevents such Party from performing its obligations under this Agreement, including, without limitation, the following: any act of God; labor disturbance; act of the public enemy; war; insurrection; riot; fire; storm; flood; sun spots; lightning strikes; earthquake; explosion; breakage or accident to machinery or equipment; electric system disturbance; law, order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities; action of any court, action or inaction of a governmental authority, unavailability of personnel, equipment, supplies, or other resources for utility-related duties, compliance with such Party’s public service obligations; or any other cause

of a similar nature beyond a Party's reasonable control. Mere economic hardship of a Party does not constitute Force Majeure.

3. No Consequential Damages; Limitation of Liability; No Warranties. Any one Party's liability under this Agreement shall be limited to the dollar amount of any direct damages that are proven to result from a breach of such Party's obligations under this Agreement, provided, however, that NMPC's total cumulative liability to MAIT and its affiliates for all claims of any kind, whether based upon contract, tort (including negligence and strict liability), or otherwise, for any loss, injury, or damage connected with, or resulting from, this Agreement, shall not exceed the aggregate amount of all payments made to NMPC by MAIT for NMPC Costs under this Agreement. In no event shall either Party be liable to the other in connection with this Agreement for incidental, indirect, special, punitive or consequential damages (including, without limitation, damages for lost profits), whether or not (i) such damages were reasonably foreseeable or (ii) such Party was advised or aware that such damages might be incurred.

NATIONAL GRID MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES IN CONNECTION WITH THIS AGREEMENT OR THE NMPC SCOPE OF WORK PERFORMED IN CONNECTION HERewith, WHETHER STATUTORY, ORAL, WRITTEN, EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, WHICH REPRESENTATIONS, WARRANTIES AND GUARANTEES NMPC HEREBY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW. ANY WARRANTIES PROVIDED BY ORIGINAL MANUFACTURERS', LICENSORS', OR PROVIDERS' OF MATERIAL, EQUIPMENT, OR OTHER ITEMS PROVIDED OR USED IN CONNECTION WITH THIS AGREEMENT OR PERFORMANCE OF THE NMPC SCOPE OF WORK, INCLUDING ITEMS INCORPORATED IN ANY DELIVERABLES, ("THIRD PARTY WARRANTIES") ARE NOT TO BE CONSIDERED WARRANTIES OF NMPC AND NMPC MAKES NO REPRESENTATIONS, GUARANTEES, OR WARRANTIES AS TO THE APPLICABILITY OR ENFORCEABILITY OF ANY SUCH THIRD PARTY WARRANTIES. THE TERMS OF THIS SECTION SHALL GOVERN OVER ANY CONTRARY VERBAL STATEMENTS OR LANGUAGE APPEARING IN ANY NMPC OR OTHER DOCUMENTS.

This paragraph shall survive any termination, expiration, cancellation, or completion of the Agreement.

4. Indemnification. Each Party (the "*Indemnifying Party*") shall indemnify, hold harmless, and upon request, defend the other Party, its affiliates, and its officers, directors, employees, agents, contractors, subcontractors, invitees, and successors (each, an "*Indemnified Party*") from and against any and all demands, claims, liabilities, costs, losses, judgments, damages, and expenses (including, without limitation, reasonable attorney and expert fees, and disbursements incurred by any of them in any action or proceeding between Indemnified Party and a third party, Indemnifying Party, or any other party) for damage to property, injury to or death of any third party, including Indemnified Party's employees and their affiliates' employees, to the extent caused by the negligence or

willful misconduct of Indemnifying Party and/or its officers, directors, employees, agents, contractors and subcontractors arising out of or in connection with this Agreement (“Claims”), except to the extent such Claims arise from any breach of this Agreement by the Indemnified Party or from the negligence of wilful misconduct of an Indemnified Party, its affiliates, or its or its affiliates’ officers, directors, employees, agents, contractors, or subcontractors. In furtherance of the foregoing indemnification, and not by way of limitation thereof, Indemnifying Party hereby waives any defense it might otherwise have under applicable workers’ compensation laws. This paragraph shall survive any termination, expiration, cancellation, or completion of the Agreement.

5. Each Party shall comply, at all times, with all applicable federal, state and local laws, codes, standards and regulations in connection with this Agreement and performance of any work hereunder. Any work product resulting from the NMPC Scope of Work (“Work Product”), including, without limitation, as-built drawings, shall be and remain the sole property of NMPC at no cost to NMPC. Excluding third-party owned or licensed documents, materials and software, MAIT is granted an irrevocable, non-transferable, and non-assignable license to use the Work Product solely in connection with the South Ripley Substation project, but only if and to the extent such Work Product is incorporated, in whole or in part, into drawings, specifications, or other documents provided as deliverables to MAIT by NMPC.
6. [Reserved.]
7. This Agreement may not be assigned, in whole or in part, without the prior written consent of both Parties, which consent shall not be unreasonably withheld, conditioned or delayed.
8. The Parties are each independent contractors and shall not be considered or deemed to be an agent, employee, joint venturer or partner of the other. Any subcontracting of work, in whole or in part, shall not relieve NMPC of the responsibility for full compliance with the requirements of this Agreement. This Agreement is for the use and benefit of the Parties only, and not for the use and benefit of the public generally or any other person, party, or entity. This Agreement shall be governed by and construed in accordance with the laws of the State of New York and not those laws determined by application of New York’s conflicts of law principles. Venue in any action with respect to this Agreement shall be in the State of New York; each Party agrees to submit to the personal jurisdiction of courts in the State of New York with respect to any such actions. This Agreement sets forth the entire understanding of the Parties with respect to the matters it purports to cover and supersedes all prior communications, agreements, and understandings between the Parties, whether written or oral, concerning the subject matter hereof. No amendment to this Agreement will be valid or binding unless and until reduced to writing and executed by each Party’s authorized representative. This Agreement may be executed by the Parties in multiple original counterparts, and each such counterpart will constitute an original hereof. Signatures of the Parties transmitted by facsimile or other electronic means (including, without limitation, by e-mailed PDF) shall be deemed to be their original signatures for all purposes.

Please have an authorized representative of MAIT sign below to indicate MAIT agreement with the terms of this Agreement and return a signed copy by pdf to William J. Donovan at William.donovan@nationalgrid.com

Acknowledged and agreed:

**NIAGARA MOHAWK POWER CORPORATION
DBA NATIONAL GRID**

By: Brian Gemmell
Name: Brian Gemmell, VP Strategy & Performance FERC
Title: Authorized Representative

MID-ATLANTIC-INTERSTATE TRANSMISSION, LLC

By: Richard A. Gaylor
Name: Richard A. Gaylor
Title: Director - RISC & RTO Technical Support