

125 FERC ¶ 61,157  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 10, 2008

In Reply Refer To:  
Niagara Mohawk Power Corporation  
Docket Nos. ER08-1603-000 and  
ER08-552-000

Hunton & Williams, LLP  
Attn: Ted J. Murphy, Counsel for the  
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Attn: William Glew, Counsel for  
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Dear Mr. Murphy and Mr. Glew:

1. On September 12, 2008, on behalf of Niagara Mohawk Power Corporation (Niagara Mohawk), you filed revisions to certain Niagara Mohawk-specific components of the Wholesale Transmission Service Charge under the Open Access Transmission Tariff (OATT) administered by the New York Independent System Operator (NYISO).<sup>1</sup> You note that in its July 29, 2008 Order,<sup>2</sup> in Docket No. ER08-552, the Commission suspended the subject formula rate used to determine the Niagara Mohawk-specific components, subject to refund, and established a hearing and settlement judge

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<sup>1</sup> Niagara Mohawk owns bulk transmission facilities that are under the operational control of the NYISO and Niagara Mohawk retains section 205 rights to change certain Niagara Mohawk-specific components of the Wholesale Transmission Service Charge formula rate under the OATT administered by NYISO for services in New York.

<sup>2</sup> See *Niagara Mohawk Power Corporation*, 124 FERC ¶ 61,106 (2008) (July 29, 2008 Order).

procedures. In the instant filing, pursuant to the Commission's acceptance of the Niagara Mohawk-specific components in the July 29, 2008 Order and certain minor corrections and clarifications that Niagara Mohawk is now proposing under section 205 of the Federal Power Act,<sup>3</sup> you request that the Commission accept the revised tariff sheets for inclusion in NYISO's OATT and make them effective October 1, 2008.<sup>4</sup>

2. Notice of Niagara Mohawk's filing was published in the *Federal Register*, 73 Fed. Reg. 58,948 (2008), with comments, interventions and protests due on or before October 10, 2008. On October 10, 2008, the Long Island Power Authority and its subsidiary, the Long Island Lighting Company filed a motion to intervene. On October 16, 2008, the New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation filed a motion to intervene out of time. No comments or protests were filed.

3. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 C.F.R § 385.214(d) (2008), the Commission will grant the late filed motion to intervene of the New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

4. Niagara Mohawk's proposed rate schedule raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered in the July 29, 2008 Order.

5. As we stated in the July 29, 2008 Order, our preliminary analysis indicates that Niagara Mohawk's proposed rate schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Because the same rate schedule is at issue in this filing, we consolidate this docket with Docket No. ER08-552, the subject docket in the July 29, 2008 Order. The effective date in the instant docket should coincide with the effective date in Docket No. ER08-552, i.e., October 1, 2008. Accordingly, we find good cause to grant waiver of the 60-day notice requirement. Therefore, we will accept Niagara Mohawk's filing, suspend it for a nominal period, and permit it to become effective October 1, 2008, subject to the

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<sup>3</sup> 16 U.S.C. § 824d.

<sup>4</sup> The tariff sheets are designated as Eighth Revised Sheet No. 404, and First Revised Sheets Numbers 413A through 413O, under the New York Independent System Operator, Inc., FERC Electric Tariff, Original Volume No. 1, Attachment H.

outcome of the hearing and settlement procedures established in the July 29, 2008 Order and subject to refund.

6. As we noted in the July 29, 2008 Order, while we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.