

132 FERC ¶ 61,260  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

September 24, 2010

In Reply Refer To:  
National Grid Generation, LLC  
Docket No. ER10-705-000

National Grid Generation, LLC  
175 East Old Country Road  
Hicksville, NY 11801

Attn: Anna S. Chacko, Esq.  
Attorney for National Grid Generation, LLC

Reference: Stipulation and Settlement Agreement

Dear Ms. Chacko:

1. On May 13, 2010, National Grid Generation, LLC (National Grid) filed a Stipulation and Settlement Agreement (Settlement Agreement) in the above-captioned proceeding. Long Island Power Authority and its operating subsidiary, Long Island Lighting Company, (collectively LIPA) and Commission Trial Staff filed comments in support of the Settlement Agreement on May 14, 2010 and May 24, 2010, respectively. No other comments were received. On June 7, 2010, the Settlement Judge certified the uncontested Settlement Agreement to the Commission.<sup>1</sup> The Settlement Agreement resolves all issues arising in the above proceeding. As discussed below, the Commission approves the uncontested Settlement Agreement.

2. National Grid and LIPA are parties to a Power Supply Agreement (PSA), which is on file with the Commission. The PSA sets forth the terms and conditions for the sale and delivery of electric capacity, energy conversion and ancillary services by National Grid to LIPA.

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<sup>1</sup> *National Grid Generation, LLC*, 131 FERC ¶ 63,019 (2010).

3. On February 1, 2010, National Grid filed in the above-captioned proceeding revisions to Appendix A of the PSA that add the mechanism for calculating the annual capacity charge for turbine upgrades and new emission controls and otherwise implement the Fourth Amendment to the PSA.<sup>2</sup> LIPA intervened and protested various aspects of the National Grid's formula, including the proposed interest rate to be applied in computing the capacity charge for the turbine upgrades and the new emission controls under the Fourth Amendment. National Grid filed an answer disputing LIPA's allegations regarding its proposed revisions to the PSA. No other interventions or comments were filed.

4. On March 31, 2010, the Commission issued an order accepting and suspending National Grid's proposed tariff sheets and establishing hearing and Settlement Judge Procedures.<sup>3</sup> Following the issuance of the Commission's March 31 Order, the parties engaged in settlement discussions that resulted in the instant Settlement Agreement.

5. Article I of the Settlement Agreement states that the revised tariff pages in Exhibit I to the Settlement Agreement resolve all issues in Docket No. ER10-705-000. The revised tariff pages explain that the capacity charge for turbine upgrades and new emission controls will reflect an Allowance For Funds Used During Construction rate of 4.95 percent through May 31, 2010, and a 4.85 percent return thereafter, with all such rates reflecting 100 percent tax exempt debt financing. In addition, the Settlement Agreement provides that the rate for calculating the return on plant in service will be 4.85 percent with such rate reflecting 100 percent tax exempt debt financing. Finally, Article I of Settlement Agreement contains the method for calculating the fuel and emission savings attributable to the turbine upgrades and new emission controls.

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<sup>2</sup> National Grid and LIPA entered into the Fourth Amendment to the PSA on March 22, 2007. The Fourth Amendment was filed with the Commission and accepted by Letter Order dated March 3, 2009 in Docket No. ER08-1098-002. Pursuant to the Fourth Amendment, National Grid agreed to make certain capital improvements to National Grid's Northport and Port Jefferson generating facilities consisting of turbine upgrades and new emission controls and to bear the risk of recovery of the costs of the additions through a mechanism that limits recovery to actual fuel and emission savings realized by LIPA as calculated pursuant to the Fourth Amendment. The Fourth Amendment also authorizes National Grid to assess a capacity charge for the turbine upgrades and new emission controls at such time as the initial improvements begin commercial operation, which occurred on April 1, 2010.

<sup>3</sup> *National Grid Generation, LLC*, 130 FERC ¶ 61,274 (2010) (March 31 Order).

6. Article II contains, among other things, the Settlement Agreement's standard reservations provisions, the term of the agreement, and the standard of review. Specifically, Section G of Article II provides that "the standard of review to be applied by the Commission in considering any change, whether proposed by any Party, the Commission itself, or any non-party, to any then-effective provision of this Agreement shall be the most stringent standard permissible under applicable law."<sup>4</sup>
7. Article III provides that the Settlement Agreement will become effective seven days after a Commission order approving the Settlement Agreement without modification and the order becomes no longer subject to rehearing. Article III also states that the Commission order approving the Settlement Agreement shall constitute, among other things, the final disposition of all outstanding issues in Docket No. ER10-705.
8. On May 14, 2010, LIPA filed comments in support of the Settlement Agreement. On May 24, 2010, Commission Trial Staff filed comments in support of the Settlement Agreement. On June 7, 2010, the Settlement Judge certified the uncontested Settlement Agreement to the Commission.
9. The Settlement Agreement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. Finally, the proposed tariff designations comply with the requirements of Order No. 614.<sup>5</sup>
10. If National Grid has made its baseline electronic tariff filing pursuant to Order No. 714, and did not file the settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing in eTariff format to ensure that its electronic tariff provisions reflect the Commission action in this order.<sup>6</sup> Such a compliance filing also is necessary for any settlement filing containing *pro forma* tariff sheets, but is not necessary if the settlement was filed in eTariff format with actual tariff records (as opposed to *pro forma* records).

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<sup>4</sup> National Grid, May 13, 2010, Settlement and Stipulation, Article II, Section G at 6.

<sup>5</sup> See *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulation Preambles July 1996–December 2000 ¶ 31,096 (2000).

<sup>6</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).

11. In light of the resolution of all issues in this proceeding, this letter order terminates Docket No. ER10-705-000.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.