

143 FERC ¶ 61,183  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 30, 2013

In Reply Refer To:  
Niagara Mohawk  
Power Corporation  
Docket No. ER13-1260-000

Terry L. Schwennesen  
National Grid  
40 Sylvan Road  
Waltham, MA 02451

Dear Ms. Schwennesen:

1. On April 11, 2013, Niagara Mohawk Power Corporation (Niagara Mohawk) filed a motion requesting the Commission to issue an expedited order granting limited waiver of section 14.1.9.4.1.1 of Attachment H to the New York Independent System Operator's (NYISO) Open Access Transmission Tariff (OATT) to allow an additional 90 days (i.e., until September 12, 2013) for it to comply with the NYISO OATT's June 14, 2013 deadline for submitting the informational filing that constitutes the Annual Update of Niagara Mohawk's wholesale Transmission Service Charge (TSC). The Annual Update would reflect data from Niagara Mohawk's 2012 FERC Form No. 1, which will not be filed until August 30, 2013. The Commission grants the requested waiver as discussed below.

2. Niagara Mohawk's TSC is determined under a formula rate, pursuant to Attachment H of the NYISO OATT.<sup>1</sup> Attachment H, section 14, requires Niagara Mohawk to submit the Annual Update with the Commission each year detailing the calculation of the TSC formula rate to be collected for transmission service beginning on and after July 1 of each year. The Annual Update relies primarily on data from Niagara Mohawk's FERC Form No. 1 from the prior calendar year. Attachment H, Section 14, requires the calculation, posting, and filing of the Annual Update on or

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<sup>1</sup> The Commission approved a settlement resolving all of the issues among the Settling Parties in Docket Nos. ER08-552-000, et al., regarding Niagara Mohawk's proposed formula rate for its TSC. *Niagara Mohawk Power Corp.*, 127 FERC ¶ 61,289 (2009).

before June 14 of each year. Niagara Mohawk states that it believes that its FERC Form No. 1 for 2012 will not be completed in time to provide the necessary inputs to the 2013 Annual Update.

3. Niagara Mohawk states that its waiver request stems from a delay in the filing of its FERC Form No. 1 for calendar year 2012. In Docket No. AC13-75-000, National Grid, Niagara Mohawk's parent, requested an extension until August 30, 2013 to file Niagara Mohawk's 2012 FERC Form No. 1. National Grid stated that an extension was needed due to its implementing and testing of a single-platform accounting system to replace two legacy systems that National Grid had been operating since its merger with Keyspan Corporation. National Grid further described issues with system conversion and data quality. National Grid requested the additional time to ensure the 2012 FERC Form No. 1 is accurate and complete.<sup>2</sup>

4. Niagara Mohawk asserts that its request satisfies relevant criteria for granting waiver.<sup>3</sup> Niagara Mohawk says that its waiver request is limited to the specific facts in this proceeding. Niagara Mohawk states that its request applies only to its 2013 Annual Update and that it would be inapplicable to subsequent years. According to Niagara Mohawk, its waiver request is limited in scope because the "single effect" of a waiver would be that Niagara Mohawk would have an additional 90 days, i.e., until September 12, 2013, to comply with the NYISO OATT deadline for filing the Annual Update.<sup>4</sup>

5. Noting National Grid's extension of time to file the FERC Form No. 1 for 2012, Niagara Mohawk states that the waiver would remedy a concrete problem by allowing Niagara Mohawk to file its 2013 Annual Update with inputs based on the

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<sup>2</sup> National Grid's request was granted by delegated letter order issued April 18, 2013. *See National Grid*, Docket No. AC13-75-000 (April 18, 2013) (delegated letter order).

<sup>3</sup> Motion at 3 (citing *PJM Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at P 8 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners, LLC*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at PP 9-10 (2010); *ISO New England Inc. – EnerNOC, Inc.*, 122 FERC ¶ 61,297, at PP 12-15 (2008); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008); *Cent. Vt. Pub. Serv. Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007, at PP 31-34 (2007)).

<sup>4</sup> *Id.* at 4.

2012 FERC Form No. 1 data and thereby comply with Attachment H of NYISO's OATT.<sup>5</sup>

6. Niagara Mohawk argues that waiver in this proceeding is in the public interest and would have no adverse consequences on third parties, i.e., NYISO, other transmission owners, or transmission customers taking transmission service under the TSC rate. Niagara Mohawk also asserts that its request will not affect the NYISO OATT. Niagara Mohawk states that "granting the waiver request will ensure that transmission customers are held harmless from the delay by reconciling revenues after the fact, with interest calculated in accordance with Section 35.19a of the Commission's regulations."<sup>6</sup> Thus, Niagara Mohawk argues the delay in submission of the 2013 Annual Update informational filing will neither increase nor decrease the TSC rates paid by NYISO OATT customers.

7. Niagara Mohawk also reasons that filing its Annual Update as of September 12, 2013 would not alter the rights of interested parties to review and contest the accuracy of the information underlying Niagara Mohawk's Annual Update, since those rights are triggered by the Publication Date which is defined in the NYISO OATT as the date of an informational filing for an update year.<sup>7</sup>

8. Niagara Mohawk also requests expedited issuance of an order on its waiver request in this proceeding no later than May 31, 2013, with a requested effective date of June 1, 2013. Notice of Niagara Mohawk's filing was published in the *Federal Register*, 78 Fed. Reg. 23,243 (2013), with protests or interventions due on or before April 22, 2013. None was filed.

9. The Commission has granted limited waivers of tariff provisions where: (i) the applicant has been unable to comply with the tariff provision at issue in good faith; (ii) the waiver is of limited scope; (iii) a concrete problem will be remedied by granting the requisite waiver; and (iv) the waiver does not have undesirable consequences, such as harming third parties.<sup>8</sup> We find that Niagara Mohawk has

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<sup>5</sup> Motion at 4.

<sup>6</sup> Motion at at 2, 5-6.

<sup>7</sup> *Id.* at 5-6 (referencing NYISO's OATT, sections 14.1.9.4.3.6 and 14.1.9.1.63).

<sup>8</sup> See, e.g., *PJM Interconnection*, 135 FERC ¶ 61,069 at P 8; *Hudson Transmission Partners*, 131 FERC ¶ 61,157 at P 10.

satisfied these four factors for the reasons articulated in its Motion as summarized above.<sup>9</sup>

10. Niagara Mohawk's request for limited waiver of Attachment H of NYISO's OATT is hereby granted, effective June 1, 2013. Niagara Mohawk is granted an additional 90 days (i.e., until September 12, 2013) to submit the informational filing that constitutes the Annual Update of its TSC charge.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>9</sup> We note that no party contested Niagara Mohawk's Motion.