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The Honorable Philis Posey
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Niagara Mohawk Power Corporation
Docket No. ER07-318-001
Amendment to Filing**

Dear Acting Secretary Posey:

On December 13, 2006, Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk" or "National Grid") submitted for filing Original Service Agreement No. 923 ("Service Agreement") between Niagara Mohawk and New Athens Generating Company, LLC ("New Athens") under the open access transmission tariff of the New York Independent System Operator ("NYISO"). *New York Independent System Operator, LLC*, FERC Electric Tariff, Original Volume No. 1.

Niagara Mohawk is amending the December 13 filing to include additional information requested by Commission Staff. Niagara Mohawk is authorized to state that New Athens supports the Service Agreement filing, and supports the Commission's acceptance of the Service Agreement as filed.

I. Background

New Athens is the owner/operator of a 1,080 MW electric generating facility located in Athens, New York ("New Athens Plant"). The New Athens Plant is interconnected to the transmission system owned by National Grid. The Service Agreement sets forth the rates, terms and conditions under which National Grid will design, construct, install and implement a Special Protection System ("SPS"). The sole purpose of the SPS is to improve the deliverability of the New Athens Plant. The parties intend that the SPS will be in place for an interim 3-year period or until they agree upon and implement a permanent solution. The SPS will be implemented only after receiving all required NYISO and other agency approvals and the studies performed by the NYISO or other agencies show that the "SPS will be consistent with the safe and reliable

operation of the Transmission System and all applicable standards.” Service Agreement at § 2.3. Also, operation of the SPS will be subject to those NERC and regional council Reliability Standards that expressly address SPS requirements.¹ New Athens will pay National Grid for the actual costs National Grid incurs in connection with the design and installation of the SPS.

The interconnection studies performed in response to New Athens' 1997 interconnection request stated that, due to limitations on lines 91-92, Athens and another planned generation facility could be required to operate at lower levels of output during summer periods than they would otherwise. The interconnection study also stated that reconductoring of lines 91-92 would greatly reduce the expectation of operating these generators at reduced levels. Finally, the interconnection studies confirmed that the New Athens Plant could be interconnected reliably without reconductoring lines 91-92. Since the New Athens Plant entered the market in 2004, the NYISO has, on a number of occasions when thermal limits were reached on lines 91 and 92, limited the amount of power that New Athens may deliver to the market. In order to maximize the power deliveries over these lines and, then, into Southern New York, in 2006, New Athens approached National Grid with a proposal to design and install a new SPS. The SPS will monitor flows on lines 91 and 92 and, when they reach levels that require reduction in New Athens' output, automatically send a signal directly to the New Athens Plant to reduce its output. In this way, the SPS would allow increased pre-contingency flow on lines 91 and 92, and therefore increase the amount of its output that the New Athens Plant can deliver to market. National Grid envisions that the SPS will be comprised primarily of three micro-processor-based overcurrent relays at the Leeds substation and the New Athens Plant substation. The Leeds substation is located approximately one half mile from the New Athens Plant substation. In short, these relays will monitor flows on lines 91 and 92, signal the New Athens Plant if and when line loadings require the plant to reduce its output and, by triggering other equipment located at the New Athens Plant, cause the plant's output to be automatically reduced. Service Agreement at 1.34.

II. Additional Information

1. Staff Question: The filing letter and corresponding Agreement indicate that the proposed SPS is an interim step to improve/increase the New Athens' Plant deliverability. The Agreement also states that nothing in the Agreement is intended to modify any provisions of the existing Interconnection Agreement between the parties. However, it continues to remain unclear from the filing as to whether the SPS, and ultimately the implementation of a permanent solution, are an extension of the interconnection agreement, a transmission service agreement or some other contractual arrangement between the parties. Accordingly, you are requested to state whether the SPS is being installed to accommodate the existing interconnection service, transmission delivery service or another type of service.

¹ See, e.g., NERC Reliability Standards PRC-012-0 through PRC-016-0.

Response: The New Athens facility is interconnected to National Grid's transmission system in accordance with an interconnection agreement with Niagara Mohawk. The interconnection agreement is filed with the Commission as Rate Schedule 308. The SPS arrangement will not amend or modify the terms of New Athens' interconnection, and the Service Agreement simply clarifies this fact.

Two years after the New Athens Plant was interconnected to the transmission system, New Athens proposed a SPS to improve its deliverability, i.e., the sole purpose of the SPS is to improve the deliverability of the output of the New Athens Plant to the transmission system. Thus, while not related to a specific point-to-point or network service request, the NYISO will evaluate the SPS under the same system study procedures that its OATT prescribes when evaluating transmission service requests, and that the NYISO also would have used had the SPS been proposed as part of the initial interconnection.² The purpose of the Service Agreement is to establish the terms under which Niagara Mohawk will install the SPS and New Athens will pay for the SPS installation. Accordingly, the Service Agreement is in the nature of a facilities agreement or construction agreement between Niagara Mohawk (the entity that is installing the SPS) and Athens (the entity that requested the installation of the SPS) and, as such, is an agreement that is related to, or undertaken in connection with, transmission delivery service under the NYISO OATT.

2. Staff Question: Also please state where under the NYISO Tariff that Niagara Mohawk has the authority to directly assign the cost of the SPS to New Athens and explain why it is appropriate to rely on this authority in the instant filing. To the extent that you determine that the SPS is not being installed as part of the existing interconnection or transmission delivery service or are unable to state where under the NYISO tariff Niagara Mohawk has authority to directly assign the cost of the SPS to New Athens as part of an interconnection or transmission delivery service arrangement, you are directed to fully explain why it is appropriate to directly assign the cost of the SPS to New Athens in light of the Commission's long standing transmission pricing policy.³

² See NYISO OATT § 19 and 32 and Service Agreement at 2.3.

³ See Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Act, Policy Statement, FERC Stats. And Reg. Preambles par. 31,005. See also *Northeast Utilities Service Company (Re: Public Service Company of New Hampshire)*, Opinion No. 364-A, 58 FERC ¶ 61,070 (1992), reh'g denied, Opinion No. 364-B, 59 FERC ¶ 61,042, order granting motion to vacate and dismissing request for rehearing, 59 FERC ¶ 61,089, aff'd in part and remanded in part sub nom. *Northeast Utilities Service Company v. FERC*, 993 F.2d 937 (1st Cir. 1993), order on remand, 66 FERC ¶ 61,332, reh'g denied, 68 FERC ¶ 61,041 (1994) pet. denied; *Pennsylvania Electric Company*, 58 FERC ¶ 61,278, reh'g denied and pricing policy clarified, 60 FERC ¶ 61,034, reh'g denied, 60 FERC ¶ 61,244 (1992), aff'd sub nom. *Pennsylvania Electric Co. v. FERC*, 11 F.3d 207 (D.C. Cir. 1993) (*Penelec*).

Response: Niagara Mohawk has the authority to directly assign the cost of the SPS to New Athens under the NYISO Tariff.

First, the SPS facilities that are being installed under this Service Agreement are “Direct Assignment Facilities” under the NYISO Tariff, the costs of which are assigned directly to the requesting customer under the NYISO OATT and under FERC’s long-standing transmission pricing policies.⁴ Section 1.10 of the NYISO Tariff defines Direct Assignment Facilities as “[f]acilities or portions of facilities that are constructed by the Transmission Owner(s) for the sole use/benefit of a particular Transmission Customer requesting service under the Tariff. Direct Assignment Facilities shall be specified in the Service Agreement that governs service to the Transmission Customer and shall be subject to Commission approval.” As noted above, the sole purpose of this SPS is to improve the deliverability of the New Athens Plant. The SPS is not an upgrade or an improvement to the Niagara Mohawk transmission network. Instead, the SPS will monitor loadings on lines 91 and 92 and, when loadings reach a certain level, and send a signal directly to the New Athens Plant to reduce its output. Thus, this SPS will not provide any system-wide or network benefits to the transmission grid itself - - i.e., no more than would a manual procedure allowing for the plant output to be reduced upon request of the system operator,

Second, under Attachment S of the NYISO Tariff, even where a customer request involves the installation of network upgrades, the customer “is held responsible for the cost of the ... facilities that would not be required but for its project.” NYISO OATT, Attachment S, Section I.A.⁵ As discussed above, the SPS would not be required and installed “but for” the request by New Athens. The Commission has determined that NYISO’s OATT provisions which assign the cost of upgrades to generators under Attachment S are consistent with its pricing policies. *See New York Independent System Operator, Inc.*, 97 FERC ¶ 61,118 (2001).

Finally, consistent with the mechanisms used in NYISO and other ISOs that require customers to fund specific upgrades, Article 5 of the Service Agreement provides that, to the extent that TCCs (NYISO’s form of financial transmission rights) or other rights or benefits are created by or attributable to the SPS, such TCCs or other rights or benefits will be the property of and allocated to the entity(ies) that fund the SPS in

⁴ *See, e.g., Penelec* at 61,129-2, n.49. 61,014 at 61,063 (1993).

⁵ In addition, *see* Attachment S, Section I.B. Under Section IV.F. of Attachment S, Generators are responsible for 100% of the cost of Attachment Facilities. And, under Section IV.G.4. of Attachment S, generators are “responsible for 100% of the cost of the System Upgrade Facilities, ... that are needed as a result of their projects, and required for their projects to reliably interconnect to the transmission system in a manner that meets the NYISO Minimum Interconnection Standard.” Similarly, under Section IV.G.5.b. of Attachment S, generators are responsible for the cost of the System Upgrade Facilities that are required by, or caused by, its project.”

proportion to the amount funded by such entity(ies).⁶ Accordingly, even if the Commission were to determine that this SPS were a network upgrade, directly assigning the costs of the SPS to New Athens still would not violate the Commission's prohibition against paying both an incremental cost rate and an embedded cost rate for interconnecting to (or otherwise using) the integrated network.

3. Staff Question: With respect to the intended permanent solution discussed in the filing letter, please state whether it is Niagara Mohawk's current intention to directly assign the cost of any transmission network upgrades associated with the permanent solution for the New Athens facility or to roll them into Niagara Mohawk's rolled in transmission rate. If it is Niagara Mohawk's intention to directly assign the cost of any transmission network upgrades to New Athens as part of the permanent solution, please explain why it is appropriate to do so in light of the Commission's long standing pricing policy.

Response: As noted in Section 3.4 of the Service Agreement, Niagara Mohawk has not formulated a permanent solution with respect to loadings on lines 91 and 92. As a result, Niagara Mohawk cannot presently say how it intends to allocate and recover the cost of any transmission network upgrades that might be associated with a permanent solution. However, Niagara Mohawk understands that Commission approval would be required in order for Niagara Mohawk to charge New Athens for the costs of a PPR.

4. Staff Question: Please explain why and how the SPS will increase the deliverability of the New Athens Plant.

Response: Under existing NYSRC Reliability Rules, post-contingency loading on transmission lines such as 91 and 92 are limited by their Long-Term Emergency (LTE) ratings. On the 91 and 92 lines the post-contingency limit, in turn, limits the lines' pre-contingency loading capability and prevents the New Athens Plant from generating at full output during peak load conditions, most notably during the summer. Operation of the SPS will permit loadings on the lines based on their Short-Term Emergency (STE) ratings (STE rating is greater than LTE rating). A requirement associated with the use of STE ratings is that post-contingency loading be reduced to LTE rating or less within 15 minutes. The SPS will detect line faults and resulting line overloads and send a signal to the New Athens Plant that will automatically, within two minutes, reduce generation until the transmission line loading returns to below its LTE rating. As a result, the SPS will allow the NYISO system operator to operate the system at higher pre-contingency flows, which will allow Athens to generate at higher levels and increase its deliverability.

⁶ See Order No. 2003-A at 692. (allows the direct assignment of network upgrade costs under Tariff of independent transmission provider when customer receives well-defined congestion rights in return).

III. Proposed Effective Date

For the reasons provided in the December 13 filing, Niagara Mohawk reiterates its request for an effective date of December 14, 2006 for the Service Agreement.

IV. Service

A copy of this filing has been served on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010), New Athens, NYISO and the New York Public Service Commission. An additional copy of this filing is enclosed, to be marked with your filing date-stamp and returned to our messenger. Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Daniel Galaburda

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cc: Larry Eisenstat
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