

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 12-E-0201 – Proceeding on Motion of the Commission as to
the Rates, Charges, Rules and Regulations of Niagara Mohawk
Power Corporation d/b/a National Grid for Electric Service

**NEW YORK POWER AUTHORITY
STATEMENT IN SUPPORT OF JOINT PROPOSAL**

To: Honorable Rudy Stegemoeller
Honorable Paul Agresta
Administrative Law Judges

I. INTRODUCTION

The New York Power Authority (“NYPA”) files these comments in support of the Joint Proposal (“JP”) filed on December 7, 2012 by Niagara Mohawk Power Corporation d/b/a National Grid (“Grid” or “Company”) in the above-captioned proceeding. NYPA believes that the JP, the result of negotiations between the Company, the Department of Public Service Staff, Multiple Intervenors (“MI”), NYPA and other active parties that resolves the issues raised in the Company’s April 27, 2012 electric rate filing, is a fair and reasonable outcome that balances the interests of the Company and electric service ratepayers in the Company’s service territory.¹

NYPA files these comments to highlight the JP’s treatment of two particular provisions that will enhance NYPA’s ability to promote economic development through its sale of low-cost hydroelectricity in the Company’s service territory: the elimination of the Company’s “historic demand” and the modification of NYPA’s Installed Capacity (“ICAP”) obligation associated

¹ As the JP indicates, NYPA executed the JP only with respect to Case 12-E-0201 and took no position with respect to Case 12-G-0202, which concerns the Company’s gas delivery rates. Accordingly, NYPA takes no position in this Statement with respect to Case 12-G-0202.

with Expansion Power and Replacement Power allocations. Lastly, NYPA supports the overall electric delivery rates included over the JP's three-year term.

II. DESCRIPTION OF NYPA AND ITS INTEREST IN GRID DELIVERY RATES

NYPA is a corporate municipal instrumentality and a political subdivision of the State of New York (the "State"), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title 1 of Article 5 of the New York Public Authorities Law ("PAL"). NYPA generates, transmits and sells electric capacity and energy for its customers throughout the State and other market participants. Within the Company's service territory, NYPA's customers include recipients of Expansion Power ("EP"), Replacement Power ("RP") (two hydropower programs supplied from NYPA's Niagara Power Project), Preservation Power ("PP") (new hydropower allocations supplied from NYPA's St. Lawrence-FDR Power Project), as well as Recharge New York Power ("RNY"), a brand-new program which consists of a combination of NYPA hydropower and market power. These programs are provided for in State or federal statutes.

NYPA has a unique history of supplying low cost hydroelectricity to promote economic development in Western New York since the early 1960s. Under the RP program, created by the federal Niagara Redevelopment Act of 1957, 16 U.S.C. § 836 (2006)², NYPA awards hydropower allocations on a competitive basis to manufacturing firms that commit to create new jobs and make investments in equipment and facilities. *See generally* PAL § 1005(13)(a).³ In 1987, the New York State Legislature augmented NYPA's economic development responsibilities through the creation of the EP program, for which NYPA applies the same

² The RP program was later codified in state law by Chapter 313 of the Laws of 2005. *See* PAL § 1005(13).

³ NYPA is also permitted to make "revitalization" hydropower allocations if a full or partial shutdown of a business is likely, the allocation will enable the business to remain competitive and become profitable, or other related criteria are met. *See generally* PAL § 1005(13)(b).

criteria to award allocations.⁴ Both RP and EP programs are limited to customers located within a 30-mile radius of the Niagara Power Project, demonstrating, in part, NYPA's mission to support the economic development of Western New York.⁵ Currently, 591 megawatts ("MW") of hydroelectricity is sold to industrial customers in Grid's territory under the EP and RP programs, supporting 23,632 jobs. The PP program, also authorized by state law⁶ in 2005, has a total of 10.3 MW under contract for service to qualified industrial customers located in the North Country counties of Jefferson, St. Lawrence and Franklin, supporting 264 jobs.

Most recently, the State Legislature in 2011 authorized the RNY program, which permits NYPA to allocate up to 455 MW of hydropower and 455 MW of market power to businesses and non-profits throughout the State.⁷ In Grid's service territory, 297 MWs of RNY (combined hydro and non-hydro) are currently allocated to customers to support an estimated 75,369 jobs. The RNY program replaced two long-running NYPA power programs, Economic Development Power ("EDP") and Power for Jobs ("PFJ"), which had been effective tools for economic development. Under RNY's combination of hydropower and market power, NYPA can offer competitive electricity supply that enables the benefits of low-cost hydropower to be spread throughout New York State.

Due to its enduring role as a large power supplier in the Grid service territory, NYPA has a vital interest in minimizing delivery cost increases in order to maximize the potential for economic growth in Western New York and in other regions of Grid's service territory, and to that end, participates in Grid's electric delivery rate cases. Most recently, NYPA was a participant in Grid's last rate case decided by the Commission in Case 10-E-0050.

⁴ See PAL §§ 1005(13)-1005(13)(a).

⁵ The EP program also allows up to 20 MW of hydropower to be allocated to businesses in Chautauqua County.

⁶ PAL § 1005(13).

⁷ PAL §§ 1005(13-a), (13-b).

Delivery costs for most NYPA hydropower allocations have remained relatively low over the last several years largely due to the preservation of “grandfathered” rates contained in delivery agreements under the jurisdiction of the Federal Energy Regulatory Commission (“FERC”). Those grandfathered rate provisions, however, expired at the end of 2011. In order to mitigate the effects of the expiration of those grandfathered rates, NYPA and its customers’ representatives⁸ successfully negotiated with the Company a five-year phase-in⁹ beginning in January 2012 for those grandfathered allocations to the Company’s retail tariff delivery rates.¹⁰

III. COMMENTS IN SUPPORT

A. Elimination of Historic Demand for EP and RP Allocations

NYPA strongly supports Section 3.3(a) of the JP which eliminates the “historic demand” applicable to many EP and RP allocations. This change would become effective April 1, 2013, the same date that the new delivery rates become effective. NYPA believes this change promotes economic development by ensuring NYPA customers use their full low-cost hydropower allocation. Such customers will no longer be required to first meet their historic demand with more expensive market power before using their NYPA hydropower allocation. Instead, NYPA customers may now reap the full benefit of their hydropower allocation before using higher-priced market power to fulfill their electric needs. This change is thoroughly consistent with NYPA’s mission to allocate low-cost EP and RP to eligible businesses to maximize industrial development and employment in Western New York.

⁸ The NYPA customers’ interests were represented by MI and Power for Economic Prosperity (“PEP”). Both MI and PEP are consortiums of large industrial users, many of whom are also NYPA hydropower customers.

⁹ Applicable to most NYPA grandfathered allocations. The phase-in is 7 years for a small group of NYPA customers taking delivery service at primary voltage levels whose delivery rate increases would be onerous under a 5-year phase-in.

¹⁰ This phase-in was part of a settlement agreement filed and approved by the Commission in Case 11-E-0535. The same settlement agreement was also filed at FERC, and accepted by letter order in Docket No. ER12-367-000.

The JP also states that Grid and NYPA will pursue any contract changes with customers that may be necessary to implement the removal of the historic demand by April 1, 2013. Due to our experience in managing customer contracts, NYPA will be ready to work with the Company to achieve this goal.

NYPA is not aware of any opposition to this provision and recommends that it be adopted by the Commission as fair and reasonable.

B. Methodology Used to Calculate NYPA's Load Share for Installed Capacity for EP, RP and PP Programs

NYPA strongly supports Section 3.7.5 of the JP because it provides for a more equitable allocation of NYPA's supply of Installed Capacity ("ICAP") for EP and RP allocations, as required by the New York Independent System Operator, Inc. ("NYISO"). For reliability purposes, each load serving entity in the NYISO must acquire a certain MW quantity of ICAP for its loads. The JP's methodology modifies NYPA's load share for this ICAP and eliminates NYPA oversupplying capacity from its hydro resources. The changed methodology makes NYPA's load share for ICAP accurately reflect the EP and RP customer's actual hydroelectric usage. In essence, by preventing NYPA from oversupplying capacity, valuable hydroelectric resources will be preserved for the benefit of future hydropower recipients under the EP, RP or RNY programs.

This change is also consistent with the manner in which NYPA's ICAP obligation for hydropower is determined in conjunction with utilities statewide for our RNY program and by other utilities that deliver NYPA's EP and RP allocations. Because the load share responsibility for ICAP is not handled under the Company's retail tariff, the JP states that NYPA and the

Company will enter an agreement to effectuate this provision effective May 2013, the start of the NYISO's 2013 summer capability period.¹¹

NYPA is not aware of any opposition to this provision and recommends that it be adopted by the Commission as fair and reasonable.

C. Overall Electric Delivery Rates Under the Three-Year Rate Plan

NYPA supports the electric delivery rates advanced by the JP as fair and reasonable. Base delivery rates, on a system average basis, will increase by 3.26% in Rate Year One, by 3.79% in Rate Year Two and by 2.06% in Rate Year Three. As the settled rate increases are significantly below the Company's original request, the JP rates satisfy the principle of gradualism in ratemaking. In addition, the effects of these increases will be mitigated by the application of \$35.7 million of forecast deferred credits, of which NYPA customers will be allocated their appropriate share. As the JP notes, the signatory parties prefer that these credits be applied to customers in Rate Years One and Two.

¹¹ For consistency, such provision will also apply to NYPA's PP allocations.

IV. CONCLUSION

For the reasons set forth above, the JP contains rates and practices for the Company's electric service that are fair and reasonable and consistent with NYPA's economic development objectives. Therefore, the Commission should adopt the JP in its entirety.

Respectfully submitted,

/s/ Gary D. Levenson

Judith C. McCarthy
Executive Vice President
& General Counsel
New York Power Authority
123 Main Street
White Plains, NY 10601

Gary D. Levenson
Principal Attorney
New York Power Authority
123 Main Street
White Plains, NY 10601
Tel: 914/390-8030
Gary.Levenson@nypa.gov

Eileen P. Flynn
Principal Attorney
New York Power Authority
123 Main Street
White Plains, NY 10601
Tel: 914/390-8014
Eileen.Flynn@nypa.gov

December 21, 2012
White Plains, New York