

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 15, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman, concurring

CASE 16-M-0083 - Petition filing by Niagara Mohawk Power Corporation d/b/a National Grid requesting approval to transfer ownership of a 1985 Bell 206L-3 Helicopter to Fly Hangar 13, LLC.

ORDER GRANTING AUTHORITY TO
TRANSFER A 1985 BELL 206L-3 HELICOPTER

(Issued and Effective June 16, 2016)

BY THE COMMISSION:

INTRODUCTION

On February 17, 2016, Niagara Mohawk Power Corporation d/b/a National Grid (NMPC or the Company) filed a verified petition requesting Commission authority, pursuant to Public Service Law (PSL) §70, to transfer ownership of a 1985 Bell 206L-3 helicopter (Helicopter) to Fly Hangar 13, LLC (Buyer), for the purchase price of \$600,000 (Petition). NMPC purchased the Helicopter, which was previously being leased, in 1992 for \$177,861 to conduct scheduled/post-incident inspections and survey the Company's electric system in New York State. The Helicopter has been fully depreciated since 1995 and therefore has no net book value.

According to the Company, it proposes to sell the Helicopter as it is a 1985 model, and thus is equipped with dated technology and is no longer in production. Because of

this, NMPC reports that it is difficult to obtain replacement parts due to their limited availability. The Company has replaced the Helicopter with a new aircraft with modern safety and sensing equipment, consequently rendering the Helicopter unutilized. Despite the fact that the Helicopter is not used, the Company continues to incur maintenance costs for the Helicopter. As discussed below, the Commission grants authority to NMPC to transfer the Helicopter to the Buyer as proposed in the Petition.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on March 30, 2016 [SAPA NO. 16-M-0083SP1]. The time for submission of comments pursuant to the Notice expired on May 16, 2016. No comments were received.

BACKGROUND

NMPC is a regulated energy delivery business that serves approximately 1.6 million customers in the areas of Eastern, Central, Northern, and Western New York State. The Company also sells, distributes, and transports natural gas to approximately 600,000 customers in the areas of Eastern, Central, and Northern New York. According to the Company, the Helicopter, which had previously been leased, was purchased by the Company in 1992 in furtherance of its provision of safe and reliable service to its customers in New York State. The Helicopter was used to inspect and survey the Company's geographically expansive network, including remote areas that were otherwise difficult to reach by ground transportation.

An appraiser certified by the National Aircraft Appraiser Association as a Senior Certified Appraiser conducted

a physical inspection of the Helicopter on September 2, 2014 to determine its market value. The appraiser concluded that the market value of the Helicopter was \$869,305. The Company states that, after a Request for Proposal (RFP) process which resulted in four companies bidding, in January 2015 it selected International Aircraft Sales, Inc. (IAS) as its broker. According to the Company, IAS demonstrated the best approach to the sale, offered what it calls "turn-key" service at a competitive commission rate of 5%. IAS listed the Helicopter at the appraised market value.

Subsequently, after not receiving any offers, the Company first adjusted the asking price of the Helicopter to \$820,000. Then in June 2015 the advertisement for the Helicopter was changed to "Make Offer" and offers were solicited. After changing the listing, the Company received a total of three offers, two at \$600,000, and another at \$450,000. Of the two \$600,000 offers, one was withdrawn. The Company counteroffered the \$600,000 offer at \$650,000, but the Buyer indicated its offer was firm. In October 2015, the Company and the Buyer entered into a purchase and sale agreement (Agreement) to transfer ownership of the Helicopter to the Buyer for \$600,000, of which \$42,000 has been placed in an escrow account. The remaining balance and escrow fees will be paid in full upon Commission approval.

Accounting Treatment

The proposed transaction will result in a net gain of \$570,000, which is the \$600,000 sale price reduced by \$30,000 in transaction costs. The Company provided journal entries illustrating how it proposes the transaction be recorded. Under that proposal, NMPC would treat the gain from the sale of the Helicopter as salvage and credited to the accumulated depreciation reserve. The Company notes that although the 2013

Rate Order requires gains from the sale or transfer of real property to be credited to the Site Investigation and Remediation (SIR) deferral¹, the Helicopter is not real property and, as such, this provision of the 2103 Rate Order does not apply.

LEGAL AUTHORITY

The Commission has the statutory authority pursuant to PSL §70(1) to regulate the sale of the Helicopter. NMPC owns electric and gas plant, as defined in PSL §§2(10) and 2(12), and therefore is an electric corporation and gas corporation, as defined in PSL §§2(11) and 2(13). PSL §70(1) provides that "...no gas corporation or electric corporation shall transfer or lease its franchise, works or system, or any part of such to any other person or corporation...without the written consent of the commission."

ENVIRONMENTAL QUALITY REVIEW

As part of its petition for Section 70 authorization to sell the Bell Helicopter, the Company provided Part 1 of a Short Environmental Assessment Form in conformance with the State Environmental Quality Review Act (SEQRA) requirements found at 6 NYCRR 617.6(a)(3). The Company has stated that the proposed action to transfer ownership will not have a significant adverse effect on the environment and, as Lead Agency for this unlisted action, we concur with that assertion.

The proposed sale of the subject aircraft will not result in any significant adverse effects to land and water uses

¹ Cases 12-E-0201 and 12-G-0202, Niagara Mohawk Power Corporation d/b/a National Grid - Rates, Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal, Joint Proposal Appendix 5, Schedule 8 (issued March 15, 2013).

or natural resources. No other actions are contemplated in connection with this direct sale.

We find that the sale would not result in significant adverse environmental impacts and approve this transfer. Parts 2 and 3 of the EAF have been completed by Staff and will be retained in our files. A Notice of Determination of Significance is attached to this Order.

DISCUSSION AND CONCLUSION

Pursuant to PSL §70, the Commission must ensure that the proposed transaction and accounting treatment associated with the transfer is in the public interest. To do this, we look to the utility's practices and procedures as the sale is being developed, and the underlying economics of the proposed transfer. From the record which the utility's petition provides, the Commission examines the effect of the transaction on the Company's customers. This examination generally includes, but is not limited to, an analysis of whether the utility needs the property to provide utility service and discharge its public service responsibilities, the importance of disposing of unused or underutilized assets so as to avoid recovery of excessive and unnecessary costs in rates, and the reasonableness of the utility's marketing effort and the value obtained for the property.² Because the Commission's interest is to maximize value, if a sale is proposed that is not the result of a competitive auction or solicitation, there is a rebuttable

² Case 07-M-0704, Niagara Mohawk Power Corporation - Transfer of Oswego Fire School Facility, Order Approving Property Transfer (issued November 8, 2007).

presumption that the sale is not being made at the most favorable price and is, therefore, not in the public interest.³

Here, the Company used appropriate methods and efforts to market the Helicopter to obtain the best price for it. While the sales price of \$600,000 is about \$270,000 less than the estimated value, it is significantly higher than the original purchase price of \$177,861. In light of the length of time the Helicopter was on the market, the fact that the "best offer" received out of three bids was \$600,000, the Helicopter is no longer needed for utility purposes, and because the Company will no longer have to expend money on upkeep and maintenance of the Helicopter, we conclude that it is reasonable for the Company to proceed with the sale. The Company has demonstrated that its proposed transfer of the Helicopter to the Buyer is in the public interest.

Accordingly, the Company is authorized, pursuant to §70 of the PSL, to transfer its ownership of the Helicopter to the Buyer at the terms proposed in the Petition. The Company's proposed accounting treatment will result in ratepayers receiving the benefit of the sale, therefore the accounting treatment proposed in the Petition is approved. To ensure the transaction is accomplished in conformance with the Petition and the requirements of this Order, the Company shall file copies of the final documents transferring ownership of the Helicopter within 30 days following their execution.

³ Case 08-M-0930, Con Edison and Village Academies Network Inc. - Transfer of Certain Real Property Located at 32-42 West 125th Street and 35-39 West 124th Street, New York, New York, Order Approving Property Transfer (issued October 28, 2008) at 14.

The Commission orders:

1. Niagara Mohawk Power Corporation d/b/a National Grid is authorized to transfer ownership of the 1985 Bell 206L-3 model Helicopter to Fly Hangar 13, LLC, in accordance with the directives in the body of this Order.

2. Niagara Mohawk Power Corporation d/b/a National Grid shall file with the Secretary copies of the final documents transferring ownership of the 1985 Bell 206L-3 model Helicopter to Fly Hangar 13, LLC, within 30 days following their execution.

3. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

4. This proceeding is continued but shall be closed by the Secretary after compliance with Ordering Clause No. 2.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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NOTICE OF DETERMINATION
OF SIGNIFICANCE
(Negative Declaration)

NOTICE IS HEREBY GIVEN that an Environmental Impact Statement will not be prepared in connection with the proposed sale of a 1985 Bell 206L-3 helicopter (Helicopter) to Fly Hangar 13, LLC by Niagara Mohawk Power Corporation d/b/a National Grid. Having completed its review of the proposed sale, we have determined that the proposed action would not result in significant, adverse environmental impacts. The proposed sale is an Unlisted action, as defined in 6 NYCRR Part 617.2 (ak) because the action does not rise to the level of a Type I action and is not listed as a Type II action by the Public Service Commission or by the Department of Environmental Conservation.

Based upon our review of the Petition and the record in this case, we find that no significant adverse environmental impacts would result from the sale of the Helicopter and issue a negative declaration of environmental significance.

The address of the Public Service Commission, the Lead Agency for purposes of environmental quality review of this project, is Three Empire State Plaza, Albany, New York 12223-1350. For further information, please contact Vance A. Barr (vance.barr@dps.ny.gov) at (518) 402-4873.

Kathleen H. Burgess
Secretary

CASE 16-M-0083

Commissioner Diane X. Burman, concurring:

As reflected in my comments made at the June 15, 2016 session, I concur on this item.