

**NEW YORK STATE  
PUBLIC SERVICE COMMISSION**

Case 11-M-0034 – Proceeding on Motion of the Commission to Commence a Review and  
Evaluation of the Treatment of the State’s Regulated Utilities’ Site  
Investigation and Remediation (SIR) Costs

**ANNUAL REPORT CONCERNING THE STATUS OF SITE INVESTIGATION AND  
REMEDICATION COSTS, SCHEDULES AND REGULATORY COMPLIANCE**

Niagara Mohawk Power Corporation d.b.a. National Grid

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Dated: June 21, 2013

## ACRONYMNS

AA – Alternatives Analysis  
CM – Construction Manager  
CY – Calendar Year  
FER – Final Engineering Report  
FS – Feasibility Study  
MGP – Manufactured Gas Plant  
NAPL – Non-Aqueous Phase Liquid  
NYSDEC – New York State Department of Environmental Conservation  
NYSDOH – New York State Department of Health  
NYSPSC – New York State Public Service Commission  
O&M – Operation & Maintenance  
OPR – Operating Property  
PRP – Potentially Responsible Party  
RA – Remedial Action  
RD – Remedial Design  
RFP – Request For Proposal  
RI – Remedial Investigation  
ROD – Record of Decision  
SIR – Site Investigation & Remediation  
SMP – Site Management Plan  
USEPA – United States Environmental Protection Agency  
VAG – Vendor Advisory Group

## **EXECUTIVE SUMMARY**

Niagara Mohawk Power Corporation d/b/a National Grid (the “Company”) submits this first annual report (the “Report”) in accordance with the New York State Public Service Commission’s (the “Commission’s”) Order Concerning Costs for Site Investigation and Remediation, issued November 28, 2012 in Case 11-M-0034 (the “Order”). The report covers calendar year 2012. Pursuant to the requirements of the Order, the Report is organized in general accordance with the template developed by the Department of Public Service Staff (“Staff”) with input from the NYS Utilities. The proposed template was compiled by Staff and submitted to the Commission on February 20, 2013.

Section 1 provides background and an overview of the Company program, including historical background, Company responsibility and number and location of sites, along with supplemental information provided in Section 5.

Section 2 presents a summary of site investigation and remediation (“SIR”) site costs, including data on the impact on customers, cost management and mitigation strategies and an overview of the procurement process. Table 1 provides total cost per site to date, 2012 costs and anticipated costs for 2013. Previously anticipated costs were not provided for 2012 as this is the first annual report.

Section 3 provides a summary of the investigation, remediation and post-construction operation, monitoring and maintenance program schedules for the SIR sites. Individual site schedules are provided in Table 2 for 2013. Schedules for 2012 are not provided as this is the first annual report.

Section 4 provides compliance status with NYSDEC and other regulatory agreements.

Site-specific information is provided in Section 5, including location, background, general information, status, schedule and costs. Detailed information is provided in Tables 2 and 3. As mentioned, anticipated schedule and costs are provided for 2013 only. 2012 information was not previously provided as this is the first annual report. Section 5 is arranged by site for ease of review in Appendix A.

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## 1. SITE INVESTIGATION AND REMEDIATION (SIR) PROGRAM OVERVIEW

### 1.1. Historical Background

Niagara Mohawk's (the Company's) SIR program manages the investigation and remediation of environmentally-impacted sites for which the Company (and its predecessor companies) has responsibility. These sites are generally divided into three categories: 1) former manufactured gas plants ("MGPs"), 2) operating sites ("OPR") such as substations and service centers, and 3) potentially responsible party ("PRP") sites where the Company allegedly shares some level of responsibility. In general, the Company's obligation to address and remediate potentially impacted sites is regulated under Federal and/or State Superfund laws and other laws and regulations related to liabilities and the control of hazardous wastes or substances.

### 1.2. Responsibilities of the Company

The Company's SIR role and responsibilities are governed by various environmental statutes, regulations, New York State Department of Environmental Conservation (NYSDEC) Orders on Consent or Voluntary Cleanup Order, and one US Environmental Protection Agency (USEPA) Administrative Order. The Company's site investigation scope, work plans, cleanup, and field work decisions are reviewed and approved and in certain cases expanded or modified by the NYSDEC and USEPA. In particular, the MGP site schedules are controlled by the NYSDEC through its Orders on Consent (with the exception of the single MGP site under order with the USEPA).

### 1.3. Number and Location of Sites

The Company is involved with 191 sites, with many closed (or inactive) thus far. For calendar year 2012, the open sites include 45 active former MGPs, 6 active OPR sites, and 13 active PRP sites. For calendar year 2013, it is anticipated that the open sites will include 44 active former MGPs, 6 active OPR sites, and 13 active PRP sites. The location of the MGP and OPR sites are provided in the site-specific reports in Section 5. The MGP and OPR sites are located in the Company service territory (upstate NY). The PRP sites encompass locations both within and outside of New York State as shown below:

PRP Site	Location
Alltft Landfill	Buffalo, NY
Airco Carbon/ Vanadium ROW	Niagara Falls, NY
Cherry Farm (River Road)	Tonawanda, NY
DVL, Inc. v. GE, NMPC, et al.	Fort Edward, NY
East Utica Substation (Old Erie Canal)	Utica, NY
Fort Edward Dam (Hudson River NPL)	Fort Edward, NY
Ley Creek PCB Dredging Site	Salina, NY
Maxey Flats	Morehead, KY
PAS Main	Oswego, NY

Sealand Restoration	Lisbon, NY
Wallace & Son	Cobleskill, NY
Ward Transformer	Raleigh, NC
Waste-Stream Inc.	Potsdam, NY

## 2. OVERALL SIR COSTS

### 2.1. Costs Incurred By Utility To Date

The total SIR cost incurred by the Company in calendar year 2012 was \$25 million (M). The total SIR cost incurred to date is \$453 M. The total cost to date for the active sites listed in Table 1 is \$400 M. The current estimate to complete the Company SIR program is \$464 M. The estimate to complete the program is based on current assumptions to conclude the site investigations, remediation and, where required, provide post-remediation monitoring. This estimate is re-evaluated quarterly based on newly collected data and decisions by the NYSDEC or USEPA. As this is the first annual report, an explanation of changes or significant issues since the previous reporting period is not provided.

Table 1 presents the total SIR costs to date, actual costs for 2012, and total projected costs for 2013 by site based on the NYSDEC schedules provided in Table 2. The spending for 2012 includes year-end accruals, consistent with Company policies. Company policies require accruing for outstanding costs in excess of \$100,000 per contract or expense. The Company transitioned to new software (SAP) during the last quarter of 2012, temporarily interrupting the payment of invoices. To remain consistent with prior years, invoices below \$100,000 that would have normally been booked during the calendar year were also accrued. The total accruals for 2012 were \$3.9 M.

The total projected spending in Table 1 is \$63 M. Consistent with recent testimony, unforeseen delays result in under spending certain site budgets as discussed in Section 3. Direct Testimony filed on April 27, 2012 in Cases 12-E-0201 and 12-G-0202 by Charles Willard (the "Testimony") originally suggested that the Fiscal Year 2013 (April 1, 2012-March 2013) estimate based on the NYSDEC schedule was \$51 M; however, based on historical spending and input from the project managers regarding potential delays, spending for the period was anticipated to be less than \$35 M. Actual spending for the period was \$32 M.

Similar to the method discussed in the Testimony, the anticipated overall spending for 2013 is expected to be less than \$42 M. Seventy percent of the 2013 estimated spending is for five sites in remedial construction. Delays at any of these projects, particularly at Harbor Point, will substantially impact the 2013 projection. The spending is expected to be higher in 2013 as more remedial construction projects are anticipated than in 2012 and are close to field implementation (lower possibility of substantial delays).

## 2.2. Impacts on Customers

The amount of annual SIR expense the Company recovered from its electric and gas customers (including base rates and surcharges) during 2012 was \$29.75 M and \$5.25 M, respectively or \$35 M total. The spending was \$24.5 M, which resulted in an over collection of \$10.5 M for the year. This amount will be deferred for the benefit of customers.

The Company does not currently have a rate filing pending review by the Commission. As a result of the most recent decided rate filing, the total annual SIR recovery from electric and gas customers will increase from a total of \$35 M to \$42 M beginning on April 1, 2013.

## 2.3. General Cost Management and Mitigation Strategies

Pursuant to the Order, the State's major electric and gas utilities (the "Utilities") were directed to formalize and file with the Commission an inventory of best practices for SIR cost containment. The Utilities filed the inventory with the Commission on March 28, 2013. In keeping with the Utilities' inventory, Company-specific best practices relative to procurement, changes in regulations and site-specific management are provided in Sections 2.4, 4.2 and 5, respectively.

Best practices not covered elsewhere in the report include:

### Sharing of research with other Utilities relative to remediation and risk

In 2012, the Company participated in joint research (co-funded by NYSEARCH, the research arm of the Northeast Gas Association) regarding potential vapor intrusion and bioavailability of MGP residuals in sediments. The potential for vapor intrusion into dwellings via the subslab is a relatively new contaminated site concern. Both NYSDEC and USEPA have drafted guidance and required sampling in the past 8 years in response to site specific issues at a few identified non-MGP sites. In the past 5 years, the Utilities developed a database of vapor sampling at New York State MGP sites that indicates there are no vapor issues at MGP sites under normal conditions. In 2012, the Utilities worked with the New York State Department of Health (NYSDOH) to develop a position paper reflecting the Utilities' database.

Sediment remediation at MGP sites in New York State was a subject of prolonged discussion and study arising from differences of opinion regarding clean-up standards. The Company was concerned that clean-up standards for MGP residuals were overly conservative, potentially resulting in overly expensive remediation at several sites. In 2005, the Company initiated research to determine the level of contamination that affects benthic (sediment dwelling) organisms. The research was co-funded by NYSEARCH and other large industrial companies which operate in New York State. The 2011 NYSDEC remedy selection for the Hudson (Water Street) sediments reflected this research, saving customers millions of dollars over previous standards while being equally protective of human health and the environment. In

2012, the Utilities continued to engage the NYSDEC Department of Fish and Wildlife to adopt the findings

In 2012, the Utilities held a joint meeting through the Environmental Energy Alliance of NY at the Company's offices in North Albany. The purpose of the meeting was to exchange best practices and obtain an update on the research discussed above.

#### Use of pre-approved waste facilities

To ensure appropriate disposal of wastes, the Company only uses facilities approved by the Company's Vendor Advisory Group (VAG), in accordance with internal Environmental Procedure EP-18. The VAG is a cross-functional group comprised of National Grid employees from the SIR, Environmental Compliance, Legal and Procurement Departments that selects vendors through a pre-qualification and auditing process.

#### Environmental due diligence reviews

The Company has a process for performing due diligence prior to purchasing, leasing or divesting of property in accordance with internal Environmental Procedure EP-19 to minimize the risk of environmental liabilities arising from property use and/or ownership.

### **2.4. Procurement Processes Overview**

The Company manages SIR procurement activities in accordance with Company policies and accepted industry practice. The Procurement Department, working with SIR, is responsible for procurement activities. Delegation of Authority (DOA) is required prior to entering into contracts, with defined progressive delegation levels based on contract value. Delegated approval amounts are established for the SIR Area Manager, SIR Director, Vice President of Environmental Services, US Sanctioning Committee and US Board. Separate, progressive approvals are also required within the Procurement Department based on contract value.

Procurement of consultants and contractors differ due to nature and scope of the work. The scope of work for contractor work is typically well defined in bid specifications based on prior field studies and approved by the NYSDEC. The scope of work for consultants is not well defined beyond immediate tasks due to the progressive nature of the work. The scope changes following the collection of new data and direction set by the NYSDEC. As more data is collected, it is often advantageous to keep the same consultant on the project due to reduced transaction costs and the benefit of consultant's site knowledge.

#### Contractors

Contractor work relating to environmental response activities are subject to a project-specific competitive bid selection process, with the exception of a select number of



Limit Orders. Limit Orders are established through competitive bids for rates and equipment and are utilized for smaller, time and material construction projects and routine site support work at select sites. During the project-specific competitive bid process, a request for proposal (RFP) is issued to usually three to six pre-qualified vendors. Final vendor selection is based on specific criteria such as cost, technical merit, and personnel qualifications.

Exceptions to these standard procedures are made in situations where it is necessary to maintain vendor consistency through multi-phased assessment/remediation projects or to implement immediate or short-term response to imminent hazards when there is not time for a competitive bid process. For work not competitively bid or performed under a Limit Order, the reasons for not competitively bidding the work are clearly documented and must be approved by the Vice President of Procurement.

On most large scale construction projects, a full-time construction manager actively monitors project work scope and progress to provide assurance that the remedial construction is performed in conformance with the contract documents. The construction manager is also responsible for cost control, including change order review and approval, and invoice review and approval. On most large scale remediation projects, the majority of the contractor activities are typically conducted using lump sum tasks or loaded unit rates, making direct verification of labor expended by the contractor unnecessary based on the payment structure. However, where certain activities are being billed on a time and material basis, the construction manager is required to verify the labor and/or materials expended. On small construction projects, the project manager and project consultant (engineer) are responsible for monitoring project activity, including contractor staffing levels and invoice review.

For large construction projects, Company Project Managers are typically present onsite for weekly project meetings and often at other less predictable times to observe project activities and address project business. Project Managers periodically check site entry logs, tailgate logs, attend tailgate safety meetings and generally observe construction activities at the site.

### Consultants

Since August 2009, the Company has maintained Master Services Agreements (MSAs) for routine consulting work with five consulting firms following a lengthy competitive sourcing effort. Consultants were initially evaluated based on their qualifications and competitive rates. We then negotiated MSAs with the five consulting firms that offered the best value for the services we need while taking advantage of the work volume discounts afforded to the National Grid US companies. These contracts are re-evaluated annually. Where specialty consulting is needed, particularly in support of legal matters, interviews are conducted and rates established in consideration of the unique services required.

Consultants provide site-specific proposals, along with Work Authorization Forms for new assignments, followed by Change Notifications to address changes to the scope

of work. Once agreement is reached, the proposed scope is passed to Procurement and senior management for review and approval as described in the first paragraph. Because the Company Project Manager is in frequent communication with the consultant, receives work products and periodically observes the field work, they verify the work completed in the monthly invoice. A project analyst is tasked with verifying that the invoiced items and rates are consistent with the MSA contract.

### 3. ADHERENCE TO ESTABLISHED REMEDIATION SCHEDULES

#### 3.1. SIR Program Schedule Summary

The MGP site schedules under Orders on Consent are reviewed and updated annually with the NYSDEC. Due to the inherent uncertainty with MGP sites, the overall schedule through program completion is not estimated but rather reviewed on a site-by-site basis with emphasis on the prior year, current year, and upcoming year. The schedule set for the upcoming year (provided in Table 2) is estimated based on a NYS fiscal year (April 1 – March 31) prior to the fiscal year start. The annual schedule is based on an “early start” basis which does not account for many potential delays associated with the work. The initial schedule requirement was placed in a Niagara Mohawk Order on Consent with the NYSDEC, which included the following qualifications:

*“The attached Annual Schedule is subject to modifications based upon construction related contingencies which may include regulatory review and approval schedules, permitting processes, access agreements with land owners unanticipated field conditions that are beyond the Respondent’s control and force majeure events ...”*<sup>1</sup> Therefore, budgeting for the completion of all tasks contained in the NYSDEC schedule in a given year could result in a significant overestimation of the annual budget. To more accurately forecast spending, the budget presented in Table 3 is based on the annual NYSDEC schedule, but is adjusted (reduced) based on the likelihood of potential delays.

The company’s OPR and PRP sites are not subject to the same annual schedule reviews, but are driven by other applicable regulatory requirements.

Please note the following phase descriptions that are used in Table 2:

- Site Characterization - includes project investigation up to regulatory approval of the final Site Characterization report
- Remedial Investigation - includes project investigation following approval of final Site Characterization report to regulatory approval of final Remedial Investigation Report
- Remedial Planning - includes project activities from regulatory approval of final Remedial Investigation report to regulatory approval of final Remedial Design

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<sup>1</sup> New York State Department of Conservation, Order on Consent Index # A4-0473-000, Exhibit A, signed November 7, 2003.

and retaining a Remedial Construction contractor. This includes Feasibility Study report preparation, Alternative Analysis reporting, pre-design investigation activities, remedial design preparation, and remedial construction bidding

- Remedial Action - include project activities from award of remedial construction to a contractor to regulatory approval of the Final Engineering Report and Site Management Plan (including O&M Plan, please note the Environmental Easement or Deed Restriction may be pending)
- O&M - includes post remediation operation & maintenance and monitoring and any work performed under a regulatory approved Site Management Plan after completion of the remediation

As this is the first annual report, the number of sites adhering to the anticipated schedule, ahead of schedule, experiencing schedule slippage; and schedule milestones achieved are not provided.

### **3.2. SIR Program Schedule Changes**

As this is the first annual report, this information is not provided.

## **4. COMPLIANCE WITH NYSDEC AND OTHER REGULATORY ORDERS AND AGREEMENTS**

### **4.1. Non-compliance Sites**

None of the company sites were identified as being out of compliance with NYSDEC or other regulatory orders and agreements in the reporting period.

### **4.2. Regulatory Requirements Changes**

As this is the first annual report, this information is not provided.

## **5. SITE SPECIFIC REPORTS**

The site specific reports are provided in Appendix A. Acronyms referenced in this section were provided earlier in this report.