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February 28, 2017

VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 15-E-0189 – Proceeding on Motion of the Commission to Develop Dynamic Load Management Programs – Niagara Mohawk Power Corporation d/b/a National Grid (I.D. No. PSC-04-17-00011-P)

Dear Secretary Burgess:

Attached for filing in the above-referenced proceeding are Multiple Intervenors' Comments in response to the December 1, 2016 tariff filing by Niagara Mohawk Power Corporation d/b/a National Grid that was noticed in the January 25, 2017 edition of the *New York State Register* (I.D. No. PSC-04-17-00011-P). Copies of Multiple Intervenors' Comments are being served herewith on the active parties to this proceeding.

Respectfully submitted,

COUCH WHITE, LLP

Michael B. Mager

Michael B. Mager

MBM/dap
Attachment
cc: Active Parties (via E-Mail; w/Attachment)
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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Tariff Filing by Niagara Mohawk Power Corporation to Effectuate Dynamic Load Management Programs	**Case 15-E-0189**

COMMENTS OF MULTIPLE INTERVENORS

(I.D. No. PSC-04-17-00011-P)

February 28, 2017

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PRELIMINARY STATEMENT

Multiple Intervenors, an unincorporated association of approximately 60 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State, including the Niagara Mohawk Power Corporation d/b/a National Grid ("Niagara Mohawk") service territory, hereby submits these Comments in response to the December 1, 2016 tariff filing by Niagara Mohawk in Case 15-E-0189 (hereinafter, the "Filing").[1] Pursuant to the Filing, Niagara Mohawk seeks to modify certain aspects of its recently-established retail demand response, or dynamic load management ("DLM"), programs. Notice of the Filing was published in the January 25, 2017 edition of the *New York State Register* (I.D. No. PSC-04-17-00011-P). For the reasons set forth herein, the New York State Public Service Commission ("Commission") should modify the Filing to remedy a proposal that is highly inequitable to high-voltage customers.

Multiple Intervenors has been a long-time supporter of demand response programs, particularly at the wholesale level, which can benefit customers by moderating electricity prices (particularly during peak periods) and helping to maintain grid reliability. Multiple Intervenors previously also has expressed support for retail-level DLM programs. Such support of utility-administered DLM programs, however, is predicated on adherence to cost allocation and cost recovery methodologies that are fair and equitable, and consistent with cost causation and beneficiaries pay principles. It is crucial that utilities, including Niagara Mohawk, fairly allocate the costs of their DLM programs only to those customers who are eligible to participate in and/or benefit directly from those programs. Conversely, if a utility offers a number of DLM programs,

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[1] Case 15-E-0189, *Proceeding on Motion of the Commission to Develop Dynamic Load Management Programs – Niagara Mohawk Power Corporation d/b/a National Grid.*

but certain customers only are eligible to participate in and/or benefit directly from one of those programs, then equitable cost allocation principles dictate that those customers should not have pay for the costs of the programs for which they are not eligible to participate and from which they do not benefit directly.

Niagara Mohawk currently administers three DLM programs: (1) the Distribution Load Relief Program ("DLRP"); (2) the Commercial System Relief Program ("CSRP"); and (3) the Direct Load Control Program ("DLCP"). As the DLM programs exist currently, all service classes are eligible to participate in the programs except for customers served at sub-transmission and transmission voltages. Thus, customers taking service under S.C. 3 and S.C. 3A of Niagara Mohawk's electric tariff are eligible to participate in the DLM programs if they are served at secondary and primary voltages, but not if they are served at sub-transmission and transmission voltages. The rationale for this approach is that certain DLM programs are focused on reducing demand on the utility's distribution system and, therefore, customers served at transmission and sub-transmission voltages should be excluded from participating – and paying for – those programs. Accordingly, the surcharge imposed by Niagara Mohawk to recover the costs associated with the three programs ("DLM Surcharge") currently is recovered from all customers that are not served at sub-transmission and transmission voltages.

On February 16, 2016, Niagara Mohawk filed several proposed revisions to its DLM programs, in compliance with the Commission's June 18, 2015 *Order Adopting Dynamic Load Management Filing with Modifications*.

On April 25, 2016, Multiple Intervenors filed Comments responding to Niagara Mohawk's filing in which it advocated that customers served at sub-transmission and transmission voltages should be allowed to participate, on a limited basis, in Niagara Mohawk's CSRP.[2] Multiple Intervenors asserted that Niagara Mohawk was unique among New York's electric utilities in excluding transmission and sub-transmission customers from demand response programs targeted at non-residential customers, and uniformity across the State would be beneficial. Multiple Intervenors further advocated that it is rational to exclude transmission and sub-transmission customers from distribution-level DLM programs – such as the DLRP and the DLCP – because potential reductions in peak demand by such high-voltage customers would not benefit Niagara Mohawk's distribution system. That rationale, Multiple Intervenors asserted, is not applicable to Niagara Mohawk's CSRP. Because certain portions of the transmission system serving Niagara Mohawk customers can become constrained, particularly during peak periods, all customers would benefit from timely reductions in demands placed on that system. Accordingly, Multiple Intervenors advocated that transmission and sub-transmission customers should not be excluded from participating in the CSRP.

Multiple Intervenors did not seek to modify the exclusion of high-voltage customers from the DLRP or the DLCP because those programs focus solely on Niagara Mohawk's distribution system.

In an Order dated May 23, 2016 ("May 23 Order"), the Commission agreed with Multiple Intervenors and directed Niagara Mohawk to modify eligibility requirements for its CSRP to allow high-voltage customers to participate in that program.[3] The eligibility requirements for

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[2] Cases 14-E-0423 *et al.*, *Proceeding on Motion of the Commission to Develop Dynamic Load Manage Programs*, Comments of Multiple Intervenors (filed April 25, 2016).

[3] Cases 14-E-0423 *et al.*, supra, Order Adopting Dynamic Load Management Program Changes with Modifications (issued May 23, 2016) ("May 23 Order") at 28.

the DLRP and the DLCP, which focus on the distribution system and, therefore, exclude high-voltage customers, were not altered by the May 23 Order.

Here, the Filing seeks to effectuate the eligibility requirement change mandated by the May 23 Order. Multiple Intervenors is pleased with this result, particularly because expanding the CSRP to allow high-voltage customers to participate will provide tangible benefits to the transmission system by reducing peak demand when the system is constrained. In the Filing, Niagara Mohawk also seeks to modify Rule 64 of its electric tariff, which governs the DLM Surcharge mechanism.

One aspect of Niagara Mohawk's modification to Rule 64 would require high-voltage customers to share in the costs of the CSRP. Multiple Intervenors is not opposed to this specific change. Inasmuch as high-voltage customers now are eligible to participate in the CSRP, they should contribute towards the costs of the program. Significantly, however, in its Filing Niagara Mohawk now proposes, inexplicably, that high-voltage customers also be forced to pay for the DLRP and the DLCP even though they remain ineligible to participate in – and will not benefit directly from – those programs. Multiple Intervenors vehemently opposes this aspect of Niagara Mohawk's proposed modifications to the DLM surcharge mechanism in Rule 64 of its electric tariff.

As proposed, the modified DLM Surcharge essentially would force high-voltage customers, as a condition for eligibility in Niagara Mohawk's CSRP, to subsidize the DLRP and DLCP for which they are not eligible to participate, and from which they derive no direct benefits. Indeed, it is exactly this type of inequity that caused Multiple Intervenors to condition its support of retail DLM programs on adherence to cost allocation and cost recovery methodologies that are fair and equitable. Niagara Mohawk's proposal that high-voltage customers be allocated costs related to the DLRP and the DLCP would be grossly inequitable to such customers, and does not comport with cost causation and beneficiaries pay principles.

As explained below, it is equitable to recover the costs of the CSRP from all customers, including high-voltage customers, because all customers benefit from transmission-level peak demand reductions. Conversely, however, customers served at transmission and sub-transmission voltages do not benefit from programs focused solely on the distribution system (*e.g.*, the DLRP and the DLCP) and, therefore, they should not have to pay for such programs. Multiple Intervenors urges the Commission to modify the Filing such that high-voltage customers are allocated their fair share of the costs of the CSRP, but not the DLRP or the DLCP (for which they remain ineligible to participate and will not benefit directly therefrom).

ARGUMENT

HIGH-VOLTAGE CUSTOMERS SHOULD NOT BE ALLOCATED COSTS FROM DLM PROGRAMS FOR WHICH THEY ARE INELIGIBLE TO PARTICIPATE AND RECEIVE NO DIRECT BENEFITS THEREFROM

While Multiple Intervenors takes no issue with certain aspects of the Filing, it opposes the proposed modification of Rule 64 of Niagara Mohawk's electric tariff, which governs the recovery of DLM program costs through the DLM Surcharge. As proposed, the modified DLM Surcharge would be imposed on all customers in S.C. 1, 1C, 2, 3, 3A, 4, 7, and 12, with the exception of qualifying Empire Zone Rider and Excelsior Jobs Program load. Notably, the revised language in the Filing specifically removes the limitation that the surcharge be imposed only on customers served at secondary and primary voltage levels. In the cover letter to the Filing, Niagara

Mohawk justifies this change on the premise that "the Company's program eligibility was expanded to customers at all voltage delivery levels in compliance with the [May 23 Order]."[4]

Importantly, this proposed notification to the DLM Surcharge ignores two fundamental facts. First, contrary to Niagara Mohawk's justification that "program eligibility was expanded to customers at all voltage delivery levels," only one of the three DLM programs now is open to participation by high-voltage customers. Niagara Mohawk appears to have overlooked the fact that customers served at transmission and sub-transmission voltages still are ineligible to participate in the DLRP and the DLCP.[5] It makes no sense, however, and indeed would be highly inequitable, to now force high-voltage customers to pay for costs associated with those two programs in which they cannot participate and from which they do not benefit directly. In other words, while the eligibility criteria was modified, appropriately, for one program (*i.e.*, the CSRP), Niagara Mohawk inexplicably, and inappropriately, now is proposing to modify the cost allocation and cost recovery provisions for all three DLM programs.

Moreover, the proposed modification ignores basic cost causation and beneficiary pay principles. In its prior DLM Comments, Multiple Intervenors noted that, during peak periods, certain portions of the transmission system serving Niagara Mohawk's customers can become constrained and, therefore, timely reductions in demand placed on the transmission system (which serves all customers) would benefit all customers. Therefore, it made sense that high-voltage customers be allowed to participate in Niagara Mohawk's CSRP program, and that costs of the CSRP be recovered from all customers because the peak demand reductions achieved by that program (including reduction in demand by customers served at transmission and sub-transmission

[4] Tariff Filing Cover Letter at 1.

[5] Multiple Intervenors does not oppose such eligibility criteria. Inasmuch as the DLRP and the DLCP are focused on Niagara Mohawk's distribution system, it make sense to exclude high-voltage customers from participating therein.

voltages) benefits the entire system as a whole. Conversely, transmission and sub-transmission customers are not eligible to participate in, and receive no direct benefits from, the DLRP or the DLCP, both of which are focused solely on the distribution system. Accordingly, high-voltage customers should be excluded from paying for the DLRP or the DLCP consistent with cost causation and beneficiates pay principles.[6]

In order to remedy the inequitable treatment of high-voltage customers proposed in the Filing, the Commission should direct Niagara Mohawk to revise its DLM Surcharge mechanism to account for the differences between the three programs, and properly allocate the costs associated with those programs in accordance with cost causation and beneficiaries pay principles. For example, Niagara Mohawk could create two separate surcharges to recover costs associated with the DLM programs. The first surcharge would recover only the costs associated with the CSRP, and would be applicable to all customers. The second surcharge would recover costs associated with both the DLRP and DLCP programs, and appropriately exclude high-voltage customers. In the alternative, Niagara Mohawk simply could reword the tariff language for its existing DLM Surcharge to explicitly exempt high-voltage customers from costs associated with both the DLRP and DLCP.

In either case, the costs of the three DLM programs then would be allocated appropriately to those customers that can participate in and/or benefit directly from each individual program. Such result would be more equitable to all customers. Accordingly, the Commission should reject that portion of the Filing modifying Rule 64, and, instead, direct Niagara Mohawk to

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[6] In the May 23 Order, the Commission ordered utilities "to propose changes to [their] DLM cost allocation and recovery mechanisms that reflect the same manner that other similar utility costs are allocated to the customer's respective service classes…" (May 23 Order at 29). Under such standard, the costs of the DLRP and the DLCP should not be allocated to – or recovered from – high-voltage customers.

implement a cost recovery mechanism that properly allocates the costs of each individual DLM program to the appropriate customer classes and subclasses.

CONCLUSION

For all the foregoing reasons, Multiple Intervenors urges the Commission to modify Niagara Mohawk's Filing in a manner consistent with these Comments.

Dated: February 28, 2017
Albany, New York

Respectfully submitted,

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