

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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In the Matter of the Petition of Niagara Mohawk :  
Power Corporation d/b/a National Grid for : Case 22-M-\_\_\_\_  
Authority to Extend and Amend the Lease of the :  
Volney-Marcy Transmission Line :  
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**VERIFIED PETITION AND EXHIBITS OF  
NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID  
FOR AUTHORITY TO EXTEND AND AMEND THE LEASE OF THE  
VOLNEY-MARCY TRANSMISSION LINE**

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Dated: April 25, 2022

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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In the Matter of the Petition of Niagara Mohawk :  
Power Corporation d/b/a National Grid for : Case 22-M-\_\_\_\_  
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NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID  
FOR AUTHORITY TO EXTEND AND AMEND THE LEASE OF THE  
VOLNEY-MARCY TRANSMISSION LINE**

TO THE PUBLIC SERVICE COMMISSION:

Niagara Mohawk Power Corporation d/b/a National Grid (“Niagara Mohawk” or the “Company”) hereby petitions the New York State Public Service Commission (“PSC” or the “Commission”) for authority to extend and amend the Company’s lease of the 765 kV electric transmission line from Volney to Marcy, New York (“Volney-Marcy Line”) entered into pursuant to the Commission’s Order dated October 31, 1986 in Case 29359 (the “1986 Order”).<sup>1</sup> Under the terms of the 1986 Order, the Company is required to obtain the Commission’s authorization to materially supplement or modify the existing current lease of the Volney-Marcy Line.<sup>2</sup> The 1986 Order further requires that the Company file with the Commission “the basis for the adjusted lease rental and an affidavit by an officer of the Company stating that the basis of the adjusted lease rental is the most reasonable obtainable from the lessor.”<sup>3</sup>

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<sup>1</sup> Case 29359, *Petition of Niagara Mohawk Power Corporation for Authority Under Section 70 of the Public Service Law to Sell and Lease Back the Volney-Marcy Transmission Line*, Order (Oct. 31, 1986).

<sup>2</sup> *Id.* at 2, Ordering Clause 2.

<sup>3</sup> *Id.* at 3, Ordering Clause 8.

Niagara Mohawk specifically requests the Commission authorize the Company to enter into certain transactions contemplated by the Equipment Lease Extension and Omnibus Amendment by and between Niagara Mohawk, U.S. Bank National Association (“USBNA”) and Upstate Transmission Holdings, LLC (“UTH”) (“Extension Agreement”), attached hereto as Exhibit A. Pursuant to Section VIII, the portions of the Extension Agreement that contemplate a material supplement to or modification of the lease of the Volney-Marcy Line and related transaction documents shall not become effective until the parties thereto have obtained all required regulatory approvals, including approval of the Commission.<sup>4</sup> The current lease of the Volney-Marcy Line expires on January 1, 2028. The Extension Agreement will extend the term of the current lease to January 1, 2044 – the anticipated end of the useful life of the Volney-Marcy Line – at which time the Company will purchase the Volney-Marcy Line for \$1.00. During the term of the Extension Agreement, the Company will continue to operate and maintain the line as it has done since 1986. By extending the lease now on the proposed terms, the Company will be able to take advantage of historically low interest rates, for the benefit of the Company and its customers.

The Company respectfully requests expedited review of this Petition. As set forth below, the Extension Agreement will allow the Company to realize annual rent expense savings of nearly \$772,000, which will provide a significant benefit to the Company and its customers. However, the viability of the Extension Agreement – and the resulting savings – depends on the ability to secure financing under currently available interest rates. As the interest rate environment is rapidly

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<sup>4</sup> In addition to the material changes to the lease of the Volney-Marcy Line, the Extension Agreement also provides for certain non-material changes to the Participation Agreement and for the termination of the Tax Indemnity Agreement, both of which were approved in the 1986 Order. See Extension Agreement §§ V, VII.

changing, expedited review is essential to allow the Company and its customers to obtain the rental expense savings available under the Extension Agreement.

In support of this application, the Company states:

1. Niagara Mohawk is a gas and electric corporation organized and existing under the Transportation Corporations Law of the State of New York and has its principal office at 300 Erie Boulevard West, Syracuse, New York 13202. A certified copy of the Company's Certificate of Incorporation is on file with the Commission.

2. USBNA is a wholly owned subsidiary of U.S. Bancorp, a Delaware corporation and the fifth largest commercial bank in the United States. USBNA is the successor in interest to Meridian Trust Company as lessor and owner trustee of the Volney-Marcy Line.

3. UTH is a Delaware limited liability company, which is indirectly owned and controlled by NEC PB, LLC ("NEC PB"). NEC PB is a single purpose, single asset investment vehicle and has no ability to exercise control over the Volney-Marcy Line. NEC PB's members are limited liability companies whose members are investment trusts and investment funds, none of which exercise operational control of electric generation or transmission assets in the New York Control Area or neighboring control areas. UTH is the successor in interest to Bell Atlantic Tricon Leasing, Inc. as owner-participant of the Volney-Marcy Line.

4. The Volney-Marcy Line is a 765 kV transmission line that extends approximately 65 miles from the Company's Volney substation to the New York Power Authority's Marcy substation. The Volney-Marcy Line is an important part of the New York State power grid, as it connects large generation resources in upstate New York, including NRG Oswego, Nine Mile Point 1&2, Sithe Independence Station, and Fitzpatrick Nuclear Station, to the rest of the State. As such, the Volney-Marcy Line is a critical asset for meeting both North American Electric

Reliability Corporation (“NERC”) reliability standards and the electrification goals of the Climate Leadership and Community Protection Act.<sup>5</sup>

5. In order to finance the construction of the Volney-Marcy Line, Niagara Mohawk entered into a sale-leaseback arrangement with Meridian Trust Company. Under the terms of the sale-leaseback arrangement, Niagara Mohawk sold the Volney-Marcy Line to Meridian Trust Company and leased back the line for a period of 41 years, through 2028. The sale-leaseback arrangement resulted in approximately \$1.5 million in savings for the Company’s customers, as compared to Company ownership of the Line. Additionally, Niagara Mohawk used the proceeds from the sale of the Volney-Marcy Line to repay outstanding short-term debt and call various issues of outstanding long-term debt, resulting in further savings.

6. In order to take advantage of historically low interest rates, the Company, USBNA, and UTH now wish to extend the lease for the Volney-Marcy Line. Under the terms of the Extension Agreement, the lease will be extended to January 1, 2044, the anticipated end of the useful life of the Volney-Marcy Line. A copy of the Extension Agreement is attached hereto as Exhibit A.

7. During the term of the Extension Agreement, Niagara Mohawk will pay annual rent in the amount of \$11,083,500 to USBNA on July 1 of each year, which results in rental expense savings of approximately \$772,000 per year from the current annual rent of \$11,855,256.20. These savings will be passed on to the Company’s customers at the time rates are established in the Company’s next rate proceeding and will continue for the remaining life of the Extension Agreement.

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<sup>5</sup> L. 2019, ch. 106.

8. At the conclusion of the term, Niagara Mohawk will purchase the Volney-Marcy Line from USBNA for \$1.00.

9. To determine whether to enter the Extension Agreement, Niagara Mohawk evaluated several options for the ownership and operation of the Volney-Marcy Line. Specifically, the Company considered:

- a. Continuing the current lease through the 2028 expiration of the current primary term and renewing the lease for permitted renewal terms until the anticipated end of the useful life of the Volney-Marcy Line, as provided in the current lease (“Scenario 1”);<sup>6</sup>
- b. Extending the primary term of the lease to January 1, 2044 – the anticipated end of the useful life of the Volney-Marcy Line – and acquiring the Volney-Marcy Line at that time for \$1.00, as set forth in the Extension Agreement (“Scenario 2”); or
- c. Continuing the current lease primary term without modification and exercising the Company’s option to purchase the Volney-Marcy Line upon the expiration of the lease in 2028 (“Scenario 3”).

10. After evaluating the above Scenarios for the lease and purchase of the Volney-Marcy Line, the Company determined that Scenario 2, the terms contemplated by the Extension Agreement, provided the greatest benefit to the Company and its customers. Specifically, the Company determined that Scenario 2 results in a total impact of \$311.56 million over the life of the Extension Agreement, whereas Scenario 1 and Scenario 3 result in total impacts of \$328.16 million and \$323.81 million, respectively. Scenario 1 also creates added uncertainty, as it is

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<sup>6</sup> The existing lease provides that the Company may renew the term of the lease for renewal terms of not less than one year or more than five years, provided, however, that the Company “shall not elect a Renewal Term that would extend into the last ten years of the useful life of the [Volney-Marcy Line] (as estimated on the date of such renewal) unless such Renewal Term shall terminate at the end of such estimated useful life.”

difficult to project market rental value for future rental terms until 2044, the end of the useful life for the Volney-Marcy Line. As such, entering into the Extension Agreement results in a projected savings of approximately \$16.59 million and \$12.25 million as compared to Scenarios 1 and 3, respectively, and provides added certainty to the Company's expenses and operations. A detailed breakdown of the scenarios evaluated by the Company is provided in Exhibit B.

11. Pursuant to Section II(b)(v) of the Extension Agreement, the Company grants a security interest in its right, title, and interest, if any, in the Volney-Marcy Line to USBNA and authorizes USBNA to file precautionary UCC financing statements covering the Company's right, title, and interest in the Volney-Marcy Line.

12. The Company respectfully requests that the Commission review this Petition on an expedited basis. The viability of the Extension Agreement, and the Company's ability to realize savings for itself and its customers, is subject to the availability of favorable financing under current interest rates. Under Section XII of the Extension Agreement, UTH may terminate the agreement if the conditions for effectiveness, including Commission approval, have not occurred by June 25, 2022, provided that the Company and UTH shall have the right to extend the termination date by mutual written consent. This termination option will allow the parties to evaluate available interest rates as of June 25 to confirm that viable financing for the Extension Agreement is available. Expedited review of this Petition will aid the parties to the Extension Agreement in securing favorable financing and creating significant rental expense savings for the Company and its customers.

13. The Extension Agreement is the result of an arm's length negotiation between the Company, USBNA, and UTH. Therefore, the Extension Agreement represents a reasonable agreement as to the fair rental value of the Volney-Marcy Line and the adjusted lease rental under

the Extension Agreement is the most reasonable obtainable from the lessor. Pursuant to Paragraph 8 of the 1986 Order, attached hereto as Exhibit C is an affidavit of Christopher McConnachie, Chief Financial Officer and Vice President for the Company, affirming that the basis of the adjusted lease rental is the most reasonable obtainable from the lessor, USBNA.

14. Pursuant to Section 202 of the State Administrative Procedure Act (“SAPA”), the Commission’s determination in this proceeding is a rulemaking activity requiring that notice be published in the New York State Register allowing 60 days for public comment. To that end, a draft form of notification suitable for publication in the New York State Register pursuant to SAPA is attached hereto as Exhibit D, as required by 16 NYCRR § 3.5(i).

15. Following the Extension Agreement, the Company’s lease of the Volney-Marcy Line will be treated as a finance lease, which will include amortization expense and lease expense over the duration of the term of the Extension Agreement. Interest expense under the Extension Agreement will be recognized on a straight line basis. Journal entries to illustrate how the Company will account for the Extension Agreement are attached hereto as Exhibit E.



WHEREFORE, Niagara Mohawk respectfully requests that the Commission review this Petition on an expedited basis and issue an Order in this proceeding:

- (1) authorizing the Extension Agreement and Niagara Mohawk's performance thereunder; and
- (2) granting such other and further authority as may be deemed necessary in relation to the foregoing.

Respectfully submitted,



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*Attorneys for Niagara Mohawk Power  
Corporation d/b/a National Grid*

Dated: April 25, 2022

**Niagara Mohawk Power Corporation d/b/a National Grid**

**In the Matter of Niagara Mohawk Power Corporation d/b/a National Grid for Authority to  
Extend and Amend the Lease of the Volney-Marcy Transmission Line**

**LIST OF EXHIBITS**

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|-----------|--|
| Exhibit A | Equipment Lease Extension and Omnibus Amendment by and between<br>Niagara Mohawk Power Corporation d/b/a National Grid, U.S. Bank<br>National Association and Upstate Transmission Holdings, LLC |
| Exhibit B | Volney-Marcy Lease Scenarios   |
| Exhibit C | Affidavit of Christopher McConnachie, Chief Financial Officer and Vice<br>President for Niagara Mohawk Power Corporation d/b/a National Grid   |
| Exhibit D | Draft SAPA Notice  |
| Exhibit E | Sample Journal Entries   |

**EXHIBIT A**

**Equipment Lease Extension and Omnibus Amendment by and between Niagara Mohawk Power Corporation d/b/a National Grid, U.S. Bank National Association and Upstate Transmission Holdings, LLC**

## EQUIPMENT LEASE EXTENSION AND OMNIBUS AMENDMENT

This Equipment Lease Extension & Omnibus Amendment (the “**Agreement**”), dated as of [\_\_\_\_\_], 2022, by and between Niagara Mohawk Power Corporation, a New York corporation (“**Niagara**” or “**Lessee**”), U.S. Bank National Association (“**USBNA**”), not in its individual capacity, but solely as Owner Trustee under the Trust Agreement (as defined below) (as successor to Meridian Trust Company) (the “**Owner Trustee**”) and in such capacity, as “**Lessor**” under the Equipment Lease and Easement Lease (as defined below), and Upstate Transmission Holdings, LLC, a Delaware limited liability company (“**UTH**” and the “**Owner Participant**”). Each of Niagara, the Owner Trustee and UTH, a “**Party**” and together the “**Parties**”. Except as set forth in Sections VIII, IX, XI, XII, XIII, and XIV (which Sections are effective and binding on the Parties as of the date hereof), this Agreement shall be effective and binding upon the Parties on the Effective Date.

WHEREAS, Lessee and Lessor previously entered into an Equipment Lease for the Volney-Marcy Transmission Line (the “**Transmission Line**”) dated as of November 1, 1986 (as amended, modified or supplemented, the “**Equipment Lease**”), as part of a sale-leaseback arrangement governed by the Equipment Lease and the below-listed documents, pursuant to which Lessee sold to Lessor the Project, and then leased back from Lessor the Transmission Line pursuant to the Equipment Lease and all right, title and interest under the Easement and Easement Lease (the Equipment Lease and items 1-6 below, the “**Transaction Documents**”);

1. Easement by and between Niagara and the Owner Trustee, dated as of November 1, 1986 (as amended, modified or supplemented, the “**Easement**”), pursuant to which Niagara grants to Owner Trustee an irrevocable easement in the Fee Land and assigns to Owner Trustee its right, title and interest in the Underlying Easements and Additional Rights (each, as defined in the Easement), for the purpose of building the Transmission Line.

2. Easement Lease by and between Lessor and Lessee, dated as of November 1, 1986 (as amended, modified or supplemented, the “**Easement Lease**”), pursuant to which Lessor leases its easements and rights under the Easement to Lessee.

3. Trust Agreement by and between Bell Atlantic Tricon Leasing, Inc. (as succeeded by UTH) as Owner Participant and Meridian Trust Company (as succeeded by USBNA) as Owner Trustee, dated as of October 28, 1986 (as amended, modified or supplemented, the “**Trust Agreement**”), pursuant to which the Owner Trustee holds for the use and benefit of the Owner Participant the Project, the Equipment Lease, the Easement, the Easement Lease and the Operating Agreement, including, without limitation Basic Rent, Supplemental Rent and other payments as specified therein (together, the “**Trust Estate**”).

4. Participation Agreement by and among Niagara, Meridian Trust Company (as succeeded by USBNA), in its individual capacity and as Owner Trustee, Bell Atlantic Tricon Leasing, Inc. (as succeeded by UTH) as Owner Participant, Citibank, N.A as Indenture Trustee and Morgan Guaranty Trust Company of New York, dated as of

November 1, 1986 (as amended, modified or supplemented, the “**Participation Agreement**”), pursuant to which (i) the Owner Participant acquired the Project through the Trust Estate, and (ii) the Owner Trustee agreed to lease to Niagara the Transmission Line and all right, title and interest under the Easement.

5. Operating Agreement by and between the Owner Trustee and Niagara, dated as of November 1, 1986 (the “**Operating Agreement**”), which sets forth the rights and obligations with respect to the operation of the Transmission Line during the Operating Period (defined therein as the period following the termination of the Lease Term until the termination or expiration of the Easement).

6. Tax Indemnity Agreement by and between Niagara and Bell Atlantic Tricon Leasing, Inc. (as succeeded by UTH) as Owner Participant, dated as of November 1, 1986 (as amended, modified or supplemented, “**Tax Indemnity Agreement**”), pursuant to which Niagara indemnifies the Owner Participant for certain specified tax matters.

7. Trust Indenture and Security Agreement by and between the Owner Trustee, Niagara, and Citibank, N.A. (the “**Indenture Trustee**”), dated November 1, 1986 (the “**Indenture**”), creating a security interest in the Indenture Estate (as described therein) for the benefit of Indenture Trustee, and all the bonds authenticated therein and delivered thereunder and contemplated thereby (the “**Bonds**”).

8. Bill of Sale, dated November 5, 1986, pursuant to which Niagara transferred to the Owner Trustee all of its right, title and interest in the Transmission Line.

WHEREAS, since the Transaction Documents were executed, (i) the Bonds have been paid in full and are no longer outstanding, and (ii) the Indenture has been satisfied and discharged in full;

WHEREAS, since the Transaction Documents were executed, certain events have resulted in the succession of certain parties, including the following: (i) the succession of Meridian Trust Company by USBNA as the Owner Trustee and (ii) consummation of the transaction governed by the Purchase and Sale Agreement, dated as of April 5, 2012 (the “**Upstate Purchase Agreement**”), by and between Bell Atlantic TriCon Leasing Corporation (formerly Bell Atlantic Tricon Leasing, Inc.) (“**Bell Atlantic**”) and UTH, pursuant to which UTH became the Owner Participant;

WHEREAS, the Parties desire to, among other amendments described herein, extend the term of the Equipment Lease; and

WHEREAS, capitalized terms used but not defined herein shall have the meaning set forth in the Transaction Documents.

NOW, THEREFORE, in consideration of the premises herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree to the below amendments and revisions to the Transaction Documents and other provisions set forth herein:

I. **General Agreements and Acknowledgements.** The Parties hereby acknowledge and agree to the following:

a. Bonds; Indenture. All of the Bonds have been paid in full and are no longer outstanding, the Indenture has been satisfied, discharged and ceases to be of any effect and all provisions in the Transaction Documents (including, without limitation, the defined terms contained therein) relating thereto shall be read with such context.

b. Obsolete Parties. The following parties are no longer necessary or relevant to the Project, as their role is completed: (i) Citibank, N.A. was the Indenture Trustee, and the Indenture no longer exists and (ii) Morgan Guaranty Trust Company of New York was the Lender (as defined in the Participation Agreement) (collectively, and inclusive of the predecessors in interest, and any successors and assigns of each such party, the “**Obsolete Parties**”). All defined terms in the Transaction Documents relating to the Obsolete Parties shall be read with such context and the Obsolete Parties shall have no ongoing or further rights or obligations pursuant to the Transaction Documents, except pursuant to those provisions which by their terms impose surviving obligations on such parties.

c. Party Changes. Certain parties at the signing of the Transaction Documents have been succeeded by other parties, as described below:

i. The Owner Participant was initially Bell Atlantic and pursuant to the Upstate Purchase Agreement, UTH purchased, assumed and accepted from Bell Atlantic, 100% of the beneficial interest in the Trust Estate. The current Owner Participant is UTH.

ii. Owner Trustee was initially Meridian Trust Company, a Pennsylvania trust company, which was succeeded by First Union National Bank, which was succeeded by Wachovia Bank, N.A., which was succeeded by USBNA. USBNA is the current Owner Trustee.

d. Definition Changes Applicable to all Transaction Documents:

i. Transaction Document References. Definitions of the following as contained or referenced in the Transaction Documents will be amended to mean those respective agreements, as such agreements “may be amended, modified or supplemented from time to time.”: Easement, Easement Lease, Equipment Lease, Operating Agreement, Trust Agreement and Participation Agreement.

ii. Conforming Definitions to Equipment Lease. Definitions for the following terms, to the extent they appear in any Transaction Document, shall be amended to conform with the amended definitions in the Equipment Lease: Basic Rent, Basic Rent Payment Date, Casualty Payment Date, Lease Term, Overdue Interest Rate, Primary Term, Renewal Term, and Termination Payment Date; provided that “Lease Term” as defined in the Easement Lease shall be amended as set forth herein. For the avoidance of doubt, except for the deletion of the reference to Renewal Term, “Basic Rent” as defined in the Easement Lease shall not be amended hereby.

e. Tax Treatment. The Parties intend for the Equipment Lease as modified by this Agreement to be treated solely for US federal income tax purposes as an installment sale for the purchase by Niagara of the Transmission Line and, for US federal income tax purposes, shall report

such transactions in a manner consistent with such treatment.

f. Title. All right, title and interest of the Owner Trustee in the Transmission Line and Easement shall remain fully vested in the Owner Trustee. Title to the Transmission Line shall not transfer to the Lessee until payment in full of the purchase price therefor under the Equipment Lease on January 1, 2044 (or earlier if a purchase option set forth in Section 14.2 or 15.1(d) of the Equipment Lease is exercised and the purchase price is paid in full) and the terms and conditions of Section 16 of the Equipment Lease have been performed and complied with in all respects. Lessor's right, title and interest in the Easement shall not transfer to the Lessee until the Easement is terminated pursuant to and in accordance with its terms.

g. The below addresses are the current addresses for the indicated Parties for purposes of notice provisions throughout the Transaction Documents

**Niagara and Lessee**

Niagara Mohawk Power Corporation  
Attn: Director, Commercial Services  
40 Sylvan Road  
Waltham, MA 02451  
Phone: (781) 907-2411  
Email: Kevin.Reardon@nationalgrid.com

**Owner Trustee and Lessor**

U.S. Bank National Association  
Corporate Trust Services  
Delle Donne Corporate Center  
1011 Centre Road, Suite 203  
Wilmington, DE 19805  
Attention: Adam Conrad  
Phone: (857) 338-2156  
adam.conrad@usbank.com

**Owner Participant**

Upstate Transmission Holdings, LLC  
c/o PB Power Ventures, LLC 501 Kings Highway East, Suite 300  
Fairfield, CT 06825  
Attention: Tom Beaumonte  
Facsimile: 203-416-5599

II. **Equipment Lease**. With respect to the Equipment Lease, Lessee and Lessor hereby agree:

a. Definition and Term Updates. The below definitions will be amended as follows:

i. "Basic Rent" shall mean the ~~semi~~-annual rent payable to Lessor during the Primary Term in the amount of \$11,083,500.00. For the avoidance of doubt, notwithstanding anything to the contrary contained in any Transaction Document, Basic Rent will not be subject

~~to any upward or downward adjustment, (which rent is consideration for this Equipment Lease and is equal to the applicable percentage of the Purchase Price set forth in Schedule B, subject to adjustment under Section 4.6) and, if applicable, the semi-annual Fair Market Rent payable to Lessor during each Renewal Term, in each case in an amount at least sufficient to pay on each Basic Rent Payment Date all principal of and interest on Bonds then due and payable.~~

ii. ~~“Basic Rent Payment Date” shall mean each January 1 and July 1 of each year throughout (and including the last day of) the Primary Term, and each Renewal Term.~~

iii. ~~“Casualty Payment Date” shall mean each January 1, April 1, and July 1 and October 1 of each year, commencing on January 1, 1987, throughout (and including the last day of) the Primary Term, and each Renewal Term~~

iv. ~~“Casualty Value” shall mean, as of any Casualty Payment Date, the casualty value set forth in Schedule C in Annex I. (i) during the Primary Term, the greater of (x) the amount determined by multiplying the Purchase Price by the applicable percentage set forth in Schedule C (which percentages as originally calculated are based upon the Pricing Assumptions and are subject to adjustment pursuant to Section 4.6 hereof) opposite such Casualty Payment Date and (y) an amount at least sufficient to pay in full, as of the date of payment thereof, all amounts due under and in respect of the Bonds on such payment date and (ii) during any Renewal Term, an amount equal to the Fair Market Value of the Transmission Line at the commencement of such Renewal Term, as such amount is reduced ratably on each January 1, April 1, July 1 and October 1 during the remaining estimated useful life of the Transmission Line to its estimated Fair Market Value as of the end of such useful life as determined by agreement between Lessor and Lessee or, in the absence of such agreement, by the Appraisal Procedure~~

v. ~~“Lease Term” shall mean the entire Term of this Lease, including the Interim Term, Primary Term and Renewal Term.~~

vi. ~~“Overdue Interest Rate” shall mean 5% per annum, the rate per annum equal to one percentage point above (i) while the Series A Bonds are outstanding, the interest rate actually borne by the Series A Bonds and (ii) otherwise, the stated interest rate applicable to the largest aggregate principal amount of Bonds then outstanding.~~

vii. ~~“Primary Term” shall mean the period from and including January 1, 1987 to but excluding January 1, ~~2028~~2044 or such shorter period as may result from earlier termination of this Equipment Lease as provided herein.~~

viii. ~~“Purchase Value” shall mean the purchase value set forth on Schedule F in Annex I.~~

ix. ~~“Renewal Term” will be deleted and the provisions related thereto will be read without regard to such defined term.~~

x. ~~“Termination Payment Date” shall mean each January 1, April 1, and July 1 and October 1 of each year, commencing on January 1, 1987, throughout (and including the last day of) the Primary Term, and each Renewal Term~~



xi. "Termination Value" as of any Termination Payment Date, shall mean the termination value set forth in Schedule D in Annex I, ~~(i) during the Primary Term, the greater of (x) the amount determined by multiplying the Purchase Price by the percentage set forth in Schedule D (which Termination Values originally are based upon the Pricing Assumptions and are subject to adjustment pursuant to Section 4.6 hereof) opposite such Termination Payment Date and (y) an amount at least sufficient to pay in full, as of the date of payment thereof, all amounts due under and in respect of the Bonds on such payment date and (ii) during any Renewal Term, an amount equal to the Fair Market Value of the Project at the commencement of such Renewal Term as such amount is reduced ratably on each January 1, April 1, July and October 1 during the remaining estimated useful life of the Transmission Line to its estimated Fair Market Value as of the end of such useful life as determined by agreement between Lessor and Lessee or, in the absence of such agreement, by the Appraisal Procedure.~~

b. Section Updates.

i. Section 3.1 will be amended as indicated below:

~~Unless extended as provided in Section 3.2 hereof, t~~ The term of this Equipment Lease shall consist of the Interim Term and the Primary Term. The Interim Term shall begin on the Closing Date and terminate on December 31, 1986, and the Primary Term shall begin upon the expiration of the Interim Term and terminate on January 1, 2028/2044, subject in each case to earlier termination pursuant to Section 13, 14 or 15 hereof.

ii. Section 4.2 will be amended as indicated below:

~~For the Primary Term, Lessee shall pay Basic Rent to Lessor semi-annually on each Basic Rent Payment Date occurring during such Term. in the amount determined by multiplying the Purchase Price by the applicable percentage in Schedule B opposite such Basic Rent Payment Date (which percentages were originally based upon the Pricing Assumptions and are subject to adjustment pursuant to Section 4.6 hereof) or such greater amount as may be required to pay in full all amounts then due under and in respect of the Bonds. Payments of Basic Rent shall be allocated to the periods indicated in Schedule B.~~

iii. Section 15 will be amended to include the below new subsection 15.3:

15.3 Unless the purchase options set forth in Section 14.2 or 15.1(d) shall have been exercised, Lessee shall purchase, and Lessor shall sell, the Project effective on January 1, 2044 for a purchase price of \$1.00.

iv. Section 20.2(c)(iv) will be amended as follows:

(iv) an amount equal to the excess of (A) the present value as of the payment date specified in such notice of all installments of Basic Rent through the end of the Primary Term, discounted ~~semiannually~~ per annum at a rate per annum of the Overdue Interest Rate less 100 basis points ~~10.125% per annum~~, over (B) the present value as of such payment date of the Fair Market Rental Value of the Transmission Line (determined on the basis of the actual condition of the Transmission Line) through the end of the Primary Term, discounted ~~semiannually~~ per annum at a rate per annum of the Overdue Interest Rate less 100 basis points

10.125% per annum;

v. A new Section 26 will be added as set forth below:

26. Precautionary UCC Filings. Lessee grants and conveys to Lessor a current, continuing security interest in Lessee's right, title and interest in the Transmission Line (as further described in Annex III), if any, whether now existing or hereafter acquired, to secure all of Lessee's obligations under this Equipment Lease at any time owing by Lessee to Lessor. Lessee (i) authorizes Lessor to file precautionary UCC financing statements covering all of Lessee's right, title and interest in the Transmission Line (as further described in Annex III), if any, now existing or hereafter acquired, and (ii) hereby ratifies existing UCC filings and recordings by Lessor with respect to the Transmission Line. Upon payment in full of the purchase price for the Transmission Line under the Equipment Lease on January 1, 2044 (or earlier if a purchase option set forth in Section 14.2 or 15.1(d) of the Equipment Lease is exercised and the purchase price is paid in full) and the terms and conditions of Section 16 of the Equipment Lease have been performed and complied with in all respects, Lessor shall promptly make all necessary filings to terminate all such precautionary UCC financing statements and recordings.

vi. Schedules C, D and F will be replaced entirely by the corresponding columns set forth in Annex I.

c. Deleted Sections. The following sections will be deleted in their entirety: 3.2, 4.1, 4.3, 4.4, 4.6, 7.8, 14.1, 14.3, 15.1(a), 15.1(b), 15.1(c), Schedule B and Schedule G. To preserve section references throughout the Transaction Documents, the Parties will read these deleted sections as "[Reserved]".

III. **Easement**. With respect to the Easement, Niagara and the Owner Trustee hereby agree to the following:

a. Section 4 Update; Term. The second sentence of Section 4, which defines the Term, will be amended as indicated below:

All easements granted pursuant hereto, and all rights of the Owner Trustee in respect thereof, shall expire on the earliest of (a) the useful life of the Transmission Line (which shall not be earlier than January 1, 2044), (b) purchase by Niagara of the Transmission Line pursuant to the Equipment Lease in compliance with Section 16 thereof, (c) a date specified in a written notice of termination delivered by the Owner Trustee with respect to all, but not less than all, such easements and rights, or (d) a date six months following the date on which any compensation payable to Niagara pursuant to Section 5 shall have become due and payable by the Owner Trustee under the terms hereof, but shall not have been paid. ~~; provided, however, that any notice pursuant to clause (c) above shall be accompanied by the written consent of the Indenture Trustee if such notice shall be given at any time prior to the date on which the principal of, premium, if any, and interest on all Bonds outstanding under the Indenture shall have been paid, or duly provided for, in full accordance with the terms of the Indenture.~~

b. Section 8(b) Update; Indemnities. The reference to "Section 8" in Section 8(b) of

the Easement shall be amended to refer to “Section 7”.

**IV. Easement Lease.** With respect to the Easement Lease, Lessor and Lessee hereby agree to the following:

a. Definition Updates. The below definitions will be read as amended as follows:

i. “Lease Term” shall mean the entire Term of this Lease, ~~including the Interim Term, the Primary Term and each Renewal Term.~~

b. Section Updates.

i. Subsection 3.1 will be amended as indicated below:

~~Unless extended as provided in Section 3.2 hereof,~~ The term of this Easement Lease shall consist of the Interim Term and the Primary Term. The Interim Term shall begin on the Closing Date and terminate on December 31, 1986, and the Primary Term shall begin upon the expiration of the Interim Term and terminate on January 1, ~~2028~~2044, subject in each case to earlier termination pursuant to Section 8 hereof.

ii. Section 11.2 will be amended as indicated below:

Upon the occurrence of any Event of Default and so long as such Event of Default shall be continuing, Lessor may, at its option, declare this Easement Lease to be in default by written notice to such effect to Lessee, and at any time thereafter Lessor, in its sole discretion, may, by notice to Lessee, terminate this Easement Lease and exercise its rights under the Support Agreements. ~~If the Indenture Trustee shall exercise any of its rights under Section 8.03(a) of the Indenture, this Easement Lease shall terminate; provided that this Easement Lease shall not terminate or shall be revived, as the case may be, upon exercise by Lessor of its rights under Section 8.09 of the Indenture.~~

c. Deleted Section. Sections 3.2, 4.3 and 8.4 will be deleted in their entirety. To preserve section references throughout the Transaction Documents, the Parties will read this deleted section as “[Reserved]”.

**V. Participation Agreement.** With respect to the Participation Agreement, the Parties hereby agree:

a. Definition Updates. The below definition will be amended as follows:

i. “Lease Term” shall mean the entire Term of the Equipment Lease, ~~including the Interim Term, the Primary Term and each Renewal Term.~~

**VI. Operating Agreement.** With respect to the Operating Agreement, Owner Trustee and Niagara hereby agree that the first sentences of the first and third paragraphs of Section 6(b) will be amended as indicated below:

(b) Further Agreements. Based upon the respective rights, duties and obligations of the Owner Trustee, Users and Niagara set forth in Sections 2, 3, 4, 5, 6(a) and 7, if (i) an Event of Loss or a Deemed Loss Event shall not have occurred, and (ii) Niagara shall fail or decline to give ~~all of a notice of renewal of the Lease pursuant to Section 3.2 of the Equipment Lease and~~ a notice of termination or purchase of the Transmission Line pursuant to Section 14.2 or 15.1(d) of the Equipment Lease, Niagara and the Owner Trustee shall forthwith commence the negotiation in good faith of a definitive agreement not inconsistent with the terms of and provisions of the foregoing Sections, but containing sufficient detail for the proper operation of the Transmission Line under then existing circumstances, for the exercise of such rights and the stipulation of such duties and obligations.

....

Based upon the respective rights, duties and obligations of the Owner Trustee or the User and Niagara set forth in the preceding paragraph, if (i) an Event of Loss or a Deemed Loss Event shall not have occurred and (ii) Niagara shall fail or decline to give ~~all of a notice of renewal of the Equipment Lease pursuant to Section 3.2 of the Equipment Lease and~~ a notice of termination or purchase of the Transmission Line pursuant to Section 14.2 or 15.1(d) of the Equipment Lease, Niagara and the Owner Trustee or such User shall forthwith commence the negotiation in good faith of a transmission agreement consistent with the said rights, duties and obligations, and in sufficient detail for the wheeling of power and energy, under normal transmission operating conditions, over Niagara's interconnected transmission facilities under then existing circumstances, for the exercise of such rights and the stipulation of such duties and obligations.

**VII. Tax Indemnity Agreement.** Niagara and UTH hereby agree that as of the Effective Date, the Tax Indemnity Agreement shall be terminated and shall be of no further force or effect.

**VIII. Conditions to Effectiveness.** Except with respect to Sections VIII, IX, XI, XII, XIII and XIV, the effectiveness of this Agreement and the Parties' respective obligations hereunder are contingent upon the satisfaction or waiver by the relevant Party of the conditions set forth on Annex II attached hereto (the "**Required Approvals**"). The "**Effective Date**" of this Agreement shall be deemed to occur one (1) business day following the satisfaction or waiver of the conditions set forth in this Section VIII.

**IX. Regulatory Filings.** Following the execution of this Agreement by all Parties, each of UTH and Niagara shall make the necessary filing or filings to seek their respective Required Approvals as soon as possible and shall use good faith efforts to obtain such Required Approvals prior to the Termination Date. For the avoidance of doubt, no Party shall be permitted (without the other Parties' written consent) or required to, in connection with obtaining any of its Required Approvals, agree, accept or consent to any terms, conditions, liabilities, obligations, commitments, sanctions or undertakings binding upon or obligating any other Party, or that would, individually or in the aggregate, constitute a modification or conditioning of the terms of this Agreement or the subject transactions, and nothing contained in this Agreement shall require any such other Party to agree, accept or consent to the same.

X. **Further Assurances.** From time to time after the Effective Date, each of the Parties agrees to execute, acknowledge, deliver, file and record, or cause to be executed, acknowledged, delivered, filed and recorded, such further documents or other instruments, and take such other action, as may be necessary or reasonably requested by the other Party to make effective the transactions contemplated by this Agreement and to provide the other Party with the intended benefits of this Agreement, as applicable. The Parties further agree that, in the event of any conflict or inconsistency between the terms of this Agreement and any terms of the original Transaction Documents, the terms of this Agreement shall take precedence and the terms of the original Transaction Documents shall be deemed revised to the extent necessary to make effective the purpose and intent of the transactions contemplated by this Agreement and to provide the Parties with the intended benefits of this Agreement.

XI. **Representations and Warranties.** Each Party represents and warrants to the other Parties as follows:

a. Existence, Power and Authority. (i) Such Party is a corporation, national association or limited liability company (as applicable) validly existing and in good standing under the laws of the state of its incorporation or formation; (ii) such Party has all requisite authority and power to execute and deliver this Agreement; (iii) the execution, delivery and performance of this Agreement have been duly and validly authorized by such Party; and (iv) this Agreement has been duly and validly executed and delivered by such Party and, assuming this Agreement has been duly authorized, executed and delivered by the other Parties, constitutes the valid and binding agreement of such Party enforceable against such Party in accordance with its terms, except as enforcement of the terms hereof may be limited by applicable bankruptcy, insolvency, reorganization, liquidation, moratorium or similar Laws affecting enforcement of creditors' rights generally, and general principles of equity.

b. No Conflict. Neither the execution and delivery of this Agreement by such Party, nor the performance by such Party of its obligations hereby, will (i) violate any provision of such Party's organizational documents, (ii) except as set forth in Annex II, conflict with or constitute a default (or an event that, with notice or lapse of time or both, would constitute a default) under, or result in a breach of, any contract to which such Party is a party or by which such Party's assets are bound, (iii) except as set forth in Annex II, violate any judgment, order, injunction, decree or award of any court, administrative agency or governmental authority against, or binding upon, such Party or (iv) except as set forth in Annex II, constitute a violation by such Party of any law or regulation applicable to such Party.

c. Consents. The execution, delivery and performance by such Party of this Agreement does not require such Party to obtain any approval or consent of any person or entity, or to make any filing or recording with, or obtain any consent or approval of, any governmental authority, except as set forth in Annex II.

XII. **Termination.** UTH or Niagara may terminate this Agreement by written notice to the other if the Effective Date has not occurred on or before June 25, 2022 (the "**Termination Date**"); provided, that UTH and Niagara shall have the right to extend the Termination Date by mutual written consent; provided, further that the right to terminate this Agreement pursuant to this Section XII shall not be available to a Party whose breach of any provision of this Agreement

results in the failure of the Effective Date to be achieved by such time. If any application or request made by a Party in connection with seeking any Required Approval is finally denied without the right to further appeal, this Agreement shall terminate as of the date that Niagara or UTH notifies the other Party in writing of such denial. If any application or request made by a Party in connection with seeking any Required Approval is granted in a form, or subject to conditions or modifications, that Niagara or UTH rejects, in its sole discretion, as unacceptable, such Party (“**Rejecting Party**”) shall provide written notice to the other Parties of such rejection (“**Rejection Notice**”) and this Agreement shall terminate as of the Termination Date unless the Rejecting Party has provided written notice to the other Parties prior to the Termination Date that it has elected to rescind such Rejection Notice. The Parties agree to cooperate in good faith until the Termination Date to seek a mutually agreeable resolution of any unacceptable condition or modification giving rise to a Rejection Notice. In no event, shall any such denial or rejection of a Required Approval, as contemplated by this Section XII, or any delay or refusal to act by any federal, state, or local regulatory commission, agency or governmental authority in connection with any Required Approval, be deemed to constitute or give rise to any breach of this Agreement by any Party or any liability on the part of any Party. In the event of termination of this Agreement, this Agreement shall thereupon terminate and become void and of no further force or effect.

XIII. **Expenses.** Each Party will be responsible for and bear all of their respective costs and expenses incurred in connection with this Agreement.

XIV. **Miscellaneous.**

a. The Transaction Documents shall continue in full force and effect, and except as amended hereby upon the Effective Date, are ratified and confirmed in all respects. For the avoidance of doubt and without limiting the foregoing: for commercial law purposes, the Equipment Lease, as amended by this Agreement, shall continue in full force and effect and is hereby ratified and confirmed by the Parties, and this Agreement shall not constitute a novation or termination of the Equipment Lease.

b. For the avoidance of doubt, and notwithstanding anything contrary contained in this Agreement, Sections 23, 24.4, and 24.6 of Equipment Lease will apply *mutatis mutandis*. Each Party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility. The exchange of copies of this Agreement and of signature pages by facsimile or other electronic transmission (including, without limitation, by e-mailed PDF) shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic means (including, without limitation, by e-mailed PDF) shall be deemed to be their original signatures for all purposes.

c. It is expressly understood and agreed by the Parties that (a) this document is executed and delivered by USBNA, not individually or personally, but solely as Owner Trustee, in the exercise of the powers and authority conferred and vested in it, (b) each of the representations, undertakings and agreements herein made on the part of the Owner Trustee is made and intended not as personal representations, undertakings and agreements by USBNA but

is made and intended for the purpose for binding only the Trust Estate, (c) nothing herein contained shall be construed as creating any liability on USBNA, individually or personally, to perform any covenant either expressed or implied contained herein of the Owner Trustee, all such liability, if any, being expressly waived by the Parties hereto and by any person claiming by, through or under the Parties hereto, (d) USBNA has made no investigation as to the accuracy or completeness of any representations or warranties made by the Owner Trustee in this Agreement and (e) without limiting Section 20 of the Participation Agreement under no circumstances shall USBNA, be personally liable for the payment of any indebtedness or expenses of the Owner Trustee or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Owner Trustee under this Agreement or any other related documents.

d. By its execution hereof, the Owner Participant hereby instructs the Owner Trustee to execute this Agreement.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have caused Agreement to be executed by their respective officers thereunto duly authorized as of the date hereof.

LESSOR AND OWNER TRUSTEE:

U.S. Bank National Association, not in its individual capacity, but solely as Owner Trustee, as Lessor

By: \_\_\_\_\_  
Name:  
Title:

NIAGARA AND LESSEE:

Niagara Mohawk Power Corporation

By: \_\_\_\_\_  
Name:  
Title:

OWNER PARTICIPANT:

Upstate Transmission Holdings, LLC

By: \_\_\_\_\_  
Name:  
Title:



**Annex I**

See attached Equipment Lease Schedules C, D and F

## Annex II

### Conditions to Effectiveness

#### **Niagara Conditions to Effectiveness**

Receipt of the authorization and approval of the New York Public Service Commission (“NYPSC”) as required by any applicable law, regulation, or order, including, without limitation, the NYPSC’s Order dated October 31, 1986 in Case 29359 for Niagara to enter into and perform this Agreement, provided that (i) such authorization and approval is in form and substance acceptable to Niagara as determined in its sole discretion (including, without limitation, all conditions made a part of any such approval and authorization), (ii) such authorization and approval is granted without the imposition of any modification or condition of the terms of this Agreement or the subject transactions, unless such modification(s) or condition(s) are agreed to by Niagara in its sole discretion, and (iii) all appeal periods for such authorization and approval have expired with no appeals having been taken, or if any such appeal has been taken, the appeal having been finally adjudicated or dismissed to Niagara’s satisfaction in its sole discretion.

#### **UTH Conditions to Effectiveness**

Receipt of the authorization and approval of the NYPSC as required by any applicable law, regulation, or order, including, without limitation, the NYPSC’s Order dated October 31, 1986 in Case 29359 for Niagara to enter into and perform this Agreement, provided that (i) such authorization and approval is in form and substance acceptable to UTH as determined in its sole discretion (including, without limitation, all conditions made a part of any such approval and authorization), (ii) such authorization and approval is granted without the imposition of any modification or condition of the terms of this Agreement or the subject transactions, unless such modification(s) or condition(s) are agreed to by UTH in its sole discretion, and (iii) all appeal periods for such authorization and approval have expired with no appeals having been taken, or if any such appeal has been taken, the appeal having been finally adjudicated or dismissed to UTH’s satisfaction in its sole discretion.

**Annex III**

See attached Annex III

## **EXHIBIT B**

### **Volney-Marcy Lease Scenarios**

**Exhibit B**

Values in \$M

Scenario#	Description	Type of Transactions	Lease Contract Purchase Price in the Period	Asset Purchase Price Target	Customer Impact	GAAP				IFRS				Comment
						Operating Profit	Net Income	Net Cash Flow	NPV	Operating Profit	Net Income	Net Cash Flow	NPV	
1	Continue with the current lease contract through FY29 and renew the lease with the current lease price	Lease	\$ 110.00	\$ -	\$ 328.16	\$ -	\$ (0.00)	\$ (0.00)	\$ 1.55	\$ -	\$ (0.00)	\$ (32.50)	\$ (24.44)	The finance lease is approaching end of the lease term where benefits of the cash flow were realized in the beginning of the lease.
2	Renew the lease with the levelized payment schedule. FY22 at \$11.85M and \$11.08M from FY23 through FY44	Lease	\$ -	\$ -	\$ 311.56	\$ -	\$ 0.00	\$ 0.00	\$ 0.00	\$ -	\$ 0.00	\$ (34.46)	\$ (17.12)	Favorable NPV due to the timing of the cash flow under the finance lease. Finance Lease is only switched on September FY22 per new lease accounting standard.
3	Continue with the existing lease agreement and purchase the asset at the end of the lease in FY29 at the contracted amount of \$110M	Purchase	\$ 110.00	\$ 110.00	\$ 323.81	\$ 58.87	\$ 43.51	\$ 43.51	\$ 12.53	\$ 58.87	\$ 43.51	\$ 11.00	\$ (13.45)	Revenue Requirement/Customer Impact per the current lease proposal. The total impact generated from the lease is less than purchase under this scenario as a result of an accelerated depreciable schedule where asset would be depreciated over the course of 16 years.

**EXHIBIT C**

**Affidavit of Christopher McConnachie, Chief Financial Officer and Vice President for  
Niagara Mohawk Power Corporation d/b/a National Grid**

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

-----  
In the Matter of the Petition of Niagara Mohawk :  
Power Corporation d/b/a National Grid for : Case 22-M-\_\_\_\_\_  
Authority to Extend and Amend the Lease of the :  
Volney-Marcy Transmission Line :  
-----

**AFFIDAVIT OF CHRISTOPHER MCCONNACHIE**

STATE OF NEW YORK )  
 )  
COUNTY OF ONONDAGA ) ss:

I, Christopher McConnachie, being duly sworn, depose and state as follows:

1. I am the Vice President and Chief Financial Officer, NY, of Niagara Mohawk Power Corporation (“Niagara Mohawk”), Petitioner herein;
2. I am fully familiar with the facts and circumstances surrounding the proposed Equipment Lease Extension and Omnibus Amendment by and between Niagara Mohawk, U.S. Bank National Association and Upstate Transmission Holdings, LLC (the “Extension Agreement”); and
3. The terms and conditions and the adjusted rental basis under the Extension Agreement is the most reasonable obtainable from the lessor, U.S. Bank National Association.



\_\_\_\_\_  
Christopher McConnachie

Sworn before me this  
21<sup>st</sup> day of April, 2022

MARGARET M BEVARD  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01BE6424125  
Qualified in Onondaga County  
My Commission Expires: 10/25/2025



**EXHIBIT D**

**Draft SAPA Notice**



For Department of State use only.

# Notice of Proposed Rule Making

Public Service Commission  
(SUBMITTING AGENCY)

- Approval has been granted by Executive Chamber to propose this rule making.
- This rule making does not require Executive Chamber approval.

**NOTE:** Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice.

1. A. <i>Proposed action:</i>			
<input type="text"/>	Authority to modify lease of utility property	Title <u>16</u>	NYCRR
<input type="text"/>	<input type="text"/>	Title <input type="text"/>	NYCRR
<input type="text"/>	<input type="text"/>	Title <input type="text"/>	NYCRR
<input type="text"/>	<input type="text"/>	Title <input type="text"/>	NYCRR
<input type="text"/>	<input type="text"/>	Title <input type="text"/>	NYCRR
<input type="text"/>	<input type="text"/>	Title <input type="text"/>	NYCRR

- B.  This is a consensus rule making. A statement is attached setting forth the agency's determination that no person is likely to object to the rule as written [SAPA §202(1)(b)(i)].
- C.  This rule was previously proposed as a consensus rule making under I.D. No. \_\_\_\_\_ . Attached is a brief description of the objection that caused/is causing the prior notice to be withdrawn [SAPA §202(1)(e)].
- D.  This rule is proposed pursuant to [SAPA §207(3)], 5-Year Review of Existing Rules (see also item 16).

2. *Statutory authority under which the rule is proposed:*

N.Y. Public Service Law §§ 5, 66

3. *Subject of the rule:*

Authority to modify or supplement lease of Volney-Marcy transmission line by Niagara Mohawk Power Corporation dba National Grid

4. *Purpose of the rule:*

Extension and modification of lease of Volney-Marcy transmission line by Niagara Mohawk Power Corporation dba National Grid

5. *Public hearings* (check box and complete as applicable):

- A public hearing is not scheduled. (*SKIP TO ITEM 8*)
- A public hearing is required by law and is scheduled below. (**Note:** first hearing date must be at least 60 days **after** publication of this notice unless a different time is specified in statute.)
- A public hearing is not required by law, but is scheduled below.

Time:	Date:	Location:

6. *Interpreter services* (check only if a public hearing is scheduled):

Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. *Accessibility* (check appropriate box only if a public hearing is scheduled):

All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.

8. *Terms of rule* (SELECT ONE SECTION):

A.  The full text of the rule is attached because it does not exceed 2,000 words.

B.  A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

C.  Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

9. *The text of the rule and any required statements and analyses may be obtained from:*

*Agency contact* The Honorable Michelle Phillips

*Agency Name* New York State Public Service Commission

*Office address* Three Empire State Plaza

Albany, NY 12223-1350

*Telephone* (518) 474-6530 *E-mail:* secretary@dps.ny.gov

10. *Submit data, views or arguments to* (complete only if different than previously named agency contact):

*Agency contact* \_\_\_\_\_

*Agency name* \_\_\_\_\_

*Office address* \_\_\_\_\_

*Telephone* \_\_\_\_\_ *E-mail:* \_\_\_\_\_

11. *Public comment will be received until:*

60 days after publication of this notice (MINIMUM public comment period).

5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).

Other: (specify) \_\_\_\_\_.

**NOTICE OF PROPOSED RULE MAKING** (Rev. 1/18)

12. A prior emergency rule making for this action was previously published in the \_\_\_\_\_ issue of the *Register*, I.D. No. \_\_\_\_\_.
13. *Expiration date* (check only if applicable):  
 This proposal will not expire in 365 days because it is for a "rate making" as defined in SAPA §102(2)(a)(ii).
14. *Additional matter required by statute*:  
 Yes (include below material required by statute).  
 No additional material required by statute.
15. *Regulatory Agenda* (See SAPA §202-d[1]):  
 This rule was a Regulatory Agenda item for this agency in the following issue of the *State Register*:  
 \_\_\_\_\_  
 This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the *Register*.  
 Not applicable.
16. **Review of Existing Rules** (ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)  
 This rule is proposed pursuant to SAPA §207 (item 1D applies) (check applicable boxes):  
 Attached is a statement setting forth a reasoned justification for modification of the rule. Where appropriate, include a discussion of the degree to which changes in technology, economic conditions or other factors in the area affected by the rule necessitate changes in the rule.  
 Attached is an assessment of public comments received by the agency in response to its publication of a list of rules to be reviewed.  
 An assessment of public comments is not attached because no comments were received.  
 Not applicable.
17. **Regulatory Impact Statement (RIS)**  
 (SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS, EXCLUDING SUMMARIES OF STUDIES, REPORTS OR ANALYSES [Needs and Benefits]):
- A. The attached RIS contains:  
 The full text of the RIS.  
 A summary of the RIS.  
 Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:  
  
 A consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.
- B. A RIS is **not attached**, because this rule is:  
 subject to a consolidated RIS printed in the *Register* under I.D. No.: \_\_\_\_\_ - \_\_\_\_\_; issue date: \_\_\_\_\_.  
 exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].  
 exempt, as defined in SAPA §102(11) [Consensus Rule Making].
- C.  A **statement is attached** claiming exemption pursuant to SAPA § 202-a (technical amendment).

18. **Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RFA contains:

- The full text of the RFA.
- A summary of the RFA.
- Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

A consolidated RFA, because this rule is one of a series of closely related rules.

B.  A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached, because this rule:

- is subject to a consolidated RFA printed in the *Register* under I.D. No.: \_\_\_\_\_ - \_\_\_\_\_; issue date: \_\_\_\_\_.
- is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
- is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

19. **Rural Area Flexibility Analysis (RAFA)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached RAFA contains:

- The full text of the RAFA.
- A summary of the RAFA.
- Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

A consolidated RAFA, because this rule is one of a series of closely related rules.

B.  A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not attached**, because this rule:

- is subject to a consolidated RAFA printed in the *Register* under I.D. No.: \_\_\_\_\_ - \_\_\_\_\_; issue date: \_\_\_\_\_.
- is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
- is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

20. **Job Impact Statement (JIS)**

(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS):

A. The attached JIS contains:

- The full text of the JIS.
- A summary of the JIS.
  - Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

A consolidated JIS, because this rule is one of a series of closely related rules.

B.  A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and explains the agency's finding that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.

C. A JIS is **not attached**, because this rule:

- is subject to a consolidated JIS printed in the *Register* under I.D. No.: \_\_\_\_\_; issue date: \_\_\_\_\_.
- is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
- is proposed by the State Comptroller or Attorney General.

**AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice.)**

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name  Signature \_\_\_\_\_

Address

Telephone  E-Mail \_\_\_\_\_

Date

**Please read before submitting this notice:**

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's Register procedures manual, *Rule Making in New York*.
2. Rule making notices, with any necessary attachments (in MS Word), should be e-filed via the Department of State website.

## **EXHIBIT E**

### **Sample Journal Entries**

**Exhibit E**

Volney Marcy Lease Sample Journal Entry					
Description	Entries	Account	Account Name	DR	CR
Remeasurement	A	101	ROU Asset	122,887,314	
		227/243	Liability		(122,887,314)
	Record ROU Asset and Liability at renewal of lease				
Year 1 Expense	B	931	Rent Expense		(11,083,500)
		243	Liability	11,083,500	
	Reduce liability for payment				
Year 1 Expense	C	108	Accumulated Depr		(6,604,764)
		243	Liability		(4,478,736)
		931	Rent Expense	11,083,500	
	Record accumulated depreciation and interest expense				
Year 1 Payment	D	143	Cash		(11,083,500)
		931	Rent Expense	11,083,500	
	Record cash for annual lease payment				
	<b>Note:</b> The amounts are based on a July 1, 2022 expected lease remeasurement date. If the remeasurment date changes, the amounts will be adjusted accordingly.				