

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE PETITION OF)
NIAGARA MOHAWK POWER CORPORATION)
PURSUANT TO SECTION 70 OF)
THE NEW YORK STATE PUBLIC SERVICE LAW)
REGARDING THE TRANSFER OF CERTAIN PROPERTY)
TO THE CITY OF UTICA, NEW YORK)**

Case 19-E-__

**VERIFIED PETITION OF NIAGARA MOHAWK POWER CORPORATION
PURSUANT TO SECTION 70 OF THE NEW YORK STATE PUBLIC SERVICE LAW
REGARDING THE TRANSFER OF CERTAIN PROPERTY TO THE CITY OF UTICA,
NEW YORK**

NIAGARA MOHAWK POWER CORPORATION

Kristoffer P. Kiefer
300 Erie Blvd. West
Syracuse, New York 13202
(315) 428-3329
kristoffer.kiefer@nationalgrid.com

Dated: August 5, 2019

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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| NIAGARA MOHAWK POWER CORPORATION |) | |
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| TO THE CITY OF UTICA, NEW YORK |) | |

VERIFIED PETITION

Niagara Mohawk Power Corporation (“National Grid” or the “Company”) hereby respectfully petitions the New York State Public Service Commission (the “Commission”) for approval pursuant to Section 70 of the New York State Public Service Law (“PSL”) and Sections 18.1 and 31.1 of the Commission’s Rules, 16 NYCRR §§18.1 and 31.1, to transfer certain street lighting facilities to the City of Utica (the “City”). National Grid respectfully submits that such transfer, as described below, is in the public interest and should be approved by the Commission.

BACKGROUND

1. National Grid is an electric and gas service delivery company organized and existing under the laws of New York, having an office and place of business located at 300 Erie Boulevard West, Syracuse, New York 13202.
2. Certified copies of the Company’s certificate of incorporation, certificate of merger and consolidation, and all amendments thereto have been previously filed with the Commission.
3. The City is a municipal corporation organized and existing under the laws of the State of New York, with its principal place of business located at 1 Kennedy Plaza, Utica, New York 13502.

4. National Grid owns and maintains certain street lighting facilities within the geographical boundaries of the City. The facilities include 7,039 street light locations, consisting of 7,058 luminaires, and associated lamps, mast arms, electrical connections, wiring, and other appurtenances, as well as certain identified street lighting poles (collectively, the “Facilities”).

5. A copy of the fully executed Agreement for Purchase and Sale of Street Lights (the “Agreement”) between National Grid and the City, as amended effective July 9, 2019, is attached hereto as Schedule A.

6. As set forth in Section 5.2 of the Agreement, the “Estimated Purchase Price” for the Facilities is \$4,127,849 based on plant records as of June 30, 2018. Consistent with the Joint Proposal approved by the Commission on March 15, 2018 in Case 17-E-0238, the Company will calculate the actual net book value at the time of closing and will adjust (up or down) the Estimated Purchase Price to arrive at the Final Purchase Price.

7. As set forth in Schedule C, the original book cost of the Facilities was \$6,490,534 and the updated net book value is \$4,002,164 based on plant records as of May 31, 2019.

8. Pursuant to the terms of Section 7 of the Agreement, the City would also compensate National Grid for the performance of any reconfiguration work required and/or requested for National Grid to continue to provide safe and reliable electric service to the City or other electric service customers after the separation of the purchased street lights, and any separation work requested to install electric disconnection equipment and identification labels; however, as set forth in Section 7.2 of the Agreement, the City has elected to not have the Company perform any such work.

9. Currently, the City receives street lighting service from National Grid under Service Classification No. 2 of National Grid’s P.S.C. No. 214 – Outdoor Lighting Tariff (the “Lighting

Tariff”). The City now intends to purchase the Facilities from National Grid to own and provide street area lighting within its municipal boundaries, and thereafter receive street lighting service from National Grid under Service Classification No. 3 (energy only) of the Lighting Tariff. Upon closing the City will own and bear sole responsibility for the operation, inspection, maintenance, and repair of the Facilities.

THE TRANSFER IS IN THE PUBLIC INTEREST

As owner of the Facilities, the City intends to install light-emitting diode (“LED”) luminaires of its choosing, providing localized lighting benefits, as well as reducing energy consumption. Moreover, the transfer will eliminate certain costs related to the Facilities (*e.g.*, replacement costs, property taxes, and ongoing maintenance) for ratepayers. The transfer will have no adverse effect on the electric services provided by National Grid to the City, and does not otherwise pose any potential harm to ratepayers or members of the public. In light of the above-described terms and conditions of the Agreement, this transaction is in the public interest.

SCHEDULES AND PETITION DETAILS

In further support of this Petition, National Grid sets forth the following information in compliance with 16 NYCRR §31.1, and 16 NYCRR §18.1(f)-(i) and (p) as incorporated by reference through §31.1(a). A brief description of each requirement is provided below with reference to the Schedules attached hereto.

1. **16 NYCRR §31.1(a):** This provision incorporates by reference the requirements of 16 NYCRR §18.1(f)-(i) of the Commission’s rules and regulations. These rules call for information pertaining to bonds, notes or other evidence of indebtedness, mortgages and affiliated interests. Information regarding these items can be found in National Grid’s FERC Form 1, relevant portions of which are attached hereto as Schedule F. Also incorporated by reference are the requirements of 16 NYCRR §18.1(p), which pertain to a detailed income statement and balance

sheet. Relevant portions of National Grid's FERC Form 1 showing the Company's balance sheet and income statement are attached hereto as Schedule E.

2. **16 NYCRR §31.1(b):** The Facilities to be transferred pursuant to the Agreement consists of street lights supplied from overhead and underground conductors, consisting of luminaires, lamps, mast arms, their associated wiring, electrical connections, and appurtenances. The Company will also transfer certain associated street lighting poles. An inventory of these items is included as Exhibit E to the Agreement, which the Company filed confidentially with the Records Access Officer, as it contains customer information. The Facilities to be transferred are within the boundaries of the City.

3. **16 NYCRR §31.1(c):** No franchises, consents or similar rights are to be transferred or leased pursuant to this transaction, except those specifically set forth in the Agreement.

4. **16 NYCRR §31.1(d):** A copy of the City's ordinance, dated February 20, 2019, authorizing the purchase of the Facilities and execution of the Agreement is attached hereto as Schedule B.

5. **16 NYCRR §31.1(e):** A copy of the signed Purchase and Sale Agreement, as amended effective July 9, 2019, is attached hereto as Schedule A.

6. **16 NYCRR §31.1(f):** An inventory of the Facilities proposed to be transferred to the City is included as Exhibit E to the Agreement and provided confidentially to the Commission through the Records Access Officer. The original book cost of the Facilities recorded in PSC Account 373, Distribution Plant – Street Lighting and Signal System is \$6,490,534 and is shown in Schedule C attached hereto.

7. **16 NYCRR §31.1(h):** As shown in Schedule C, the estimated accumulated depreciation for the Facilities based on plant records, as of May 31, 2019, is \$2,488,370. National Grid calculated the estimated depreciation using average service life calculations.

8. **16 NYCRR §31.1(i):** The cost of the Facilities, as developed consistent with the Joint Proposal approved by the Commission on March 15, 2018 in Case 17-E-0238 and as shown in Schedule C, is \$4,177,244, based on plant records, as of May 31, 2019.

9. **16 NYCRR §31.1(j):** The depreciation and amortization reserves applicable to the sale are shown in Schedule C.

10. **16 NYCRR §31.1(k):** There are no contributions toward construction of the Facilities described herein.

11. **16 NYCRR §31.1(l):** The operating revenues, expenses, and the related taxes for each of the three calendar years preceding the date of this Petition relating to the Facilities are shown in Schedule D. Likewise, National Grid's latest available balance sheet and income statement from its FERC Form 1 is attached hereto as Schedule E.

STATE ENVIRONMENTAL QUALITY REVIEW ACT

The State Environmental Quality Review Act ("SEQRA") requires the Commission to consider the environmental impacts of certain actions that it is authorized to approve. National Grid submits that the proposed transfer of the Facilities from the Company to the City will not result in any significant adverse effects to land and water uses or natural resources in the City and associated area in the vicinity of the existing electric service cables and street lighting facilities. Moreover, other than *de minimis* work, if any, to isolate the Facilities from the Company's electric distribution system, no construction, disturbance, excavation or demolition is expected to be undertaken as a result of the proposed transaction.

Therefore, the proposed activity does not rise to the level of a Type I action under SEQRA and is not listed as a Type II activity in the rules and regulations or the New York State Department of Environmental Conservation (6 NYCRR §617.5). Consistent with 6 NYCRR §617.6(a)(3), National Grid submits a Short Environmental Assessment Form attached hereto as Schedule G.

STATE ADMINISTRATIVE PROCEDURES ACT NOTICE

Consistent with the State Administrative Procedures Act, a Notice of Proposed Rulemaking in the form prescribed by the Department of State, Division of Administrative Rules is attached hereto as Schedule H.

CONCLUSION

WHEREFORE, National Grid respectfully requests that the Commission approve the transfer of the Facilities to the City, in accordance with the Agreement for Purchase and Sale of Street Lights executed between the Company and the City.

Respectfully submitted,

NIAGARA MOHAWK POWER CORPORATION

By: /s/ Kristoffer P. Kiefer
Kristoffer P. Kiefer
Senior Counsel

Dated: August 5, 2019

STATE OF NEW YORK
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Case 19-E-__

VERIFICATION

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

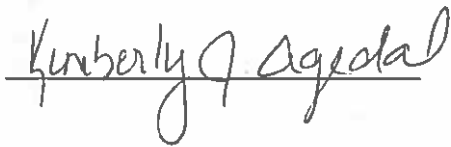
Melanie Littlejohn, being duly sworn, deposes and says:

1. I am Director of Community and Customer Management for New York, of Niagara Mohawk Power Corporation, the corporation named in the within Petition.
2. I have read the foregoing Petition and know the contents thereof. They are true to my knowledge and belief.



Melanie Littlejohn
Niagara Mohawk Power Corporation

Sworn to before me this
5 day of August, 2019.



Kimberly J. Agedal

KIMBERLY J. AGEDAL
Notary Public, State of NY
County of Onondaga
No. 01AG6071740
Commission Exp. 03/25/2022

**Niagara Mohawk Corporation d/b/a National Grid
Petition for Transfer of Street Lighting Facilities
to the City of Utica**

LIST OF SCHEDULES

Schedule A – Agreement for Purchase and Sale of Street Lights

Schedule B – Utica ordinance, dated February 20, 2019

Schedule C – Accounting Entries for the Transaction

Schedule D – Statement of Operating Revenues, Expenses, and Taxes for the Property to be Transferred (2016, 2017 and 2018)

Schedule E – Company Balance Sheet and Income Statement

Schedule F – Statement of Financial Condition

Schedule G – Short Environmental Assessment Form

Schedule H – State Administrative Procedures Act Notice

Schedule A

Amended Agreement for Purchase and Sale of Street Lights

AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS (this "Agreement") is made as of this ____ day of February, 2019 (the "Effective Date"), between **NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID**, a corporation organized and existing under the laws of the State of New York, having an office and place of business at 300 Erie Boulevard West, Syracuse, New York 13202 ("Seller"), and the City of Utica, a municipal corporation organized and existing under the laws of the State of New York with its principal place of business at 1 Kennedy Plaza, Utica, New York 13502 ("Buyer"). Buyer and Seller are sometimes herein referred to individually as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, Seller owns, operates and maintains an electric transmission and distribution system, including certain street lights used to provide lighting service under bill account number 84752-93100 to Buyer within its municipal boundaries under Service Classification ("S.C.") No. 2 of Seller's Tariff (defined below);

WHEREAS, Buyer desires to purchase the Street Lights identified in Exhibit E hereto (collectively, the "Street Lights," defined below) from Seller as provided in Section F.8 of S.C. No. 2 of Seller's Tariff (defined below), and Seller is willing to sell the Street Lights to Buyer.

NOW THEREFORE, in consideration of the commitments made herein and intending to be legally bound thereby, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized terms shall have the meanings defined throughout this Agreement or as specified below in this Section 1.

"Agreement" means this Agreement for Purchase and Sale of Street Lights, together with the exhibits and schedules attached hereto, as the same may be amended from time to time.

"Attachment Agreement" means the License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures to be executed and delivered by Buyer to Seller at Closing, said agreement to be substantially in the form attached hereto as Exhibit A.

"Bill of Sale" means the Quit Claim Bill of Sale, substantially in the form of Exhibit B hereto, to be executed and delivered by Seller to Buyer at the Closing, to evidence the transfer by Seller to Buyer of Seller's right, title and interest in and to the Street Lights.

"Breaching Party" has the meaning set forth in Section 16.1(e).

"Business Day" means any day other than Saturday, Sunday, and any day on which banking institutions in the State of New York are authorized by law or other governmental action to close.

"Buyer's Required Approvals" means: (i) all required approvals of Buyer's governing board

to authorize Buyer (by an authorized representative) to enter into this Agreement, the Bill of Sale, the Attachment Agreement and the Service Agreement; and (ii) those other approvals, if any, listed on Exhibit C.

“Closing” has the meaning set forth in Section 5.1.

“Closing Date” has the meaning set forth in Section 5.1.

“Commercially Reasonable Efforts” means efforts which are designed to enable the performing Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement and which do not require the performing Party to expend any funds or assume any liabilities other than expenditures and liabilities which are customary and reasonable in nature and amount in the context of the transactions contemplated by this Agreement.

“Commission” means the New York State Public Service Commission.

“Excluded Assets” has the meaning set forth in Section 4.

“Outside Date” has the meaning set forth in Section 16.1(b).

“Permitted Lien” means: (a) any lien for taxes not yet due or delinquent; (b) any lien for taxes being contested in good faith by appropriate proceedings and not in excess of \$100,000; (c) any lien arising in the ordinary course of business by operation of law with respect to a liability that is not yet due or delinquent or which is being contested in good faith by Seller; (d) zoning, planning, and other similar governmental limitations and restrictions, all rights of any governmental authority to regulate any asset, and all matters of public record; and (e) any lien released prior to Closing.

“Purchase Price,” “Estimated Purchase Price,” and “Final Purchase Price” have the meanings set forth in Section 5.2.

“Reconfiguration Work” shall mean that work requested by the Buyer and performed by the Seller in order to continue to provide safe and reliable electric service to Buyer after the Street Lights have been acquired by Buyer.

“Seller’s Required Approvals” means: (i) approval of the Board of Directors or Management Committee of Seller authorizing Seller to sell the Street Lights; (ii) pursuant to Section 70 of the New York State Public Service Law, approval of the sale of the Street Lights by operation of law or an order of the Commission approving the sale of the Street Lights pursuant to the terms of this Agreement; (iii) a release of lien for the Street Lights and, if applicable, the easements from the trustee under Seller’s Mortgage Trust Indenture dated as of October 1, 1937, as previously supplemented and amended; and (iv) those other approvals, if any, listed on Exhibit D.

“Seller’s Tariff” shall mean Seller’s P.S.C. No. 214 – Outdoor Lighting Tariff, as modified and in effect from time to time.

“Separation Work” shall mean that work required to install electric disconnection equipment

and identification labels complying with Seller's standards associated with the Street Lights and also includes removal of Seller's existing labeling from such facilities.

"Service Agreement" shall mean that service agreement to be executed and delivered by Buyer to Seller at Closing providing for the supply of electricity to be used for such Street Lights under the applicable provisions of Rate Schedule S.C. No. 3 of Seller's Tariff (in the case of unmetered service) or Seller's P.S.C. No. 220 – Electricity Tariff (in the case of metered service).

"Street Lights" means those certain street lights and related facilities owned solely by Seller and used to provide lighting service to Buyer under bill account number 84752-93100, located within Buyer's geographical boundaries, used solely for street lighting purposes, and which consist of luminaires, lamps, brackets, associated wiring, electrical connections and appurtenances, as depicted in Exhibit E, and not including Excluded Assets.

"Transaction Costs" consist of transfer taxes, recording fees, and mortgage indenture release fees associated with the sale of the Street Lights.

"Transition Costs" consist of costs related to the Seller's internal system inventory updates, billing data changes, and data updates associated with the sale of the Street Lights.

2. Transfer of Street Lights. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller shall sell, assign, convey, transfer, and deliver to Buyer, and Buyer shall purchase, assume, acquire, and receive from Seller, all of Seller's right, title, and interest in and to the Street Lights. Buyer maintains sole responsibility for ensuring that the list of Street Lights in Exhibit E is accurate and complete as of the Closing Date. After the Closing Date, the purchase of any street lights and related facilities ("Additional Facilities") not included in Exhibit E shall be subject to an additional purchase price calculation. If, at such time, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller such Additional Facilities, Buyer shall pay to Seller an additional purchase price in consideration for the Additional Facilities. If Buyer does not agree to purchase the Additional Facilities within thirty (30) days of notice of the existence of such Additional Facilities, such Additional Facilities shall be de-energized and may be removed by Seller, in Seller's sole discretion, and at no charge to Buyer.

3. Demarcation of Ownership. From and after Closing, Buyer shall own all of the Street Lights as follows:

3.1 The Buyer shall own Street Lights supplied from overhead conductors from the point in change (transition) from Seller's secondary conductor to the street light and including the luminaires, lamps, brackets, and associated wiring, with Seller retaining ownership of the electrical distribution system up to that point in change; and

3.2 The Buyer shall own Street Lights supplied from underground conductors from the point in change (transition) from Seller's secondary conductor to the underground conductor supplying such street light, including the foundation, standard, luminaires, lamps, brackets, and associated wiring, and conduits in which any underground conductors transferred to Buyer under this Agreement may be located.

3.3 To the extent there is any uncertainty or conflict with respect to the point in change (transition), the Seller shall, in its sole discretion, define the point in change.

4. Excluded Assets. Seller is not assigning, conveying, transferring, or delivering to Buyer and Buyer is not purchasing, assuming, acquiring or receiving from Seller any of Seller's right, title, and interest in and to the following, all of which are being retained by Seller following the Closing (collectively, the "Excluded Assets"):

4.1 Any and all of Seller's right, title, and interest in and to any poles, structures, facilities, or facilities attached or appurtenant to, but not comprising, the Street Lights, with the exception of those certain lighting poles identified in Exhibit F, if any;

4.2 Any and all of Seller's right, title, and interest in and to any and all spare parts or spare components relating to the Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

4.3 Any and all of Seller's right, title, and interest in and to any and all vehicles, facilities, tools, and supplies relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

4.4 Any and all of Seller's right, title, and interest in and to any and all agreements and contracts with third parties relating to installing, operating, inspecting, maintaining, repairing, replacing, or decommissioning in whole or in part any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights;

4.5 Any and all of Seller's right, title, and interest in and to any and all franchise grants, license, permits, and interests in real property pertaining in any way to any Street Lights or any poles, structures, facilities, or components attached or appurtenant to, but not comprising, the Street Lights; and

4.6 Any and all of Seller's right, title, and interest in and to any and all intellectual property rights associated with the street lights, including but not limited to engineering standards, facility information, warranty information, maps and asset records.

5. Closing and Purchase Price.

5.1 Closing. The closing of the purchase and sale of the Street Lights (the "Closing") shall take place at the offices of Seller at 10:00 a.m. (Eastern Time) on the tenth Business Day after the conditions to Closing set forth in Sections 12 and 13 (other than actions to be taken or items to be delivered at Closing) have been satisfied or waived by the Party entitled to waive such condition, or on such other date and at such other time and place as Buyer and Seller mutually agree in writing. The date of Closing is hereinafter referred to as the "Closing Date." The Closing shall be effective for all purposes as of 12:01 a.m. (Eastern Time) on the Closing Date.

5.2 Purchase Price. The total "Estimated Purchase Price" for the Street Lights

is FOUR MILLION ONE HUNDRED TWENTY SEVEN THOUSAND EIGHT HUNDRED FORTY NINE Dollars (\$4,127,849.00). The Estimated Purchase Price consists of the estimated Net Book Value ("NBV") of the Street Lights of THREE MILLION NINE HUNDRED FIFTY THREE THOUSAND TWO HUNDRED FORTY NINE Dollars (\$3,953,249.00), plus Transition Costs and Transaction Costs totaling ONE HUNDRED SEVENTY FOUR THOUSAND SIX HUNDRED Dollars (\$174,600.00). The Company will calculate the actual NBV at the date of the Closing and will adjust (up or down) the Estimated Purchase Price to arrive at the "Final Purchase Price." Seller will provide Buyer written notice of the amount of the Final Purchase Price no less than ten (10) days prior to the Closing Date.

5.3 Security for Separation Work. At Closing, Buyer shall provide financial security assurance, in a form acceptable to Seller, for the performance of the Separation Work in the amount of TWO MILLION EIGHT HUNDRED FOURTEEN THOUSAND SIX HUNDRED Dollars (\$2,814,600.00). The Parties' rights and obligations with respect to such security are set out in Section 7.1.

5.4 Payment of Final Purchase Price. The Final Purchase Price shall be payable at Closing in immediately available U.S. funds by wire transfer to the account designated by Seller or by certified or bank cashier's check payable to "Niagara Mohawk Power Corporation d/b/a National Grid."

6. Condition; Disclaimers; Indemnification.

6.1 Condition and Liability. The Street Lights are being sold, assigned, conveyed, transferred, and delivered to Buyer "as is, where is" without warranties or representations of any kind and subject to all faults of whatever nature, except Seller represents and warrants that to Seller's knowledge, it has good and marketable title to the Street Lights and that they shall be conveyed to Buyer, at the time of Closing, free and clear of all liens and encumbrances except for Permitted Liens. All liabilities, obligations, and claims in connection with the Street Lights that arise or are incurred after the Closing Date shall not be deemed liabilities or obligations of Seller and shall be the full responsibility of Buyer. As of the Closing Date, Buyer shall assume all responsibility and obligations associated with ownership of the Street Lights, including without limitation any repair, maintenance, replacement and operation responsibilities.

6.2 Warranty Disclaimer. **IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT SELLER SHALL IN NO WAY BE DEEMED OR HELD TO BE OBLIGATED, LIABLE, OR ACCOUNTABLE UPON OR UNDER ANY GUARANTEES OR WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE STREET LIGHTS, THEIR DESIGN, MANUFACTURE, CONSTRUCTION, FABRICATION, CONDITION OR PERFORMANCE, INCLUDING IN PARTICULAR, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OR COMPLIANCE WITH ANY LAWS OR STANDARDS, INCLUDING THE NATIONAL ELECTRIC SAFETY CODE ("NESC"), THE NATIONAL ELECTRICAL CODE ("NEC"), THE ILLUMINATING ENGINEERING SOCIETY OF NORTH AMERICA, "THE ELECTRIC POWER GENERATION, TRANSMISSION, AND DISTRIBUTION" STANDARD, THE OCCUPATIONAL SAFETY AND HEALTH ACT AND ANY RULES OR REGULATIONS THEREUNDER, WHETHER**

OR NOT SELLER KNOWS OR HAS REASON TO KNOW OF ANY SUCH PURPOSE OR VIOLATION AND WHETHER ALLEGED TO ARISE BY OPERATION OF LAW OR BY ANY APPLICABLE CUSTOM OR USAGE IN THE TRADE OR INDUSTRY OR BY A COURSE OF DEALING BETWEEN THE PARTIES, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED BY SELLER.

6.3 Liability Disclaimer. FROM AND AFTER THE CLOSING DATE, THE SELLER, ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AND CONTRACTORS SHALL NOT BE LIABLE TO BUYER OR ITS OFFICERS, OFFICIALS, EMPLOYEES, REPRESENTATIVES, OR CONTRACTORS FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL PUNITIVE, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO THE CONDITION, DESIGN, ENGINEERING, INSTALLATION, MAINTENANCE, CONSTRUCTION, LOCATION, OPERATION OF, OR FAILURE OF OPERATION OF, THE STREET LIGHTS, UNDER ANY THEORY OF LAW THAT IS NOW OR MAY IN THE FUTURE BE IN EFFECT, INCLUDING WITHOUT LIMITATION: CONTRACT, TORT, N.Y. GEN. BUS. LAW ARTICLE 22A, STRICT LIABILITY, OR NEGLIGENCE. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IF THE BUYER'S LIABILITY IN CONNECTION WITH THIS AGREEMENT IS LIMITED OR CAPPED PURSUANT TO ANY APPLICABLE STATUTE OR REGULATION, THEN THE SELLER HERETO SHALL BE ENTITLED TO ELECT AN IDENTICAL LIABILITY LIMITATION AND/OR CAP AS IF SUCH STATUTE OR REGULATION WERE APPLICABLE TO THE SELLER.

6.4 Indemnification. The Buyer agrees that from and after the Closing Date, to the extent permitted by law and to the full extent of the Buyer's insurance coverage, it shall defend, pay, protect, indemnify, and save harmless the Seller and its affiliates against and from any and all liabilities, claims, suits, fines, penalties, damages, personal injury, losses, fees (including reasonable attorneys' fees), costs, and expenses arising out of or in connection with this Agreement and/or the ownership, maintenance, and operation or the failure to maintain or operate the Street Lights resulting from any act, failure, or omission on the part of the Buyer or any of its agents, employees, or contractors. The Seller, and not the Buyer, shall remain responsible for claims in connection with the Street Lights that accrued prior to the Closing Date, including costs and damages resulting from pending claims in litigation relating to the Street Lights, if any, to the extent such claims arose from events occurring prior to the Closing Date.

6.5 Survival. The obligations set forth in this Section 6 shall survive the termination or expiration of this Agreement.

7. Separation Work; Reconfiguration Work.

7.1 Separation Work.

(a) Buyer elects to perform all of the Separation Work and shall perform all such

Separation Work. Buyer further agrees that it shall provide Seller with financial security assurance, as set forth in Section 5.3 above, and shall cause such Separation Work to be completed within twenty-four (24) months of the Closing or such other period as Buyer and Seller shall agree in writing. Seller agrees to work in good faith, at Buyer's request, to provide the information necessary to help Buyer perform such Separation Work.

(b) To the extent that the Separation Work is performed by Buyer or Buyer's contractor, and is not performed by Seller, Buyer represents and warrants to Seller that any personnel that perform work on the Street Lights will be qualified by complying with established regulations and standards associated with the work to be conducted. To identify requirements related to safety or the construction, repair, or maintenance of the street lighting system, Buyer should consult among other documentation, the Occupational Health and Safety Administration ("OSHA") requirements, including but not limited to OSHA 1910.269, "The Electric Power Generation, Transmission, and Distribution" standard, the NEC, the NESC, the New York State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, and requirements by the New York State Department of Transportation. In addition to that which is provided in Section 6.4, Buyer shall indemnify, defend, and hold harmless Seller from any injury, damage, loss or claims resulting from any breach by Buyer of this representation and warranty.

(c) Within thirty (30) days of Buyer's completion of the Separation Work, Buyer shall provide written notice to Seller that such Separation Work has been fully performed in accordance with this Agreement. Upon such notice from Buyer, Seller may perform any necessary inspections, at Seller's cost, to determine that all Separation Work has been completed. If such inspections reveal that, in Seller's sole and reasonable discretion, the required Separation Work has not been performed or adequately performed, Seller shall: (i) notify Buyer of the need for additional Separation Work (the "Additional Separation Work"); (ii) perform or cause to be performed by a third party the necessary Additional Separation Work; and (iii) invoice Buyer for Seller's actual costs to perform the Additional Separation Work. If Buyer fails to pay any invoice issued by Seller for Additional Separation Work within thirty (30) days of the date of such invoice, Seller may draw on the financial security amount provided by Buyer for such purposes under Section 5.3 of this Agreement. In the event that the financial security amount is in excess of Seller's invoice for the Additional Separation Work, Seller shall release the financial security amount in excess of such amount. In the event that the financial security amount is insufficient to satisfy Seller's invoice for the Additional Separation Work, Seller may, at its option, include all or any part of the remaining invoice balance for the Additional Separation Work in Seller's bills or invoices to Buyer for street lighting electric service. Notwithstanding the foregoing, Seller shall release the financial security assurance provided by Buyer for the Separation Work upon the later of (a) Seller's reasonable determination that all necessary Separation Work has been adequately completed by Buyer in accordance with this Agreement, or (b) if applicable, Buyer's full payment of any invoices for Additional Separation Work.

(d) If all Separation Work has not been completed within twenty-four (24) months of the Closing in accordance with Section 7.1(a) above, Seller may at its option elect to notify Buyer of its intention to perform such work on Buyer's behalf. In such event, upon completion of such work by Seller, Seller shall determine its actual costs of performing such work, inclusive of all applicable overheads and adders, and shall invoice Buyer for that amount.

If Buyer fails to pay any invoice issued by Seller for the cost of performing such work within thirty (30) days of the date of such invoice, Seller may draw on the financial security amount provided by Buyer for such purposes under Section 5.3 of this Agreement. In the event that the financial security amount is in excess of Seller's invoice for the Separation Work, Seller shall release the financial security amount in excess of such amount. In the event that the financial security amount is insufficient to satisfy Seller's invoice for the Separation Work, Seller may, at its option, include all or any part of the remaining invoice balance for the Separation Work in Seller's bills or invoices to Buyer for street lighting electric service. Notwithstanding the foregoing, Seller shall release the financial security assurance provided by Buyer for the Separation Work upon Seller's reasonable determination that all necessary Separation Work has been adequately completed by Buyer in accordance with this Agreement, or (b) if applicable, Buyer's full payment of any invoices for Seller's performance of the Separation Work.

(e) Nothing in this Agreement shall be construed to require Seller to perform any Separation Work beyond that which is expressly agreed to herein, to perform any other work on facilities owned by Seller at the request of Buyer, or to maintain, repair or replace any equipment owned by Buyer.

7.2 Reconfiguration Work. Buyer elects not to have Seller perform any Reconfiguration Work, and Seller shall not perform any such Reconfiguration Work.

8. Taxes and Assessments.

8.1 Real property taxes and assessments and any other applicable fees, taxes and charges assessed or imposed on Seller, by virtue of its ownership, use, operation, inspection, maintenance or repair of the Street Lights, will be prorated and adjusted as of 11:59 p.m. of the day before the Closing Date, with Seller bearing the expense of the item applicable to the period before the Closing Date and Buyer bearing the expense of the item applicable to the period on or after the Closing Date. In consideration of Seller's agreement hereunder, Buyer agrees that it shall exercise Commercially Reasonable Efforts to obtain, and cooperate with Seller in obtaining, a reduction from New York State, prior to the next tax status date, in the assessed valuation of its real property facilities located within the City of Utica that accurately reflects the removal of the Street Lights from the real property owned by Seller within the City of Utica.

8.2 All transfer and sales taxes incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by Buyer. Buyer shall prepare and file in a timely manner any and all tax returns or other documentation relating to such taxes; provided that, to the extent required by applicable law, Seller will join in the execution of any such tax returns or other documentation relating to any such taxes. Buyer shall provide to Seller copies of each such tax return at least thirty (30) days prior to the date such tax return is required to be filed.

9. Bill of Sale and Risk of Loss. The sale, assignment, conveyance, transfer, and delivery of the Street Lights will be effected by the Bill of Sale. On the Closing Date, Seller shall deliver to Buyer the Bill of Sale, fully executed and acknowledged and sealed and, simultaneously with such delivery, Seller shall take all such steps as may be necessary to put Buyer in actual possession of the Street Lights as and where presently located. Seller shall bear

the risk of loss of and damage to the Street Lights during the period from the Effective Date up to but not including the Closing Date, and Buyer shall bear the risk of loss of and damage to the Street Light from and after the Closing Date.

10. Representations of Seller. Seller represents and warrants to Buyer that as of the Closing Date:

10.1 Organization and Good Standing. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted.

10.2 Absence of Conflicts. Subject to obtaining Seller's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Seller's Certificate of Incorporation or any material contract to which Seller is a party, except for any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Seller's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Seller; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Seller, which has not already been obtained.

10.3 Authorization. Subject to obtaining Seller's Required Approvals, Seller has all requisite corporate power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary corporate action; and this Agreement has been duly and validly executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

11. Representations of Buyer. Buyer represents and warrants to Seller that as of the Closing Date:

11.1 Organization and Good Standing. Buyer is a municipality duly constituted, authorized and validly existing and in good standing under the laws of the State of New York, with full power to own its properties and conduct its business as it is now being conducted.

11.2 Absence of Conflicts. Subject to obtaining Buyer's Required Approvals, neither the execution of this Agreement, the consummation of the transactions contemplated hereby, nor compliance with the terms and provisions of this Agreement, will: (a) conflict with or result in a breach of the terms, conditions, or provisions of or constitute a default under Buyer's organizational documents or any material contract to which Buyer is a party, except for

any such violations or defaults that would not, in the aggregate, reasonably be expected to materially adversely affect Buyer's ability to perform its obligations hereunder or to consummate the transactions contemplated hereby; (b) conflict with, violate or breach, in each case in any material respect, any provision of any law applicable to Buyer; or (c) require any approval, consent, authorization, or other order or action of any court, governmental authority, or regulatory body under any law applicable to Buyer, which has not already been obtained.

11.3 Authority. Subject to obtaining Buyer's Required Approvals, Buyer has all requisite municipal power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby; the execution and delivery of this Agreement has been duly and validly authorized by all necessary municipal action; and this Agreement has been duly and validly executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, arrangement, moratorium or other similar laws relating to affecting the rights of creditors generally, or by general equitable principles (regardless of whether enforcement is considered in a proceeding at law or in equity).

11.4 Availability of Funds. Buyer has sufficient funds available to it to enable Buyer to pay the Final Purchase Price to Seller at the Closing.

12. Conditions Precedent to Buyer's Obligations. All obligations of Buyer under this Agreement are subject to the fulfillment at or before the Closing of each of the following conditions:

12.1 Seller's Representations and Warranties. The representations and warranties made by Seller in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing Date; provided that Seller shall have no liability to Buyer for any such representation not being materially true and correct as of the Closing Date due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

12.2 Seller's Performance. Seller shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Closing.

12.3 Buyer's Required Approvals. On or before the Closing Date, Buyer shall have obtained Buyer's Required Approvals, and they shall be in full force and effect.

12.4 Seller's Deliverables. On the Closing Date, Seller shall deliver:

- (a) a counterpart of the Bill of Sale duly executed by Seller;
- (b) a counterpart of the Attachment Agreement duly executed by Seller;
- (c) a counterpart of the Service Agreement duly executed by Seller; and

(d) resolutions of the Board of Directors of Seller certified by the Secretary, Assistant Secretary, or other officer of Seller authorizing the sale of the Street Lights and the consummation of the transactions contemplated by this Agreement.

13. Conditions Precedent to the Seller's Obligations. All obligations of Seller under this Agreement are subject to the fulfillment, at or before the Closing, of each of the following conditions:

13.1 Buyer's Representations and Warranties. The representations and warranties made by Buyer in this Agreement shall have been materially true and correct as of the Effective Date and shall be materially true and correct as of the Closing; provided that Buyer shall have no liability to Seller for any such representation not being materially true and correct as of the Closing due to occurrences, matters, events, facts or circumstances occurring after the Effective Date.

13.2 Buyer's Performance. Buyer shall have performed and complied, in all material respects, with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Closing.

13.4 Seller's Required Approvals. On or before the Closing Date, Seller shall have obtained Seller's Required Approvals and they shall be in full force and effect.

13.5 Buyer's Deliverables. On the Closing Date, Buyer shall deliver:

- (a) a counterpart of the Bill of Sale duly executed by Buyer;
- (b) a counterpart of the Attachment Agreement and Application for Service duly executed by Buyer;
- (c) a counterpart of the Service Agreement duly executed by Buyer; and
- (d) resolutions of the governing board for Buyer certified by the Secretary, Assistant Secretary, or other officer of Buyer authorizing the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

14. Expenses. Except to the extent expressly provided to the contrary in this Agreement, and whether or not the transactions contemplated herein are consummated, all costs and expenses incurred by a Party in connection with the negotiation, execution, and consummation of the transactions contemplated hereby, including attorneys' fees and the cost of filing for and prosecuting applications for Seller's Required Approvals and Buyer's Required Approvals, shall in all instances be borne by the Party incurring such costs and expenses.

15. Further Assurances. Subject to the terms and conditions of this Agreement, at either Party's request and without further consideration, the other Party shall execute and deliver to such requesting Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions as such requesting Party may reasonably request in order to consummate the transactions contemplated

by this Agreement; provided that the other Party shall not be obligated to execute or deliver any instruments, provide any materials or information, or take any actions that modify the rights, remedies, obligations, or liabilities of such other Party pursuant to this Agreement or applicable law.

16. Termination.

16.1 Termination Prior to Closing.

(a) This Agreement may be terminated at any time prior to the Closing by mutual written consent of Seller and Buyer.

(b) This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if: (i) any governmental authority of competent jurisdiction (other than the Buyer) issues an order, judgment or decree permanently restraining, enjoining or otherwise prohibiting the Closing, and such order, judgment or decree is final and non-appealable; or (ii) any statute, rule, order or regulation is enacted or issued by any governmental authority which, directly or indirectly, prohibits the consummation of the Closing; or (iii) the Closing contemplated by this Agreement has not occurred on or before one year after the Effective Date (the "Outside Date"); provided that the right to terminate this Agreement under this Section 16.1(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before the Outside Date.

(c) This Agreement may be terminated at any time prior to the Closing by Buyer upon written notice to Seller if any of Buyer's Required Approvals shall have been denied.

(d) This Agreement may be terminated at any time prior to the Closing by Seller upon written notice to Buyer if any of Seller's Required Approvals shall have been denied.

(e) This Agreement may be terminated at any time prior to the Closing by either Party upon written notice to the other Party if the other Party (the "Breaching Party") has materially breached or violated a representation, warranty, covenant or agreement hereunder so as to cause the failure of a condition to the Closing set forth in Section 12 or Section 13, as applicable, and such breach (other than a breach of Buyer's obligation to pay the Final Purchase Price in accordance with the terms of Section 5, for which no cure period shall be allowed) has not been cured by the earlier of thirty (30) days following written notice thereof or the Outside Date, provided that if such violation or breach is not capable of being cured within such thirty (30) day period and such thirty (30) day period shall have ended before the Outside Date, the Breaching Party shall have an additional period to cure the breach that expires on the earlier of thirty (30) days thereafter or the Outside Date.

16.2 Remedies Upon Termination Prior To Closing.

(a) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 16.1(a), (b), (c), or (d) hereof, neither Party shall have any liability to the other Party arising from this Agreement.

(b) If this Agreement is validly terminated prior to the Closing by a Party pursuant to Section 16.1(e) hereof, such Party may pursue any remedies against the Breaching Party available under this Agreement or applicable law, subject to the provisions of Sections 12 and 13 and subject to the limitation of liability set forth in Section 6 hereof.

17. Mutual Releases.

17.1 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of such which is hereby acknowledged, Buyer for itself, its successors, assigns and affiliates, and the officers, directors, employees, agents, representatives and contractors of all of them ("Buyer Releasors"), shall and hereby does release, remise, acquit, and forever discharge Seller, its successors, assigns and affiliates, and the officers, directors, employees, representatives, agents, and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Buyer Releasors now have or hereafter can, shall, or may have arising in any way out of, or with respect to, any and all street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

17.2 In consideration for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of such which is hereby acknowledged, Seller for itself, its successors, assigns and affiliates, and the officers, directors, employees, agents, representatives, and contractors of all of them ("Seller Releasors"), shall and hereby does release, remise, acquit and forever discharge Buyer, its successors, assigns and affiliates, and the officers, directors, employees, representatives agents and contractors of all of them, of and from any and all manner of claims, demands, damages, debts, dues, sums, accounts, costs, obligations, proceedings, actions, causes of action, or suits, of any nature whatsoever, whether in tariff, law, equity, or otherwise, which Seller Releasors now have or hereafter can, shall, or may have arising in any way out of, or with respect to, street lighting service provided by Seller to Buyer, or any matter related thereto, including those not yet ascertainable, if any, resulting therefrom at any time prior to and through and including the Effective Date.

17.3 Each Party agrees not to take a position in any proceedings before the Commission or any court in these matters contrary to the agreements set forth in this Section 17, and agrees not to assist another participant in taking such a contrary position.

18. Miscellaneous.

18.1 Entire Agreement. Seller and Buyer agree that this Agreement (together with its exhibits A-F) constitutes the entire agreement between the Parties.

18.2 Notices, Etc. All notices, requests, demands, and other communications permitted or required under this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered, when received by mailing, by certified mail, postage prepaid, return receipt requested, when delivered by a reputable overnight courier, or when sent by facsimile with electronic confirmation of receipt, to:

Buyer: City of Utica
1 Kennedy Plaza
Utica, New York 13502
Attn: Corporation Counsel's Office
Merima Smajic, Esq.

Seller: Niagara Mohawk Power Corporation d/b/a National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Attn: Outdoor Lighting Manager

or to such other address as shall be subsequently designated by notice to the Parties.

18.3 Counterparts; Facsimile and Electronic Copies. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Any facsimile or electronically transmitted copies hereof or signature hereon shall, for all purposes, be deemed originals.

18.4 Severability. If any provision of this Agreement is held invalid by any court or body of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

18.5 Survival. The terms and provisions of this Agreement, to the extent necessary or contemplated, shall survive the Closing. In particular, but not by way of limitation, all limitations on liability and indemnities contained in Section 6 and Buyer's obligation to reduce Seller's real property assessment shall survive the termination or expiration of this Agreement.

18.6 Headings. The headings contained in this Agreement are for reference purposes only and shall not affect or limit in any way the meaning or interpretation of this Agreement.

18.7 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York without regard to the principles of the conflict of laws contained therein. Each Party hereby submits to the personal and subject matter jurisdiction of the courts of the State of New York for the purpose of interpretation and enforcement of this Agreement. Venue in any action or proceeding shall be in the State of New York.

18.8 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion.

18.9 Amendment. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by authorized representatives of each Party.

18.10 No Third-Party Beneficiaries. Except for the provisions of Section 6 (which are intended to be for the benefit of the persons identified therein), the terms and provisions of this Agreement are intended solely for the benefit of the Parties and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

18.11 Assignment; Binding Effect. This Agreement and the rights and obligations set forth herein shall not be assigned by either Party without the written agreement of both Parties; provided, however, that Seller shall be permitted to assign this Agreement to any of its affiliates without the written agreement of Buyer.

18.12 Remedies Under Seller's Tariff. The Parties stipulate and agree that all of the services and charges provided for in this Agreement are authorized and governed by the provisions of Seller's Tariff (in the case of unmetered service) or the Seller's P.S.C. No. 220 – Electricity Tariff (in the case of metered service) and, accordingly, that Seller and Buyer expressly reserve all of their rights and remedies under the tariffs, including Seller's right to terminate electric service to Buyer under such tariffs in conformance with section 13.3 of the Commission's Rules and Regulations, 16 N.Y.C.R.R. § 13.3, in the event of the Buyer's failure to pay any amounts due under this Agreement or any other violation of this Agreement for which termination of service is authorized under such tariffs or the Commission's Rules and Regulations. The Parties further stipulate and agree that in the event of any conflict between the provisions of this Agreement and the provisions of the tariffs, the applicable provisions of such tariffs shall apply.

18.13 Conflicts. In the event of any conflict between the terms of this Agreement, the Service Agreement, and the Attachment Agreement, the agreements shall prevail in the following order: (i) the Service Agreement; (ii) the Attachment Agreement, and (iii) this Agreement.

IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Agreement as of the Effective Date.

NIAGARA MOHAWK POWER CORPORATION
d/b/a NATIONAL GRID

By: Melanie Littlejohn
Name: Melanie Littlejohn
Title: Director-NYS Customer & Community

CITY OF UTICA, NEW YORK

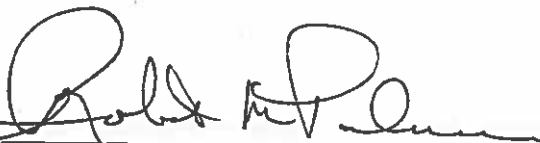
By: 
Name: Robert M. Palmieri
Title: Mayor

EXHIBIT A

ATTACHMENT AGREEMENT

See attached file: "Exhibit A-Attachment Agreement City of Utica Street Lights"

TO BE

Negotiated

5/7/19
MS

EXHIBIT B

FORM OF QUIT CLAIM BILL OF SALE

Reference is made to that certain Agreement for Purchase and Sale of Street Lights dated as of the ____ day of February, 2019 between the CITY OF UTICA and NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the "Transaction Agreement"). Pursuant to the Transaction Agreement, the undersigned, NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID (the "Seller"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, and transfers, all of its right, title, and interest in and to the assets described on Exhibit E attached hereto and incorporated herein by reference and made a part hereof (collectively, "Assets") to the CITY OF UTICA, a municipal corporation organized and existing under the laws of the State of New York with its principal place of business located at 1 Kennedy Plaza, Utica, New York 13502 (the "Buyer").

It is the intent of the Seller and Buyer that this instrument transfers all of Seller's right, title, and interest in and to the Assets. Seller hereby represents to Buyer that Seller has the right to transfer all of Seller's right, title, and interest in and to the Assets.

Seller hereby covenants and agrees for the benefit of Buyer that Seller will defend, at Seller's sole cost and expense, the right, title, and interest of Buyer in and to the Assets against the lawful claims and demands of all persons.

Buyer acknowledges that it has examined the Assets as fully as desired and Buyer waives and disclaims any right to seek recovery from Seller based on the current condition of the Assets. BUYER AGREES THAT ALL OF THE ASSETS ARE SOLD "AS IS" AND "WHERE IS" AND WITHOUT ANY ORAL, STATUTORY, EXPRESS OR IMPLIED WARRANTIES OR GUARANTEES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TENANTABILITY, HABITABILITY, USE AND WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OR TRADE). SELLER SPECIFICALLY DISCLAIMS, AND BUYER HEREBY WAIVES, ALL WARRANTIES AND GUARANTEES. Buyer shall take title to the Assets upon execution of this document, and Buyer assumes any and all liability of any kind for claims or damages in connection with the Assets arising from acts, omissions, or events occurring after the date hereof. Buyer agrees to take the Assets with knowledge that they have been used for a period of time by Seller in its business. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Buyer agrees to defend with counsel satisfactory to Seller and to pay, protect, indemnify, defend, release and save harmless Seller and its parents and affiliates and their successors and assigns and any of the officers, directors, employees, and shareholders of any of them, from and against, any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all attorneys' fees), causes of action, suits, claims, damages, obligations, demands or judgments of any nature in connection with the Assets to the extent arising from acts, omissions,

or events occurring after the Closing (hereinafter referred to as "*Claims*") including, without limitation, all Claims brought by third parties for personal injury and property damage, economic damage, or environmental damage or harm (including, without limitation, for investigation, response, removal, clean-up, and/or remediation). The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

In no event, whether as a result of breach of contract, tort (including negligence and strict liability), or otherwise shall Seller be liable for any or all special, indirect, incidental, penal, punitive or consequential damages of any nature in connection with, or arising from, the transactions contemplated by this Bill of Sale, including, without limitation, delays, lost profits, business interruptions, loss of use, lost business opportunities, loss of revenue, losses and other damages by reason of facility shutdown, equipment damage, cost of replacement power or substitute or temporary facilities or services, cost of capital, loss of goodwill, and claims of suppliers and customers, whether or not: (i) such damages were reasonably foreseeable, or (ii) Seller was advised or aware that such damages might be incurred. The provisions of this paragraph shall apply notwithstanding any other provisions of this Bill of Sale or the Transaction Agreement, and shall survive, termination, cancellation, or completion of this Bill of Sale or the Transaction Agreement.

Nothing in this instrument, express or implied, is intended or shall be construed to confer upon, or give to, any third party any remedy or claim under or by reason of this instrument or any agreements, terms, covenants or conditions hereof, and all the agreements, terms, covenants and conditions contained in this instrument shall be for the sole and exclusive benefit of the Buyer and Seller and their respective successors and assigns.

This instrument and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

To the extent that any provision of this instrument shall be held to be invalid, illegal or unenforceable, it shall be modified so as to give as much effect to the original intent of such provision as is consistent with applicable law and without affecting the validity, legality or enforceability of the remaining provisions of this instrument. Each party represents and warrants to the other that the signatory identified beneath its name below has full authority to execute this instrument on its behalf.

This instrument shall be governed by and construed in accordance with the laws of the state of New York (regardless of the laws that might otherwise govern under applicable New York principles of conflicts of laws). Venue in any action with respect to this instrument shall be in the state of New York; the parties agree to submit to the personal jurisdiction of courts in the state of New York with respect to any such actions.

This instrument may be executed in multiple counterparts, each of which shall be considered an original.

[Signatures are on the following page.]

IN WITNESS WHEREOF, intending to be legally bound, the Parties' duly authorized representatives have executed this Quit Claim Bill of Sale as of the above written date.

NIAGARA MOHAWK POWER CORPORATION
d/b/a NATIONAL GRID,
Seller

By: _____

Name: _____

Title: _____

Date: _____

THE CITY OF UTICA, NEW YORK,
Buyer

By: Robert M. Palmieri

Name: Robert M. Palmieri

Title: Mayor

Date: February 21, 2019

EXHIBIT C
BUYER'S APPROVALS

N/A

EXHIBIT D

SELLER'S APPROVALS

N/A

EXHIBIT E

STREET LIGHTS

See attached excel file: "Exhibit E-City of Utica Inventory, February __, 2019"

EXHIBIT F
EXCLUDED LIGHTING POLES

N/A

**Amendment No. 1 to the Agreement for Purchase and Sale of Street Lights Among
Niagara Mohawk Power Corporation d/b/a National Grid and the City of Utica**

This Amendment No. 1 to the Agreement for Purchase and Sale of Street Lights (this "Amendment") is made this 9th day of JULY, 2019 (the "Effective Date") by and between **NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID**, a corporation organized and existing under the laws of the State of New York, having an office at 300 Erie Boulevard West, Syracuse, New York 13202 ("National Grid" or the "Company"), and the **CITY OF UTICA**, a municipal corporation organized and existing under the laws of the State of New York with its principal place of business at 1 Kennedy Plaza, Utica, New York 13502 (the "City" or "Buyer"). National Grid and the City are sometimes hereinafter referred to individually as a "Party" and, collectively, as the "Parties."

WITNESSETH:

WHEREAS, the Company and the City agree that National Grid will sell the Company-owned street light facilities, including luminaires, lamps, mast arms, the associated wiring, electrical connections and appurtenances (the "Facilities") located within the City's jurisdictional boundaries and identified by bill account number 84752-93100 to Buyer for an "Estimated Purchase Price" of Four Million One Hundred Twenty-Seven Thousand Eight Hundred Forty-Nine Dollars and Zero Cents (\$4,127,849.00);

WHEREAS, The Parties executed an Agreement for Purchase and Sale of Street Lights (the "PSA"), contingent upon satisfaction of a number of closing conditions, effective the 5th day of July, 2019;

WHEREAS, pursuant to Section 70 of the New York State Public Service Law ("PSL"), the New York State Public Service Commission (the "Commission") must approve the transfer of the Facilities to Buyer;

WHEREAS, National Grid and the City are desirous of clarifying certain terms of the PSA prior to filing the Section 70 petition with the Commission;

NOW, THEREFORE, intending to be legally bound, National Grid and the City hereby agree as follows:

1. **Amendment.** Pursuant to Sections 18.9 of the PSA, the Parties agree to amend the PSA as follows:

Seller's Required Approvals. The definition of "Seller's Required Approvals" is amended as follows: revising item (i) to "an authorized representative of Seller has approved the sale of the Street Lights;" deleting item (iii) related to the Mortgage Trust Indenture dated as of October 1, 1937, as such approval is no longer required because the

Mortgage Trust Indenture has been formally discharged; and reordering item (iv) to item (iii).

Conditions and Liability. Section 6.1 of the PSA is amended to include the following clause: “Seller will conduct stray voltage testing of the Street Lights in conformance with the requirements of the Commission’s Electric Safety Standards (established in Case 04-M-0159 and any other applicable requirements). In the event Seller identifies a stray voltage condition, Seller will make the condition safe and immediately notify Buyer of Buyer’s responsibility to take all steps necessary to safeguard, mitigate, and permanently repair the stray-voltage condition. Buyer shall indemnify, defend, and hold Seller, its affiliates, and their respective, officers, directors, employees, representatives, and contractors, harmless for all injuries, damages, losses, or claims resulting from the failure of Buyer, or any of its agents, employees, or contractors, to exercise reasonable care in permanently repairing such stray-voltage condition. Buyer will report to Seller when it has completed the permanent repairs.”

Operability of the Street Lights. Section 6.5 is renumbered to Section 6.6, and the following is added as a new Section 6.5: “Operability of the Street Lights. Seller has maintained and currently maintains the operability of the Street Lights in a manner consistent with Seller’s Tariff. Until Closing, Seller shall continue its regular program of operating and maintain the Street Lights.”

Separation Work. Section 7.1(a) of the PSA is amended to include the following clause: “If Buyer further requests Geographical Information System (“GIS”) data or maps of the Street Lights, Seller will work in good faith, at Buyer’s sole cost, to reasonably develop and provide such information.”

Exhibit A. The Exhibit A Attachment Agreement to the PSA shall be replaced by “The License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures Between Niagara Mohawk Power Corporation d/b/a National Grid and the City of Utica,” which is appended hereto as Attachment 1.

2. **Entire Agreement.** This Amendment expresses the entire understanding between the Company and the City with respect to the subject written hereof and supersedes all prior and contemporaneous agreements and understandings, including the relevant portions of the PSA, inducements or conditions, whether express or implied, oral or written. This Amendment is incorporated into the PSA, and the PSA remains in full force and effect regarding all terms other than those issues explicitly addressed herein.

3. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be considered an original, and all of which together shall constitute one and the same agreement. The exchange of copies 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; however, original hard copies of this Agreement shall be executed and follow a facsimile or other electronic transmission. 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.
4. **Authority.** Each person executing this Amendment on behalf of a Party represents and warrants that they are duly authorized to execute and deliver this Amendment on behalf of such Party. Each Party has full power and authority to satisfy the obligations hereunder, and the execution and performance of this Amendment by each Party shall not breach the terms of any other agreement, understanding or obligation with respect to any third party.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be signed by their respective duly authorized representatives as of the Effective Date.

NIAGARA MOHAWK POWER
CORPORATION d/b/a NATIONAL GRID

By: Melanie Littlejohn

Name: Melanie Littlejohn

Title: Director-NYS Customer & Community

Dated: July 9, 2019

CITY OF UTICA

By: Robert M. Palmieri

Name: Robert M. Palmieri

Title: Mayor

Dated: July 5, 2019

Attachment 1

**The License Agreement for Customer-Owned Street and Area Lighting
Attachments to Utility Poles and Structures Between Niagara Mohawk Power
Corporation d/b/a National Grid and the City of Utica**



LICENSE AGREEMENT

FOR

CUSTOMER-OWNED
STREET AND AREA LIGHTING
ATTACHMENTS
TO
UTILITY POLES AND STRUCTURES

BETWEEN

Niagara Mohawk Power Corporation
d/b/a National Grid
(COMPANY)

AND

City of Utica
(CUSTOMER)

DATED: July 11, 2019

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THIS LICENSE AGREEMENT (this “Agreement”), is made this 11th day of July, 2019, (the “Effective Date”) by and between **NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID**, a corporation organized and existing under the laws of New York, having an office at 300 Erie Boulevard West, Syracuse, New York, 13202, (the “Company”) and the **CITY OF UTICA**, a municipal corporation organized and existing under the laws of New York, having its principal office at 1 Kennedy Plaza, Utica, New York, 13052 (the “Customer”). The Company and the Customer are collectively referred to herein as the “Parties” and individually as a “Party.”

WITNESSETH

WHEREAS, the Customer currently receives street lighting service from the Company within its municipal boundaries under Service Classification (“S.C.”) No. 2 of the Lighting Tariff (defined below) and intends to purchase from the Company, and own, operate and maintain and/or to install, own, operate and maintain, certain Equipment (defined below) to provide street and area lighting within the Customer’s municipal boundaries and to thereafter receive the electricity required to power the street lights from the Company; and

WHEREAS, that certain Equipment and Supplemental Attachments (defined below) thereto that the Customer desires to purchase or install is or will be attached to Facilities (defined below) owned in whole or in part by the Company; and

WHEREAS, as part of any Purchase and Sale Agreement (defined below) with the Company for that certain Equipment, Customer has agreed to perform or to pay the Company to perform any Separation Work (defined below) required to install a disconnection device between each street light purchased from the Company or thereafter installed and the Company’s distribution system and to install Identification Labels (defined below) at each such location within twenty-four (24) months of the closing of the transaction; and

WHEREAS, the Customer and the Company also desire to establish a process to govern the modification of the Customer’s existing Equipment and the installation by the Customer of any such additional Equipment and Supplemental Attachments thereto, on the Facilities within the Customer’s municipal boundaries as the Customer may require from time to time for street lighting and related purposes; and

WHEREAS, the Company is willing to permit, to the extent it may lawfully do so, the continued existence and new attachment of the Equipment and Supplemental Attachments thereto, on the Facilities within the Customer’s municipal boundaries on the terms and conditions established in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby agree as follows:

1.0 DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the following meaning:

1.1 “Attachment” shall mean: (i) any luminaire, supporting bracket, and/or wire, conductor, circuitry or other components, including Network Lighting Control Nodes, owned by Customer, existing or proposed to be placed on a Pole and connected to the Company’s distribution system for the sole purpose of providing street or area lighting; and (ii) any wire, cable, and other hardware, apparatus, component, or device, owned by Customer, connected or proposed to be connected to the Company’s distribution system for the sole purpose of delivering electrical energy to Customer-owned luminaire(s) used to provide street and/or area lighting within the Customer’s municipal boundaries.

1.2 “Authorized Attachment” shall mean any Equipment attached to the Company’s Facilities along with any Supplemental Attachment attached to the Equipment, within the Customer’s municipal boundaries on or after the Effective Date of this Agreement for which a License or a Preliminary License has been granted under this Agreement and remains in effect.

1.3 “Conduit” shall mean a Structure containing one or more Ducts.

1.4 “Connection Point” shall mean the point at which any Attachment or Supplemental Attachment receives electric power from the Company’s distribution system and shall also serve as the point of ownership demarcation.

1.5 “Costs” shall mean all direct and indirect costs incurred by the Company pursuant to this Agreement, inclusive of all applicable adders and overheads in effect from time to time, and including, but not limited to, any federal, state or local taxes incurred on the Company’s receipt of amounts from Customer, on a grossed-up basis.

1.6 “Disconnect Device” shall mean a Company-approved, physical disconnect device that will function as a means of electrical separation between the Company’s electrical system and any Equipment or Supplemental Attachment, and may include, an “in-line fuse” assembly or other form of dual pole disconnect device that provide a level of electrical system protection.

1.7 “Duct” shall mean a single enclosed raceway or pipe in which wires or cables are or may be enclosed.

1.8 “Electric Tariff” means National Grid’s P.S.C. No. 220 – Electricity, Schedule for Electric Service, as the same may be changed, amended, or supplemented from time to time, and any successor tariff thereto duly approved by the Commission.

1.9 “Electrical Space” means the portion of the space on each Company Pole between the top of such Pole and the point at which the lowest electrical conductor attaches to such Pole. This space is also known as the “supply space,” as defined in the National Electric Safety Code (“NESC”).

1.10 “Equipment” shall include all Attachments and other Customer-owned components or equipment used or proposed to be used by the Customer to provide outdoor illumination of streets or areas, including all associated support infrastructure and electrical circuitry. Supplemental Attachments are not Equipment.

1.11 “Facility” or “Facilities” shall include all Structures, Poles, wires and other components or equipment owned by the Company in whole or in part and used or proposed to be used by the Company to support any of the Equipment and / or to provide electric service and / or street lighting service.

1.12 “Field Survey” means the Company’s on-site audit and/or office asset/mapping record review of each Facility upon which the Customer proposes to:

- (i) Make a new Authorized Attachment(s);
- (ii) Relocate an existing Authorized Attachment(s); or
- (iii) Materially Change an existing Authorized Attachment.

1.13 “Identification Labels” shall mean markings, tags, decals, signage or other displays that indicate ownership, location or asset reference and functional attributes of the Equipment and any Supplemental Attachments.

1.14 “Joint Owner” shall mean a person, firm, or corporation sharing an ownership interest in a Pole, Structure and/or related ancillary equipment with the Company.

1.15 “Joint User” shall mean any other utility, which shall now or hereafter have established the right to use specific Poles and/or Structures. The term “Joint User” shall not include Customer.

1.16 “License” shall mean a revocable, nonexclusive license for the installation, maintenance and operation of the Customer’s Authorized Attachments subject to the provisions of this Agreement.

1.17 “Lighting Tariff” means National Grid’s P.S.C. No. 214 – Street, Highway, Roadway, and Other Outdoor Lighting, Schedule for Electric Service, including portions of the Electric Tariff incorporated therein by reference, as the same may be changed, amended, or supplemented from time to time, and any successor tariff thereto duly approved by the Commission.

1.18 “Make-Ready Work” shall mean the work to be performed by or on behalf of the Customer, the Company, a Joint User or Other Customer, as applicable, in order to safely accommodate a new Authorized Attachment or a Material Change to an Authorized Attachment.

1.19 “Material Change” or “Materially Change,” shall mean any alteration, modification, or replacement made to any Authorized Attachment that, in the Company’s sole judgment, would change the characteristics, licensed specifications, safety, mode of operation or maintenance, physical attributes, or use of the Facilities by the Company or Other Customers, or that would change the attributes of any such Facility related to billing or financial reporting. For avoidance of doubt, neither the conversion of an existing luminaire with a like-kind light-emitting diode (“LED”) luminaire, including a

Network Lighting Control Node, with similar physical and operational characteristics in the same location and orientation as the existing luminaire, nor the initial installation of a Disconnect Device within twenty-four (24) months after closing, as set forth in the Purchase and Sales Agreement, will be considered a Material Change.

1.20 “Network Lighting Control Node” shall mean the CIMCON 3100-7P lighting control node for cobra head street lights weighing approximately 10 ounces and consuming 1 Watt or less of energy, or such other similar device that has been analyzed and approved by the Company in its sole discretion.

1.21 “OSHA” shall refer to the Occupational Safety and Health Act, latest rule revisions as administered by the Occupational Safety and Health Administration within the U.S. Department of Labor.

1.22 “Other Customer” shall mean any entity, other than the Customer, to whom the Company has extended or hereafter shall extend the privilege of attaching equipment of any kind to the Facilities.

1.23 “Pole” shall mean any vertically oriented utility structure constructed of treated wood, metal, composites or concrete used to support electrical conductors and other utility equipment necessary to facilitate the operation of the Company’s electric distribution.

1.24 “Purchase and Sale Agreement” means any agreement(s) between the Customer and the Company providing for the purchase by the Customer of part or all of the Equipment, including street lights, located within the Customer’s municipal boundaries and owned and operated by the Company prior to the execution of the Purchase and Sale Agreement and closing of the transaction as provided therein.

1.25 “Preliminary License” means the limited license authorizing Customer to maintain Equipment (not including Supplemental Attachments) purchased from the Company under the Purchase and Sale Agreement without change or modification as provided in Section 2.1 of this Agreement pending completion of the Separation Work.

1.26 “PSC” shall mean the New York State Public Service Commission.

1.27 “Qualified Electrical Worker” shall mean any worker, electrical worker, contractor or other designated individual electrically qualified to accommodate the environment within which Customer’s Equipment shall exist, in compliance with

established standards associated with work in close proximity to electrical equipment and having successfully achieved a specified minimum level of training and / or experience including, but not limited to, all applicable federal, state, and local work rules and Company work rules, including compliance with OSHA 1910.269.

1.28 “Removal Rights” shall refer to the Company’s right pursuant to Article 6 of this Agreement or applicable laws to request or perform the removal of Unauthorized Attachments.

1.29 “Separation Work” means that work required to install Disconnect Devices and Identification Labels complying with the Company’s requirements on all of the Equipment purchased by the Customer under the Purchase and Sale Agreement, as well as any Supplemental Attachments, and includes removal of all existing Company labeling from such Equipment.

1.30 “Structures” shall mean, but not be limited to, the Ducts, Conduits, vaults, manholes, handholes, foundations, standards and other utility equipment or infrastructure necessary to facilitate the operation of an underground electric distribution system or underground sourced street and/or area light(s) owned by the Company.

1.31 “Supplemental Attachment” means any Customer-owned or Customer-leased wired or wireless hardware, equipment, apparatus, or device, including all support infrastructure and associated circuitry, attached to the Equipment, and used for a purpose other than outdoor illumination.

1.32 “Unauthorized Attachment” shall mean any Equipment attached to the Company’s Facilities, or any Supplemental Attachment attached to any Equipment, other than an Authorized Attachment.

2.0 SCOPE OF AGREEMENT

2.1 The Company hereby grants Customer a Preliminary License, effective as of the closing as set forth in the Purchase and Sales Agreement, for the attachment to the Facilities of any and all Equipment sold by the Company to Customer in the Purchase and Sale Agreement as shown in APPENDIX II, Forms A-1 and A-2 hereto. The Preliminary License shall be limited to an initial term of twenty-four (24) months and shall only authorize Customer to maintain such existing Equipment, with no modification

or change whatsoever, in its existing locations on the Company's Facilities. This Preliminary License shall terminate with respect to each individual Attachment upon completion of the Separation Work for that Attachment, at which point such Attachment and all Equipment therein shall be deemed to be an Authorized Attachment. Provided, however, that for any Equipment as to which the Separation Work is not completed within such twenty-four (24) month period and for which the Company is therefore required to perform the Separation Work on the Customer's behalf under the terms of the Purchase and Sale Agreement, the Preliminary License shall be extended until the Company completes such Separation Work, at which time such Attachment and all Equipment therein shall be deemed to be an Authorized Attachment. Upon the termination or expiration of the Preliminary License, the term of any License hereunder shall be determined in accordance with Section 15 of this Agreement.

2.2 Any Equipment that is not listed in the Purchase and Sale Agreement and that is found within three (3) months following the Effective Date of this Agreement to be attached to the Company's Facilities within any area inside Customer's municipal boundaries and determined to have been owned by the Company as of the Effective Date will be considered to have existed prior to the date of this Agreement and to have been inadvertently omitted from the Purchase and Sale Agreement. If Customer purchases such additional Equipment in accordance with the Purchase and Sale Agreement, the Company shall grant Customer a Preliminary License for such Equipment, provided Customer agrees within thirty (30) days of notice to or by the Company of the discovery of such Equipment to perform any Separation Work required for such Equipment within the twenty-four (24) month period for such work established in the Purchase and Sale Agreement. If Customer does not agree to perform the Separation Work for such Equipment within such thirty (30) day period, such Equipment shall be de-energized and may be removed by the Company at no charge to the Customer.

2.3 Any Licenses granted by the Company to the Customer under this Agreement authorize the Customer to maintain its Equipment on the Company's Facilities for street lighting purposes only and authorize the Customer to maintain any Supplemental Attachments for such purposes as approved by the Company, subject to the provisions of this Agreement. The Company also agrees to grant Customer Licenses for

such additional Authorized Attachments and for such Material Changes to Customer's existing Authorized Attachments as the Customer may request in accordance with the provisions of this Agreement as provided in Article 4 of this Agreement. Any change to an Authorized Attachment not approved in advance by the Company as provided in Article 4 of this Agreement shall cause such Attachment to become an Unauthorized Attachment subject to the Company's Removal Rights in accordance with the provisions of Article 6 of this Agreement.

2.4 To assist the Company in maintaining its billing records, Customer shall provide the Company with a report of all Equipment and Supplemental Attachments in service as of December 31 of each calendar year during the term of this Agreement. This report shall be provided within thirty (30) days following the end of each calendar year and shall be provided in the form contained in the Company's Application for Street and Area Lighting Attachment License, attached hereto as APPENDIX II, Forms A-1 and A-2, or in such other form as the Company may direct.

2.5 The Company may perform random field audits of the Customer's Equipment and Supplemental Attachments to determine the accuracy of any report provided by the Customer. To the extent there are any differences between either the Equipment and Supplemental Attachments identified in any Customer report or the Equipment and Supplemental Attachments listed in the Company's records and the Equipment and Supplemental Attachments identified by the Company after any such field audit that cannot be reconciled by the Company, the Company shall provide the Customer with written notice thereof. Within thirty (30) days of receipt of such notice, Customer shall either:

- (i) Provide the Company with written notice that it has removed such Equipment and / or Supplemental Attachments from the Facilities; or
- (ii) Submit a written request for the approval of such Equipment and / or Supplemental Attachments as a new Authorized Attachment pursuant to Article 4 of this Agreement.

If Customer fails to remove such Equipment and / or Supplemental Attachment or request approval of the Equipment and / or Supplemental Attachment as a new Authorized Attachment within such thirty (30) day period, such Equipment and / or Supplemental

Attachment shall be deemed an Unauthorized Attachment subject to the provisions of Articles 5 and 6 of this Agreement.

2.6 Nothing contained in this Agreement shall be construed to compel the Company to construct, retain, extend, place or maintain any Facilities not needed for the Company's own service requirements. This Section is not intended to limit the obligation of the Company to provide electric distribution service to Authorized Attachments pursuant to the Lighting Tariff. In the event the Company and Joint Users / Other Customers no longer require the use of a Pole or Structure, the Company will notify the Customer and the Customer shall have the option to purchase the Pole or Structure at a price to be determined by the Company. If Customer fails to advise the Company of its intent to exercise such option within thirty (30) days of receipt of notice thereof from the Company, the License for use of that Pole or Structure shall terminate and the Company shall be free to remove the Pole or Structure with no further obligation to the Customer under this Agreement.

2.7 Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against the Company with respect to any agreement(s) or arrangement(s) that the Company has heretofore entered into, or may in the future enter into with any Joint Owner(s), Joint User(s) or Other Customers not party to this Agreement regarding use of the Facilities covered by this Agreement. The rights of Customer shall at all times be subject to any such existing and future agreement(s) or arrangement(s) between the Company and any Joint Owner(s), Joint User(s) or Other Customers. Nothing contained in this Agreement shall be construed to grant, and the Company makes no representations or warranties with respect to, and is not purporting to provide, Customer with any attachment rights, licenses or consents for or in connection with the attachment of Equipment and / or any Supplemental Attachments to the facilities of any Joint Owner(s), Joint User(s) or other third parties. Customer is solely responsible to obtain all approvals, licenses, attachment rights or other consents required for the attachment of the Equipment and / or any Supplemental Attachments to the facilities of any such Joint Owner(s), Joint User(s) or other third parties.

2.8 Nothing contained in this Agreement shall be construed to grant any rights to Customer to include or install any wired or wireless hardware, equipment, apparatus,

device, antennae, or non-energized sign used for any purpose other than illumination directly on the Facilities. To the extent the Customer desires to install any such equipment directly on the Facilities, a separate agreement with the Company shall be required.

2.9 No use, however extended, of the Facilities and no payment of any fees or charges by Customer pursuant to this Agreement shall create or vest in Customer any ownership or property rights in such Facilities. Customer's rights herein shall be and remain a license. Neither this Agreement nor any License granted hereunder shall constitute an assignment of any of the Company's rights to use the public or private property at the location of any of the Facilities.

3.0 REQUIREMENTS APPLICABLE TO ALL AUTHORIZED ATTACHMENTS

3.1 Compliance With Applicable Regulations, Codes and Standards.

3.1.1 Customer shall, at its own expense and in accordance with the terms and conditions set forth in this Agreement, install, maintain and operate all Authorized Attachments in a safe condition and in a manner that does not:

- (a) Interfere with the Company's operation of its electric distribution system;
- (b) Conflict with the use of the Facilities by the Company or by any other authorized user thereof; or
- (c) Electrically interfere with the Facilities or any equipment attached thereon or therein.

3.1.2 Customer shall install, maintain and operate all Authorized Attachments in compliance with all applicable federal, state and local laws, regulations, codes and the Company's policies, practices and standards, as amended and in effect from time to time and in accordance with the applicable requirements and specifications of the most recent editions of the National Electrical Code ("NEC"); the National Electrical Safety Code ("NESC"); the OSHA rules and regulations, including but not limited to OSHA 1910.269; Section 70-a(5) of the New York Public Service Law; "The Electric Power Generation, Transmission, and Distribution" standard, the New York

State Labor Law governing how close workers (qualified) and non-workers (unqualified) can get to energized equipment at primary and/or secondary voltages, requirements by the New York State Department of Transportation, and any governing authority having jurisdiction over the subject matter of this Agreement, as each may be amended from time to time.

3.1.3 Customer shall ensure that clearances between each of the Authorized Attachments and all communications, electric distribution system and street lighting cables are fully in compliance with all applicable codes, standards and Company requirements, all as amended and in effect from time to time, to allow for proper maintenance, repair and reconfiguration of electric distribution system, street lighting and communications cables.

3.1.4 Customer shall ensure that the Authorized Attachments conform to applicable requirements of the Lighting Tariff and Electric Tariff and applicable Company policies. All lighting or illumination sources (*i.e.*, lamps and luminaires) shall comply with the energy consumption schedules and defined hours of operation as set forth in the Lighting Tariff.

3.1.5 Subject to Section 4.3.4 of this Agreement, Customer shall have no obligation to perform Make-Ready Work related to the pre-existing conditions of Authorized Attachments or Facilities at a location as of the Effective Date unless and until such time as Customer makes a Material Change that affects that location.

3.1.6 Except as set forth in Article 6, the Company shall have no obligation to, and shall not perform construction, maintenance repairs, reconfiguration, relocation, connection / disconnection or removal of the Equipment or Supplemental Attachments on the Facilities unless: (i) Customer has provided specific written authorization for the Company to do so and the Company is able to perform such work in compliance with all applicable PSC rules and requirements, including without limitation Rule V.F.4 of the General Information Section of the Lighting Tariff governing “Relocation of Existing Facilities;” or (ii) there is a safety-related emergency that the Company must address with respect to such Equipment, Supplemental Attachment, or a Facility to which such Equipment or Supplemental Attachment is attached. If the Company does perform construction, maintenance repairs, reconfiguration, relocation,

connection / disconnection or removal of the Equipment or Supplemental Attachment, Customer shall reimburse the Company for all Costs incurred in connection with such work in accordance with Rule V.F.4 of the General Information Section of the Lighting Tariff governing “Relocation of Existing Facilities.”

3.1.7 Any materials removed by Customer, or removed by the Company on Customer’s behalf, as part of or from within any Facilities shall be managed, tested, treated, transported, stored and disposed of by the Company in accordance with applicable rules, regulations or statutes and Customer shall reimburse the Company for all Costs incurred in connection therewith.

3.1.8 Customer shall maintain applicable National Electric Manufacturers Association (“NEMA”) or other industry standard Identification Labels upon each luminaire, in a clear and legible condition, to identify the type of light source and associated wattage or lumen output.

3.2 Personnel Authorized To Perform Work On The Company’s Facilities.

3.2.1 Customer represents and warrants that any personnel that perform work on the Equipment or Supplemental Attachments in the Electric Space on the Company’s Poles or within the Company’s Structures shall at all times be Qualified Electrical Workers. Customer shall indemnify, defend and hold the Company harmless from any injury, damage, loss or claims resulting from any breach by Customer of this representation and warranty. Except where such work is performed by the Company, Customer is required to execute the “Acknowledgment For The Use of Qualified Electrical Worker” form (APPENDIX III) to affirm that any person(s) under contract with and/or the direction of the Customer, including Customer’s agents, who perform the installation, maintenance, and/or removal of Attachments or Supplemental Attachments in the Electric Space on the Company’s Poles or on or within Structures are qualified to perform such work in accordance with the requirements of this Agreement and have completed any required training for such work.

3.2.2 In the event Customer or its agents are unable to confirm the current status of their workers as Qualified Electrical Workers, before performing any work on the Equipment or Supplemental Attachments, Customer shall be required to: (i) notify the Company of its inability to confirm such status of its or its agents’ workers as

Qualified Electrical Workers and to determine the appropriate electrical clearance distances for such work; (ii) only perform work on Equipment or Supplemental Attachments in a de-energized condition; and (iii) perform such work in full compliance with all applicable requirements of the NEC, including without limitation any electrical clearance requirements established therein. If a Disconnect Device is not installed for such Equipment or Supplemental Attachment, the Customer or its agent must schedule a disconnect service request with the Company prior to performing any work on such Equipment or Supplemental Attachment. Following the completion of the work, the Customer or its agent must schedule a connection service request with the Company to re-energize such Equipment or Supplemental Attachment. The Customer will be assessed a Lighting Service Charge for each service work order occurrence as stated in the Lighting Tariff.

3.2.3 Customer and its agents are prohibited from, have no authority to, and shall not permit or cause any third party to, access or ingress any of the Company's enclosed or underground primary or secondary electric distribution system Structures, including, but not limited to, manholes, handholes, vaults, transformers, and switchgears, unless such access or ingress is under the direct supervision of the Company.

3.2.4 If and to the extent the Customer or its agent needs access or ingress to any of the Company's underground electric distribution system infrastructure, the Customer or its agent shall contact the Company and the Company shall respond to such request, provide required support, and/or perform the necessary work as requested following its normal work order scheduling protocol, provided that the Company determines, in its sole discretion, that such connection / disconnection or other requested work is appropriate under the terms of applicable codes, standards, laws, regulations, agreements and the Company's practices and policies.

3.2.5 Customer and its agents shall not perform or make any connections (permanent or temporary) to, disconnections from, or in any way handle, tamper or interfere with, or otherwise disrupt, the Company's electric distribution system or assets, in whole or in part, nor shall the Customer permit or cause any third party (including without limitation, Customer's agent) to do so. The Company shall be the sole party with authority to perform or make any and all (permanent and temporary) connections to or

disconnections from the Company's electric distribution system or other assets. If and to the extent the Customer or its agent has a need for a connection or disconnection associated with the Company's electric distribution system or assets, the Customer or its agent shall contact the Company by making a connection / disconnection request through normal customer contact channels and the Company shall make the necessary connection / disconnection, provided that the Company determines, in its sole discretion, that such connection is appropriate under the terms of applicable codes, standards, laws, regulations, agreements and the Company's practices and policies.

3.2.6 The Customer agrees to compensate the Company for all Costs incurred by the Company in connection with work performed by the Company associated with each Attachment or Supplemental Attachment consistent with the charges or fees as set forth in this Agreement and / or as defined in the applicable provisions of the Lighting Tariff.

3.3 Maintenance of Authorized Attachments.

3.3.1 Customer shall be responsible for its own underground cable locating and for participation in the "One Call System(s)" providing one-call notifications within the Customer's operating service area. The One Call System is an independent association which, in compliance with federal, state and local requirements, facilitates the location identification of underground utility infrastructure through a notification / communication process between excavators and underground facility owners. The contact information for the One Call System responsible for a specific geographic area within the United States can be obtained by calling 811 nationally. As of the Effective Date, Dig Safe System, Inc. is this association.

3.3.2 Customer shall participate, at its sole expense, in any forum, group or organization and utilize any designated common information management system established to facilitate communications, priority, schedule and any other functions necessary to manage, locate or identify the attachment assets and actions of all customers and other facility owner(s) which are in conjunction with or may have an impact upon an Attachment or Supplemental Attachment. As of the Effective Date, the National Joint Utilities Notification System, is this organization.

3.3.3 Customer may (or may expressly authorize the Company, its employees or agents to) access or enter the Company's Structures for the purpose of asset verification, inventory, inspection and / or other engineering or asset management functions provided the Customer provides sufficient advanced notice to the Company to accommodate all aspects of scheduling. A representative of the Company shall be present at all such times, for which Customer shall pay the Company a Lighting Service Charge as specified in the Lighting Tariff. All personnel entering any Company Structure are to be properly qualified and outfitted for the physical, environmental and electrical conditions to be encountered. Where Customer or its agent has been granted access as provided above, the Company may halt such activities if they threaten the safety of any individuals or property or the integrity or reliability of the Company's electric distribution system.

3.3.4 All tree trimming required to accommodate prospective maintenance and operation of Authorized Attachments, including but not limited to the functional performance, lumen output or illumination orientation, shall be performed by Customer or Customer's qualified contractor provided appropriate approvals have been granted by the owner(s) of the tree(s) and all governing authorities. The portion of the tree(s) to be impacted by trimming shall only be within a radial distance of three (3) feet of the luminaire extending below a horizontal plane established from the highest vertical point of the luminaire unless such area is within specified clearance distances of the electric distribution or transmission system as designated by the Company and/or other governing authorities.

3.4 Inspection and Remediation of Authorized Attachments.

3.4.1 The Company reserves the right, at its sole discretion, to make inspections of all or any part of the Equipment or Supplemental Attachments, at any time, without notice to Customer, at the Company's own expense.

3.4.2 The Company reserves the right, at its sole discretion, to make inspections of all or any part of the Equipment or Supplemental Attachments and to recover its Costs in connection therewith from Customer, if the inspection performed pursuant to Section 3.4.1 of this Agreement reveals any of the following:

- (a) Unauthorized Attachments;

- (b) Material discrepancy in type, style or size of installed Attachment or Supplemental Attachment as compared with the Company's records;
- (c) Any situation creating a safety-related emergency or any condition that prevents safe access to or operation of any facilities or equipment installed on Pole(s) and / or Structures; or
- (d) Equipment or Supplemental Attachments that have been installed in violation of the provisions of this Agreement.

3.4.3 Any charges imposed by the Company for such inspections shall be in addition to any other sums due and payable by Customer under this Agreement. No act or failure to act by the Company with regard to the charge or any unlicensed use by Customer shall be deemed ratification or the authorization of the unlicensed use. If any License should subsequently be issued, the License shall not operate retroactively or constitute a waiver by the Company of any of its rights or privileges under this Agreement or otherwise.

3.4.4 If, in the reasonable judgment of the Company, any of the Equipment or Supplemental Attachments are not in compliance with the provisions of this Agreement, the Company may provide Customer with notice thereof, whereupon Customer shall bring such Equipment or Supplemental Attachments into compliance with the requirements of this Agreement within fifteen (15) days or such additional time as agreed to by the Company in writing (the "Notice Period"). If Customer fails to bring its Equipment or Supplemental Attachments into compliance with the requirements of this Agreement with such Notice Period, the Company shall provide Customer with a Final Notice of Termination of Service with respect to the Attachment that includes such Equipment or Supplemental Attachment in accordance with Section 13.3(b) of the PSC's Rules and Regulations, 16 N.Y.C.R.R. § 13.3(b), and shall exercise its right to discontinue service to such Equipment or Supplemental Attachment in accordance with the provisions thereof.

3.4.5 If, in the reasonable judgment of the Company, any of the Equipment or Supplemental Attachments are not in compliance with the provisions of this Agreement and the existing physical and / or operational conditions of such

Equipment or Supplemental Attachment creates an emergency or has the potential to cause an imminent hazard and / or immediate danger to the safety of Company employees, contractors, other persons or property, or interfere with the performance of the Company's service obligations, the Company shall have the right to disconnect or remove such Equipment or Supplemental Attachment from the Facilities without notice to the Customer in accordance with Section 13.13 of the PSC's Rules and Regulations, 16 N.Y.C.R.R. § 13.13, and to recover all Costs incurred in connection therewith from Customer under this Agreement.

3.4.6 The Customer shall, at its sole cost and expense, remedy any condition identified by the Company as causing any of its Equipment or Supplemental Attachments to be not in compliance with the provisions of this Agreement, which remedy may include but not be limited to the relocation, reorientation, transfer or de-energizing of the Equipment or Supplemental Attachments as deemed acceptable by the Company. The Company shall promptly restore electric service to such Equipment or Supplemental Attachments upon receipt of notice from the Customer that remedial action has been taken to address such emergency or non-compliance, provided however that the Company shall have no obligation to restore service to such Equipment or Supplemental Attachment if it has the lawful right to withhold service from such Equipment or Supplemental Attachment for any other reason.

3.4.7 If the Customer fails to remedy any condition identified by the Company as not in compliance with the provisions of this Agreement within thirty (30) days or such longer period as may be agreed to by the Company in writing, the Company may deem the License for the Equipment or Supplemental Attachment in question to be revoked, deem the Equipment or Supplemental Attachment an Unauthorized Attachment and proceed to exercise its Removal Rights with respect to the Equipment or Supplemental Attachment constituting such Unauthorized Attachment as stated in Article 6 of this Agreement.

3.4.8 Neither by inspection, if any, or non-rejection, nor in any other way, does the Company give any warranty, expressed or implied, as to the adequacy, safety or other characteristics or any structures, equipment wires, appliances or devices owned, installed or maintained by Customer or leased by Customer from third parties.

3.5 Damage to Facilities. Customer shall be liable for any damages it causes to the Facilities and to any equipment of third parties (including any Joint Owner(s), Joint User(s), and / or Other Customers) attached to the Facilities, and Customer assumes all responsibility for any and all loss from such damage caused by Customer or any of its agents, contractors, servants or employees. Customer shall make an immediate report to the Company and any Joint Owner(s), Joint User(s), and / or Other Customers of the occurrence of any such damage and agrees to reimburse the respective parties for all Costs incurred by the Company, Joint Owner(s), Joint User(s) and / or Other Customers in making repairs to the Facilities or such other equipment.

4.0 REQUIREMENTS APPLICABLE TO NEW ATTACHMENTS, SUPPLEMENTAL ATTACHMENTS, AND MATERIAL CHANGES TO AUTHORIZED ATTACHMENTS

4.1 License Application.

4.1.1 Customer shall not install any new Equipment on the Facilities, any Supplemental Attachments, or make any Material Change to any Authorized Attachment or to any Equipment that has been granted a Preliminary License until:

- (a) Customer has first analyzed any Equipment or Authorized Attachments and confirmed that any such Supplemental Attachments or Material Changes can be done in compliance with all applicable safety codes, including the NESC, and will not create loading or other issues on the Equipment or Authorized Attachments;
- (b) Customer has submitted a written application to the Company for a new License authorizing such new Attachment, Supplemental Attachment, or Material Change to an Authorized Attachment utilizing the form in APPENDIX II, Form A-1 (Application for Street and Area Lighting Attachment License); and
- (b) The Company has approved such request and issued a new License authorizing such new Attachment, Supplemental Attachment, or Material Change.

The Company shall provide an assessment and response to the application based upon the proposed action(s), description and engineering / construction detail provided.

4.1.2 Such additional Licenses shall establish a unique identification number for each such additional Authorized Attachment, which identification number shall be used as the individual license reference and for purposes of inventory and billing administration.

4.1.3 The Company reserves the right to refuse to grant a License(s) or refuse authorization for the relocation, reconfiguration, Material Change or replacement of existing Equipment, or installation of Supplemental Attachments, when the Company reasonably determines that:

- (a) Refusal is necessary to maintain the safe operation of the Company's electric distribution system;
- (b) The relevant Pole or Structure may not be replaced to accommodate Customer's proposed Attachment or Supplemental Attachment;
- (c) The existing Facilities on the Pole or within the Structure may not be rearranged to accommodate the proposed Attachment or Supplemental Attachment; or
- (d) The proposed Attachment or Supplemental Attachment will negatively impact other customer services provided by the Company.

For the avoidance of doubt, the Parties understand and agree that the list of above-mentioned conditions is not an exhaustive list as other conditions may exist that would require the Company to refuse to grant a License.

4.2 Field Survey.

4.2.1 The Company shall perform a Field Survey for each Facility upon or within which the Customer requests a new Authorized Attachment requiring an electrical connection or the reconfiguration, relocation, Material Change or replacement of existing Equipment or a Supplemental Attachment. The Field Survey shall identify the required work, if any, that is necessary to facilitate the electrical connection and determine whether the Pole or Structure is adequate to accommodate the requested

Attachment or Supplemental Attachment. The Company shall provide Customer with a Field Survey cost estimate representing all anticipated Costs. The Company shall perform the Field Survey(s) following receipt of the Customer's written authorization and advance payment of the estimated amount specified by the Company in accordance with the provisions of Section 7.2.1 of this Agreement.

4.2.2 The Company may determine that a Field Survey is not required if Customer proposes a new, in-kind replacement of existing Equipment having the same physical and operational characteristics and is to be in the same location and orientation as the existing Equipment in an Authorized Attachment. For avoidance of doubt, neither the conversion of an existing luminaire with a like-kind LED luminaire, including Network Lighting Control Node, with similar physical and operational characteristics in the same location and orientation as the existing luminaire nor the initial installation of a Disconnect Device within twenty-four (24) months of closing will require a Field Survey.

4.2.3 The Company shall specify the point, area or location to be utilized by an Attachment on a Pole or within a Structure or by a Supplemental Attachment on the Equipment, including the point of entry for Customer circuitry to reach the Connection Point.

4.3 Make-Ready Work.

4.3.1 In the event that the Company determines in the Field Study that a Pole or Structure is physically inadequate or that the reconfiguration of the existing electric distribution system equipment or other Facilities is required, the Company will indicate on the Authorization for Make-Ready Work (APPENDIX II, Form B-2) its estimate of its Cost of completing the design for the Make-Ready Work and for performing the required Make-Ready Work and forward such completed authorization form to the Customer.

4.3.2 The Company will schedule and perform the required Make-Ready Work following its receipt of the executed Authorization for Make-Ready Work form and Customer's advance payment of the estimated amount specified by the Company. Customer shall pay the Company for all the Costs of all Make-Ready Work in accordance with the provisions of Section 7.2.2 of this Agreement, and shall also arrange with the owner(s) of other attachment(s) on the Pole or within the Structure or other Facility for

the transfer or rearrangement of such facilities to accommodate the installation, reconfiguration or removal of the Attachment(s) or Supplemental Attachment(s).

4.3.3 Customer shall not be entitled to reimbursement of any amounts paid to the Company for Pole and/or Structure replacements, capacity upgrades, or for the reconfiguration or rearrangement of other attachment(s) on its Poles or within its Structures by reason of the use by the Company or other authorized user(s) of any additional space or capacity resulting from such Make Ready Work.

4.3.4 If the Company or a Joint Owner needs to attach additional equipment or make changes to existing Facilities within or upon which Customer has an Authorized Attachment, Customer agrees to be responsible to perform or to reimburse the Company for all Costs either: (i) to reconfigure its Authorized Attachment(s) in or on such Structure(s), as such reconfiguration shall be determined by the Company; or (ii) to transfer its Authorized Attachment(s) to an alternate location designated by the Company so that the additional Facilities of the Company may be attached where either an agency of government, whether local, state or federal, requires the removal, relocation, or modification of a Structure affecting Customer's Authorized Attachment; or a Structure must be repaired or replaced for any reason (as determined by the Company).

4.3.5 The Company will endeavor to perform all Make-Ready Work to accommodate Customer's Authorized Attachments as a part of its normal, scheduled workload.

4.3.6 When reconfiguration, transfer or removal of Facilities of the Company is required to facilitate attachments of Other Customers or third parties on or within Structures, Customer shall be responsible for all Costs incurred by the Company in connection with such reconfiguration, transfer or removal of Customer's Attachments or Supplemental Attachments as a result. Customer has sole responsibility for the recovery of the costs of the reconfiguration, transfer or removal of Attachments or Supplemental Attachments from such Other Customer(s) or third party(ies).

4.4 Installation Requirements for New Authorized Attachments and Material Changes.

4.4.1 Customer shall install a Disconnect Device within each Authorized Attachment. The Disconnect Device shall be located as close as feasibly practical to the

energizing source or Connection Point and shall be readily accessible to both the Company and the Customer. The Disconnect Device shall, at a minimum, separate the Customer's energized conductor from the Company's distribution system. However, the Company recommends a dual pole disconnect device to separate the Customer's Equipment or Supplemental Attachment from both conductors feeding the Equipment or Supplemental Attachment.

4.4.2 Joint use of the Company's Ducts by Customer for the installation of new Equipment or Supplemental Attachments is not permitted.

4.4.3 The installation by Customer of Equipment or Supplemental Attachments, such as splice boxes and coiled cables within Structures will only be allowed if specifically authorized by the Company in writing and such Equipment or Supplemental Attachment complies in all respects with Article 2 of this Agreement. Where splice boxes are allowed, cable slack shall be installed to allow the Equipment or Supplemental Attachment to be lifted clear of the Structure, which will allow for the Company or other facility maintenance and splicing.

4.4.4 Customer shall place or have placed by the Company (at Customer's sole cost and expense) as Make-Ready Work, Identification Labels on all of Customer's Equipment and Supplemental Attachments including, but not limited to, cables located within or in close proximity to the Company's underground Structures and Customer handholes containing circuit Disconnect Devices. The Company shall have the right to approve or reject Customer Identification Labels that are significantly different than those described in APPENDIX II, Form E.

4.4.5 All tree trimming made necessary to accommodate initial construction, reconstruction, relocation, or Material Change of Authorized Attachments shall be performed by qualified contractors approved by the Company and Customer, at the sole cost and expense of Customer. The Customer and not the Company shall be solely responsible for the performance of such work and shall also be responsible for obtaining permission for such work from the owner(s) of such tree(s) and from any other governing authorities regulating such work.

4.5 Supplemental Attachments

4.5.1 To the extent Customer seeks to include or install any Supplemental Attachment, the Customer must: (i) provide proof to the Company of Customer's engineering analysis that the Equipment is capable of withstanding the load of the proposed Supplemental Attachment; (ii) provide the technical specifications, as required by the Company in its sole discretion, of the Supplemental Attachment; and (iii) in accordance with the terms of this Agreement, agree to bear full responsibility and liability for the operation, maintenance, repair, costs (including energy charges), and any damages caused by the installation or operation of the proposed Supplemental Attachment.

4.5.2 Customer shall obtain, at its own cost and expense, all necessary franchises, licenses, permits or other approvals ("Approvals") that relate to the installation and use of any such Supplemental Attachments, including the authorization of any Joint Owner(s) or Joint User(s), consistent with Section 2.7 of this Agreement. Upon request, Customer shall provide a copy of such Approvals, at Customer's sole cost and expense, to the Company prior to attaching any Supplemental Attachments.

5.0 UNAUTHORIZED ATTACHMENTS

5.1 In the event that Customer converts, replaces or otherwise uses a lighting or illumination source other than those provided in the Lighting Tariff in any Authorized Attachment, or operates such Equipment or Supplemental Attachment in a manner other than as stated in the Lighting Tariff, the Electric Tariff, or in this Agreement, such action shall cause the Authorized Attachment to become an Unauthorized Attachment subject to the Company's removal rights under Article 6 of this Agreement.

5.2 If any Equipment or Supplemental Attachment is found on the Facilities within the Customer's municipal boundaries at any time after the third month following the Effective Date that is not covered by a License or a Preliminary License, the Company shall provide Customer with written notice thereof and may, without prejudice to its other rights or remedies under this Agreement and submit a backbill to the Customer for service to such Unauthorized Attachments as authorized by the Lighting Tariff and the PSC's Rules.

5.3 If Customer wishes to retain such Equipment or Supplemental Attachment, Customer shall submit to the Company a written Application For Street and Area Lighting Attachment License (Form A-1) within thirty (30) days after receipt of the

Company's written notice of the existence of such Unauthorized Attachment(s). If such application is not received by the Company within the specified time period or is rejected by the Company, the Equipment and / or Supplemental Attachment shall be deemed to be an Unauthorized Attachment subject to the Company's removal rights under Article 6 of this Agreement.

5.4 If the Company elects, in its sole discretion, to modify, change or replace any Structure on which Equipment or Supplemental Attachments are located, including, without limitation, to upgrade such Structure or any Facilities located on or near that Structure, the Company shall provide Customer with written notice of such work ("Company Notice") and Customer agrees to remove and relocate the Customer's Equipment and / or Supplemental Attachments located on such Structure to an alternate location designated by the Company within six (6) months following the date of the Company Notice, at Customer's expense and in compliance with all applicable laws, rules, regulations, codes and standards, as provided in Section 4.3.4 of this Agreement. Any Equipment or Supplemental Attachments not removed by Customer in accordance with a Company Notice shall be deemed to be Unauthorized Attachments.

6.0 REMOVAL RIGHTS

6.1 Removal of Authorized Attachments.

Customer, at its sole expense, shall remove or have removed in accordance with this Agreement any Attachment(s) from any Facilities within thirty (30) days of its receipt of a notice from the Company requiring removal of such Attachment(s) or Supplemental Attachment(s). If Customer fails to remove such Attachment(s) or Supplemental Attachment(s) from the Company's Facilities within such time, the Company shall have the right to remove those Attachment(s) or Supplemental Attachment(s) without any liability for damage or injury thereto, and Customer shall pay all Costs incurred by the Company in connection therewith. If the Company exercises its Removal Rights as described herein, the Company shall have the option to sell or otherwise dispose of the removed Attachment(s) or Supplemental Attachment(s) provided that the Company shall credit any amounts received to Customer's account. Customer shall be liable for and pay all fees and charges pursuant to the Lighting Tariff

and the terms of this Agreement to the Company until such Attachment(s) or Supplemental Attachments are removed.

6.2 Removal of Unauthorized Attachments.

6.2.1 The Company may de-energize and remove any Unauthorized Attachments without the need to provide any further notice to the Customer and without liability to Customer of any kind.

6.2.2 The Customer shall be liable to the Company for its charges under the Lighting Tariff and the Electric Tariff for electric service furnished to any Unauthorized Attachment within Customer's municipal boundaries through and until the date of its de-energization or removal and for all Costs incurred by the Company in removing the Unauthorized Attachment, and the Company shall have no liability to Customer for loss of service provided by Customer or any damage or injury to Customer's Unauthorized Attachment(s).

7.0 FEES, CHARGES AND PAYMENTS

7.1 Fees for electric service.

7.1.1 Charges for electric energy supplied to the Equipment and for the attachment of the Equipment to the Facilities shall be as specified in the Lighting Tariff.

7.1.2 Electric service fees for each Supplemental Attachment are in addition to any fee for outdoor lighting service associated with the Equipment and shall be either: (i) metered and billed per the applicable provision of the Electric Tariff; or (ii) an unmetered estimate in accordance with the terms of the Electric Tariff, with the kWh use calculation based on the maximum energy consumption value applied continuously over a 24 hours per day, 7 days per week, 365 days per year operation schedule, unless otherwise defined by the Company in its sole discretion. Customer will pay the electric service fees to the Company in accordance with the Electric Tariff and the Company's established monthly billing period and conditions as stated upon the rendered bill.

7.1.3 Customer agrees that the Company reserves the right to convert any unmetered electric service to a metered electric service in its sole discretion, with all conversion costs from unmetered electric service to metered electric service borne by Customer, except as otherwise provided in the Electric Tariff or the Lighting Tariff.

Electric service fees shall be assessed not later than thirty (30) days after the installation of the Supplemental Attachment and shall be assessed continuously, inclusive of periods of inactive service, temporary inoperable condition, replacement, or relocation, until written notice is provided by Customer to the Company of the permanent removal of the Supplemental Attachment.

7.2 Customer shall reimburse the Company for all Costs incurred in modifying and/or relocating Facilities owned by the Company to accommodate any Customer desired service, Attachment, or Supplemental Attachment in accordance with Rule V.F.4 of the General Information Section of the Lighting Tariff governing Relocation of Existing Facilities.

7.2.1 The Company's obligation to perform any Field Survey requested by the Customer pursuant to Section 4.2 of this Agreement is contingent on the Customer making advance payment to the Company of the estimated Costs of that Field Survey determined by the Company, which shall be sufficient to cover the Company's Costs of performing the required Field Survey. The estimated amount shall include the standard Field Survey charge as found in APPENDIX I, Schedule of Fees and Charges, and any other required ancillary service costs incurred in the performance of the Field Survey. The estimated ancillary service costs shall include but not be limited to; applicable permits, work zone and police detail protection and other safety and environmental functions which shall be required to perform the Field Survey at a specific location. The Parties agree that upon completion of the Field Survey by the Company, no adjustment of the Field Survey costs paid by Customer shall be made to reflect the Company's actual costs to perform the Field Survey, whether or not the Company's actual costs are more or less than the estimated costs paid by Customer. The current standard charge assessed to Customer and all Other Customers for the Field Survey can be found in APPENDIX I, Schedule of Fees and Charges, and is based on the Company's current estimated cost to perform and complete the Field Survey. The Company reserves the right to change such standard Field Survey charge assessed to Customer and all Other Customers from time to time and to provide written notice as stated in Section 7.4 of this Agreement.

7.2.2 The Company's obligation to perform any Make-Ready Work requested by the Customer in accordance with Section 4.3 of this Agreement is

contingent on the Customer making advance payment to the Company of the estimated Costs of such Make-Ready Work as determined by the Company. The Parties agree that upon completion of the Make-Ready Work by the Company, no adjustment of the Make-Ready Work amount paid by Customer shall be made to reflect the Company's actual Costs of performing the Make-Ready Work, whether or not the Company's actual Costs are more or less than the estimated costs paid by Customer.

7.2.3 Customer shall pay to the Company the fees and charges for any other services performed by the Company in conjunction with any request by Customer for License(s) for new Attachments or for Material Change to existing Attachments or Supplemental Attachments. Such charges will be established in accordance with the terms and conditions of APPENDIX I, attached hereto and are incorporated into this Agreement by reference.

7.3 Customer shall also reimburse the Company for all Costs incurred by the Company in disconnecting, removing or performing any other required work on the Equipment necessitated by Customer's failure to install, operate and maintain such Equipment in compliance with the requirements of this Agreement, provided, however, that any such action by the Company shall be without prejudice to any other remedies that the Company may have as a result of such failure by Customer to comply with the requirements of this Agreement.

7.4 The Company may change the amount of fees and charges specified in APPENDIX I, Schedule of Fees and Charges by giving Customer no fewer than sixty (60) days' written notice prior to the date the change becomes effective or as otherwise approved and made effective by the PSC. Notwithstanding any other provision of this Agreement, Customer may terminate this Agreement at the end of such sixty (60) day notice period if the change in fees and charges is not acceptable to Customer, provided that Customer gives the Company no fewer than thirty (30) days' written notice of its election to terminate this Agreement prior to the end of such sixty (60) day period. Upon termination of the Agreement, the Customer shall be responsible for the removal of all of its Attachments and Supplemental Attachments as provided in Section 16.3.3 of this Agreement.

8.0 LEGAL REQUIREMENTS

8.1 Customer shall be responsible for obtaining from the appropriate public and / or private authority any authorizations required to construct, operate and / or maintain its Attachments and Supplemental Attachments on the public and private property at the location of Poles and / or Structures for which Customer has obtained License(s) under this Agreement and shall submit to the Company evidence of such authorizations before making Attachments or Supplemental Attachments on such public and / or private property.

8.2 The provisions of this Agreement are subject to, and the Parties hereto shall at all times observe and comply with, all laws, ordinances, regulations, and rulings that in any manner affect the rights and obligations of the Parties, so long as such laws, ordinances, regulations or rulings remain in effect.

8.3 No Preliminary License or License granted under this Agreement shall extend to any Facilities or Equipment outside of the Customer's municipal boundaries or where the placement of Attachments and Supplemental Attachments would result in a forfeiture of the rights of any of the Company, Joint Users, or Other Customers to occupy the property on which such Facilities are located. If placement of Customer's Attachments or Supplemental Attachments would result in a forfeiture of the rights of the Company, Joint User(s), or Other Customers to occupy such property, Customer agrees to remove its Attachments or Supplemental Attachments forthwith; and Customer agrees to pay the Company, Joint User(s), or Other Customers all losses, damages, and Costs incurred as a result thereof.

8.4 Neither this Agreement nor the payment of any fees under this Agreement shall be used by any Party as evidence that the space occupied by Customer's Attachments or Supplemental Attachments is either usable or unusable space.

9.0 LIMITATION OF LIABILITY

9.1 The Company, the Company's affiliates and their respective officers, directors, agents, employees, parents, affiliates, successors or assigns, shall not be liable to Customer or to its officers, directors, agents, employees, successors or assigns for any claims, suits, actions or causes of action or otherwise for incidental, punitive, special,

indirect, multiple or consequential damages (including, without limitation, attorneys' fees or litigation costs) connected with, or resulting from, performance or non-performance of this Agreement, or any actions undertaken in connection with or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty or strict liability.

9.2 To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the Company and the Company's affiliates and their respective officers, directors, agents, and employees to Customer and anyone claiming by or through Customer, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Agreement from any cause or causes shall not exceed the total compensation received by the Company under this Agreement, or the total amount of \$100,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

9.3 The Company is not responsible or liable and gives no warranty, expressed or implied, including without limitation any warranty of merchantability or fitness for a particular purpose, for the adequacy, safety or other characteristics of any Structures, Equipment or wires purchased by the Customer under this Agreement or owned, installed, operated or maintained by Customer or leased by Customer from third parties.

9.4 The provisions of this Article 9 shall apply regardless of fault and shall survive termination, cancellation, suspension, completion, or expiration of this Agreement.

10.0 REPRESENTATIONS AND WARRANTIES; COVENANTS

10.1 On the Effective Date, each Party represents and warrants to the other Party that:

- (i) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (ii) The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any law, rule, regulation, order or the like applicable to it;
- (iii) This Agreement and each other document executed and delivered in accordance with this Agreement constitutes the legally valid and binding obligation enforceable against it in accordance with its terms;
- (iv) It is not bankrupt or insolvent, and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
- (v) There is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceeding that could materially adversely affect its ability to perform its obligations under this Agreement;
- (vi) It is acting for its own account, has made its own independent decision to enter into this Agreement, and, as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement; and
- (vii) It is in compliance with all relevant and applicable laws, tariffs, and regulations.

10.2 General Covenants. Each Party covenants that throughout the term of this Agreement:

- (i) it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (ii) it shall maintain (or obtain from time to time as required, including through renewal, if applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
- (iii) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions of its governing documents,

any contracts to which it is a party, or any law, rule, regulation, or order applicable to it.

11. INDEMNITY

11.1 Customer shall at all times indemnify, defend, and save harmless, as applicable, the Company and its affiliates and their respective officers, directors, agents, and employees, from any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from:

- (i) Any work or action done upon the Facilities licensed hereunder or any part thereof performed by Customer or any of its agents, contractors, servants, or employees;
- (ii) Any use, occupation, condition, operation of the Facilities or any part thereof by Customer or any of its agents, contractors, servants, or employees;
- (iii) Any act or omission on the part of Customer or any of its agents, contractors, servants, or employees, for which the Company may be found liable;
- (iv) Any accident, injury (including, but not limited to, death) or damage to any person or property occurring upon the Facilities or any part thereof or arising out of any use thereof by Customer or any of its agents, contractors, servants, or employees, except where such work is performed by the Company;
- (v) Any failure on the part of Customer to perform or comply with any of the representations, warranties, covenants, agreements, terms or conditions contained in this Agreement;
- (vi) Any payments made under any Workers' Compensation Law or under any plan for employee disability and death benefits arising out of any use of the Poles, Structures, or Facilities by Customer or any of its agents, contractors, servants, employees;

- (vii) Any installation, operation, maintenance, presence, use, occupancy or removal of the Equipment or Supplemental Attachments by Customer or any of its agents, contractors, servants or employees, including without limitation, taxes, special charges by others, and all claims and demands for infringement of patents with respect to the manufacture, use, and operation of the Attachments or Supplemental Attachments in combination with Poles, Structures, Facilities, or otherwise; or
- (viii) The proximity of the Equipment and Supplemental Attachments to the property of the Company or of any third party.

11.2 If the Company is entitled to indemnification under this Article 11 as a result of a claim by a third party, and Customer fails, after notice and reasonable opportunity to proceed under Section 11.3 of this Agreement, to assume the defense of such claim, the Company may at Customer's expense, settle or consent to the entry of any judgment with respect to, or pay in full, such claim. If Customer is obligated to indemnify and hold the Company harmless under this Article 11, the amount owing to the Company shall be the amount of the Company's actual loss, net of any insurance or other recovery.

11.3 Indemnity Procedures.

11.3.1 Promptly after receipt by the Company of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article 11 may apply, the Company shall notify Customer of such fact. Any failure of or delay in such notification shall not affect Customer's indemnification obligation unless such failure or delay is materially prejudicial to Customer.

11.3.2 Except as stated below, Customer shall have the right to assume the defense thereof with counsel designated by Customer and reasonably satisfactory to the Company. If the defendants in any such action include the Company and Customer and if the Company reasonably concludes that there may be legal defenses available to it which are different from or additional to those available to the Customer, the Company shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. The Company shall

be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by Customer.

11.3.3 Notwithstanding the foregoing, Customer:

- (i) Shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Company and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Company, or there exists a conflict or adversity of interest between the Company and Customer, in which event the Customer shall pay the Company's reasonable expenses; and
- (ii) Shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Company, which shall not be unreasonably withheld, conditioned or delayed.

12.0 EXCLUSION OF WARRANTIES

12.1 The Company makes no warranties, representations, guarantees or promises, whether statutory, oral, written, express, or implied as to the present or future strength, condition, or state of any Poles, Structures, Facilities, wires, apparatus or otherwise in connection with any Attachment, Supplemental Attachment, Equipment or this Agreement. To the extent applicable, the Customer, or its contractors, agents and representatives performing any Attachment work or Supplemental Attachment work, shall be responsible and liable for observations, assessments and non-destructive testing of the Poles and / or Structures to determine whether the Poles and / or Structures are safe to utilize, support, access or ascend. If the Customer questions the integrity or safety of any Pole, Structure or Facility or if any Pole, Structure or Facility is marked as unsafe, the Customer shall refrain from utilizing, accessing, ascending, or handling the Pole, Structure or Facility in any manner whatsoever and shall notify or confirm such condition with the Company. Should the Customer, or its contractor, agent or representative decide, in its sole judgment, to utilize or access a Pole, Structure or Facility (including, without limitation, Poles, Structures or Facilities that are marked unsafe or appear to be unsafe), the Customer, not the Company or its affiliates, shall assume all risk of loss,

liability and damages (including injury to any person(s) (including death) or property), and Customer shall indemnify, defend, release and hold harmless the Company, its affiliates, and the Company's and its affiliates' successors, assigns, officers, agents, representatives from all claims arising in whole or in part from use of such Poles, Structures, or Facilities in accordance with the provisions of Article 11 of this Agreement.

12.2 Neither by inspection, if any, or non-rejection, nor in any other way, does the Company give any warranty, expressed or implied, including without limitation any implied warranty of merchantability or fitness for a particular purpose, to the Customer or its contractors, agents or representatives performing any Attachment work or Supplemental Attachment work as to the adequacy, safety or other characteristics of any Poles, Structures or Facilities owned by the Company or by any third party or of any Equipment, Supplemental Attachments, wires, appliances or other devices owned, installed or maintained by Customer or leased by Customer from third parties. It is understood that any Field Survey or other assessment of the condition of any Facilities of the Company made pursuant to this Agreement is performed solely for the protection of the Company and its other customers and not for the benefit of the Customer, its contractors, agents, employees or representatives.

12.3 The provisions of this Article 12 shall survive the expiration or earlier termination of this Agreement or any license issued under this Agreement.

13.0 INSURANCE

13.1 Customer shall carry insurance issued by an insurance carrier satisfactory to the Company to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every kind and nature which may arise or result, directly or indirectly from or by reason of such loss, injury, or damage as covered in Article 11 of this Agreement.

13.2 Comprehensive or Commercial General Liability Insurance, including Contractual Liability and Product/Completed Operations Liability covering all insurable operations required under the provisions of this Agreement and, where applicable, coverage for damage caused by any explosion or collapse with the following minimum limits of liability:

| | |
|---------------------------|-------------|
| Bodily Injury Liability | \$5,000,000 |
| Property Damage Liability | \$5,000,000 |

If a combined single limit is provided, the limit shall not be less than \$5,000,000 per occurrence. Customer's insurance requirements for General Liability or Automobile Liability may be satisfied through any combination of excess liability and/or umbrella. Coverage shall include contractual liability with this Agreement and all associated agreements with respect to the Customer's ownership of the street lights being included. In the event the Customer is a governmental entity and such entity's liability to a third party is limited by law, regulation, code, ordinance, by-laws or statute (collectively the "Law"), this liability insurance shall contain an endorsement that waives such Law for insurance purposes only and strictly prohibits the insurance company from using such Law as a defense in either the adjustment of any claim, or in the defense of any suit directly asserted by an insured entity.

13.3 Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including Employer's Liability Insurance with a minimum limit of \$500,000. When applicable, coverage shall include The United States Longshoreman's and Harbor Workers' Compensation Act and the Jones Act.

13.4 Automobile Liability covering all owned, non-owned and hired vehicles used in connection with the work or services to be performed under this Agreement with minimum limits of:

| |
|--|
| Bodily Injury & Property Damage Combined Single Limit - \$1,000,000 |
|--|

13.5 Self-Insurance: Customer may elect to self-insure any or all the requirements herein, provided the Company consents, and Customer provides written notice and evidence of self-insurance to the Company prior to the execution of this Agreement. With respect to the Workers' Compensation, such evidence shall consist of a copy of a current self-insured certificate or other acceptable form of proof of self-insurance. Any deductible or self-insured retention shall be at Customer's expense.

13.6 The Customer and its insurance carrier(s) shall waive all rights of recovery against the Company and their directors, officers and employees, for any loss or damage

covered under those policies referenced in this insurance provision. To the extent the Customer's insurance carriers will not waive their right of subrogation against the Company, the Customer agrees to indemnify the Company for any subrogation activities pursued against them by the Customer's insurance carriers. However, this waiver shall not extend to the gross negligence or willful misconduct of the Company or its employees, subcontractors or agents.

13.7 All insurance must be effective before the Company will authorize Customer to make Attachments to any Pole and/or Structure or any Supplemental Attachments to the Equipment and shall remain in force until such Attachments have been removed from all such Poles and/or Structures and the Supplemental Attachments have been removed from all such Equipment. Customer accepts the obligation to inform the Company of changes in insurance or insurance carrier and/or policy on a prospective basis.

13.8 Customer shall submit to the Company certificates of insurance including renewal thereof, by each company insuring Customer to the effect that it has insured Customer for all liabilities of Customer covered by this Agreement; and that such certificates will name the Company as an additional insured under the General Liability and Automobile Liability policies and provide that the insurance company will not cancel or change any such policy of insurance issued to Customer except after the giving of not less than thirty (30) days' written notice to the Company. Customer shall also notify and send copies to the Company of any policies maintained under this Article 13 written on a "claims-made" basis. The following language shall be used when referencing the additional insured status of the Company: National Grid USA, its direct and indirect parents, subsidiaries and affiliates, shall be named as additional insureds.

13.9 Customer shall require all of its contractors to carry insurance which meets the requirements specified under this Article 13, and to name the Company as an additional insured.

14.0 ASSIGNMENT OF RIGHTS

14.1 Customer shall not assign or transfer this Agreement, or any rights or authorization granted hereunder, and this Agreement shall not inure to the benefit of Customer's successors, without the prior written consent of the Company. In no event

shall any assignment of this Agreement extend the territory to which this Agreement applies beyond the Customer's municipal boundaries or permit any entity that is not eligible under the Lighting Tariff to receive street lighting service from the Company in such location, to assume any of the rights or obligations of Customer hereunder.

14.2 In the event such consent or consents are granted by the Company, this Agreement shall extend to and bind the successors and assigns of the Parties.

14.3 Pole and Structure space licensed to Customer hereunder is for Customer's exclusive use only and is licensed to Customer for the sole purpose of permitting Customer to place or retain Authorized Attachments. Customer shall not lease, sublicense, share with, convey, or resell to others any such space or rights granted hereunder. Customer shall not allow a third party, including affiliates, to place attachments or any other Equipment anywhere on its Attachments, Supplemental Attachments, or on the Facilities, Poles or within Structures, including, without limitation, the space on Facilities, Poles or within Structures licensed to Customer for Authorized Attachments, without the prior written consent of the Company.

14.4 No contract between the Customer and any other party limited solely to the operation, maintenance, modification, or repair of the Equipment or Supplemental Attachments shall be considered an assignment or transfer under this Article 14.

15.0 TERM OF AGREEMENT

15.1 This Agreement shall be co-terminus with the Customer's Service Agreement(s) for service to its Street Lights under either Service Classification No. 3 (energy only) of the Company's Lighting Tariff, or under the applicable provisions of the Company's Electric Tariff, or applicable successor tariffs, as may be amended from time to time, unless this Agreement is terminated earlier in accordance with Article 16 of this Agreement.

15.2 Termination of this Agreement or any licenses issued hereunder shall not affect: (i) Customer's liabilities and obligations incurred hereunder prior to the latter of the effective date of such termination or the date on which Customer's Attachments and Supplemental Attachments are removed from the Facilities; or (ii) the Company's and Customer's rights pursuant to the laws, ordinances, regulations, and rulings governing the subject matter of this Agreement; or (iii) any provisions of this Agreement that shall

survive expiration or earlier termination of this Agreement, including Articles 9, 11 and 12 of this Agreement.

16.0 TERMINATION RIGHTS

16.1 Termination of Service To Authorized Attachments.

16.1.1 The Company's bills for service under this Agreement are due when issued and are past due if not paid within twenty (20) days of issue. If Customer fails to pay such bills within such twenty (20) day period, the Company may serve Customer with a written Final Notice of Termination of Service in conformance with Section 13.3(b) of the PSC's Rules, 16 N.Y.C.R.R. § 13.3(b) (a "Final Termination Notice") and may thereafter terminate service to all or any part of the Authorized Attachments in accordance with the provisions of Section 13 of the PSC's Rules.

16.1.2 The Company may also issue a Final Termination Notice to Customer if Customer fails to comply with any of the requirements of this Agreement, the Lighting Tariff, or the Electric Tariff and may thereafter terminate service to all or any part of the Authorized Attachments in accordance with the provisions of Section 13 of the PSC's Rules. Any such notice shall identify the specific Attachments and Supplemental Attachments that are not in compliance with the requirements of this Agreement, the Lighting Tariff, or the Electric Tariff and the specific requirements that those Attachments and Supplemental Attachments do not meet.

16.1.3 Nothing in this Agreement shall be construed as restricting in any way the Company's Removal Rights under Article 6 of this Agreement or the Company's right to terminate service to Authorized Attachments without notice in the event of an emergency as authorized by Section 3.4.5 of this Agreement and Section 13.13 of the PSC's Rules.

16.2 Termination of Individual Licenses.

16.2.1 Any License(s) issued pursuant to this Agreement shall automatically terminate when Customer ceases to have authority to construct, operate, and / or maintain its Attachments or Supplemental Attachments on the public or private property at the location of the Facilities covered by the License.

16.2.2 Customer may at any time terminate a License for a specific Attachment or Supplemental Attachment provided written notice of such termination is

received by the Company no less than fifteen (15) days prior to the proposed removal of the Attachment from the specific Facilities (APPENDIX II, Form D), in accordance with Article 6 of this Agreement. Following such removal, Customer shall not make any new Attachment or Supplemental Attachment to such Facilities until Customer has first complied with the provisions of this Agreement as though no Attachment or Supplemental Attachment had ever been made to such Facilities.

16.2.3 The Company may terminate a License for specific Attachment(s) or Supplemental Attachment(s) on fifteen (15) days' written notice to the Customer. The Company may exercise its Removal Rights under Article 6 of this Agreement upon the expiration of this fifteen (15) day notice period.

16.3 Termination of Agreement

16.3.1 If Customer fails to materially comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement, or if the Attachments, Supplemental Attachments, or Equipment are maintained or used in violation of any law and Customer shall fail within thirty (30) days after written notice from the Company to correct such default or noncompliance, the Company may, at its option, terminate this Agreement in whole or in part, along with all Licenses granted hereunder or the Licenses covering the Facilities as to which such default or noncompliance shall have occurred.

16.3.2 If, at any time, an insurance carrier notifies the Company that any policy or policies of insurance, acquired pursuant to Article 13 of this Agreement, will be canceled or changed so that the requirements of Article 13 of this Agreement will no longer be satisfied and, prior to the effective date of the cancellation or change in the insurance policy(ies), Customer fails to furnish to the Company new certificates providing evidence of insurance, or other sufficient documentation that Customer meets the requirements for self-insurance in accordance with the provisions of Article 13 of this Agreement, then the Company shall have the right, at its option, to either: (i) purchase insurance at the required coverage and to include all Costs incurred by the Company in connection therewith in the Company's bills for service under this Agreement; or (ii) terminate this Agreement.

16.3.3 In the event of any termination of part or all this Agreement by the Company, Customer shall submit a plan and schedule to the Company pursuant to which Customer (or its agents) will remove the Attachments and Supplemental Attachments affected by such termination from the Facilities within six (6) months from the date of termination, unless otherwise agreed to by both Parties in writing, provided, however, that Customer shall be liable for and pay all fees, charges and associated Costs due to the Company pursuant to the terms of this Agreement until its Attachments and Supplemental Attachments are removed from the Company's Poles, Structures, and Facilities.

17. CONSTRUCTION

17.1 **AUTHORIZATION NOT EXCLUSIVE.** Nothing herein contained shall be construed as a grant of any exclusive authorization, right or privilege to Customer. The Company shall have the right to grant, renew and extend rights and privileges to others that are not parties to this Agreement, by contract or otherwise, to use any Pole, Structure, or Facility subject to this Agreement.

17.2 **CHOICE OF LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the conflict of laws principles contained therein. Each Party hereby irrevocably and unconditionally consents to submit, for any action, proceeding or investigation in any court arising out of or relating to this Agreement and the transactions contemplated hereby, to the exclusive jurisdiction of: (i) the Supreme Court of the State of New York, Onondaga County; or (ii) the United States District Court for the Northern District of New York, and agrees not to commence any Litigation relating thereto except in such venues.

17.3 **SEVERABILITY.** In the event that any provision or part of this Agreement or the application thereof to any Party or circumstance is deemed invalid, against public policy, void, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions or parts hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

17.4 **NO THIRD-PARTY BENEFICIARIES.** The terms and provisions of this Agreement are intended solely for the benefit of Customer, the Company and their

permitted successors and assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

17.5 FAILURE TO ENFORCE. Failure of the Company to enforce or require compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a general waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect.

17.6 ENTIRE AGREEMENT. The Parties have freely entered into this Agreement and agree to each of its terms without reservation. Section headings are for the convenience of the Parties only and are not to be construed as binding under this Agreement. This Agreement constitutes the entire Agreement between the Parties with respect to the matters addressed herein, and all previous representations either oral or written (including, but not limited to any and all previous Attachment Agreements and/or license agreements for underground structures insofar as Customer is concerned except as to liabilities accrued, if any), are hereby annulled and superseded.

17.7 REMEDIES UNDER THE TARIFFS. The Parties stipulate and agree that all of the services and charges provided for in this Agreement are authorized and governed by the provisions of the Lighting Tariff and the Electric Tariff and, accordingly, that the Company and the Customer expressly reserve all of their rights and remedies under the Lighting Tariff and the Electric Tariff, including the Company's right to terminate electric service to the Customer under the Lighting Tariff or the Electric Tariff in conformance with Section 13.3 of the PSC's Rules and Regulations, 16 N.Y.C.R.R. § 13.3 (2016), in the event of the Customer's failure to pay any amounts due under this Agreement or any other violation of this Agreement for which termination of service is authorized under the Lighting Tariff, the Electric Tariff, or the PSC's Rules and Regulations. The Parties further stipulate and agree that in the event of any conflict between the provisions of this Agreement and the provisions of the Lighting Tariff and the Electric Tariff, the applicable provisions of the Lighting Tariff and the Electric Tariff shall apply.

18.0 NOTICES

All written notices required under this Agreement shall be given by posting the same via first class mail as follows:

- (i) **To Customer:** All correspondence related to Customer's street and area lighting including but not limited to; this Agreement, Application for Street Light Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Street Light Attachment License to Customer's office at:

Corporation Counsel
Attn:
City of Utica
1 Kennedy Plaza
Utica, New York 13502

- (ii) **To the Company:** Application for Street Light Attachment License, Authorization for Field Survey Work, Authorization for Make Ready Work, and Notification of Discontinuance of Street Light Attachment License, and a copy of all certificates of Insurance to the Company's district office at:

Niagara Mohawk Corporation d/b/a National Grid
Attention: Manager, Community & Customer Management
144 Kensington Avenue
Buffalo, NY 14214

All original certificates of Insurance to:

National Grid USA Service Company, Inc.
Attn: Risk Management, A-4
300 Erie Boulevard West
Syracuse, NY 13202

A copy of all applications, notices, authorizations and certificates to:

Niagara Mohawk Power Corporation d/b/a/ National Grid
Attention: Outdoor Lighting and Attachments
300 Erie Boulevard West
Syracuse, NY 13202

(iii) Each Party has the right to add, modify, change or remove contact information as presented herein provided such corrections are communicated in writing to the other party and made part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in duplicate as of the Effective Date.

NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID

CITY OF UTICA

By: Melanie Littlejohn

By: Robert Palmrexi

Name: Melanie Littlejohn

Name: Robert Palmrexi

Title: Director-NYS Customer & Community

Title: Mayor

Dated: July 11, 2019

Dated: 7/5/19

APPENDIX I

SCHEDULE OF FEES AND CHARGES STREET LIGHT ATTACHMENTS

(A) Design and Engineering Fees

Design and engineering fees will be equivalent to the lighting service charge found in the Lighting Tariff, as such charge may be modified or amended from time to time.

(B) Field Survey

Whenever a Field Survey is required under this Agreement, Customer shall pay the Company for the Cost thereof. The current standard charge assessed to Customer and all Other Customers for the Field Survey is \$130.00 per Attachment or Supplemental Attachment and is based on the Company's current estimated Cost to perform and complete the Field Survey, but may be adjusted, as necessary, by the Company to account for estimated Costs at the time the survey is performed. Specific to each occurrence, any actions required by the Company to remedy a Pole or Structure ingress or egress condition in compliance with applicable laws, regulations, codes and company policies and procedures is considered to be in addition to the Field Survey function. The Customer shall be responsible for the associated Costs which will be predefined as an estimate in addition to the aforementioned fee.

(C) Make-Ready Work

Whenever Make-Ready Work is required under this Agreement, Customer shall pay the Company for the Costs thereof. Make-Ready Work may include, but is not limited to, the modification or replacement of the Pole, Structure, or Facility within which Customer's Attachments or Supplemental Attachments will be placed, to safely accommodate Customer's Attachments or Supplemental Attachments, and such other changes in the existing facilities within or upon such Pole, Structure, or Facility as accommodating Customer's Attachments or

Supplemental Attachments may require. Make-Ready Work Costs charged by the Company may also include the following:

- (1) The net loss to the Company on the replaced Pole, Structure, or Facility based on its reproduction cost less depreciation, plus cost of removal;
- (2) Transferring the Company's attachments from the old Pole, Structure, or Facility to the new Pole, Structure, or Facility; and
- (3) Any other rearrangements and changes necessary by reason of Customer's proposed or existing Attachments or Supplemental Attachments.

(D) Other Charges and Fees

Customer shall be subject to and responsible for all other applicable charges and fees under the Lighting Tariff and the Electric Tariff.

(E) Payment Date

Bills are due and payable when rendered. Full payment must be received on or before the date shown on the bill to avoid a late payment charge of one and one-half percent (1-1/2%) per month pursuant to subpart C of the Rules on Determination of Billing established in Rule IV of the Lighting Tariff.

APPENDIX II

ADMINISTRATIVE FORMS AND NOTICES

INDEX OF ADMINISTRATIVE FORMS

| | |
|---|-----|
| APPLICATION FOR STREET & AREA LIGHTING ATTACHMENT LICENSE | A-1 |
| STREET LIGHT ATTACHMENT / SUPPLEMENTAL ATTACHMENT DETAILS | A-2 |
| ESTIMATE FOR FIELD SURVEY / AUTHORIZATION FOR FIELD SURVEY | B-1 |
| MAKE-READY WORK ESTIMATE / AUTHORIZATION FOR MAKE-READY WORK | B-2 |
| ITEMIZED MAKE-READY WORK | C |
| NOTIFICATION OF DISCONTINUANCE OF USE FOR STREET LIGHT ATTACHMENT | D |
| IDENTIFICATION TAGS | E |
| LIGHTING SOURCE IDENTIFICATION LABELS | F |

Agreement No.: _____
Application No.: _____ (to be provided by the Company)

Form A-1

APPLICATION FOR
STREET LIGHT ATTACHMENT LICENSE

DATE _____

CUSTOMER

Street Address

City, State, Zip Code

In accordance with the terms and conditions of the Street Light Attachment License Agreement between the Company and Customer, dated _____, _____ application is hereby made for a license to make _____ as Attachments / Supplemental Attachments to Poles or Structures as indicated on the attached Form A-2.

CUSTOMER

By (Print Name)

Signature

Title

Telephone No.

STREET LIGHT ATTACHMENT LICENSE

Street Light Attachment License(s) is hereby granted to make the Attachments / Supplemental Attachments described in this application, identified as License No(s): _____ as Attachments / Supplemental Attachments to Poles or Structures as indicated on the attached Form A-2.

DATE _____

COMPANY

By (Print Name)

Signature

Title

Telephone No.

NOTES:

1. Applications shall be submitted to the Company.
2. Applications to be numbered in ascending order by municipality.
3. The Company will process in order of application numbers assigned by Customer.

Agreement No.: _____
Application No.: _____

Form A-2

STREET LIGHT ATTACHMENT / SUPPLEMENTAL ATTACHMENT
DETAILS

CUSTOMER

Municipality

(Note: Provide separate sheets for each municipality)

| <u>Location</u> <u>Reference</u> | <u>Pole or Structure Type</u> <u>Reference</u> | <u>Attachment Description</u> |
|-------------------------------------|---|-------------------------------|
|-------------------------------------|---|-------------------------------|

_____ (Yes/No)

CUSTOMER HEREBY REQUESTS THE
COMPANY TO PROVIDE AN ITEMIZED
ESTIMATE OF MAKE READY WORK

REQUIRED AND ASSOCIATED CHARGES
(APPENDIX II FORM C).

DATE _____

CUSTOMER

By (Print Name)

Signature

Title

Telephone No.

Agreement No.: _____
 Application / Request No.: _____

Form B-1

ESTIMATE FOR FIELD SURVEY

 (Customer)

In accordance with the Street Light Attachment License Agreement, dated _____, _____, the following is a summary of the charges which will apply to complete a field survey covering Application / Request Number _____.

| | <u>Unit Quantity</u> | <u>Rate / Unit</u> | | <u>Total</u> |
|-----------------------------|----------------------|--------------------|----|--------------|
| Field Survey | _____ | _____ | \$ | _____ |
| Ancillary Services | _____ | _____ | \$ | _____ |
| Administrative Compensation | | _____ % | | \$ |
| <u>TOTAL</u> | | | | \$ |

If you wish us to complete the required field survey, please sign this copy below and return with an advance payment in the amount of \$ _____.

Date _____

Company

By (Print Name)

Signature

Title

Telephone No.

AUTHORIZATION FOR FIELD SURVEY

The required field survey covering Application / Request Number _____ is authorized and the costs therefore will be paid to the Company in accordance with Appendix I to Street Light Attachment License Agreement.

DATE _____

CUSTOMER

By (Print Name)

Signature

Title

Telephone No.

Agreement No.: _____
Application / Request No.: _____

Form B-2

MAKE-READY WORK ESTIMATE

(Customer)

Field survey work associated with your Application / Request Number _____ dated _____, _____, for Attachment / Supplemental Attachment to Poles or Structures has been completed. The following is a summary of the charges which will apply to complete the required Make-Ready Work.

TOTAL MAKE-READY CHARGES \$ _____

Attached as requested, is an itemized description (Form C) of required Make-Ready Work. A cost estimate of associated Make-Ready Work is also attached. If you wish us to complete the required Make-Ready Work, please sign this copy below and return with an advance payment in the amount of \$_____.

DATE _____

COMPANY

By (Print Name)

Signature

Title

Telephone No.

AUTHORIZATION FOR MAKE-READY WORK

The Make-Ready Work associated with Application / Request Number _____ is authorized and the costs therefore will be paid to the Company in accordance with Appendix I to License Agreement.

DATE _____

CUSTOMER

By (Print Name)

Signature

Title

Telephone No.

Agreement No.: _____
Application / Request No.: _____

Form C

ITEMIZED MAKE-READY WORK

| | | | |
|----------------------------------|-----------------------|------------------------------|---------------------|
| Sheet ____ of ____ | | Customer: | |
| Prepared By: | | Municipality: | |
| Date Prepared: | | License Application No.: | |
| LOCATION REFERENCE INFORMATION | | MAKE-READY WORK REQUIREMENTS | |
| Pole or Structure Reference Type | Location No. (Street) | Qty. | Description of Work |
| | | | |
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Agreement No.: _____
Application / Request No.: _____

Form D

**NOTIFICATION OF DISCONTINUANCE OF
STREET LIGHT ATTACHMENT / SUPPLEMENTAL ATTACHMENT**

CUSTOMER

Street Address

City, State, Zip Code

In accordance with the terms and conditions of the Street Light Attachment License Agreement dated _____, notice is hereby given that specific Attachments / Supplemental Attachments to Poles or Structures, as listed below, in the municipality of _____, covered by permit number _____ were removed on _____.

| <u>Attachment License No.</u> | <u>Location Reference Street Address</u> | <u>Pole or Structure Ref. Type</u> | <u>Attachment Description</u> | <u>Removal Date</u> |
|-------------------------------|--|------------------------------------|-------------------------------|---------------------|
|-------------------------------|--|------------------------------------|-------------------------------|---------------------|

Total quantity of Attachments / Supplemental Attachments to Poles or Structures to be discontinued is _____.

DATE _____

By _____ (Print Name)

Signature

Title

**ACKNOWLEDGMENT OF DISCONTINUANCE OF
STREET LIGHT ATTACHMENT / SUPPLEMENTAL ATTACHMENT**

Use of Poles or Structures has been discontinued as above.

DATE _____

COMPANY

By (Print Name)

Signature

Title

Form E

IDENTIFICATION LABELS

(A) **GENERAL**

This Appendix describes identification tags to be installed and maintained by Customer on its cables and other apparatus to allow the Company to readily identify the owner of such cables and apparatus.

(B) **DESCRIPTION OF IDENTIFICATION LABELS**

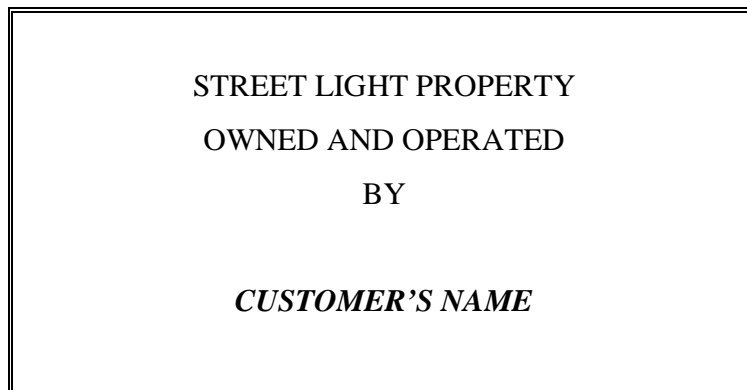


FIGURE 1: Identification Label

The tags shall be white or yellow with black lettering. Customer shall be responsible for maintaining the legibility of identification tags at all times.

The Identification Tag shall be placed on Customer's facilities including, but not limited to, cables guys, terminals, terminal closures, and cabinets. The Identification Label shall read as follows: "STREET LIGHT PROPERTY OWNED AND OPERATED BY" and clearly display CUSTOMER's name. Customer's name may be printed on the tag using indelible ink.

(C) PROCUREMENT OF TAGS

It shall be the responsibility of Customer to obtain, place, and maintain Identification tags.

(D) INSTALLATION OF IDENTIFICATION TAGS

When required by Section 5.5, Identification Labels shall be installed at the following locations:

- (1) On cables at each manhole or handhole, on the top of the cable so that it is visible from outside the manhole or handhole.
- (2) At terminal or Connection Point locations.
- (3) Within cabinets or other equipment where appropriate.

Form F

LIGHTING SOURCE IDENTIFICATION LABELS

The Customer is required to provide and affix to each luminaire a clear, legible and comprehensive lighting source identification label consistent with ANSI-NEMA Standards for Roadway and Area Lighting Equipment – Field Identification of High Intensity Discharge Lamps and Luminaires, (ANSI/NEMA C136.15-2009, latest revision) or other industry standard compliant with the specific lamp or lighting source, as applicable.

APPENDIX III

ACKNOWLEDGMENT FOR THE USE OF QUALIFIED ELECTRICAL WORKERS

The City of Utica hereby acknowledges and agrees to the following:

1. Niagara Mohawk Power Corporation d/b/a National Grid (hereinafter "National Grid") expects the use of electrically-qualified personnel as required by OSHA in 29 CFR 1910.269 for all work associated with the LICENSE AGREEMENT FOR ATTACHMENTS TO UTILITY POLES AND STRUCTURES FOR STREET AND AREA LIGHTING BETWEEN NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID AND THE CITY OF UTICA DATED July 11, 2019 (hereinafter "UTICA LICENSE AGREEMENT").
2. The City of Utica hereby agrees that any work being done pursuant to the UTICA LICENSE AGREEMENT will be done by qualified electrical workers as defined by OSHA in 29 CFR 1910.269 and in accordance with all relevant laws, regulations, codes, and industry standards.
3. The City of Utica understands and agrees that any injuries to persons or property arising out of or related to this work, including without limitation as a result of a failure to comply with this ACKNOWLEDGMENT, will be the sole responsibility of the City of Utica.

CITY OF UTICA

BY: 

NAME: **Robert M. Palmieri**

TITLE: **Mayor**

DATE: July 5, 2019

Schedule B

**City of Utica Ordinance
February 20, 2019**

Certified to: Comptroller
Budget, LAW
Engineering
NYPA

Ordinance. 26

City of Utica
Department of Legislation
In Common Council

Utica, N. Y.
February 20, 2019

Sponsored by: Councilmembers McNiel, Williamson

ORDINANCE APPROVING THE AGREEMENT FOR PURCHASE AND SALE OF STREET LIGHTS AND LICENSE AGREEMENT CITY OF UTICA OWNED STREET AND AREA LIGHTING ATTACHMENTS TO UTILITY POLES AND STRUCTURES BETWEEN NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID AND THE CITY OF UTICA

WHEREAS, the City of Utica desires to purchase the existing street light system in the City of Utica from National Grid in an effort to further the LED Street Lighting Project with NYPA that was approved by the Utica Common Council on November 20, 2018 via Ordinance number 138; and

WHEREAS, the purpose of purchasing the street light poles and upgrading them with LED technology is to conserve energy and reduce costs for the City of Utica; and

Whereas, the City desires to comply with the requirements of SEQRA and its implementing regulations set forth at 6 NYCRR Part 617 (the "Regulations"); and

NOW THEREFORE, BE IT ORDAINED THAT, the Common Council hereby approves the attached Agreements for the services as described therein; and it is

FURTHER ORDAINED, that the City of Utica hereby classifies this project as a Type II Action pursuant to SEQRA because it involves routine City administration and management and/or the replacement, rehabilitation and reconstruction, on the same site, of an existing facility pursuant to 6 NYCRR §617.5(c)(2). Where an action is classified as Type II, no further review under SEQRA is required.

FURTHER ORDAINED, that the Mayor of the City of Utica be and is hereby authorized to execute all certifications, and documents on behalf of the City of Utica with the advancement or approval of the project and providing for the administration of the project, and it is

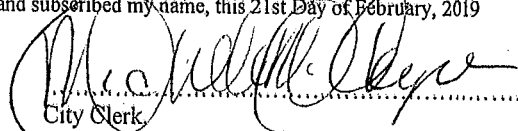
FURTHER ORDAINED, that this Ordinance shall take effect immediately.

Yeas: McNiel, Testa, DeSanctis, Marino, Colosimo-Testa, Williamson, LoMedico, DiBrango, -8.
Nays: None
Adopted

STATE OF NEW YORK, CITY OF UTICA)
Office of the City Clerk) ss.

I hereby certify that I have compared the foregoing copy of an Resolution of the Common Council with the record of proceedings of the Common Council of said City of Utica, duly made and on file in this office, and that same is a correct transcript therefrom and of the whole of said Resolution.

In Testimony whereof, I have hereunto affixed the Corporate Seal of said City, and subscribed my name, this 21st Day of February, 2019


City Clerk

Schedule C

Accounting Entries for the Transaction

Niagara Mohawk Power Corporation d/b/a National Grid
Proposed Accounting for Sale of Personal Property
to City of Utica
Section 70 Filing Journal Entry

| <u>Line</u> | | |
|-------------|---|--------------------|
| 1 | Net Book Value (as of May 31, 2019) | 4,002,164 |
| 2 | Plus Transaction and Transition Costs (if any) | 175,080 |
| 3 | Total Sales Proceeds | <u>4,177,244</u> |
| 4 | Original Book Cost of Personal Property | <u>6,490,534</u> |
| 5 | Less Accumulated Depreciation | < <u>2,488,370</u> |
| 6 | Net Book Value of Personal Property | <u>4,002,164</u> |
| 7 | Transaction and Transition Costs (if any) | 175,080 |
| 8 | Net Book Loss / Amount Included in Depreciation Reserve | <u><u>0</u></u> |

| | <u>FERC Account</u> | <u>Debit</u> | <u>Credit</u> |
|----|---|------------------|---------------|
| 9 | Accumulated Provision for Depreciation | C108 \$6,490,534 | |
| 10 | Electric Plant in Service | C101 | 6,490,534 |
| | To record retirement of street lighting assets being sold | | |
| 11 | Cash | C131 \$4,177,244 | |
| 12 | Accumulated Provision for Depreciation - Salvage | C108 | 4,177,244 |
| | To record the proceeds from the sale transaction as salvage | | |

Federal Income Tax Calculation

| | | | |
|----|---|-----------------------|---|
| 13 | Total Sales Proceeds | <u>4,177,244</u> | |
| 14 | Gross Federal Tax Basis of Property | 4,701,568 | |
| 15 | Less Accumulated Federal Tax Depreciation | < <u>3,814,401</u> | |
| 16 | Net Federal Tax Basis of Property | <u>887,167</u> | |
| 17 | Federal Tax Gain | 3,290,077 | |
| 18 | Less tax deduction of transaction and transition costs as cost of removal | < <u>175,080</u> | > |
| 19 | Net Federal Tax Gain | <u>3,114,997</u> | |
| 20 | Federal Tax at 21% | 21% 654,149 | |
| 21 | Associated State Tax Benefit on Federal Taxes | (27,978) | |
| 22 | Net Federal Tax | <u><u>626,171</u></u> | |

NYS Income Tax Calculation

| | | | |
|----|---|-----------------------|---|
| 23 | Total Sales Proceeds | <u>4,177,244</u> | |
| 24 | Gross NYS Tax Basis of Property | 5,859,946 | |
| 25 | Less NYS Accumulated Tax Depreciation | < <u>3,907,477</u> | > |
| 26 | Net NYS Tax Basis of Property | <u>1,952,469</u> | |
| 27 | NYS Tax Gain | 2,224,775 | |
| 28 | Less tax deduction of transaction and transition costs as cost of removal | < <u>175,080</u> | > |
| 29 | Net NYS Tax Gain | <u>2,049,696</u> | |
| 30 | NYS Tax at 6.5% | <u><u>133,230</u></u> | |

| | <u>FERC Account</u> | <u>Debit</u> | <u>Credit</u> |
|----|--|----------------|---------------|
| 31 | Current Tax Expense | C409 \$759,402 | |
| 32 | Deferred Tax Liability | C282 \$759,402 | |
| 33 | Taxes Payable | C236 | 759,402 |
| 34 | Deferred Tax Expense | C411 | 759,402 |
| | To record the federal and NYS income tax effects of the sale transaction | | |

Line Notes

| | |
|---------------|--|
| 1 | Net Book Value |
| 2, 7, 18 & 28 | Per Transaction and Transition Cost (see Page 2) |
| 3, 13 & 23 | Line 1 + Line 2 |
| 4 & 5 | Based on Book plant records |
| 6 | Line 4 - Line 5 |
| 8 | Line 3 - Line 6 - Line 7 |
| 9 & 10 | Line 4 |
| 11 & 12 | Line 3 |
| 14 & 15 | Based on Federal Tax plant records |
| 16 | Line 14 - Line 15 |

Line Notes

| | |
|-----------------|----------------------------------|
| 17 | Line 13 - Line 16 |
| 19 | Line 17 - Line 18 |
| 20 | Line 19 * 21% |
| 21 | Line 30 * -21% |
| 22 | Line 20 + Line 21 |
| 24 & 25 | Based on State Tax plant records |
| 26 | Line 24 - Line 25 |
| 27 | Line 23 - Line 26 |
| 29 | Line 27 - Line 28 |
| 30 | Line 29 * 6.5% |
| 31, 32, 33 & 34 | Line 22 + Line 30 |

Niagara Mohawk Power Corporation d/b/a National Grid
Proposed Accounting for Sale of Personal Property
to City of Utica
Section 70 Filing Journal Entry

| Municipality: | | to City of Utica |
|--|---|-------------------------|
| Sales Price Components | Description | Amounts |
| Current Net Book Value (NBV) | NBV (based on 1/31/2019 plant balances) | \$4,002,164.00 |
| Billing & Data Changes | Retirement Removal and Modification of Asset data in Plant accounting and CSS OL billing | \$122,402.36 |
| GIS | Removal and or design modification of assets in GIS | \$36,668.79 |
| Transfer Taxes | NY State transfer tax (0.4% times sale price) | \$16,008.66 |
| Sub-total Transition/Transaction costs | | \$175,079.80 |
| Estimated Total Sales Price | | \$4,177,243.80 |
| Asset Separation Security (Bond / Letter of Credit) | Security for the disconnect device to separate the street light assets from the Company's distribution system | \$2,814,600.00 |

Schedule D

**Statement of Operating Revenues, Expenses, and Taxes for the Property to be Transferred
(2016, 2017 and 2018)**

Niagara Mohawk Power Corporation d/b/a National Grid
Estimate of Operating Revenues, Expenses, Depreciation and Taxes
Related to Proposed Street Lighting Facilities Sale to the
City of Utica

| | 2016 | 2017 | 2018 |
|--------------------------|--------------|--------------|--------------|
| Revenue | \$ 1,591,089 | \$ 1,586,584 | \$ 1,567,879 |
| Operating Expense (*) | \$ 538,215 | \$ 538,215 | \$ 538,215 |
| Depreciation Expense (*) | \$ 137,226 | \$ 137,226 | \$ 209,332 |
| Property Taxes (*) | \$ 119,795 | \$ 134,646 | \$ 137,458 |

(*) Operating Expense, Depreciation and Property Taxes are estimated

Schedule E

Company Balance Sheet and Income Statement

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)

| Line No. | Title of Account (a) | Ref. Page No. (b) | Current Year End of Quarter/Year Balance (c) | Prior Year End Balance 12/31 (d) |
|-----------|---|----------------------|---|---|
| 1 | UTILITY PLANT | | | |
| 2 | Utility Plant (101-106, 114) | 200-201 | 13,857,153,684 | 13,233,042,192 |
| 3 | Construction Work in Progress (107) | 200-201 | 438,319,836 | 370,698,538 |
| 4 | TOTAL Utility Plant (Enter Total of lines 2 and 3) | | 14,295,473,520 | 13,603,740,730 |
| 5 | (Less) Accum. Prov. for Depr. Amort. Depl. (108, 110, 111, 115) | 200-201 | 3,964,093,617 | 3,771,246,116 |
| 6 | Net Utility Plant (Enter Total of line 4 less 5) | | 10,331,379,903 | 9,832,494,614 |
| 7 | Nuclear Fuel in Process of Ref., Conv., Enrich., and Fab. (120.1) | 202-203 | 0 | 0 |
| 8 | Nuclear Fuel Materials and Assemblies-Stock Account (120.2) | | 0 | 0 |
| 9 | Nuclear Fuel Assemblies in Reactor (120.3) | | 0 | 0 |
| 10 | Spent Nuclear Fuel (120.4) | | 0 | 0 |
| 11 | Nuclear Fuel Under Capital Leases (120.6) | | 0 | 0 |
| 12 | (Less) Accum. Prov. for Amort. of Nucl. Fuel Assemblies (120.5) | 202-203 | 0 | 0 |
| 13 | Net Nuclear Fuel (Enter Total of lines 7-11 less 12) | | 0 | 0 |
| 14 | Net Utility Plant (Enter Total of lines 6 and 13) | | 10,331,379,903 | 9,832,494,614 |
| 15 | Utility Plant Adjustments (116) | | 0 | 0 |
| 16 | Gas Stored Underground - Noncurrent (117) | | 0 | 0 |
| 17 | OTHER PROPERTY AND INVESTMENTS | | | |
| 18 | Nonutility Property (121) | | 11,562,002 | 11,562,002 |
| 19 | (Less) Accum. Prov. for Depr. and Amort. (122) | | 27,785 | 53,623 |
| 20 | Investments in Associated Companies (123) | | 0 | 0 |
| 21 | Investment in Subsidiary Companies (123.1) | 224-225 | 733,807 | 778,606 |
| 22 | (For Cost of Account 123.1, See Footnote Page 224, line 42) | | | |
| 23 | Noncurrent Portion of Allowances | 228-229 | 0 | 0 |
| 24 | Other Investments (124) | | 6,472,690 | 5,882,286 |
| 25 | Sinking Funds (125) | | 0 | 0 |
| 26 | Depreciation Fund (126) | | 0 | 0 |
| 27 | Amortization Fund - Federal (127) | | 0 | 0 |
| 28 | Other Special Funds (128) | | 33,923,410 | 34,447,353 |
| 29 | Special Funds (Non Major Only) (129) | | 0 | 0 |
| 30 | Long-Term Portion of Derivative Assets (175) | | 16,332,122 | 855,619 |
| 31 | Long-Term Portion of Derivative Assets – Hedges (176) | | 0 | 0 |
| 32 | TOTAL Other Property and Investments (Lines 18-21 and 23-31) | | 68,996,246 | 53,472,243 |
| 33 | CURRENT AND ACCRUED ASSETS | | | |
| 34 | Cash and Working Funds (Non-major Only) (130) | | 0 | 0 |
| 35 | Cash (131) | | 7,367,468 | 1,081,689 |
| 36 | Special Deposits (132-134) | | 2,733,610 | 20,515,417 |
| 37 | Working Fund (135) | | 0 | 0 |
| 38 | Temporary Cash Investments (136) | | 0 | 0 |
| 39 | Notes Receivable (141) | | 0 | 0 |
| 40 | Customer Accounts Receivable (142) | | 479,302,227 | 462,947,677 |
| 41 | Other Accounts Receivable (143) | | 55,756,400 | 65,398,251 |
| 42 | (Less) Accum. Prov. for Uncollectible Acct.-Credit (144) | | 148,775,435 | 148,613,954 |
| 43 | Notes Receivable from Associated Companies (145) | | 600,501,047 | 182,917,175 |
| 44 | Accounts Receivable from Assoc. Companies (146) | | 11,643,673 | 72,469,078 |
| 45 | Fuel Stock (151) | 227 | 0 | 0 |
| 46 | Fuel Stock Expenses Undistributed (152) | 227 | 0 | 0 |
| 47 | Residuals (Elec) and Extracted Products (153) | 227 | 0 | 0 |
| 48 | Plant Materials and Operating Supplies (154) | 227 | 45,016,786 | 47,053,177 |
| 49 | Merchandise (155) | 227 | 0 | 0 |
| 50 | Other Materials and Supplies (156) | 227 | 0 | 0 |
| 51 | Nuclear Materials Held for Sale (157) | 202-203/227 | 0 | 0 |
| 52 | Allowances (158.1 and 158.2) | 228-229 | 51,506 | 0 |

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

| Line No. | Title of Account (a) | Ref. Page No. (b) | Current Year End of Quarter/Year Balance (c) | Prior Year End Balance 12/31 (d) |
|----------|---|-------------------------|---|---|
| 53 | (Less) Noncurrent Portion of Allowances | | 0 | 0 |
| 54 | Stores Expense Undistributed (163) | 227 | 0 | 0 |
| 55 | Gas Stored Underground - Current (164.1) | | 35,365,060 | 26,965,736 |
| 56 | Liquefied Natural Gas Stored and Held for Processing (164.2-164.3) | | 0 | 0 |
| 57 | Prepayments (165) | | 36,953,969 | 45,836,349 |
| 58 | Advances for Gas (166-167) | | 0 | 0 |
| 59 | Interest and Dividends Receivable (171) | | 0 | 0 |
| 60 | Rents Receivable (172) | | 12,782,749 | 7,033,617 |
| 61 | Accrued Utility Revenues (173) | | 131,832,567 | 144,367,294 |
| 62 | Miscellaneous Current and Accrued Assets (174) | | 29,411,231 | 6,767,364 |
| 63 | Derivative Instrument Assets (175) | | 0 | 0 |
| 64 | (Less) Long-Term Portion of Derivative Instrument Assets (175) | | 0 | 0 |
| 65 | Derivative Instrument Assets - Hedges (176) | | 14,522,018 | 7,118,732 |
| 66 | (Less) Long-Term Portion of Derivative Instrument Assets - Hedges (176) | | 0 | 0 |
| 67 | Total Current and Accrued Assets (Lines 34 through 66) | | 1,314,464,876 | 941,857,602 |
| 68 | DEFERRED DEBITS | | | |
| 69 | Unamortized Debt Expenses (181) | | 19,547,486 | 17,453,503 |
| 70 | Extraordinary Property Losses (182.1) | 230a | 0 | 0 |
| 71 | Unrecovered Plant and Regulatory Study Costs (182.2) | 230b | 3,461,250 | 0 |
| 72 | Other Regulatory Assets (182.3) | 232 | 554,749,053 | 1,150,654,773 |
| 73 | Prelim. Survey and Investigation Charges (Electric) (183) | | 25,589,460 | 24,659,470 |
| 74 | Preliminary Natural Gas Survey and Investigation Charges 183.1) | | 0 | 0 |
| 75 | Other Preliminary Survey and Investigation Charges (183.2) | | 0 | 0 |
| 76 | Clearing Accounts (184) | | -124,558 | -104,919 |
| 77 | Temporary Facilities (185) | | 0 | 0 |
| 78 | Miscellaneous Deferred Debits (186) | 233 | 373,261,283 | 339,690,537 |
| 79 | Def. Losses from Disposition of Utility Plt. (187) | | 0 | 0 |
| 80 | Research, Devel. and Demonstration Expend. (188) | 352-353 | 0 | 0 |
| 81 | Unamortized Loss on Reaquired Debt (189) | | 8,128,349 | 9,653,989 |
| 82 | Accumulated Deferred Income Taxes (190) | 234 | 736,311,601 | 741,319,453 |
| 83 | Unrecovered Purchased Gas Costs (191) | | 0 | 0 |
| 84 | Total Deferred Debits (lines 69 through 83) | | 1,720,923,924 | 2,283,326,806 |
| 85 | TOTAL ASSETS (lines 14-16, 32, 67, and 84) | | 13,435,764,949 | 13,111,151,265 |

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

| Line No. | Title of Account (a) | Ref. Page No. (b) | Current Year End of Quarter/Year Balance (c) | Prior Year End Balance 12/31 (d) |
|----------|---|----------------------|---|---|
| 1 | PROPRIETARY CAPITAL | | | |
| 2 | Common Stock Issued (201) | 250-251 | 187,364,863 | 187,364,863 |
| 3 | Preferred Stock Issued (204) | 250-251 | 28,984,701 | 28,984,701 |
| 4 | Capital Stock Subscribed (202, 205) | | 0 | 0 |
| 5 | Stock Liability for Conversion (203, 206) | | 0 | 0 |
| 6 | Premium on Capital Stock (207) | | 0 | 0 |
| 7 | Other Paid-In Capital (208-211) | 253 | 3,099,495,838 | 3,062,617,385 |
| 8 | Installments Received on Capital Stock (212) | 252 | 0 | 0 |
| 9 | (Less) Discount on Capital Stock (213) | 254 | 0 | 0 |
| 10 | (Less) Capital Stock Expense (214) | 254b | 0 | 0 |
| 11 | Retained Earnings (215, 215.1, 216) | 118-119 | 1,386,230,139 | 1,188,971,762 |
| 12 | Unappropriated Undistributed Subsidiary Earnings (216.1) | 118-119 | -2,746,968 | -2,736,209 |
| 13 | (Less) Reaquired Capital Stock (217) | 250-251 | 0 | 0 |
| 14 | Noncorporate Proprietorship (Non-major only) (218) | | 0 | 0 |
| 15 | Accumulated Other Comprehensive Income (219) | 122(a)(b) | 34,293 | 2,441,133 |
| 16 | Total Proprietary Capital (lines 2 through 15) | | 4,699,362,866 | 4,467,643,635 |
| 17 | LONG-TERM DEBT | | | |
| 18 | Bonds (221) | 256-257 | 3,274,165,000 | 2,465,705,000 |
| 19 | (Less) Reaquired Bonds (222) | 256-257 | 0 | 0 |
| 20 | Advances from Associated Companies (223) | 256-257 | 0 | 0 |
| 21 | Other Long-Term Debt (224) | 256-257 | 0 | 313,760,000 |
| 22 | Unamortized Premium on Long-Term Debt (225) | | 0 | 0 |
| 23 | (Less) Unamortized Discount on Long-Term Debt-Debit (226) | | 10,982 | 6,716 |
| 24 | Total Long-Term Debt (lines 18 through 23) | | 3,274,154,018 | 2,779,458,284 |
| 25 | OTHER NONCURRENT LIABILITIES | | | |
| 26 | Obligations Under Capital Leases - Noncurrent (227) | | 0 | 0 |
| 27 | Accumulated Provision for Property Insurance (228.1) | | 0 | 0 |
| 28 | Accumulated Provision for Injuries and Damages (228.2) | | 25,178,765 | 25,554,080 |
| 29 | Accumulated Provision for Pensions and Benefits (228.3) | | 272,246,591 | 359,077,929 |
| 30 | Accumulated Miscellaneous Operating Provisions (228.4) | | 339,789,898 | 359,631,704 |
| 31 | Accumulated Provision for Rate Refunds (229) | | 0 | 0 |
| 32 | Long-Term Portion of Derivative Instrument Liabilities | | 1,131,038 | 11,913,778 |
| 33 | Long-Term Portion of Derivative Instrument Liabilities - Hedges | | 0 | 0 |
| 34 | Asset Retirement Obligations (230) | | 14,533,068 | 15,437,087 |
| 35 | Total Other Noncurrent Liabilities (lines 26 through 34) | | 652,879,360 | 771,614,578 |
| 36 | CURRENT AND ACCRUED LIABILITIES | | | |
| 37 | Notes Payable (231) | | 0 | 0 |
| 38 | Accounts Payable (232) | | 227,168,684 | 175,251,699 |
| 39 | Notes Payable to Associated Companies (233) | | 0 | 0 |
| 40 | Accounts Payable to Associated Companies (234) | | 124,590,032 | 168,963,574 |
| 41 | Customer Deposits (235) | | 30,695,721 | 32,184,023 |
| 42 | Taxes Accrued (236) | 262-263 | 71,122,143 | 121,385,382 |
| 43 | Interest Accrued (237) | | 30,833,981 | 26,708,077 |
| 44 | Dividends Declared (238) | | 0 | 0 |
| 45 | Matured Long-Term Debt (239) | | 0 | 0 |

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

| Line No. | Title of Account (a) | Ref. Page No. (b) | Current Year End of Quarter/Year Balance (c) | Prior Year End Balance 12/31 (d) |
|----------|--|----------------------|---|---|
| 46 | Matured Interest (240) | | 0 | 0 |
| 47 | Tax Collections Payable (241) | | -1,273,992 | 0 |
| 48 | Miscellaneous Current and Accrued Liabilities (242) | | 241,861,035 | 184,163,770 |
| 49 | Obligations Under Capital Leases-Current (243) | | 0 | 0 |
| 50 | Derivative Instrument Liabilities (244) | | 5,552,387 | 14,526,710 |
| 51 | (Less) Long-Term Portion of Derivative Instrument Liabilities | | 0 | 0 |
| 52 | Derivative Instrument Liabilities - Hedges (245) | | 2,026,656 | 1,954,832 |
| 53 | (Less) Long-Term Portion of Derivative Instrument Liabilities-Hedges | | 0 | 0 |
| 54 | Total Current and Accrued Liabilities (lines 37 through 53) | | 732,576,647 | 725,138,067 |
| 55 | DEFERRED CREDITS | | | |
| 56 | Customer Advances for Construction (252) | | 3,839,233 | 4,961,398 |
| 57 | Accumulated Deferred Investment Tax Credits (255) | 266-267 | 13,518,460 | 14,346,995 |
| 58 | Deferred Gains from Disposition of Utility Plant (256) | | 0 | 0 |
| 59 | Other Deferred Credits (253) | 269 | 244,992,205 | 224,733,072 |
| 60 | Other Regulatory Liabilities (254) | 278 | 1,972,760,825 | 2,299,569,151 |
| 61 | Unamortized Gain on Reaquired Debt (257) | | 0 | 0 |
| 62 | Accum. Deferred Income Taxes-Accel. Amort.(281) | 272-277 | 0 | 0 |
| 63 | Accum. Deferred Income Taxes-Other Property (282) | | 1,684,099,162 | 1,629,931,217 |
| 64 | Accum. Deferred Income Taxes-Other (283) | | 157,582,173 | 193,754,868 |
| 65 | Total Deferred Credits (lines 56 through 64) | | 4,076,792,058 | 4,367,296,701 |
| 66 | TOTAL LIABILITIES AND STOCKHOLDER EQUITY (lines 16, 24, 35, 54 and 65) | | 13,435,764,949 | 13,111,151,265 |

STATEMENT OF INCOME

Quarterly

1. Report in column (c) the current year to date balance. Column (c) equals the total of adding the data in column (g) plus the data in column (i) plus the data in column (k). Report in column (d) similar data for the previous year. This information is reported in the annual filing only.
2. Enter in column (e) the balance for the reporting quarter and in column (f) the balance for the same three month period for the prior year.
3. Report in column (g) the quarter to date amounts for electric utility function; in column (i) the quarter to date amounts for gas utility, and in column (k) the quarter to date amounts for other utility function for the current year quarter.
4. Report in column (h) the quarter to date amounts for electric utility function; in column (j) the quarter to date amounts for gas utility, and in column (l) the quarter to date amounts for other utility function for the prior year quarter.
5. If additional columns are needed, place them in a footnote.

Annual or Quarterly if applicable

5. Do not report fourth quarter data in columns (e) and (f)
6. Report amounts for accounts 412 and 413, Revenues and Expenses from Utility Plant Leased to Others, in another utility column in a similar manner to a utility department. Spread the amount(s) over lines 2 thru 26 as appropriate. Include these amounts in columns (c) and (d) totals.
7. Report amounts in account 414, Other Utility Operating Income, in the same manner as accounts 412 and 413 above.

| Line No. | Title of Account (a) | (Ref.) Page No. (b) | Total Current Year to Date Balance for Quarter/Year (c) | Total Prior Year to Date Balance for Quarter/Year (d) | Current 3 Months Ended Quarterly Only No 4th Quarter (e) | Prior 3 Months Ended Quarterly Only No 4th Quarter (f) |
|----------|--|---------------------------|---|---|--|--|
| 1 | UTILITY OPERATING INCOME | | | | | |
| 2 | Operating Revenues (400) | 300-301 | 3,227,348,951 | 3,004,236,020 | | |
| 3 | Operating Expenses | | | | | |
| 4 | Operation Expenses (401) | 320-323 | 1,917,531,633 | 1,709,742,231 | | |
| 5 | Maintenance Expenses (402) | 320-323 | 302,266,487 | 246,921,687 | | |
| 6 | Depreciation Expense (403) | 336-337 | 281,723,486 | 259,698,083 | | |
| 7 | Depreciation Expense for Asset Retirement Costs (403.1) | 336-337 | | | | |
| 8 | Amort. & Depl. of Utility Plant (404-405) | 336-337 | 1,366,556 | 1,177,786 | | |
| 9 | Amort. of Utility Plant Acq. Adj. (406) | 336-337 | | | | |
| 10 | Amort. Property Losses, Unrecov Plant and Regulatory Study Costs (407) | | | | | |
| 11 | Amort. of Conversion Expenses (407) | | 1,153,750 | | | |
| 12 | Regulatory Debits (407.3) | | 30,919,339 | 2,255,806 | | |
| 13 | (Less) Regulatory Credits (407.4) | | 4,650,000 | 11,465,839 | | |
| 14 | Taxes Other Than Income Taxes (408.1) | 262-263 | 286,281,176 | 270,877,270 | | |
| 15 | Income Taxes - Federal (409.1) | 262-263 | 42,480,745 | 114,486,458 | | |
| 16 | - Other (409.1) | 262-263 | 12,105,885 | 24,534,453 | | |
| 17 | Provision for Deferred Income Taxes (410.1) | 234, 272-277 | 11,865,151 | -11,602,931 | | |
| 18 | (Less) Provision for Deferred Income Taxes-Cr. (411.1) | 234, 272-277 | | | | |
| 19 | Investment Tax Credit Adj. - Net (411.4) | 266 | | | | |
| 20 | (Less) Gains from Disp. of Utility Plant (411.6) | | | 290,785 | | |
| 21 | Losses from Disp. of Utility Plant (411.7) | | -305 | 39,277 | | |
| 22 | (Less) Gains from Disposition of Allowances (411.8) | | | | | |
| 23 | Losses from Disposition of Allowances (411.9) | | | | | |
| 24 | Accretion Expense (411.10) | | | | | |
| 25 | TOTAL Utility Operating Expenses (Enter Total of lines 4 thru 24) | | 2,883,043,903 | 2,606,373,496 | | |
| 26 | Net Util Oper Inc (Enter Tot line 2 less 25) Carry to Pg117,line 27 | | 344,305,048 | 397,862,524 | | |

STATEMENT OF INCOME FOR THE YEAR (Continued)

- 9. Use page 122 for important notes regarding the statement of income for any account thereof.
- 10. Give concise explanations concerning unsettled rate proceedings where a contingency exists such that refunds of a material amount may need to be made to the utility's customers or which may result in material refund to the utility with respect to power or gas purchases. State for each year effected the gross revenues or costs to which the contingency relates and the tax effects together with an explanation of the major factors which affect the rights of the utility to retain such revenues or recover amounts paid with respect to power or gas purchases.
- 11 Give concise explanations concerning significant amounts of any refunds made or received during the year resulting from settlement of any rate proceeding affecting revenues received or costs incurred for power or gas purches, and a summary of the adjustments made to balance sheet, income, and expense accounts.
- 12. If any notes appearing in the report to stokholders are applicable to the Statement of Income, such notes may be included at page 122.
- 13. Enter on page 122 a concise explanation of only those changes in accounting methods made during the year which had an effect on net income, including the basis of allocations and apportionments from those used in the preceding year. Also, give the appropriate dollar effect of such changes.
- 14. Explain in a footnote if the previous year's/quarter's figures are different from that reported in prior reports.
- 15. If the columns are insufficient for reporting additional utility departments, supply the appropriate account titles report the information in a footnote to this schedule.

| ELECTRIC UTILITY | | GAS UTILITY | | OTHER UTILITY | | Line No. |
|---|--|---|--|---|--|----------|
| Current Year to Date (in dollars) (g) | Previous Year to Date (in dollars) (h) | Current Year to Date (in dollars) (i) | Previous Year to Date (in dollars) (j) | Current Year to Date (in dollars) (k) | Previous Year to Date (in dollars) (l) | |
| | | | | | | |
| 2,601,981,039 | 2,446,693,772 | 623,143,301 | 557,449,458 | 2,224,611 | 92,790 | 2 |
| | | | | | | 3 |
| 1,514,398,831 | 1,370,294,748 | 403,132,802 | 339,447,483 | | | 4 |
| 272,687,524 | 220,190,899 | 29,578,963 | 26,730,788 | | | 5 |
| 229,639,100 | 209,689,197 | 52,084,386 | 50,008,886 | | | 6 |
| | | | | | | 7 |
| 1,304,094 | 1,130,866 | 62,462 | 46,920 | | | 8 |
| | | | | | | 9 |
| | | | | | | 10 |
| 1,153,750 | | | | | | 11 |
| 32,863,449 | 35,887 | -1,944,110 | 2,219,919 | | | 12 |
| 4,650,000 | 11,362,606 | | 103,233 | | | 13 |
| 228,499,659 | 218,049,708 | 57,781,517 | 52,827,562 | | | 14 |
| 28,851,151 | 99,829,773 | 13,629,594 | 14,656,685 | | | 15 |
| 8,595,750 | 21,416,476 | 3,510,135 | 3,117,977 | | | 16 |
| 14,999,272 | -14,981,325 | -3,134,121 | 3,378,394 | | | 17 |
| | | | | | | 18 |
| | | | | | | 19 |
| | 290,785 | | | | | 20 |
| -305 | | | 39,277 | | | 21 |
| | | | | | | 22 |
| | | | | | | 23 |
| | | | | | | 24 |
| 2,328,342,275 | 2,114,002,838 | 554,701,628 | 492,370,658 | | | 25 |
| 273,638,764 | 332,690,934 | 68,441,673 | 65,078,800 | 2,224,611 | 92,790 | 26 |
| | | | | | | |

STATEMENT OF INCOME FOR THE YEAR (continued)

| Line No. | Title of Account (a) | (Ref.) Page No. (b) | TOTAL | | Current 3 Months Ended Quarterly Only No 4th Quarter (e) | Prior 3 Months Ended Quarterly Only No 4th Quarter (f) |
|----------|--|---------------------------|---------------------|----------------------|--|--|
| | | | Current Year (c) | Previous Year (d) | | |
| 27 | Net Utility Operating Income (Carried forward from page 114) | | 344,305,048 | 397,862,524 | | |
| 28 | Other Income and Deductions | | | | | |
| 29 | Other Income | | | | | |
| 30 | Nonutility Operating Income | | | | | |
| 31 | Revenues From Merchandising, Jobbing and Contract Work (415) | | | | | |
| 32 | (Less) Costs and Exp. of Merchandising, Job. & Contract Work (416) | | | | | |
| 33 | Revenues From Nonutility Operations (417) | | | | | |
| 34 | (Less) Expenses of Nonutility Operations (417.1) | | 5,920,012 | 7,711,592 | | |
| 35 | Nonoperating Rental Income (418) | | 23,187 | 43,437 | | |
| 36 | Equity in Earnings of Subsidiary Companies (418.1) | 119 | -10,759 | -89,247 | | |
| 37 | Interest and Dividend Income (419) | | 8,007,020 | 22,165,637 | | |
| 38 | Allowance for Other Funds Used During Construction (419.1) | | 13,602,040 | 11,831,665 | | |
| 39 | Miscellaneous Nonoperating Income (421) | | 1,332,383 | 2,093,486 | | |
| 40 | Gain on Disposition of Property (421.1) | | | | | |
| 41 | TOTAL Other Income (Enter Total of lines 31 thru 40) | | 17,033,859 | 28,333,386 | | |
| 42 | Other Income Deductions | | | | | |
| 43 | Loss on Disposition of Property (421.2) | | | 3,501 | | |
| 44 | Miscellaneous Amortization (425) | | | | | |
| 45 | Donations (426.1) | | 2,496,367 | 2,417,420 | | |
| 46 | Life Insurance (426.2) | | 129,923 | 1,448,011 | | |
| 47 | Penalties (426.3) | | 43,715 | 124,484 | | |
| 48 | Exp. for Certain Civic, Political & Related Activities (426.4) | | 570,347 | 285,487 | | |
| 49 | Other Deductions (426.5) | | 7,878,837 | -2,242,672 | | |
| 50 | TOTAL Other Income Deductions (Total of lines 43 thru 49) | | 11,119,189 | 2,036,231 | | |
| 51 | Taxes Applic. to Other Income and Deductions | | | | | |
| 52 | Taxes Other Than Income Taxes (408.2) | 262-263 | 558,425 | 556,312 | | |
| 53 | Income Taxes-Federal (409.2) | 262-263 | -2,072,570 | 3,794,185 | | |
| 54 | Income Taxes-Other (409.2) | 262-263 | -515,799 | 874,970 | | |
| 55 | Provision for Deferred Inc. Taxes (410.2) | 234, 272-277 | -1,169,520 | | | |
| 56 | (Less) Provision for Deferred Income Taxes-Cr. (411.2) | 234, 272-277 | | | | |
| 57 | Investment Tax Credit Adj.-Net (411.5) | | | | | |
| 58 | (Less) Investment Tax Credits (420) | | 828,536 | 1,788,219 | | |
| 59 | TOTAL Taxes on Other Income and Deductions (Total of lines 52-58) | | -4,028,000 | 3,437,248 | | |
| 60 | Net Other Income and Deductions (Total of lines 41, 50, 59) | | 9,942,670 | 22,859,907 | | |
| 61 | Interest Charges | | | | | |
| 62 | Interest on Long-Term Debt (427) | | 115,084,668 | 107,692,297 | | |
| 63 | Amort. of Debt Disc. and Expense (428) | | 2,766,118 | 3,021,923 | | |
| 64 | Amortization of Loss on Reaquired Debt (428.1) | | 1,422,427 | 1,422,427 | | |
| 65 | (Less) Amort. of Premium on Debt-Credit (429) | | | | | |
| 66 | (Less) Amortization of Gain on Reaquired Debt-Credit (429.1) | | | | | |
| 67 | Interest on Debt to Assoc. Companies (430) | | | | | |
| 68 | Other Interest Expense (431) | | 41,821,891 | 56,478,867 | | |
| 69 | (Less) Allowance for Borrowed Funds Used During Construction-Cr. (432) | | 5,155,501 | 3,866,455 | | |
| 70 | Net Interest Charges (Total of lines 62 thru 69) | | 155,939,603 | 164,749,059 | | |
| 71 | Income Before Extraordinary Items (Total of lines 27, 60 and 70) | | 198,308,115 | 255,973,372 | | |
| 72 | Extraordinary Items | | | | | |
| 73 | Extraordinary Income (434) | | | | | |
| 74 | (Less) Extraordinary Deductions (435) | | | | | |
| 75 | Net Extraordinary Items (Total of line 73 less line 74) | | | | | |
| 76 | Income Taxes-Federal and Other (409.3) | 262-263 | | | | |
| 77 | Extraordinary Items After Taxes (line 75 less line 76) | | | | | |
| 78 | Net Income (Total of line 71 and 77) | | 198,308,115 | 255,973,372 | | |

Schedule F

Statement of Financial Condition

LONG-TERM DEBT (Account 221, 222, 223 and 224) Schedule F

Page 1 of 2

1. Report by balance sheet account the particulars (details) concerning long-term debt included in Accounts 221, Bonds, 222, Reacquired Bonds, 223, Advances from Associated Companies, and 224, Other long-Term Debt.
2. In column (a), for new issues, give Commission authorization numbers and dates.
3. For bonds assumed by the respondent, include in column (a) the name of the issuing company as well as a description of the bonds.
4. For advances from Associated Companies, report separately advances on notes and advances on open accounts. Designate demand notes as such. Include in column (a) names of associated companies from which advances were received.
5. For receivers, certificates, show in column (a) the name of the court -and date of court order under which such certificates were issued.
6. In column (b) show the principal amount of bonds or other long-term debt originally issued.
7. In column (c) show the expense, premium or discount with respect to the amount of bonds or other long-term debt originally issued.
8. For column (c) the total expenses should be listed first for each issuance, then the amount of premium (in parentheses) or discount. Indicate the premium or discount with a notation, such as (P) or (D). The expenses, premium or discount should not be netted.
9. Furnish in a footnote particulars (details) regarding the treatment of unamortized debt expense, premium or discount associated with issues redeemed during the year. Also, give in a footnote the date of the Commission's authorization of treatment other than as specified by the Uniform System of Accounts.

| Line No. | Class and Series of Obligation, Coupon Rate (For new issue, give commission Authorization numbers and dates) (a) | Principal Amount Of Debt issued (b) | Total expense, Premium or Discount (c) |
|----------|--|---|--|
| 1 | Bonds (Account 221) | | |
| 2 | Unsecured notes: | | |
| 3 | Senior Note @ 4.88% | 750,000,000 | 3,805,177 |
| 4 | Senior Note @ 2.72% | 300,000,000 | 1,338,576 |
| 5 | Senior Notes @ 3.51% | 500,000,000 | 3,060,582 |
| 6 | Senior Notes @ 4.28% | 500,000,000 | 2,755,598 |
| 7 | Senior Notes @ 4.28% | 400,000,000 | 2,060,582 |
| 8 | Senior Note @ 4.12% | 400,000,000 | 3,642,569 |
| 9 | | | |
| 10 | | | |
| 11 | State Authority Financing - tax exempt: | | |
| 12 | Due 12/01/23 @ 3.23% | 69,800,000 | 934,300 |
| 13 | Due 12/01/25 @ 3.29% | 75,000,000 | 12,440,897 |
| 14 | Due 12/01/26 @ 3.42% | 50,000,000 | 787,811 |
| 15 | Due 03/01/27 @ 3.45% | 25,760,000 | 2,463,371 |
| 16 | Due 07/01/27 (\$68.2M @ 3.43% & \$25M @ 3.48%) | 93,200,000 | 1,609,373 |
| 17 | Due 07/01/29 @ 3.43% | 115,705,000 | 4,981,759 |
| 18 | | | |
| 19 | SUBTOTAL ACCOUNT 221 | 3,279,465,000 | 39,880,595 |
| 20 | | | |
| 21 | Other Long Term Debt (Account 224) | | |
| 22 | | | |
| 23 | | | |
| 24 | SUBTOTAL ACCOUNT 224 | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |
| 29 | | | |
| 30 | | | |
| 31 | | | |
| 32 | | | |
| 33 | TOTAL | 3,279,465,000 | 39,880,595 |

LONG-TERM DEBT (Account 221, 222, 223 and 224) (Continued)

10. Identify separate undisposed amounts applicable to issues which were redeemed in prior years.
11. Explain any debits and credits other than debited to Account 428, Amortization and Expense, or credited to Account 429, Premium on Debt - Credit.
12. In a footnote, give explanatory (details) for Accounts 223 and 224 of net changes during the year. With respect to long-term advances, show for each company: (a) principal advanced during year, (b) interest added to principal amount, and (c) principle repaid during year. Give Commission authorization numbers and dates.
13. If the respondent has pledged any of its long-term debt securities give particulars (details) in a footnote including name of pledgee and purpose of the pledge.
14. If the respondent has any long-term debt securities which have been nominally issued and are nominally outstanding at end of year, describe such securities in a footnote.
15. If interest expense was incurred during the year on any obligations retired or reacquired before end of year, include such interest expense in column (i). Explain in a footnote any difference between the total of column (i) and the total of Account 427, interest on Long-Term Debt and Account 430, Interest on Debt to Associated Companies.
16. Give particulars (details) concerning any long-term debt authorized by a regulatory commission but not yet issued.

| Nominal Date of Issue (d) | Date of Maturity (e) | AMORTIZATION PERIOD | | Outstanding (Total amount outstanding without reduction for amounts held by respondent) (h) | Interest for Year Amount (i) | Line No. |
|---------------------------|----------------------|---------------------|-------------|---|------------------------------|----------|
| | | Date From (f) | Date To (g) | | | |
| | | | | | | 1 |
| | | | | | | 2 |
| 08/10/2009 | 08/15/2019 | 08/10/2009 | 08/15/2019 | 750,000,000 | 36,607,500 | 3 |
| 11/28/2012 | 11/28/2022 | 11/28/2012 | 11/28/2022 | 300,000,000 | 8,163,000 | 4 |
| 09/25/2014 | 10/01/2024 | 09/25/2014 | 10/01/2024 | 500,000,000 | 17,540,000 | 5 |
| 12/04/2018 | 12/15/2028 | 12/04/2018 | 12/15/2028 | 500,000,000 | 1,604,250 | 6 |
| 09/25/2014 | 10/01/2034 | 09/25/2014 | 10/01/2034 | 400,000,000 | 17,112,000 | 7 |
| 11/28/2012 | 11/28/2042 | 11/28/2012 | 11/28/2042 | 400,000,000 | 16,476,000 | 8 |
| | | | | | | 9 |
| | | | | | | 10 |
| | | | | | | 11 |
| 12/01/1988 | 12/01/2023 | 12/01/1988 | 12/01/2023 | 69,800,000 | 2,854,528 | 12 |
| 12/01/1985 | 12/01/2025 | 12/01/1985 | 12/01/2025 | 75,000,000 | 3,220,668 | 13 |
| 12/01/1986 | 12/01/2026 | 12/01/1986 | 12/01/2026 | 44,700,000 | 1,829,318 | 14 |
| 03/01/1987 | 03/01/2027 | 03/01/1987 | 03/01/2027 | 25,760,000 | 1,134,944 | 15 |
| 07/01/1987 | 07/01/2027 | 07/01/1987 | 07/01/2027 | 93,200,000 | 3,475,683 | 16 |
| 07/01/1984 | 07/01/2029 | 07/01/1984 | 07/01/2029 | 115,705,000 | 5,066,777 | 17 |
| | | | | | | 18 |
| | | | | 3,274,165,000 | 115,084,668 | 19 |
| | | | | | | 20 |
| | | | | | | 21 |
| | | | | | | 22 |
| | | | | | | 23 |
| | | | | | | 24 |
| | | | | | | 25 |
| | | | | | | 26 |
| | | | | | | 27 |
| | | | | | | 28 |
| | | | | | | 29 |
| | | | | | | 30 |
| | | | | | | 31 |
| | | | | | | 32 |
| | | | | | | |
| | | | | 3,274,165,000 | 115,084,668 | 33 |

Schedule G

Short Environmental Assessment Form

Short Environmental Assessment Form Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| | | | |
|---|--|--|-------------------------------------|
| Part 1 – Project and Sponsor Information | | | |
| Niagara Mohawk Power Corporation d/b/a National Grid and the City of Utica | | | |
| Name of Action or Project: | | | |
| Sale of Street Lighting Facilities within the City of Utica municipal boundaries to the City of Utica | | | |
| Project Location (describe, and attach a location map): | | | |
| City of Utica, New York | | | |
| Brief Description of Proposed Action: | | | |
| Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid") and the City of Utica, New York (the City) have entered into an Agreement for the Purchase and Sale of Street Lights, (the Agreement). Under the terms of the Agreement, National Grid agreed to transfer ownership of the street lighting facilities, including luminaries, lamps, mast arms, the associated wiring, electrical connections and appurtenances, used to provide municipal lighting service to the City. The transfer of ownership does not involve any new construction, changes in land use, or changes in the service provided to the public. Pursuant to Public Service Law Section 70, National Grid is required to notify the New York State Public Service Commission of the transfer. | | | |
| Name of Applicant or Sponsor: | | Telephone: (315) 452-7660 | |
| Melanie Littlejohn, National Grid, Director, Community and Customer Management – NY | | E-Mail: melanie.littlejohn@nationalgrid.com | |
| Address: | | | |
| 7496 Round Pond Road | | | |
| City/PO: | | State: | Zip Code: |
| North Syracuse | | New York | 13212 |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? | | | NO |
| If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | | YES |
| | | | <input checked="" type="checkbox"/> |
| | | | <input type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other government Agency? | | | NO |
| If Yes, list agency(s) name and permit or approval: | | | YES |
| | | | <input type="checkbox"/> |
| | | | <input checked="" type="checkbox"/> |
| 3. a. Total acreage of the site of the proposed action? | | 10,893 acres | |
| b. Total acreage to be physically disturbed? | | 0 acres | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | 10,893 acres | |
| 4. Check all land uses that occur on, are adjoining or near the proposed action: | | | |
| 5. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) | | | |
| <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): | | | |
| <input checked="" type="checkbox"/> Parkland | | | |

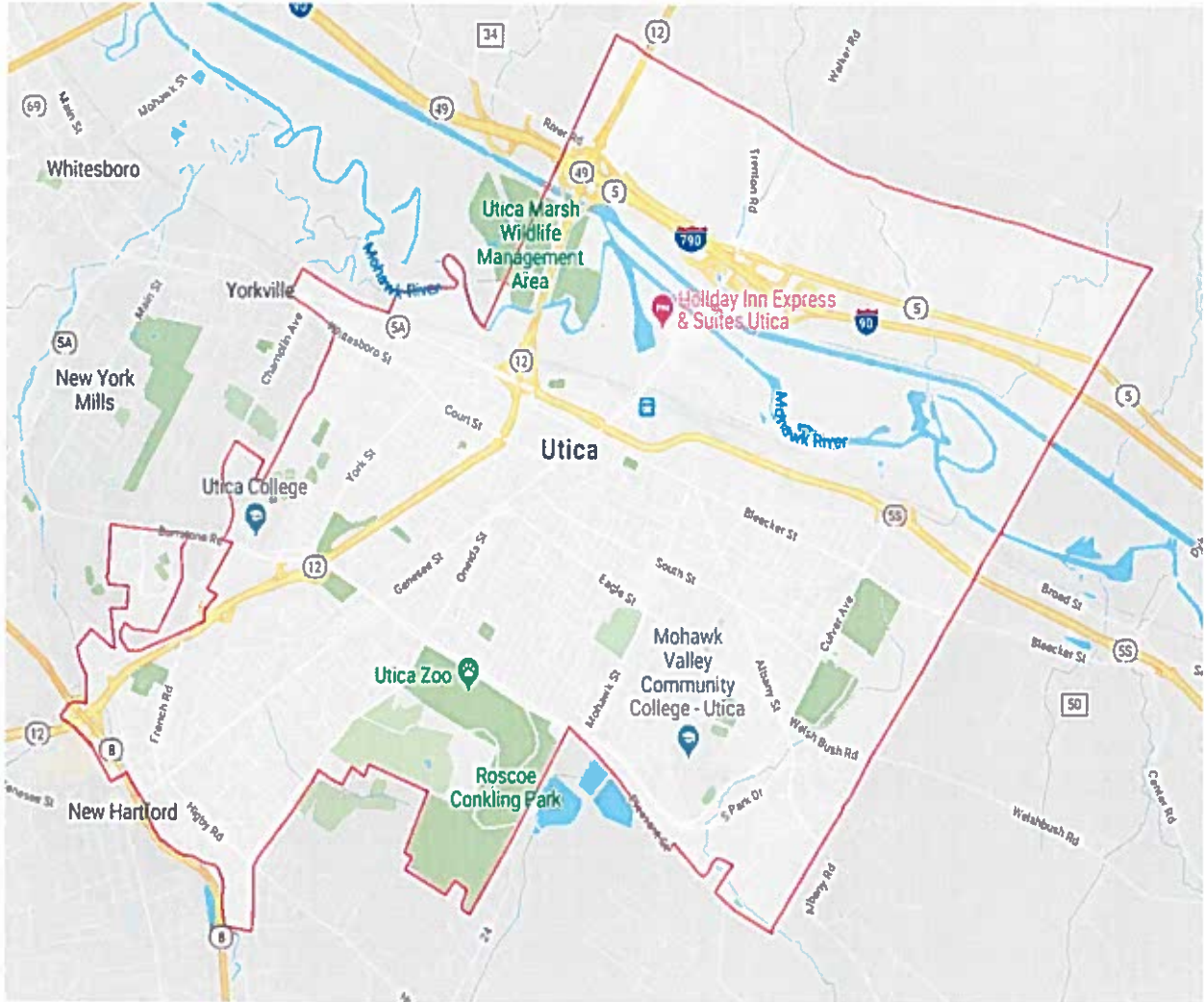
| | | | |
|---|-------------------------------------|-------------------------------------|--------------------------|
| 5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan? | NO | YES | N/A |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? | NO | YES | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action? | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: <u>The street lighting facilities will be upgraded to efficient LED's</u> | NO | YES | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? | NO | YES | |
| | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ | NO | YES | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

| | | |
|--|-------------------------------------|--------------------------|
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban | | |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 16. Is the project site located in the 100-year flood plan? | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____ | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | |
| 18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____ | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ | NO | YES |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Melanie Littlejohn</u> Date: <u>7/29/19</u> Signature: <u><i>Melanie Littlejohn</i></u> Title: <u>Director, Community and Customer Mgmt. NY</u> | | |

PRINT FORM

City of Utica, New York

Outlined in Red



Schedule H

State Administrative Procedures Act Notice

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. *Proposed action:*

| | | | |
|--|---------------------------------------|-------|-------|
| | Approval of the sale of street lights | Title | NYCRR |
| | | Title | NYCRR |
| | | Title | NYCRR |
| | | Title | NYCRR |
| | | Title | NYCRR |
| | | Title | 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:*

New York Public Service Law Section 70

3. *Subject of the rule:*

Sale of street lighting facilities by Niagara Mohawk Power Corporation d/b/a National Grid to the City of Utica, New York.

4. *Purpose of the rule:*

Approval of the proposed transfer of street lighting facilities.

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 Kathleen H. Burgess
 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) _____.

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.