



VIA HAND DELIVERY

January 7, 2005

Honorable Jaclyn A. Brilling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 01-G-0401- Petition of Niagara Mohawk Power Corporation for Approval,
Pursuant to Section 68 of the Public Service Law, for the Exercise of a
Gas Franchise in the Town of Sand Lake, Rensselaer County
Order Granting a Certificate of Public Convenience and Necessity (issued and
effective June 4, 2001)

**NIAGARA MOHAWK PETITION FOR AMENDMENT OF A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY
AND MOTION TO EXPEDITE**

Dear Secretary Brilling:

Enclosed please find for filing an original and 25 copies of the petition of Niagara Mohawk Power Corporation ("Niagara Mohawk" or "Company") for amendment of a Certificate of Public Convenience and Necessity to allow additional construction of gas plant in an area outside the franchise area originally authorized by the Commission in the above-referenced Order. This filing is being made in accordance with the Ordering Clause 2 (d) of the Order.

Enclosed please also find for filing an accompanying motion for an expedited proceeding pursuant to Section 21.10 of the Commission's Rules and Regulations. Certification of newspaper publication of the notice required under Section 21.10 (a)(3) will be separately provided following publication.

Please note that only a copy of the signature page to the Affidavit of Sean M. Stack appearing as Exhibit "7" has been filed at this time. The original signature page will be filed with the Secretary under separate cover.

Niagara Mohawk believes the Petition to involve an exempt, Type II action under the State Environmental Quality Review Act ("SEQRA"). See 16 N.Y.C.R.R. Section 7.2(a); 6
Page 2

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Hon. Jaclyn A. Brillling
January 7, 2005

N.Y.C.R.R. Section 617.5(c)(26). However, a short Environmental Assessment Form has been provided in the event the Commission determines the matter to involve an "unlisted" action.

The Town of Sand Lake, and affected federal and state agencies appearing on the attached Service List, are being served today with copies of this filing via U.S. Mail.

Kindly acknowledge receipt of this filing by date-stamping as received the enclosed duplicate copy of this letter.

Respectfully submitted,


Lisa Gayle Bradley, Esq.

Enclosures

cc: Service List (enclosed)

SERVICE LIST – Town of Sand Lake Gas Franchise

Hon. Steve Robelotto (Town of Sand Lake)
Town Supervisor
Town of Sand Lake
P.O. Box 273
Sand Lake, New York 12153

Russell Bennett, Esq. (Counsel for the Town)
P.O. Box 273
Sand Lake, New York 12153

Mark W. Clough
U.S. Fish and Wildlife Services
Luker Road
Cortland, New York 12188

Ruth Pierpont
N.Y.S. Office of Parks, Recreation, and Historic Preservation
Peebles Island, P.O. Box 189
Waterford, New York 12188

William Clarke
Regional Permit Office
N.Y.S. Department of Environmental Conservation
1150 North Westcott Road
Schenectady, New York 12306

Matthew Brower
N.Y.S. Department of Agriculture and Markets
1 Winners Circle
Albany, New York 12235

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Petition of Niagara Mohawk Power Corporation for
Approval, Pursuant to Section 68 of the Public Service
Law, for the Exercise of a Gas Franchise in the Town
of Sand Lake, Rensselaer County.**

Case 01-G-0401

**VERIFIED PETITION OF
NIAGARA MOHAWK POWER CORPORATION
TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

**By: Lisa Gayle Bradley, Esq.
Niagara Mohawk Power Corporation
300 Erie Blvd. West
Syracuse, New York 13202
(315) 428-3421**

Date: January 06, 2005

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Petition of Niagara Mohawk Power Corporation for
Approval, Pursuant to Section 68 of the Public Service
Law, for the Exercise of a Gas Franchise in the Town
of Sand Lake, Rensselaer County.**

Case 01-G-0401

**VERIFIED PETITION OF
NIAGARA MOHAWK POWER CORPORATION**

TO AMEND

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

TO: THE STATE OF NEW YORK PUBLIC SERVICE COMMISSION

Pursuant to Ordering Clause 2 (d) of the *Order Granting Certificate of Public Convenience and Necessity*, "issued and effective June 4, 2001, Niagara Mohawk Power Corporation ("Niagara Mohawk" or "Company") hereby petitions the State of New York Public Service Commission ("Commission") for amendment of a Certificate of Public Convenience and Necessity under Section 68 of the Public Service Law to authorize the exercise of additional portions of a gas franchise granted by the Town of Sand Lake ("Town").

Background

1. Niagara Mohawk Power Corporation ("Niagara Mohawk") is a corporation duly organized and existing under the laws of the State of New York, having its principal office 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 heretofore been filed with the Commission.

3. The Town of Sand Lake is located in the County of Rensselaer. According to the 2000 census, the population of the Town is approximately 7,987 persons. The Town is bounded on the north by the Town of Poestenkill, on the east by the Town of Berlin, on the south by the Towns of Nassau and Schodack, and on the west by the Towns of North Greenbush and East Greenbush.

4. Niagara Mohawk currently provides gas service in the Towns of Poestenkill, Schodack, North Greenbush and East Greenbush. Upon information and belief, no gas service is presently available in the Towns of Berlin and Nassau. As discussed hereafter, Niagara Mohawk also currently provides gas service to portions of the Town of Sand Lake.

Franchise

5. On September 10, 1986, the Town Board of the Town of Sand Lake granted Niagara Mohawk a franchise to lay and maintain facilities and to transmit and distribute gas as specified throughout the Town. A certified copy of the franchise is annexed hereto as Exhibit "1".

6. On December 3, 1997, Niagara Mohawk petitioned the Commission, pursuant to Section 68 of the Public Service Law, for approval to exercise this franchise and a franchise from the Town of Poestenkill. This petition was assigned Case No. 97-G-2097.

7. On April 30, 1998, the Commission issued an *Order Granting a Certificate of Public Convenience and Necessity* for the exercise of the franchises in limited areas in the

Towns of Sand Lake and Poestenkill. These limited areas included lands that were developed as Phase One and Phase Two of a residential subdivision in the Town of Sand Lake known as Forest Glen.

8. On or about March 23, 2001, Niagara Mohawk petitioned the Commission, again pursuant to Section 68 of the Public Service Law, for approval to exercise the Town of Sand Lake franchise in an additional area that was identified as Phase Three of the Forest Glen Subdivision in the Town. The petition was assigned Case No. 01-G-0401.

9. On June 4, 2001, the Commission issued an *Order Granting a Certificate of Public Convenience and Necessity* ("June 4, 2001 Order") authorizing the further exercise of the franchise in the Forest Glen Phase 3 area, subject to the requirement that no gas main would be extended along Forest Glen Road until construction drawings for that segment were received by Staff of the New York State Department of Public Service.

10. The June 4, 2001 *Order* also directed that future construction of gas plant outside the franchise area authorized in the *Order* "should be described in a petition filed with the Secretary that seeks an amendment to this Certificate and shall be reviewed pursuant to SEQRA and other relevant permitting requirements, and the Commission's economic test, when appropriate" (Ordering Clause 2 (d)).

Present Petition

11. Since issuance of the Commission's June 4, 2001 *Order*, the Town has renamed the roads in this area. For example, Forest Glen Road is now called Marie Heights Road. Thus, in order to place the present Petition in the appropriate context, the franchise area authorized to be exercised in the June 4, 2001 *Order* concerns an area located on Marie Heights Road (f/n/a Florest Glen Road) ending at Lot 12 of the Marie Heights Phase 1

development. To date, and as part of its initial petition in this proceeding, Niagara Mohawk has installed a pipeline on Marie Heights road that ends between Lot 40 of the Forest Glen Phase 3 subdivision and Lot 9 of the new Marie Heights Phase 1 subdivision ("Segment "1"). Drawings of the Segment "1" development were provided to Staff of the Department of Public Service. In accordance with the June 4, 2001 *Order*, Niagara Mohawk will submit drawings to Staff of the Department of Public Service prior to its further extension of the existing pipeline to Lot 12 of the Marie Heights Phase 1 development ("Segment "2"). A copy of a current map showing the area authorized by the Commission to be served in its June 4, 2001 *Order* (*i.e.*, Segment "1" and Segment "2") is annexed hereto as Exhibit "2."

12. Pursuant to Ordering Clause 2 (d) of the June 4, 2001 *Order*, Niagara Mohawk now submits this Petition seeking an amendment to the Certificate granted in Case 01-G-0401 to allow the Company to extend gas plant in the Town of Sand Lake franchise area beyond that authorized in Case 01-G-0401.

13. As described in the Affidavit of David Carey, which is annexed hereto as Exhibit "4," Niagara Mohawk specifically seeks authorization to extend a gas pipeline from the previously-authorized Segment "2" (Lot 12 of Marie Heights Phase 1) along Marie Heights Road through Marie Heights Phase 2 and connecting to the Company's existing pipeline where Marie Heights Road meets Capital Boulevard. This new area of development, which Niagara Mohawk will refer to as Segment "3," is identified in "orange" on a map that is annexed hereto as Exhibit "3."

14. As shown on Exhibit "3," Segment "3" will involve the extension of approximately 2,100 feet of #2 plastic gas main on Marie Heights Road from the last

Segment "2" lot in order to provide gas service to approximately 17 new residential homes to be constructed in the balance of Marie Heights Phase 1 and in Marie Heights Phase 2. This gas main will be connected to Niagara Mohawk's existing distribution system located on Marie Heights Road approximately 500 feet from the proposed new Marie Heights Road gas main. The location of the tie-in to Marie Heights Road (nearest Longview Avenue) is approximately 2,500 feet (.5 mile) west of State Highway Route 150, while the location of the tie-in to Capital Boulevard is approximately 3,000 feet north of State Highway Route 43.

15. It is anticipated the all construction will be within previously disturbed road easements in trenches excavated by Verizon. Niagara Mohawk construction activities will be conducted in accordance with Commission-approved Environmental Management and Construction Standards and Practices, a copy of which is annexed hereto as Exhibit "5."

16. It is anticipated that construction will commence late Spring 2005 and be completed prior to the 2005-2006 heating season.

17. Existing Niagara Mohawk personnel will operate and maintain the proposed Marie Heights gas main extension and perform meter reading and customer service functions with no staff additions being required.

18. The Marie Heights subdivision was subject to comprehensive review by the Town of Sand Lake Planning Board. On August 5, 2004 the Town, pursuant to a requirement of the New York State Environmental Quality Review Act ("SEQRA"), issued a Negative Declaration finding that the proposed Marie Heights project will not have a significant impact on the environment. Based upon this review, Niagara Mohawk

believes that the project has met SEQRA requirements and is exempt from further SEQRA reviews. Notwithstanding the foregoing, annexed hereto as Exhibit "6" Affidavit of Mike Sherman, Principal Environmental Engineer, a Short Environmental Assessment Form, along with a copy of the Town's Negative Declaration and of the Town's Planning Board approval.

19. To the extent rate treatment issues need to be addressed in connection with the Marie Heights project, pursuant to the 1989 Policy Statement regarding gas expansions into new franchise areas (Case 89-G-078), attached hereto as Exhibit "7" is the Affidavit of Sean M. Stack providing a supporting economic evaluation of the proposed Marie Heights Segment "3" gas main project.

20. Attached hereto as Exhibit "8" is an Affidavit of Lee A. Klosowski attesting to the Company's ability to provide adequate supply and transportation of gas to meet the anticipated new load in Marie Heights.

21. Upon information and belief, no other entity provides gas service to the proposed Marie Heights area or to other areas in the Town of Sand Lake.

22. Niagara Mohawk's exercise of the rights and privileges under the gas franchise is necessary and convenient for the public service, and approval by the Commission of the proposed amendment of the existing Certificate of Convenience and Public Necessity will allow Niagara Mohawk to provide gas service to affected inhabitants of the Town located within the Marie Heights Segment "3" area.

WHEREFORE, for the reasons set forth herein, Niagara Mohawk respectfully requests the Commission to (i) amend the existing Certificate of Public Convenience and Necessity, issued June 4, 2001 pursuant to Section 68 of the Public Service Law; (ii)

authorize the Company to extend the exercise of the gas franchise issued to it by the Town of Sand Lake in Segment "3" of the proposed Marie Heights area; and (iii) grant Niagara Mohawk such other and further relief as to the Commission is just and proper.

Respectfully submitted,

NIAGARA MOHAWK POWER CORPORATION

By: 
Lisa Gayle Bradley, Esq.

300 Erie Blvd. West
Syracuse, New York 13202
Tele: (315) 428-3421

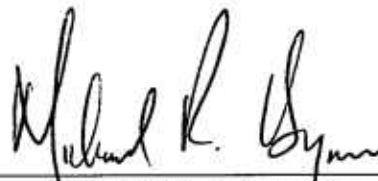
Dated: January 06, 2005

To: Service List (cover letter enclosure)

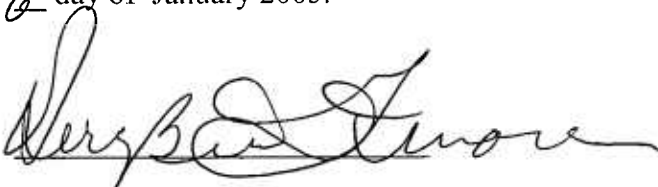
STATE OF NEW YORK)
)
COUNTY OF ALBANY) SS:

MICHAEL R. HYNES, being duly sworn, deposes and says:

1. I am the Vice President Business Services - Capital Region of Niagara Mohawk Power Corporation.
2. I have read the foregoing Petition and know the contents thereof. The Petition is true to my own knowledge except as to the matters stated therein to be upon information and belief, and as to those matters I believe them to be true.
3. Niagara Mohawk Power Corporation has received the required consent of the proper municipal authorities for the transmission and distribution of gas in the portion of the Town of Sand Lake described in the Petition as Segment "3."
4. Upon information and belief, no further municipal consent is necessary to transmit and/or distribute gas in the designated Segment "3" area in the Town of Sand Lake.


MICHAEL R. HYNES

Sworn to me before this
6th day of January 2005.



Notary Public, State of New York

VERA BETH FERRARA
Notary Public, State of New York
Qualified in Albany County
Reg. No. 4912975
Commission Expires November 16, 2005

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**CASE 01-G-0401 - Petition of Niagara Mohawk Power Corporation for Approval,
Pursuant to Section 68 of the Public Service Law, for the Exercise of a Gas
Franchise in the Town of Sand Lake, Rensselaer County.**

MOTION TO EXPEDITE

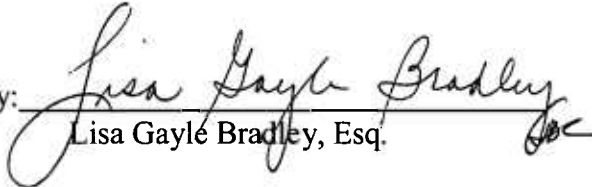
Based on the Petition of Niagara Mohawk Power Corporation for Amendment of a Certificate of Public Convenience and Necessity under Section 68 of the Public Service Law for the exercise of a gas franchise in the Town of Sand Lake, County of Rensselaer, State of New York herewith, together with the supporting Affidavits to the Petition, Niagara Mohawk Power Corporation respectfully requests, pursuant to 16 N.Y.C.R.R. Section 21.10, that any public hearing required by Section 68 of the Public Service Law to be held on Niagara Mohawk's application be held before the Commission on the basis of said papers and any other information as may be filed by Niagara Mohawk, any party, or staff counsel, without oral testimony.

A copy of the public notice, which is annexed hereto, will be published in the manner required by 16 N.Y.C.R.R. Section 21.10(a)(3) and will be served on each person or municipality entitled to service of a copy of Niagara Mohawk's application herein, and on each person or entity appearing on the Service List attached to the filing cover letter accompanying the Petition.

Granting of Niagara Mohawk's motion for an expedited proceeding will permit construction to commence in the Spring of 2005 and will therefore facilitate customers receiving gas service in areas falling within extended franchise area in the Town of Sand Lake.

Respectfully submitted,

NIAGARA MOHAWK POWER CORPORATION

By: 
Lisa Gayle Bradley, Esq.

300 Erie Blvd. West
Syracuse, New York 13202
Tele: (315) 428-3421

Dated: January 06, 2005

To: Service List (cover letter enclosure)

PUBLIC NOTICE

Notice is hereby given pursuant to Section 21.10(a)(3) of the Rules and Regulations of the Public Service Commission of the State of New York (16 NYCRR Part 21) that Niagara Mohawk Power Corporation has made an application to the Public Service Commission under Section 68 of the Public Service Law for amendment of a Certificate of Public Convenience and Necessity to exercise the rights and privileges under a gas franchise granted by the Town Board of the Town of Sand Lake in connection with Phases 1 and 2 of the Marie Heights development in the Town of Sand Lake. Niagara Mohawk Power Corporation specifically proposes to provide gas service to seventeen new residential homes to be constructed during Phase 1 and Phase 2 Marie Heights development.

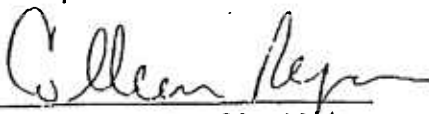
In accordance with Section 21.10 of the Rules and Regulations of the Public Service Commission, Niagara Mohawk Power Corporation has moved that the public hearing required under Section 68 of the Public Service Law on its application be held on the basis of the application and such other information as may be filed by Niagara Mohawk, any other party, or staff counsel, without oral testimony. Any person opposed to the granting of Niagara Mohawk's application should, within ten (10) days of the publication of this notice, notify in writing the Secretary of the Public Service Commission of the State of New York, Three Empire Plaza, Albany, New York 12223, of the reasons for the opposition.

NIAGARA MOHAWK POWER CORPORATION
Attn: Law Department
300 Erie Boulevard West
Syracuse, New York 13202

STATE OF NEW YORK)
COUNTY OF ~~Albany~~ (CL)

ss:

I, Colleen Regan, Clerk of the Town of Sand Lake in the County of Rensselaer and State of New York, do hereby certify that the attached copy of the Resolution and Franchise is a true and complete copy of the original thereof granted to NIAGARA MOHAWK POWER CORPORATION by the Town of Sand Lake on the 10th day of September, 1986.


Clerk of the Town of Sand Lake

R E S O L U T I O N

NIAGARA MOHAWK POWER CORPORATION having, by its written petition dated May 27 , 1986, requested the consent of the Town of Sand Lake, County of Rensselaer and State of New York, that it may carry on the gas utility business in said Town and may occupy the streets and public places in said Town for that purpose, and a public hearing having been held after due notice thereof having been given as required by Section 4-412 subdivision 3 of the Town Law, and said application having been duly considered by the Board of Trustees of the Town of Sand Lake at a meeting duly held on September 10, 1986.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Sand Lake does hereby grant to said NIAGARA MOHAWK POWER CORPORATION, its successors and assigns, upon due acceptance in writing, a franchise to lay, construct, install, maintain and operate conductors, fixtures, pipes and structures for carrying, transmitting, distributing and delivering gas, natural, manufactured or mixed, and other fluids with the necessary pipes, conduits, ducts, valves, valve pits, regulators, compressors and other conductors, fixtures and structures, in, under, along, across, through and beyond all of the streets, highways, alleys, squares, lanes, parks and public places in the said Town of Sand

Lake, for the purpose of furnishing, selling and distributing gas for light, heat and power purposes in said Town and beyond the limits thereof and the doing of such other things as may be necessary and incident to its business as a Company for the furnishing of light, heat and power.

✓ PROVIDED, HOWEVER, that all conductors, pipes, mains, fixtures and other structures shall be placed in such a manner as to cause as little inconvenience to the public in the use of such highways as is practicable and consistent with the safety and efficiency of such conductors, pipes, mains, fixtures and other structures, and

✓ PROVIDED FURTHER, that in a case of any interference with the surface of any street, highway or public place for the placing, laying, constructing, repairing, maintaining and removing any conductor, pipe, main, fixture or other structure, the earth shall be replaced and the highway left in all respects in as good condition as before, and

✓ PROVIDED FURTHER, that said NIAGARA MOHAWK POWER CORPORATION, its successors and assigns, shall indemnify and hold harmless said Town of Sand Lake against all damages, costs, expenses and charges in consequence of an omission or negligent act on the part of said NIAGARA MOHAWK POWER CORPORATION, its successors and assigns.

RESOLVED, that the Town Supervisor and Town Trustees of the Town of Sand Lake be and hereby are authorized and directed to execute and deliver the written consent of the Town as herein provided.

F R A N C H I S E

THE TOWN BOARD of the Town of Sand Lake, County of Rensselaer and State of New York, by and with the consent and approval of the superintendent of Highways of said Town as evidenced by their signature attached hereto, having by resolution at a meeting of said Board duly called and held for such purpose on the 10th day of September, 1986 after public hearing, notice of which was given by publication in the official newspaper of said Town at least ten (10) days prior to the public hearing, authorized the granting of a franchise to Niagara Mohawk Power Corporation, pursuant to its petition of May 27, 1986.

NOW, THEREFORE, the Town of Sand Lake, by Douglas Kelley, its Supervisor, and John O'Brien, Richard Tallman, Paul P. Primeau, and Elizabeth Heller, its Councilmen, does hereby grant Niagara Mohawk Power Corporation, its successors and assigns, upon due acceptance hereof in writing a franchise to lay, construct, install, maintain and operate conductors, fixtures, pipes and structures for carrying, transmitting, distributing and delivering gas, natural, manufactured or mixed, and other fluids with the necessary pipes, conduits, ducts, valves, valve pits, regulators, compressors and other conductors, fixtures and structures in, under, along, across, through and beyond all streets, highways,

alleys, squares, lanes, parks and public places in the said Town of Sand Lake, for the purpose of furnishing, selling and distributing gas for light, heat and power purposes in said Town and beyond the limits thereof and the doing of such other things as may be necessary and incident to its business as a company for the furnishing of light, heat and power.

PROVIDED, HOWEVER, that all conductors, pipes, mains, fixtures and other structures shall be placed in such a manner as to cause as little inconvenience to the public in the use of such highways as is practicable and consistent with the safety and efficiency of such conductors, pipes, mains, fixtures and other structures, and

PROVIDED FURTHER, that in case of any interference with the surface of any street, highway or public place for the placing laying, constructing, repairing, maintaining and removing any conductor, pipe, main, fixture or other structure, the earth shall be replaced and the highway left in all respects in as good condition as before, and

PROVIDED FURTHER, that said Niagara Mohawk Power Corporation, its successors and assigns, shall indemnify and hold harmless said Town against all damages, costs, expenses and charges in consequence of any omission or negligent act on the

part of said NIAGARA MOHAWK POWER CORPORATION, its successors and assigns.

IN WITNESS WHEREOF, the Town of Sand Lake has caused this instrument to be signed in its name by its supervisor and Town Board, and the seal of the Town to be hereunto affixed this 10th day of SEPTEMBER, 1986.

TOWN OF SAND LAKE

By *Dennis S. Kelly*
Supervisor
Paul D. Pomeroy
Councilman
Richard Tallman
Councilman
Elizabeth Meller
Councilman
John M. Quinn Jr.
Councilman

TOWN BOARD

I, BRIAN P. WEISS, Superintendent of Highways of the Town of Sand Lake, County of Rensselaer, State of New York do hereby join in the execution and delivery of the foregoing franchise or privilege and do hereby approve, ratify and confirm the same.

DATED: SEPTEMBER 10th, 1986

Brian P. Weiss
Superintendent of Highways

NIAGARA MOHAWK POWER CORPORATION hereby accepts the terms of the foregoing consent and franchise this 15th day of September, 1986. *JK*

NIAGARA MOHAWK POWER CORPORATION

By *[Signature]*

Vice President *JK*

I, Joyce Teal, Clerk of the Town of Sand Lake, in the County of Rensselaer and the State of New York, do hereby certify that the attached copy of the Resolution and Franchise is a true and complete copy of the original thereof granted this day to NIAGARA MOHAWK POWER CORPORATION by the Town Board of said Town of Sand Lake at a meeting of said Board held in the Town on the 10th day of SEPTEMBER, 1986.

Joyce A. Teal
Clerk of the Town of Sand Lake



**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 01-G-0401

Petition of Niagara Mohawk Power Corporation for Approval, Pursuant to Section 68 of the Public Service Law, for the Exercise of Gas Franchises in the Town of West Sand Lake, Rensselaer County

AFFIDAVIT

STATE OF NEW YORK)
)
COUNTY OF ALBANY)

SS:

DAVID CAREY, being duly sworn, deposes and says that:

1. I am a Supervisor in the Distribution Design Department of Niagara Mohawk Power Corporation ("Niagara Mohawk"). My business address is:

1125 Broadway

Albany, New York 12204
2. I make this Affidavit in support of Niagara Mohawk's Petition for Commission approval of Niagara Mohawk's exercise of a gas franchise in the Town of Sand Lake, Rensselaer County. I address herein the design, construction, cost, scheduling and system operations pertaining to the Town of Sand Lake, Franchise Project ("Project").
3. I received a 2-year Associate in Applied Sciences from The Junior College of Albany (a Division of Russell Sage College) in 1970 and a Bachelor's of Business Administration, from Siena College in 1975. I commenced employment with Niagara Mohawk in 1973 and have held various positions of increasing responsibilities in Consumer Relations/Marketing and the Distribution Design Departments. I became Supervisor of Gas Distribution Design in 2002.
4. As shown on the map attached hereto as Exhibit 1 and the schedule of construction footage attached as Exhibit 2, the Marie Heights underground residential distribution ("URD") project is comprised of three segments. Exhibit 1 delineates the area where Niagara Mohawk currently has franchise rights: Segment 1 (work completed) and Segment 2 (construction drawings to be submitted), and the area where the Company

is currently petitioning for franchise expansion rights Segment 3. This Affidavit is provided in support of Segment 3 and references Segments 1 and 2 for practical considerations: Segment 2 involves installation of approximately 500 feet of 2" natural gas main to serve 4 future gas customers within the Marie Heights Subdivision where Niagara Mohawk currently has franchise rights. Segment 2 will tap the existing gas distribution at the boundary of Lots 9 and 40, and then along Marie Heights road to Lot 12. Segment 3 involves installation of approximately 2,100 feet of 2" natural gas main to serve 17 future gas customers within the Marie Heights Subdivision. The construction of proposed Segment 3 will tap the existing 2" gas main at Lot 12 and will continue approximately 2,100 feet along Marie Heights road to Lots 1 and 20 at the intersection of Marie Heights road and Capital Boulevard. Based on engineering analysis, there is sufficient gas pressure to support peak gas loads within Marie Heights phase 1 and phase 2. The construction of Segments 2 and 3 in continuum would enable the Company to achieve economic efficiencies because of the increased scale and scope of the project. The financial analysis of Segment 3 – as a stand-alone project – demonstrates that it is viable. These efficiencies that can be obtained by constructing Segments 2 and 3 in continuum enhance financial case for Segment 3. Segments 2 and 3 are both within the subdivision known as Marie Heights Phase 1 and Phase 2.¹

5. All construction will be within the highway easement in previously disturbed areas and will be performed in accordance with the New York State Department of Public Service's Environmental Management and Construction Standards and Practices ("EM&CS&P"). Minimal EM&CS&P will be utilized for the Marie Heights Subdivision project. The landscape allows for standard construction practices to be employed. Installation will be accomplished by both open cut and conduit pull

¹ For reference purposes, Segment 1 is located in Forest Glen Phase 3. . The name of the bisecting road has been referred to as both Forest Glen Road and Forest Glen Court. The new name of the road, Marie Heights, replaces the former Forest Glen Road and Forest Glen Court road names.

methods. The checklist of EM&CS&P Measures and techniques to be considered for this construction is attached hereto as Exhibit 4. Upon Commission approval of Niagara Mohawk's Petition, construction will commence in the Spring of 2005.

6. The estimated Construction Costs of the Project are set forth in Exhibit "7, Attachment A, Schedule D", attached hereto.
7. Existing Niagara Mohawk field personnel working out of service locations in Sand Lake, New York (depending upon the specific functions) will operate and maintain this Gas Main Extension and perform meter reading and customer service functions with no staff additions being required.


DAVID CAREY

Sworn to before me this

6th day of January 2005



Notary Public

VERA BETH FERRARA
Notary Public, State of New York
Qualified in Albany County
Reg. No. 4912975
Commission Expires November 16, 20 05

ALL STAFF LEGAL 806 222 611

NIAGARA MOHAWK POWER CORPORATION PETITION
TO EXERCISE GAS FRANCHISE for the MARIE HEIGHTS PHASE 1 AND PHASE 2 DEVELOPMENT
IN THE TOWN OF SAND LAKE, RENSSELAER COUNTY, NEW YORK
CHECK-OFF LIST FOR COMMISSION-APPROVED EM&CS&P
TO BE EMPLOYED BY THE APPLICANT
JANUARY 5, 2005

Exhibit 5

Checklist of EM&CS&P Measures and Techniques

Check indicates item will be employed on this Project

A. Site Preparation

1. Confining clearing to minimum
 - a. General considerations..... X
 - b. Specific limitations in sensitive areas..... X
 - c. Tree felling..... X
2. Clearing techniques
 - a. Salvaging merchantable woody material
 - b. Disposal of nonmerchantable wood material
 - (1) Logs..... X
 - (2) Limbs and tops..... X
 - (3) Stump disposal..... X
 - c. Use of material for building temporary roads
3. Rough grading
4. Access roads and construction paths
 - a. Building access roads or construction paths
 - (1) Corduroy and/or brush mat roads
 - (2) Filter fabric and gravel roads
 - (3) Gravel roads
 - b. Standard stream crossing techniques
 - (1) Blasting mats
 - (2) Log culverts
 - (3) Stream ford without sill
 - (4) Stream ford with sill
 - (5) Temporary stringer bridge
 - c. Wetland crossing procedures
 - (1) Corduroy and/or brush mat roads
 - (2) Filter fabric and/or corduroy with gravel roads
 - (3) Temporary wooden or pontoon bridges or their equivalents
5. Drainage and erosion control
 - a. Standard water diversion devices and their applicability (Highway agency contact).... X
 - (1) Swales and berms..... X
 - (2) Side ditches..... X
 - (3) Diversion ditches
 - (4) French drains
 - (5) Culverts..... X
 - (6) Catchment basins..... X*

* as appropriate

A. Site Preparation (continued)

5. Drainage and erosion control (continued)
 - b. Standard sediment retention techniques and methods for drainage ditches and general runoff
 - (1) Hay bales and filter material..... X
 - (2) Basins and retention ponds..... X
6. Stream crossings
 - a. Stream crossing requirements..... X
 - b. Limiting vehicular crossings

B. Pipeline installation

1. ROW proper (locate buried facilities and excavate by hand)..... X
 - a. Trench (SWCD contact required in farm & residential areas; removal & replanting of
ornamentals)..... X
 - b. Pipelaying..... X
 - c. Backfilling..... X
2. Highway and railroad crossings..... X
 - a. Highway traffic control..... X
 - b. Open road cuts..... X
 - c. Boring..... X
 - d. Erosion control..... X
3. Associated facilities' sites
 - a. Compressor sites
 - b. Equipment staging areas and temporary work areas..... X
4. Hydrostatic testing
5. Handling and disposal of toxic material
 - a. Storage..... X
 - b. Refueling..... X
 - c. Cleanup procedure..... X
 - d. Herbicide restrictions
6. Ongoing erosion control during construction..... X
(as required by conditions)
7. Noise impact mitigation measures during construction
 - a. Routine mitigation measures..... X
 - b. Blasting restriction
8. Protection and preservation of archaeological resources..... X

C. Restoration of ROW and associated sites..... X

1. ROW cleanup..... X
2. Removal of temporary erosion control devices..... X

C. Restoration of ROW and associated sites (continued)

- 3. Site preparation
 - a. Grading and additional backfill..... X
 - b. Liming..... X
 - c. Dicing and raking..... X
 - d. Fertilizing..... X
- 4. Seeding
 - a. Grass seed mixtures..... X
 - b. Shrub and tree plantings..... X
 - c. Timing..... X
 - d. Follow-up..... X
- 5. Mulch..... X
- 6. Streambank restoration
 - a. Tech and material
 - (1) Low velocity - low volume
 - (2) High velocity - low volume
 - (3) High or low velocity - high volume
 - (4) High or erratic velocity - high volume
 - b. Use of vegetation
 - c. Follow-up responsibilities
- 7. Watering of plantings
- 8. Restoring of man-made structures..... X

D. Long-term ROW maintenance

- 1. Maintaining drainage and erosion controls
 - a. Objectives
 - b. Company responsibilities
- 2. Vegetation maintenance
 - a. Objectives
 - (1) Restricting mowing
 - (2) Unmowed buffers
 - (3) Retention of hedgerows
 - b. ROW vegetation maintenance methods and their application
 - (1) Mechanical methods
 - (a) Handcutting
 - (1) Cut it and leave as it lays
 - (2) Cut and hand pile
 - (3) Cut and machine pile
 - (b) Machine cutting
 - (1) Mowing
 - (2) Rotary brush cutters
 - (3) Brush hog

D. Long-term ROW maintenance (continued)

2. Vegetation maintenance (continued)

b. ROW vegetation maintenance methods and their application (continued)

(2) Chemical treatment

(a) Stem-specific

(1) Basal

(2) Stem injection

(b) Selective foliar spray

(1) Backpack sprayer method

(3) Mounted spray unit method

(4) Cut and treat

(a) Prespray and cut

(b) Cut and stump treat

3. Provisions for maintaining access roads, fences and gates

4. Provisions for maintaining the integrity of sensitive sites affected by construction

a. Streams and wetlands

b. Steep slopes and ravines

c. Rare, threatened and endangered habitat

d. Scenic areas and vistas

e. Special conditions in certificates..... X

f. Post-construction noise evaluation of compressors

5. Accommodations for multiple uses of ROW

a. Existing land uses

b. Existing recreational uses

6. Local laws and ordinances

E. Supervision..... X



STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 01-G-0401 Petition of Niagara Mohawk Power Corporation for Approval,
Pursuant to Section 68 of the Public Service Law, for the Exercise
of a Gas Franchise in the Town of Sand Lake, Rensselaer County.

STATE OF NEW YORK)

ss:

COUNTY OF ONONDAGA)

MICHAEL W. SHERMAN, being duly sworn, deposes and says that:

1. I am a Principal Environmental Engineer in the Environmental Department of Niagara Mohawk, a National Grid Company ("Niagara Mohawk"). My business address is Environmental, C-1, 300 Erie Blvd. West, Syracuse, New York 13202.
2. I make this Affidavit in support of Niagara Mohawk's Petition for Commission approval of Niagara Mohawk's proposed expansion of an existing gas franchise in the Town of Sand Lake, Rensselaer County, New York, to provide natural gas service to 'Parts of' Marie Heights Residential Subdivision, Phase I and to the Marie Heights Residential Subdivision, Phase II. (NOTE: In aggregate, the total project will require a total of approximately 2,100 feet of gas main).
3. I received an Associates Degree in Pre-Professional Forestry from Paul Smith's College, in 1975. In 1978, I received a Bachelor of Science Degree in Forest Biology/Wildlife Management from the State University of New York's College of Environmental Science and Forestry, in Syracuse, New York. In 1995, I

received a Master of Business Administration Degree from Syracuse University.

I have approximately 25 years of experience in utility-related environmental compliance and management. I commenced employment with Niagara Mohawk in 1978, as a Temporary Meter Reader. In 1979, I joined the Environmental Affairs Department, where I have since supported and managed the environmental licensing and permitting of numerous electric and natural gas transmission and construction projects.

4. With regard to the proposed Sand Lake Gas Franchise Expansion (Marie Heights Residential Subdivision, Phases I and II), I prepared the State Environmental Quality Review Short Environmental Assessment Form attached to this Affidavit as Exhibit MWS-1.


MICHAEL W. SHERMAN

Sworn to before me this
5th day of January, 2005



RITA MARIE CARLUCCI
Notary Public, State of New York
Qualified in Onon Co. No. 4967987
Commission Expires June 11, 2006

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR <i>NIAGARA MOHAWK POWER CORPORATION</i>	2. PROJECT NAME <i>MARIE HEIGHTS NATURAL GAS URD</i>
3. PROJECT LOCATION: Municipality <i>SAND LAKE</i> County <i>RAMSEY</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>MARIE HEIGHTS SUBDIVISION, PHASE II, WEST OF ROUTE 150 AND NORTH OF ROUTE 43 (SEE ENCLOSED MAP)</i>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
* 6. DESCRIBE PROJECT BRIEFLY: <i>(segment 2 - 500' (4 curbs) segment 3 - 2,100' 17 curbs)</i> <i>INSTALL 2600 FEET (±) OF 2-INCH HP PLASTIC GAS MAIN ON MARIE HEIGHTS PHASE I & II, IN THE TOWN OF SAND LAKE. APPROXIMATELY 500 FEET WILL INVOLVE AN EXPANSION OF THE PREVIOUS NATURAL GAS FRANCHISE. 212 NEW CUSTOMERS WILL BE SERVED.</i>	
7. AMOUNT OF LAND AFFECTED: <i>2,600 LINEAR FEET; THE URD WILL BE PLACED IN A 4-FOOT TRENCH</i> Initially _____ acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <i>MARIE HEIGHTS RESIDENTIAL DEVELOPMENT</i>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <i>THE DEVELOPER, ETP, INC., HAS OBTAINED LOCAL APPROVALS FOR THE MARIE HEIGHTS SUBDIVISION, PHASE II.</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <i>THE DEVELOPER, ETP, INC., HAS APPROVALS FROM THE TOWN OF SAND LAKE FOR THE MARIE HEIGHTS SUBDIVISION, PHASE II.</i>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <i>MICHAEL G. SHERMAN</i> Date: <i>9/1/04</i> Signature: <i>Michael G. Sherman</i>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER 1

* TOTAL 2,600' (±) - 2" PLASTIC
 'segment 2' → 500' (±) - 2" PLASTIC WITHIN 'EXERCISABLE FRANCHISE'
 'segment 3' → 2,100' (±) - 2" PLASTIC PETITION AMENDMENT TO EXERCISE GAS FRANCHISE
 2,600' (±) = 500' (±) + 2,100' (±)



PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, coordinate the review process and use the FULL EAF.
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly:	
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, explain briefly:	

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- ☐ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (If different from responsible officer)

Reset

RECEIVED**EXHIBIT 6**

AUG 5 2004

CHRISTINE KRONAU
TOWN CLERK**SUB-04-9**

RESOLUTION OF SAND LAKE PLANNING BOARD
ON APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION PLAT

On **MOTION** of Gary Charlton, **SECONDED** by Michael Groff, the following Resolution was unanimously adopted on August 4, 2004.

WHEREAS the Sand Lake Planning Board had received an Application for Approval of a Subdivision plat:

APPLICANT(S): EJP, Inc.

PREPARED BY: RDM Surveying Consultants

NUMBER OF SHEETS: 11

DATED: October 29, 2002

PARCEL(S): 21-Lot

LOCATION: South of Capital Boulevard, West Sand Lake (Marie Heights)

ZONING DISTRICT: R-1

TAX MAP NO.: 146.2-4-70.1


CONDITIONS: In accordance with Town Review Engineer's letter of 8/4/04 (copy attached).

WHEREAS Preliminary Approval was granted by a **MOTION** of Gary Charlton and **SECONDED** by Michael Groff on August 4, 2004, and;

NOW, THEREFORE, BE IT RESOLVED, that the Sand Lake Planning Board, after due consideration, does hereby grant preliminary approval of the subdivision plat as submitted.

BE IT FURTHER RESOLVED that the Chairman and/or Secretary of the Sand Lake Planning Board be and hereby are authorized to sign such subdivision plat.

DATED: August 5, 2004


Justin A. Schultz, Chairman

Aug 04 04 03:39p

Trillium Lane

5184563465

p.1



H.V. LABARBA & ASSOCIATES
CONSULTING ENVIRONMENTAL ENGINEERS

100 TRILLIUM LANE
ALBANY, NEW YORK 12203
(518) 456-0006
FAX (518) 456-3465

August 4, 2004

Town of Sand Lake
Planning Board
PO Box 273
Sand Lake, NY 12153

RE: Marie Heights Subdivision Phases I and II
Review of Preliminary Plans

Attn: Planning Board Chairman and Board Members

We have reviewed plans entitled Preliminary Subdivision Plans entitled "Marie Heights Phase I and II dated October 29, 2002 last revised 5/2/04, and Preliminary Site Plans prepared by Hart Engineering last revision dated 5/25/03. This letter summarizes our preliminary comments to date. The plans include a subdivision for 20 lots in two phases.

General

The subdivision is located in an R-1 district which allows for a minimum of 43,500 sf lot size if public sewer is available. Phase I & II will have lot sizes in excess of this requirement.

A new Town road will be constructed between Longview Ave and Capital Blvd near Valley Drive.

There is Town sanitary sewer service available. The developer plans to install a pressure sewer system that utilizes small diameter sewers and grinder pumps at each residential property.

Environmental Conservation law requires a permit for work that disturbs more than one acre of land. This permit should be on file at the Town offices. The permit conditions require erosion control and storm water pollution prevention plans during construction activities.

The preliminary plans do not show driveways or house locations for any lots. The grading plan does not show proposed contours for any lots nor driveway grades. Estimated first floor house elevations, lot grading, driveway location and grading as well as lot site work that may impact adjacent lots should be noted on the plans.

Standard Town building setback lines may not be appropriate for some lots due to

topography or other site conditions. These lots should be identified and noted with special setback lines.

There is no information pertaining to the presence of wetlands on site.

Road System

The new "Marie Heights" road will interconnect with existing Town roads. The proposed connection on Capital Blvd is near Valley Drive but will not form a true intersection. There will be an offset between the new road and Valley Drive. The Town Highway Department should review this configuration and concern for safety. Ideally, a four way intersection should not be offset. The design engineer should evaluate the proposed plan to consider whether a redesign is possible and the need for any variances to Town standards.

Several sections of the new road will involve deep cut and fills where sub base or pipe work is required. Preparation for new roads and infrastructure require land and brush clearing, filling and grading with suitable materials for road sub base. All work involving fill in proposed roadways, and especially in areas where sewer or pipe will be installed should be supervised by qualified Town personnel or the design or Town engineer.

The road grade between Sta 0+00 and 7+00 exceeds the Town standard of 10% at 13%

Water, Sewer and Drainage

Each lot will have an individual well for water supply. Sanitary sewer service will by the Town system.

The engineer has prepared an Engineer's report and a storm water management report. The report or letter from the design engineer should include a statement as to whether the proposed storm water system is in compliance with the requirements of NYS Dept of Environmental Conservation regulations pertaining to storm water management.

The drainage system proposed for the roads and right of ways includes ditches and culverts. There are several cross culverts (four) along the roadway. Each culvert will discharge to adjacent lots. Provisions for drainage easements through these lots are required. Ultimate drainage routes for storm water runoff should be shown on the plans. A statement that the storm water runoff associated with this development will not impact adjacent properties should be included in the report.

The profiles do not show one culvert crossing at Sta 14+25+/- . The culvert at Sta 7+12 has apparently been installed already.

Aug 04 04 03:39p

Trillium Lane

5184563465

P. 3

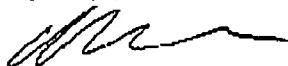
Site Work

There has been some clearing and road preparation in Phase I to date. The developer should be made aware that the Town cannot assuredly take possession of infrastructure that has not been inspected by an engineer who can certify its compliance to Town standards.

Our review may continue pending comments from the Board, Town Highway or others. As the plans are revised and final plans prepared we will offer further comments. At that time we may offer additional comments on issues not previously addressed.

If there are any further questions please contact me.

Very truly yours,



Henry V. LaBarba, P.E.
Consulting Environmental Engineers
HVL/m
cc:file

SEQR Negative Declaration

Reasons for Supporting This Determination:

(See 617.7(a) for requirements of this determination;
see 617.7(d) for Conditioned Negative Declaration)

There are no apparent adverse environmental impacts associated with this project.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

For further information:

Contact Person: Justin Schultz, Chairman
Sand Lake Planning Board
P.O. Box 273
Sand Lake, New York 12153
Telephone Number: (518) 674-2026, extension 17

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice sent to:

Commissioner, NYS Department of Environmental Conservation, Albany, New York 12233-1010

Appropriate Regional Office of DEC

Office of the Chief Executive Officer of the political subdivision in which action will be principally located.

Applicant: EJP, Inc.

Other involved agencies: NYS Department of Environmental Conservation, Rensselaer County Health Department, Rensselaer County Sewer District #1, Sand Lake Highway Sewer Departments, and the Town of Sand Lake Zoning Board of Appeals

RECEIVED

AUG 5 2004

CHRISTINE KRONAU
TOWN CLERK

617.21

SEQRA

Appendix F

State Environmental Quality Review

NEGATIVE DECLARATION

Notice of Determination of Non-Significance

Project Number: SUB-04-9

Date: August 5, 2004

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Motion of Paul Splain , seconded by Ralph LaMontagna and unanimously carried, the Town of Sand Lake as lead Agency, has determined that the proposed action described below will not have a significant effect on the environment, and a Draft Environmental Impact statement will not be prepared.

Name of Action: EJP, Inc.

SEQR Status: Type I
 Unlisted X

Conditioned Negative Declaration: Yes
 No X

Description of Action: 21-lot Subdivision

Location: South of Capital Boulevard, West Sand Lake (Marie Heights)

RECEIVED

AUG 5 2004

CHRISTINE KRONAU
TOWN CLERK

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 01-G-0401 Petition of Niagara Mohawk Power Corporation
for Approval, Pursuant to Section 68 of the Public Service Law,
for the Exercise of Gas Franchise in the Town of Sand Lake,
Rensselaer County.

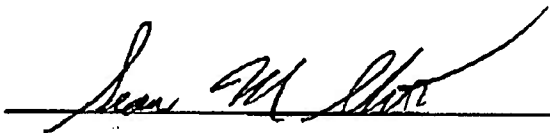
AFFIDAVIT

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

SEAN M. STACK, being duly sworn, deposes and says that:

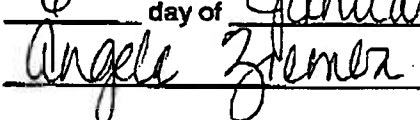
1. I am a Principal Financial Analyst with Niagara Mohawk, a National Grid Company. My business address is 300 Erie Boulevard West, Syracuse New York, 13202.
2. I make this Affidavit in support of NMPC's Petition to the Public Service Commission for approval of the exercise of a gas franchise for an extension of Marie Heights Segment 3 in the Town of Sand Lake, as described in the Petition. I address here the five-year financial analysis I performed regarding the Segment 3 Gas Franchise Project ("Project").
3. I received a Bachelor's Degree in Business Administration and Accounting from Siena College in 1985. I received a Master's Degree in Business Administration from the State University of New York at Oswego in 1995. I commenced my employment with Niagara Mohawk in 1988 as a Budget Analyst and have held positions of increasing responsibilities since that time.
4. The five-year financial analysis performed for the Project forecasts a rate of return of 11.27% by year five. See Attachment A attached. Since Niagara Mohawks gas operations currently are allowed an after tax rate of return of 8.20% under Case 99-G-0336, the Project satisfies the guidelines for normal rate treatment set forth in the Commission's Statement of Policy, issued December 11, 1989, in Case 89-G-078 - Expansion of Gas Service into New Franchise Areas. See Attachment A and supporting notes and schedules.

5. As detailed in Attachment A, the financial analysis reflects a net revenue forecast for the Project involving attachment of 17 residential units over a five year period. Associated capital was phased in over the same period as shown (Attachment A - Schedule B). Annual net revenues are based on currently effective rates. Estimated therm (usage) for each class (residential or commercial customers) or for specific customers that could be separately estimated were multiplied by the applicable effective rates to compute annual revenue (Attachment A - Schedule A). Forecasted Net Plant Additions are based on the estimated costs of the various sizes of main to be installed, cost of service laterals, and meter costs as indicated in the affidavit by David Carey and presented in Attachment A - Schedule D).
6. For book purposes, plant assets were depreciated using rates that were based upon a study performed by NMPC in 1996 (Attachment A Schedule B). Federal Income Taxes are based on use of accelerated tax depreciation rates. Estimates of Incremental Operation and Maintenance expenses were provided by System Gas Operations. Forecasted Property Taxes were provided by the System Tax Department and are calculated as shown on Attachment A - Schedule E.
7. NMPC, through its operating revenues and other general sources of funds, will finance the Project.



Sean M. Stack

Sworn to before me this

6 day of January 2005


Notary Public

ANGELA ZIEMBA
Notary Public in the State of New York
Qualified in Onondaga Co. No. 4857037
My Commission Expires

4.28.06

**Niagara Mohawk Power Corporation
Income Statement**

Attachment A

**Sandlake Gas Franchise - Marie Heights Extension (Segment 3)
For the Years Ending December 31,**

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Total Revenues (Schedule A)	\$ 1,488	\$ 2,976	\$ 4,464	\$ 6,324	\$ 6,324
Expenses:					
Operation & Maintenance	550	561	572	584	595
Property & Other Taxes (Schedule E)	-	887	913	941	969
Administrative & General expenses	39	52	53	54	67
Depreciation (Schedule B)	<u>344</u>	<u>448</u>	<u>547</u>	<u>674</u>	<u>674</u>
Total Operating Expenses	<u>933</u>	<u>1,948</u>	<u>2,085</u>	<u>2,252</u>	<u>2,306</u>
Operating Income Before Tax	555	1,030	2,379	4,072	4,018
Income Taxes (Schedule C)	<u>2,296</u>	<u>(724)</u>	<u>(310)</u>	<u>211</u>	<u>208</u>
Operating Income	(1,741)	1,754	2,689	3,861	3,810
Interest Expense	<u>983</u>	<u>1,134</u>	<u>1,281</u>	<u>1,465</u>	<u>1,436</u>
Net Income	<u>\$ (2,724)</u>	<u>\$ 620</u>	<u>\$ 1,408</u>	<u>\$ 2,396</u>	<u>\$ 2,374</u>
Other Information:					
Net Plant (Schedule B)	<u>\$ 23,137</u>	<u>\$26,691</u>	<u>\$30,144</u>	<u>\$34,470</u>	<u>\$33,796</u>
Rate Of Return after tax	<u>-7.52%</u>	<u>6.57%</u>	<u>8.92%</u>	<u>11.20%</u>	<u>11.27%</u>

Niagara Mohawk Power Corporation
Schedule of Forecasted Revenues
Sandlake Gas Franchise -Marie Heights Extension (Segment 3)
For the Years Ending December 31,

Attachment A- Schedule A

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Revenue Forecast Single Family Res.					
(A) Percent Customers Installed	24%	47%	71%	100%	100%
(B) Cumul.# of Customers	4	8	12	17	17
(C) Average Gross Margin per Cust.	\$372	\$372	\$372	\$372	\$372
(D) Avg. Annual Gross Margin (8 Times C)	\$1,488	\$2,976	\$4,464	\$6,324	\$6,324
(E) Average Annual Throughput per Cust.	1,176	1,176	1,176	1,176	1,176
(F) Avg. Annual Throughput for all customers	4,704	9,408	14,112	19,992	19,992
Total Gross Margin	\$1,488	\$2,976	\$4,464	\$6,324	\$6,324
Total Annual Throughput	4,704	9,408	14,112	19,992	19,992

Niagara Mohawk Power Corporation
Schedules of Net Plant and Book Depreciation
Sandlake Gas Franchise - Marie Heights Extension (Segment 3)

Attachment A- Schedule B

		For the Years Ending December 31,				
		<u>2,005</u>	<u>2,006</u>	<u>2,007</u>	<u>2,008</u>	<u>2,009</u>
Gross Plant Additions						
Main	\$ 27,300	\$ -	\$ -	\$ -	\$ -	\$ -
Services	3,600	3,600	3,600	4,500	-	-
Meters & Regulators	400	400	400	500	-	-
Other	-	-	-	-	-	-
Aid in Construction *	(7,819)	-	-	-	-	-
Total	<u>\$ 23,481</u>	<u>\$ 4,000</u>	<u>\$ 4,000</u>	<u>\$ 5,000</u>	<u>\$ -</u>	<u>\$ -</u>
Book Depreciation Expense						
Main	\$ 504	\$ 504	\$ 504	\$ 504	\$ 504	\$ 504
Services	88	176	264	374	374	374
Meters & Regulators	13	27	40	57	57	57
Other	-	-	-	-	-	-
Aid in Construction	(261)	(261)	(261)	(261)	(261)	(261)
Total	<u>\$ 344</u>	<u>\$ 446</u>	<u>\$ 547</u>	<u>\$ 674</u>	<u>\$ 674</u>	<u>\$ 674</u>
		December 31,				
		<u>2,005</u>	<u>2,006</u>	<u>2,007</u>	<u>2,008</u>	<u>2,009</u>
Gross Plant						
Main	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300
Services	3,600	7,200	10,800	15,300	15,300	15,300
Meters & Regulators	400	800	1,200	1,700	1,700	1,700
Other	-	-	-	-	-	-
Aid in Construction *	(7,819)	(7,819)	(7,819)	(7,819)	(7,819)	(7,819)
Total	<u>23,481</u>	<u>27,481</u>	<u>31,481</u>	<u>36,481</u>	<u>36,481</u>	<u>36,481</u>
Accumulated Reserve		<u>344</u>	<u>790</u>	<u>1,337</u>	<u>2,011</u>	<u>2,685</u>
Net Plant		<u>\$ 23,137</u>	<u>\$ 26,691</u>	<u>\$ 30,144</u>	<u>\$ 34,470</u>	<u>\$ 33,796</u>

* Nonrefundable contribution made by developer is based on Main Extension Calculator.

Niagara Mohawk Power Corporation
Schedules of Tax Depreciation and Income Taxes
Sandlake Gas Franchise - Marie Heights Extension (Segment 3)

Attachment A- Schedule C

	<u>2,005</u>	<u>2,006</u>	<u>2,007</u>	<u>2,008</u>	<u>2,009</u>
Tax Depreciation					
Annual Tax Depreciation Rates	<u>3.75%</u>	<u>7.22%</u>	<u>6.68%</u>	<u>6.18%</u>	<u>5.71%</u>
Plant Additions	\$ 31,300	\$ 31,300	\$ 31,300	\$ 31,300	\$ 31,300
Tax Depreciation Rate	3.75%	7.22%	6.68%	6.18%	5.71%
	\$1,174	\$2,260	\$2,090	\$1,933	\$1,788
Plant Additions Year 2		\$4,000	\$4,000	\$4,000	\$4,000
Tax Depreciation Rate		3.75%	7.22%	6.68%	6.18%
		\$150	\$289	\$267	\$247
Plant Additions Year 3			\$4,000	\$4,000	\$4,000
Tax Depreciation Rate			3.75%	7.22%	6.68%
			\$150	\$289	\$267
Plant Additions Year 4				\$5,000	\$5,000
Tax Depreciation Rate				3.75%	7.22%
				\$188	\$361
Plant Additions Year 5					\$0
Tax Depreciation Rate					3.75%
Total Tax Depreciation	<u>\$ 1,174</u>	<u>\$ 2,410</u>	<u>\$ 2,529</u>	<u>\$ 2,677</u>	<u>\$ 2,683</u>
Income Tax Calculation					
Operating Income Before Tax	\$ 8,374	\$ 1,030	\$ 2,379	\$ 4,072	\$ 4,018
Less: Interest Expense	(983)	(1,134)	(1,281)	(1,465)	(1,436)
Book to Tax Depreciation adjustment	(830)	(1,964)	(1,982)	(2,003)	(1,989)
Taxable Income	<u>\$ 6,561</u>	<u>\$ (2,068)</u>	<u>\$ (884)</u>	<u>\$ 604</u>	<u>\$ 593</u>
Income Tax Expense @ 35%	<u>\$ 2,296</u>	<u>\$ (724)</u>	<u>\$ (310)</u>	<u>\$ 211</u>	<u>\$ 208</u>

	2006			2006		2007		2008		2008		Grand Total	
	Cost Per	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
	Unit / Ft.	Est.	Cost	Unit / Ft.	Cost	Unit / Ft.	Cost	Unit / Ft.	Cost	Unit / Ft.	Cost	Unit / Ft.	Cost
Gas Main													
Plastic Main Pipe	\$13.00	2,100	\$ 27,300	-	\$ -	-	\$ -	-	\$ -	-	\$ -	2,100	\$ 27,300
	\$0.00	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal Gas Main		2,100	27,300	-	-	-	-	-	-	-	-	2,100	27,300
Gas Services	Cost per	# Services	Total	# Services	Total	# Services	Total	# Services	Total	# Services	Total	# Services	Total
	Service	Installed	Cost	Installed	Cost	Installed	Cost	Installed	Cost	Installed	Cost	Installed	Cost
Laterals-residential	\$ 800	4	\$ 3,200	4	\$ 3,200	4	\$ 3,200	5	\$ 4,000	-	\$ -	17	\$ 13,600
Meters & Regulation-residential	100	4	400	4	400	4	400	5	500	-	-	17	1,700
Subtotal Gas Services	\$ 1,000	-	\$ 4,000	-	\$ 4,000	-	\$ 4,000	-	\$ 5,000	-	\$ -	-	17,000
Total Construction Cost			\$ 31,300		\$ 4,000		\$ 4,000		\$ 9,000		\$ -		\$ 44,300

	Percent	Costs	CIAO	Total
Workforce Labor		\$	\$	\$
Supervision Labor		8,911	0	8,911
Other Labor		8,433	0	8,433
Labor Subtotal		17,344	0	17,344
Fringe	33.49%	18,418	0	18,418
Direct Purchases		\$	\$	\$
Stores Materials		15,100	0	15,100
Handling	21.82%	2,224	0	2,224
Sales Tax	9.09%	0	0	0
Transportation	20.84%	2,981	0	2,981
Contractors / Consultants		0	0	0
Employee Expenses (note2)		0	0	0
Other - Invoiced		0	0	0
CAD (Labor Contractor, consultants, Fringe & Transportation)	18.82%	0	0	0

	Hours	Straight
Labor		
Chief Mechanic A	34,433	144 \$4,957.92
Chief Mechanic C	27,455	144 \$3,953.52
		\$8,911.44
Supervision	40	80 \$2,000.00
Planning	34	100 \$3,432.50
		\$5,432.50
Material 2" c&f		\$2,079.00
Meters:	16	150 \$2,400.00
Mas.		\$5,715.00
		\$10,195.00

Niagara Mohawk Power Corporation
Schedule of Property Taxes
a Franchise -Marle Heights Extension (Segment 3)

Attachment A- Schedule E

Gross Plant:	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Gas Main	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300
Gas Services (laterals)	3,600	\$ 3,600	\$ 3,600	\$ 3,600	\$ 3,600
Meters & Regulators	400	400	400	400	400
Total:	\$ 31,300	\$ 31,300	\$ 31,300	\$ 31,300	\$ 31,300
Taxable Property:					
	<u>Rate</u>				
Gas Main	100.00%	\$ 27,300	\$ 27,300	\$ 27,300	\$ 27,300
Gas Services (laterals)	38.00%	\$ 1,296	\$ 1,296	\$ 1,296	\$ 1,296
Meters & Regulators	0.00%	-	-	-	-
Total Taxable property		\$ 28,596	\$ 28,596	\$ 28,596	\$ 28,596
Equalization rate and value	36.80%	\$ 10,523	\$ 10,523	\$ 10,523	\$ 10,523
Rate per \$000		\$84.25	\$84.25	\$84.25	\$84.25
Estimated Property Taxes		\$0 -a	\$887	\$913	\$941

a) Assumed that plant is not added to the property tax rolls until the second year.
Taxes are escalated 3% annually, starting in 2007.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 01-G-0401 Petition of Niagara Mohawk Power Corporation for Approval,
Pursuant to Section 68 of the Public Service Law, for the Exercise
of a Gas Franchise in the Town of Sand Lake, Rensselaer County.

STATE OF NEW YORK)

ss:

COUNTY OF ONONDAGA)

LEE A. KLOSOWSKI, being duly sworn, deposes and says that:

1. I am Director of Gas Supply and Transportation ("Niagara Mohawk"). My business address is 300 Erie Boulevard West, Syracuse, New York 13202.
2. I make this affidavit in support of Niagara Mohawk's Petition for Rehearing in the above matter.
3. I received a Bachelor of Science Degree in Mechanical Engineering from Rochester Institute of Technology in 1977 and a Masters Degree in Business Administration from Syracuse University in 1987. My job responsibilities include determination of Niagara Mohawk's gas supply and interstate pipeline transportation requirements and contracting to meet those requirements. I am a registered Professional Engineer in the State of New York and have been employed by Niagara Mohawk since 1977.
4. Previously, I submitted an affidavit in this matter in which I provided information to the PSC relating to Niagara Mohawk's gas supply and ability to transport gas to serve the load in the Town of Sand Lake.
5. In terms of meeting the supply needs of the Town, Niagara Mohawk has contracts with two long-haul pipelines that transport gas supplies from the Gulf of

Mexico producing area to the Northeast. These long-haul pipelines deliver gas to Dominion Transmission, Inc. (DTI) pipeline and storage facilities. Niagara Mohawk has both transportation and storage contracts with DTI. In addition, Niagara Mohawk has a long-term purchase contract for delivered gas supplies from Canada and necessary firm transportation contract for delivery of that supply to Niagara Mohawk's system as well as agreements with co-generation and industrial facilities (i.e., peakshaving agreements) that allow Niagara Mohawk to divert the gas supplies of these facilities to serve Niagara Mohawk's customers.

6. More specifically, under its current contracts with DTI, Niagara Mohawk is entitled to deliveries of a Maximum Daily Quantity (MDQ) of 788,200 Dt/day. This includes 350,122 Dt/day of gas delivered into DTI from upstream contracts or Appalachian market center purchases and 438,078 Dt/day of transportation from storage. In addition, Niagara Mohawk has contracts with Iroquois Pipeline for the delivery of approximately 50,000 Dt/day of Canadian gas supply. Also, through agreements with co-generation or industrial facilities, Niagara Mohawk has the right to call on those facilities' gas supply to serve peak day needs.

7. As is currently the case, the gas supplies delivered from the Gulf production areas or Appalachian market centers will be transported to DTI. DTI interconnects with various points of Niagara Mohawk's system near the Towns. The actual deliveries for the Towns will be at Niagara Mohawk's Troy gate station. From there, the gas will be transported on existing and new Niagara Mohawk pipelines to customers in the Town. Niagara Mohawk currently has sufficient delivery rights on DTI to supply the Town. DTI delivery capability at required pressures in this Eastern part of Niagara Mohawk's system

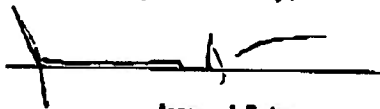
is becoming limited but the addition of up to 20 additional residential customers is within the limits of Niagara Mohawk's conservative case forecast of current and near term load can easily be accommodated.

8. For the reasons stated, Niagara Mohawk clearly has adequate supply and transportation contracts to meet the anticipated new load in the Town.



Lee A. Klosowski

Sworn to before me this
6th day of January, 2005.



Jeremy J. Euto
Notary Public, State of New York
Qualified in Onondaga County No. 02EU6031383
My Commission Expires 9/27/2005