

PENDING PETITION MEMO

Date: 6/15/2007

TO : Office of Electricity and the Environment  
Office of General Counsel  
Office of Accounting and Finance

FROM: CENTRAL OPERATIONS

UTILITY: NIAGARA MOHAWK POWER CORPORATION

SUBJECT: 07-M-0704

Joint Petition of Niagara Mohawk Power Corporation and the County of  
Oswego for Approval to Transfer the Oswego Fire School Facility.

**nationalgrid**

RECEIVED  
PUBLIC SERVICE  
COMMISSION  
EXEC-FILES-ALBANY  
Michael J. Biehler  
Associate Counsel

2007 JUN 14 PM 2:47

June 13, 2007

**VIA OVERNIGHT DELIVERY**

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

**Re: Case 07- M- \_\_\_\_\_ - Niagara Mohawk Power Corporation d/b/a National Grid, Section 70 Petition -Transfer of the Oswego Fire School Facility**

Dear Secretary Brilling:

Enclosed please find for filing an original and five (5) copies of the Joint Petition of Niagara Mohawk Power Corporation d/b/a National Grid and the County of Oswego for approval under Section 70 of the Public Service Law to transfer the Oswego Fire School Facility.

Six (6) copies of a Notice of Proposed Agency Action for publication in the State Register pursuant to the State Administrative Procedure Act are also enclosed.

Kindly acknowledge receipt of this filing by date-stamping as received the enclosed duplicate copy of this letter and returning it in the enclosed, self-addressed envelope provided for your convenience. Thank you for your attention to this matter.

Respectfully submitted,

Michael J. Biehler, Esq.

Enc.

cc: Richard C. Mitchell, Esq., County of Oswego, w/enclosures  
Robert Visalli, DPS Staff, w/enclosures  
Susan Crossett, w/enclosures  
Janet Audunson, w/enclosures

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**PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED**

**Transfer of the Oswego Fire School Facility by Niagara Mohawk Power Corporation d/b/a National Grid to the County of Oswego**

**I.D. No. PSC-**\_\_\_\_\_

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

***Proposed action:*** The Public Service Commission is considering whether to approve or reject, in whole or in part, a joint petition by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) and the County of Oswego for authority, pursuant to Public Service Law Section 70, to transfer certain real property and improvements known as the Oswego Fire School Facility located in the City of Oswego, Oswego County, New York.

***Statutory authority:*** Public Service Law, section 70

***Subject:*** Transfer of the Oswego Fire School Facility by National Grid.

***Purpose:*** To approve the transfer of the Oswego Fire School Facility from National Grid to the County of Oswego.

***Substance of proposed rule:*** The Commission is considering whether to approve or reject, in whole or in part, a joint petition filed by National Grid and the County of Oswego for authority, pursuant to Public Service Law Section 70, to transfer ownership interest in certain real property and improvements known as the Oswego Fire School Facility to the County of Oswego. The parties are requesting permission to transfer ownership of the Oswego Fire School Facility as the facility is presently shut down and no longer useful as a utility asset but it has significant value to the surrounding communities for continued use as a fire training school for municipal and volunteer firefighters. The property is to be transferred pursuant to a Purchase and Sale Agreement between National Grid and the County of Oswego which will allow National Grid the right to use the facility for a certain number of days annually to meet the periodic fire training needs of its workforce.

***Text of proposed rule may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact:*** Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-2500

***Data, view or arguments may be submitted to:*** Jaclyn A. Brillong, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

***Public comment will be received until:*** 45 days after publication of this notice.

***Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement***

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(07-M-\_\_\_\_SA1)



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**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Joint Petition of Niagara Mohawk Power )  
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Fire School Facility Pursuant to Section 70 of the )  
Public Service Law. )**  
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**Case 07-M-\_\_\_\_\_**

**JOINT PETITION  
OF  
NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID  
AND  
THE COUNTY OF OSWEGO  
TO  
TRANSFER INTERESTS IN THE OSWEGO FIRE SCHOOL FACILITY**

**NIAGARA MOHAWK POWER CORPORATION  
d/b/a NATIONAL GRID**

**By: Michael J. Biehler, Esq.**  
Niagara Mohawk Power Corporation  
d/b/a National Grid  
144 Kensington Avenue  
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**COUNTY OF OSWEGO**

**By: Richard C. Mitchell, Esq.**  
County Attorney  
County of Oswego  
46 East Bridge Street  
Oswego, New York 13126  
Telephone: (315) 349-8296  
Fax: (315) 349-8298  
rich@oswegocounty.com

**Dated: June 13, 2007**

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PUBLIC SERVICE COMMISSION**

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**INTRODUCTION AND SUMMARY OF RELIEF REQUESTED**

Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) and the County of Oswego (the “County”), collectively the Petitioners, hereby respectfully petition the Public Service Commission (the “Commission”) for authority pursuant to Section 70 of the New York State Public Service Law, N.Y. Pub. Serv. L. § 70 (McKinney 2007), and Section 31.1 of the Commission’s Rules, 16 N.Y.C.R.R. § 31.1 (2006), to transfer the Company’s interests in the real property and improvements known as the Oswego Fire School Facility to the County, with the ratemaking treatment to be afforded such transfer to be different than the Commission’s decision in Case 03-M-1374 involving the transfer of the Company’s James A. O’Neill Office Building (the “O’Neill Order”).<sup>1</sup> The Petitioners respectfully assert that the transfer of the Oswego Fire School Facility, as described below, as well as the modified

<sup>1</sup> Case 03-M-1374, *Petition of Niagara Mohawk Power Corporation for Approval of the Transfer of the James A. O’Neill Office Building, Located at 1304 Buckley Road, Town of Salina, Onondaga County, to 1304 Buckley Road Associates, LLC for the Sum of \$1,400,000, Order Approving Property Transfer Upon Conditions* (issued and effective January 29, 2004).

ratemaking set forth herein, is in the public interest and should be approved by the Commission.

### **BACKGROUND**

1. Niagara Mohawk Power Corporation is a transportation corporation duly organized and existing under the laws of the State of New York with its principal place of business at 300 Erie Boulevard West, Syracuse, New York 13202.
2. The Commission has heretofore been provided certified copies of the Company's certificate of incorporation, certificate of merger and consolidation, and all amendments thereto.
3. The County of Oswego is a municipal corporation duly organized and existing under the laws of the State of New York having an address at 46 East Bridge Street, Oswego, New York 13126.
4. The Company currently owns and holds title to a certain parcel of property which consists of approximately 19.95 acres of real property and improvements located at 720 East Seneca Street, City of Oswego, County of Oswego, New York (the "Property") and commonly known as the Oswego Fire School Facility (the "Facility"). The structures that comprise the Facility are enclosed by a perimeter fence that contains approximately six acres, while the balance of the 19.95 acres contains approximately seven acres of wetlands, with two of those acres having been classified as New York State Freshwater Wetlands by the New York State Department of Environmental Conservation ("NYSDEC").

### **THE FACILITY**

5. The land was acquired by Oswego Industries Corporation, a predecessor to the Company, in 1929. The site remained undeveloped prior to the initial construction of the

Facility which occurred between 1957 and 1958 for the purpose of providing firefighting training for numerous employees, most of whom worked at the Company's generating stations. The Facility was first used for fire training activities in 1958. In subsequent years, the Company erected additional structures on the Property to further support fire training needs. For example, in 1973, a 620 sq. ft. halon recovery building was constructed. In 1982, a 960 sq. ft. smoke training building was constructed. In the mid-1980's, a prefabricated metal trailer was added and retrofitted for confined space training. From 1991 to 1992, a two-story burn building, 1800 sq. ft. in area, and a workshop, 960 sq. ft. in area, were added to the Property. From 1994 to 1995, a 4,650 sq. ft. classroom was added, along with a 2,520 sq. ft. pole barn to meet site storage needs. Today, the Facility consists of nine primary structures with approximately 13,000 sq. ft. of gross building area along with numerous ancillary structures. The ancillary structures include a fire hose shed, control booth, fire pump house, storage shed, fire pad, underground electrical vault and storage tanks. Although considered integral to the overall operation of the Facility, the ancillary structures have minor independent significance. Other site improvements include paved parking lots and walkways, lighting, lawn, signage, fencing, bollards, underground piping for propane and water lines, propane tanks and other firefighting props, and a water reclamation system.

6. Although both field operations and generating station employees utilized the Facility for fire training, over time the Facility's primary purpose evolved to one that principally supported the fire brigades established at the Company's formerly owned fossil-fueled generating stations (i.e., Oswego, Huntley, Dunkirk and Albany) and the Nine Mile Point 1 and 2 nuclear power plants. Following the Company's divestiture of its generating station assets which occurred between 1999 and 2001, the Facility shifted back to supporting the Company's field operations' firefighting training needs for New York and, to a lesser extent, New England, following the merger.

7. To help maximize the Company's use of the Facility, and for a brief period of time, the Company also provided for-hire fire training pursuant to contracts with other entities, particularly so in the period following the Company's divestiture of its

generating station assets. Customers included Constellation Energy, Entergy Corporation, Rochester Gas & Electric Nuclear, Vermont Yankee Nuclear, Alcan Aluminum, Sithe Energy, Orion Power, NRG Oswego Steam Station, Constellation Emergency Planning and several local fire departments. The staff of the Facility also worked closely with local firefighting units, including the Oswego County BOCES, Oswego County Fire Coordinator and local New York State fire instructors. The fees paid by these entities for fire training were used to offset the Company's expenses for operating and maintaining the Facility.

8. In 1991, the Property was designated as a Class 2 Inactive Hazardous Waste Disposal Site by the NYSDEC due to the presence of polychlorinated biphenyls ("PCBs") on the Property in quantities greater than 50 parts per million. It was later learned that the PCBs were brought on site when used transformer oils were utilized to start the fires that were an integral part of the fire training demonstrations conducted at the Facility between 1958 and 1977.<sup>2</sup> The Company entered into an Order on Consent with the NYSDEC to conduct a Remedial Investigation and Feasibility Study to determine whether PCB-laden oil and other oils had been discharged into nearby White Creek and to analyze the volume and content of PCBs present in soil on the Property. Subsequent to the investigation, the NYSDEC mandated that certain remedial actions take place, with the details of such remediation being set forth in the Record of Decision issued in March 1995. Thereafter, the Company completed the NYSDEC-required remediation between November 1995 and April 1996. In all, the Company expended \$4,063,243 in Site Investigation and Remediation ("SIR") funds to investigate and research the extent of contamination and to comply with the Order on Consent. In January 1999, the NYSDEC deleted the Property from the New York State Registry of Class 2 Inactive Hazardous Waste Disposal Sites.

9. In accordance with the Order on Consent, the Company also executed and recorded a deed restriction against the Property by filing an original copy of same in the

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<sup>2</sup> The propane-fueled two-story burn building was subsequently added to the Property to eliminate the need to create oil-induced fires for training purposes.

Oswego County Clerk's Office on February 3, 1997. The Order on Consent further requires that the NYSDEC be notified by the Company in the event of a transfer of ownership of the Property. Therefore, coincident with the filing of this Joint Petition with the Commission, the Company will advise the NYSDEC of the anticipated transfer of the Property for which the Petitioners are seeking Commission approval.

10. As of March 31, 2007, the gross book value of the Property is \$2,406,342 of which \$2,405,036 is attributable to the structures that comprise the Facility and \$1,306 is for land. Less depreciation reserve, the net book value of the Facility is \$1,687,998 as of March 31, 2007. A copy of the net book analysis is annexed hereto as "Exhibit 1".

### **DILIGENT EFFORTS TO SELL THE PROPERTY**

11. Subsequent to the divestiture of the Company's generating station assets, the Company decided in July 2003 to market and sell the Property as part of an overall effort to reduce Company-wide operating and occupancy costs. To assist it in efforts to market and sell the Property, the Company obtained an appraisal of the Property (which established an approximate value for the Property at \$1.81 million) with the primary valuation assumption being that same would be suitable for continued use as a fully functional and operational fire school. Throughout this initial marketing phase, the Facility remained routinely used for mandatory fire training by various industrial companies and by numerous local and regional municipal and volunteer firefighting departments throughout Upstate New York.

12. As part of its overall marketing efforts, Company representatives specifically met with both Constellation Energy ("Constellation") and Entergy Corporation ("Entergy") in October 2003 to discuss the possible sale and transfer of the Property given that both entities utilized the Company's services and the Facility for fire training in the past, both entities had a continuing need to conduct the type of mandatory training that the Facility was suited for, and both entities had nuclear power plants located within ten miles of the Facility. However, following a series of presentations, tours and follow-up discussions,



Entergy informed the Company in December 2003 that it was not interested in purchasing the Property. After the completion of additional due diligence, the Company received a similar notice from Constellation in July 2004.

13. When it became evident that neither Constellation nor Entergy was interested in acquiring the Property, the Company announced that it would discontinue all for-hire fire training and that it would close the Facility in the Fall of 2004 following the completion of outstanding fire training obligations. This meant that numerous local and regional municipal and volunteer firefighting departments throughout Upstate New York would need to locate a new source to meet their mandatory fire training requirements.

Concurrent with the aforesaid announcement, the Company reached out to the following entities to let them know that the Property was available for sale and continued use as a fire school: (1) Draeger Safety, Inc.; (2) Fire Coordinator for the County; (3) New York State Office of Fire Prevention and Control; (4) Kidde Fire Trainers, Inc.; and (5) New York State Academy of Fire Science. Despite the broadened notice to these additional players in the firefighting industry, only the New York State Academy of Fire Science (the "Academy") indicated a possible interest in acquiring the Property at the price being offered, although the County expressed a clear interest in acquiring the Facility but made it abundantly clear that it did not have the resources to pay anything of value for the Property (let alone \$1.81 million). Throughout the last quarter of 2004 and early 2005, the Company maintained ongoing discussions with the director of the Academy concerning possible acquisition of the Property; however, the Academy finally withdrew all interest in April 2005.

14. Given the Company's apparent inability to induce a buyer to pay the then-appraised value of the Property (i.e., \$1.81 million) and maintain its use going forward as a fire training school, especially given that the Property contained significant wetlands and was once placed on the NYSDEC's list of Class 2 Inactive Hazardous Waste Disposal Sites, the Company had the Property reappraised in the Fall of 2004 to determine its worth as general light industrial or commercial use property, which value came in at a range established between \$118,000 and \$232,000. When it became evident

that no one was willing to acquire the Property for continued use as a fire school and that the Company was considering the possibility of selling the Property for general light industrial or commercial use at a substantially reduced market price, numerous local and state politicians (most notably New York State Senator James Wright, who represents the 48<sup>th</sup> Senate District of New York State which includes Oswego County, Jefferson County and a portion of St. Lawrence County) realized that an all too important public resource might be lost forever and began a dialogue with the Company that ultimately ended in the proposed transaction presented below.

### **THE TRANSACTION**

15. The Petitioners entered into a conditional Purchase and Sale Agreement for the Property with an effective date of December 14, 2006 (the "Agreement"), a copy of which is annexed hereto as Exhibit "2". The Agreement sets forth a purchase and sale price of Twenty and 00/100 Dollars (\$20.00). The Agreement also contains the customary and usual contingencies, including Commission approval of this Petition, and various terms and conditions protecting the Company and its ratepayers against undue risk. Such protective terms and conditions include the County's agreement to indemnify and hold the Company harmless from any future environmental liabilities that might arise in connection with the Property, at least up to the first \$1 million of costs, even if said environmental liabilities were caused or created by past practices of the Company on the Property. Importantly, the Agreement provides that the Company will have continued, free access to the Facility to meet its foreseeable fire training needs and the Company and its ratepayers are protected if any portion of the Property is later sold, used, licensed, leased or conveyed for a non-governmental purpose. In such event, the Agreement reserves for the Company the optional right, but not the obligation, to re-purchase the Property for One and 00/100 Dollar (\$1.00) (the "Option"), thereby ensuring that the Company and its ratepayers (and not the County) will be able to capitalize on any new found equity in the Property following the current, proposed transfer of the Property to the County for nominal consideration. The Option extends for a period of twenty years from the date of Closing.

16. As herein pertinent, the Petitioners feel that this proposed transaction is in the public interest given that the Company will be able to reduce its overall operating and occupancy costs (once it is relieved of the burden of real property taxes and ongoing maintenance on the Property, which costs are collectively estimated to be approximately \$ 200,000 annually) and local and regional firefighting departments will have continued access to a first class fire training facility that will help to ensure public safety in the area. As indicated herein, the Agreement ensures that the Company will be able to meet its periodic and foreseeable (but now substantially reduced) fire training needs and the Company and its ratepayers are protected if the Property is no longer used for public purposes.

17. The Company has obtained a total of four appraisals for the Property. In July 2003, the Property was appraised at \$1.81 million as a fire training school. Following the inability to attract any interested buyers for continued use as a fire training school, an appraisal of the Property was conducted in September 2004 as general light industrial or commercial use property that established the total market value to be in a range between \$118,000 and \$232,000 when compared to similar properties located in the City of Oswego. In September 2005, the appraiser indicated there was no change in the value of the Property from the time it was first appraised in September 2004 as general light industrial or commercial use property. In January 2007, the appraiser once again indicated that there was no change in the value of the Property from when it was re-evaluated in September 2005

18. The transfer of the Property to the County is reasonable and beneficial to the Company and its ratepayers because (i) the Facility is presently shut down and it is no longer useful as a utility asset; (ii) the Facility has significant value to the County, the surrounding communities and the people of the State of New York for continued use as a fire training school for municipal and volunteer firefighters; and (iii) the transfer will result in lower costs to the Company by eliminating ongoing operation and maintenance ("O&M") expenses and real property tax obligations. No other parties were interested in

acquiring the Property for use as a fire training school and the appraised value of the Property for general light industrial or commercial use was substantially lower than the appraised value as a fire training school. In consideration of all of these factors, the Company determined that transferring the Property to the County was in the public interest.

### **RELIEF REQUESTED**

19. Although the Commission had previously authorized the Company to transfer the Property by virtue of its book value being \$3,000,000 or less, per the Joint Proposal Volume Three, Attachment 23, Clause 4.4.2, p.15, of the Company's Merger Rate Plan approved by the Commission in Case 01-M-0075,<sup>3</sup> the Petitioners request that the transfer of the Property to the County be approved under Section 70 of the Public Service Law pursuant to a proposed accounting and ratemaking treatment that differs from the Commission's decision in the O'Neill Order.<sup>4</sup>

20. The transfer by the Company of the Property will in no way inhibit or impact the conduct of the Company's business. The Company will retain easement rights for the continued use or expansion of all necessary or required electric and/or gas facilities on the Property, as well as the right to use the Facility for a dedicated number of days annually to meet the periodic fire training needs of its field operations workforce.

21. The proposed accounting treatment for this transaction was initially discussed with the Department of Public Service Staff ("Staff") about the time the Company first began to explore a possible transfer to the County in 2005.<sup>5</sup> The transfer of the Property will result in an immediate book loss to the Company. The Company proposes to defer

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<sup>3</sup> Case 01-M-0075, *Joint Petition of Niagara Mohawk Holdings, Inc., Niagara Mohawk Power Corporation, National Grid Group plc and National Grid USA for Approval of Merger and Stock Acquisition*, Opinion and Order Authorizing Merger and Adopting Rate Plan (issued and effective December 3, 2001).

<sup>4</sup> January 29, 2004 Order, at p. 11.

<sup>5</sup> As early as PowerChoice, the Company had contemplated the possibility of a future transfer of the Property. See p.2 of Appendix H in Case 94-E-0098 *et.al.*, *Niagara Mohawk Power Corporation – Rates*, Opinion and Order Adopting Terms of Settlement Agreement (issued and effective March 20, 1998).

and amortize the deferred book loss of \$1,687,998 over the remaining term of the Company's Merger Rate Plan. The journal entries proposed to be recorded upon the transfer of the Property (the "Closing") and each year thereafter through 2011 are as shown in Exhibit "3" annexed hereto. Deferred federal and state taxes will be provided to Staff upon the Closing and said taxes will be reversed as the deferred debit is amortized to expense. From the date of the Closing, the Company proposes to retain 100% of the (i) avoided depreciation expense; (ii) avoided property tax expense; (iii) avoided O&M expense; and (iv) tax cash flow enhancement savings. For excess earnings purposes, the net loss amortization and savings will be excluded from the Earnings Sharing Mechanism provisions detailed in the Merger Joint Proposal.

22. The proposed accounting differs from the Commission's decision in the O'Neill Order. The O'Neill Order addressed the sale of Company facilities that were no longer needed as the Company consolidated its operations. The Commission ordered, among other things, a 50/50 sharing of the loss on the sale of the O'Neill building between ratepayers and shareholders as "a natural construction of the merger and rate plan." In the instant proceeding involving the proposed transfer of the Property to the County, the Company determined that selling the Facility at a substantially reduced price to a buyer who would utilize the Property for general industrial or commercial use (and not as a fire training school that was otherwise routinely made available to local and regional firefighters) was not in the best interest of the local community nor in the best interest of the public at large. As the transfer to the County for the sum of Twenty and 00/100 Dollars (\$20.00) is more akin to a donation, the Company proposes an accounting treatment that is different and distinct from the O'Neill Order so as not to impose on other customers the monetary burden of its decision.

23. As required by 16 N.Y.C.R.R. Sections 31(f), (g) and (k), annexed hereto as Exhibit "1", is the (i) original cost of the land and improvements that comprise the Property; (ii) classifications of the Property according to the requirements of the Commission's system of accounts; and (iii) original contributions toward construction of the Facility.

24. As required by 16 N.Y.C.R.R. Section 31.1(h), (i) and (j), also included in Exhibit “1”, as noted above and annexed hereto, is the (i) statement of the estimated accrued depreciation of the Property and the method used in arriving at such estimate; (ii) cost of the Property as shown on the Company’s balance sheets; and (iii) depreciation and amortization reserves applicable to the Property.

25. In accordance with 16 N.Y.C.R.R. Section 31.1(l), annexed hereto as Exhibit “4”, is a statement of the net O&M expenses and real property taxes for the Property for each of the three fiscal and calendar years respectively preceding the date of this Petition.

26. In accordance with Part 7 of the Commission’s Rules and Regulations and the State Environmental Quality Review Act, annexed hereto as Exhibit “5”, is a Short Environmental Assessment Form evaluating the potential impacts associated with the transfer of the Property to the County.

27. In support of this Joint Petition, the Company submits hereafter the following supporting schedules in accordance with the Commission’s Rules and Regulations, 16 N.Y.C.R.R. Sections 18.1 and 31.1(l):

EXHIBIT A – Statement of Financial Condition

EXHIBIT B – Income Statement and Balance Sheets

### **CONCLUSION**

The Petitioners respectfully assert that this proposed transaction is in the public interest given that the Company will be able to reduce its overall operating and occupancy costs (once it is relieved of the burden to pay real property taxes and incur ongoing maintenance expenses on the Property, which costs are collectively estimated to be approximately \$200,000 annually) and local and regional firefighting departments will have continued access to a first class fire training facility that will help to ensure public safety in the area. The Petitioners further assert that the Agreement ensures that the

Company will be able to meet its periodic and foreseeable (but now substantially reduced) fire training needs and the Company and its ratepayers are protected if the Property is no longer used for public purposes.

**WHEREFORE**, for the above stated reasons, the Petitioners respectfully request that the Commission issue an order authorizing the transfer of the Property pursuant to Section 70 of the Public Service Law in accordance with the terms and conditions of the Agreement.

Respectfully submitted,  
**NIAGARA MOHAWK POWER CORPORATION**  
**d/b/a NATIONAL GRID**

By: \_\_\_\_\_

Michael A. Biehler, Esq.  
Associate Counsel  
Niagara Mohawk Power Corporation  
d/b/a National Grid  
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Buffalo, New York 14214  
Telephone: (716) 831-7781  
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michael.biehler @us.ngrid.com

**COUNTY OF OSWEGO**

By: \_\_\_\_\_

Richard C. Mitchell, Esq.  
County Attorney  
County of Oswego  
46 East Bridge Street  
Oswego, New York 13126  
Telephone: (315) 349-8296  
Fax: (315) 349-8298  
rich@oswegocounty.com

Dated: June 13, 2007

Company will be able to meet its periodic and foreseeable (but now substantially reduced) fire training needs and the Company and its ratepayers are protected if the Property is no longer used for public purposes.


**WHEREFORE**, for the above stated reasons, the Petitioners respectfully request that the Commission issue an order authorizing the transfer of the Property pursuant to Section 70 of the Public Service Law in accordance with the terms and conditions of the Agreement.

Respectfully submitted,  
**NIAGARA MOHAWK POWER CORPORATION**  
**d/b/a NATIONAL GRID**

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**COUNTY OF OSWEGO**

By:  \_\_\_\_\_

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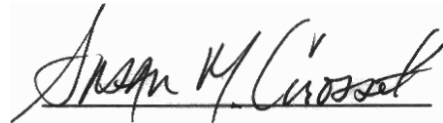
Dated: June 12, 2007



**VERIFICATION**

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

SUSAN M. CROSSETT, being duly sworn, deposes and says: I am the Vice President, Public Affairs - New York, for NIAGARA MOHAWK POWER CORPORATION d/b/a NATIONAL GRID, one of the Petitioners herein; I have read the foregoing Joint Petition and know the contents thereof; and the same is true to the best of my knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



Susan M. Crossett



Sworn to before me this  
13<sup>th</sup> day of June 2007



Jo Ann C. Catanese  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires December 5, 2010

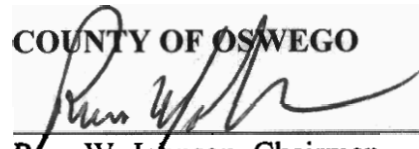
## VERIFICATION

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

**RUSS W. JOHNSON**, being duly sworn, deposes and says: I am the **CHAIRMAN OF THE LEGISLATURE IN AND FOR THE COUNTY OF OSWEGO**, one of the Petitioners herein; I have read the foregoing Joint Petition and know the contents thereof; and the same is true to the best of my knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

By:

COUNTY OF OSWEGO

  
Russ W. Johnson, Chairman  
Oswego County Legislature

Subscribed and sworn to before me  
this 13<sup>th</sup> day of June 2007.

  
Notary Public, State of New York

TERESA A. SOMERS  
Notary Public, State of New York  
No. 01SO6120507  
Qualified in Oswego County  
Commission Expires Dec. 20, 20 08



**Niagara Mohawk  
Net Book Value Calculation  
as of March 31, 2007**

Account	Year	Original Cost as of March 31, 2007	In- Service Months	Monthly Depreciation Rate .0191/12	Accumulated Depreciation	Net Book Value March 31,2007	Annual Depreciation
<b>Fire Training Building - Oswego</b>							
58900	1959	1,305.51		Non Depr		1,305.51	
59000	1930	126.63	921	0.001591667	126.63	-	
	1958	7,692.73	585	0.001591667	7,162.89	529.84	
	1959	2,315.34	573	0.001591667	2,111.65	203.69	
	1962	2,680.34	537	0.001591667	2,290.95	389.39	
	1963	199.91	525	0.001591667	167.05	32.86	
	1967	3,630.72	477	0.001591667	2,756.53	874.19	
	1972	446.99	417	0.001591667	296.68	150.31	
	1979	111,929.13	333	0.001591667	59,325.24	52,603.89	
	1982	164,843.70	297	0.001591667	77,925.74	86,917.96	
	1985	271,504.18	261	0.001591667	112,789.62	158,714.56	
	1986	10,281.82	249	0.001591667	4,074.94	6,206.88	
	1987	462.00	237	0.001591667	174.28	287.72	
	1991	162,451.99	189	0.001591667	48,869.62	113,582.37	
	1992	393,598.40	177	0.001591667	110,886.51	282,711.89	
	1993	4,548.88	165	0.001591667	1,194.65	3,354.23	
	1994	316,929.26	153	0.001591667	77,180.20	239,749.06	
	1996	33,480.82	129	0.001591667	6,874.45	26,606.37	
		<u>1,487,122.84</u>			<u>514,207.63</u>	<u>972,915.21</u>	
Total Location		<u>1,488,428.35</u>			<u>514,207.63</u>	<u>974,220.72</u>	28,428.98
<b>Fire School Storage Barn/Shop</b>							
59000	1996	97,682.89	129	0.001591667	20,056.74	77,626.15	1,865.74
<b>Fire School Classroom Building</b>							
59000	1995	820,230.99	141	0.001591667	184,080.34	636,150.65	15,666.41
Total all Locations		<u>2,406,342.23</u>			<u>718,344.71</u>	<u>1,687,997.52</u>	<u>45,961.14</u>

**EXHIBIT 1**  
**Oswego Fire School Facility – Property Transfer**  
**Net Book Analysis**



**PURCHASE AND SALE AGREEMENT****Oswego Fire School Facility  
Property Transfer**

This Purchase and Sale Agreement (this "Agreement") made this 14th day of December, 2006 ("Effective Date") by and between NIAGARA MOHAWK POWER CORPORATION, a New York corporation, having a place of business at 300 Erie Boulevard West, Syracuse, New York 13202 ("Seller") and THE COUNTY OF OSWEGO, a municipal corporation organized and existing under the laws of the State of New York, having an address of 46 E. Bridge Street, Oswego, New York 13126 ("Purchaser").

**1. REAL PROPERTY INCLUDED IN THE SALE.**

Upon and subject to the following terms, covenants and conditions, Seller agrees to sell and convey and Purchaser agrees to purchase the real property and improvements commonly known as 720 East Seneca Street, Oswego, New York, a/k/a known as tax parcel # 110.84-2-1.12 and consisting of approximately 20.8+/- acres real property, all as more particularly described on Exhibit A attached hereto and made a part hereof, together with all rights, privileges, easements and appurtenances to the Real Property, including without limitation all right, title and interest of Seller in and to all streets, alleys, easements (with the exception of the easement rights retained by the Seller herein) and rights of way in, on, across, in front of, abutting, adjoining or pertaining to the real property but subject to the "Schedule of Exclusions and Reservations" set forth on Exhibit B attached hereto (the "Real Property").

**2. TITLE; DEED.**

**2.1 Title Inspection Period.** During the period beginning upon the Effective Date and ending at 5:00 p.m. (local time at the Real Property) on that date which is forty-five (45) days after the Effective Date (hereinafter referred to as the "Title Inspection Period"), Purchaser shall have the right, at its sole cost and expense, to perform whatever title inquiry it deems appropriate for its purposes. At or prior to the expiration of the Title Inspection Period, Purchaser shall notify Seller in writing (the "Title Notice") which exceptions to title, if any, will not be accepted by Purchaser. If Purchaser fails to notify Seller in writing of its disapproval of any exceptions to title by the expiration of the Title Inspection Period, Purchaser shall be deemed to have approved the condition of title to the Real Property as of the expiration of the Title Inspection Period. If Purchaser so notifies Seller in writing that Purchaser objects to any exceptions to title, Seller shall have twenty (20) days after receipt of the Title Notice to notify Purchaser that Seller will either: (a) remove such objectionable exceptions from title on or before the Closing Date; or (b) that Seller is unable or unwilling to remove such exceptions to title on or before the Closing Date. Failure of Seller to so notify Purchaser shall be deemed to be an election by Seller of Subparagraph 2.1(b) above. If Seller gives Purchaser notice or is deemed to have given notice under Subparagraph 2.1(b) above, Purchaser shall have ten (10) business days in which to notify Seller that Purchaser will either take title to the Real Property subject to such exceptions, or that Purchaser will terminate this Agreement. If this Agreement is terminated pursuant to the foregoing provisions of this paragraph, then neither party shall have any further rights or obligations hereunder (except with respect to those provisions that expressly survive the termination of this Agreement), the Deposit (as such term is defined in Paragraph 3(b) below) shall be promptly returned to Purchaser and each party shall bear its own costs incurred hereunder. If Purchaser shall fail to notify Seller of its election within said ten-day period, Purchaser shall be deemed to have elected to take title to the Real Property subject to such exceptions.

**Section 2.2 Permitted Title Exceptions.** The Property shall be conveyed subject to the following matters, which are hereinafter referred to as the "Permitted Title Exceptions":

- a) Local, state and federal laws, ordinances or governmental regulations, including, but not limited to, the provisions of local building and zoning laws, but not any violations thereof;
- b) Such real estate taxes and/or assessments (including any water and/or sewer charges or special assessments, if any) for the then current fiscal year as are not yet due and payable on the date of delivery of the Deed (as such term is defined Paragraph 2.3 below);
- c) All those title matters that are accepted (or deemed accepted) by Purchaser pursuant to Subparagraph 2.1 above;
- d) The "Schedule of Exclusions and Reservations" set forth on Exhibit B attached hereto and incorporated herein;
- e) Seller's Mortgage Indenture (subject to the issuance of a letter of indemnification to be delivered at the closing by the Seller pursuant to Paragraph 14 below); and
- f) The term "Permitted Title Exceptions" shall also include any new title matters that appear of record prior to the Closing Date but after any update of title following the Title Inspection Period (as set forth in Subparagraph 2.1 above) unless objected to in writing by Purchaser.

**Section 2.3 Delivery of Deed.** Said Real Property is to be conveyed via Quitclaim deed ("Deed") running to the Purchaser; and said Deed shall convey title thereto subject to Permitted Title Exceptions.

**3. PURCHASE PRICE.**

The agreed purchase price for the Real Property is Twenty and 00/100 Dollars (\$20.00) (the "Purchase Price"), which is subject to adjustments, credits and prorations set forth herein, and shall be paid according to the following schedule:

- a) Within five (5) business days after full execution of this Agreement, Five and 00/100 Dollars (\$5.00) is to be paid by Purchaser to Seller as a good-faith, earnest money deposit (the "Deposit") to be held in escrow by Seller; and
- b) Upon delivery of the Deed, the Purchaser shall pay to Seller the then unpaid balance of the Purchase Price by wire transfer, certified check or bank check payable to Seller.

The Seller shall hold the Deposit in escrow in accordance with the terms and conditions of this Agreement. Unless the Seller defaults under the terms of this Agreement or unless Purchaser terminates this Agreement prior thereto or unless specifically set forth herein otherwise, the Deposit shall become non-refundable on the forty-sixth (46<sup>th</sup>) day

immediately following the Effective Date of this Agreement If Purchaser fails to deliver the Deposit to Seller pursuant to the terms hereof after the expiration of any applicable notice and cure period, then the same shall be a material default and shall entitle the Seller, at the Seller's option, to terminate this Agreement (unless such unpaid Deposit is made by Purchaser prior to any notice of termination issued by Seller) and the Seller shall be entitled to retain any portion of the Deposit held in escrow by Seller at the time of the default (it being further agreed and understood that the Purchaser shall remain liable to Seller for any unpaid portion of the Deposit not yet paid but otherwise due and owing pursuant to the terms of this Agreement).

**FROM AND AFTER THE EXPIRATION OF THE ABOVE DATES AND IN THE EVENT THE SALE OF THE REAL PROPERTY AS CONTEMPLATED HEREUNDER IS NOT CONSUMMATED AS A RESULT OF A DEFAULT ON THE PART OF PURCHASER THAT HAS NOT BEEN CURED IN ANY APPLICABLE NOTICE AND CURE PERIOD, THE DEPOSIT (OR THE PORTION OF THE DEPOSIT WHICH WAS DUE AND PAYABLE BY PURCHASER) SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES. THE PARTIES ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT THAT THE SALE IS NOT CONSUMMATED WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE; THEREFORE, BY SEPARATELY EXECUTING THIS SECTION BELOW, THE PARTIES ACKNOWLEDGE THAT THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S EXCLUSIVE REMEDY AGAINST PURCHASER IN THE EVENT THE CLOSING DOES NOT OCCUR AS A RESULT OF A DEFAULT ON THE PART OF PURCHASER AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST PURCHASER ARISING FROM SUCH FAILURE OF THE SALE TO CLOSE. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL THIS SECTION LIMIT THE DAMAGES RECOVERABLE BY EITHER PARTY AGAINST THE OTHER PARTY DUE TO: (A) THE OTHER PARTY'S OBLIGATION TO INDEMNIFY AND HOLD SUCH PARTY HARMLESS IN ACCORDANCE WITH THIS AGREEMENT, OR (B) THIRD PARTY CLAIMS OR (C) PURCHASER'S OBLIGATION TO FURNISH TO SELLER, AT SELLER'S REQUEST AND FREE OF CHARGE, COPIES OF ANY ENVIRONMENTAL REPORTS (WITHOUT A CORRESPONDING RELIANCE CERTIFICATE) RECEIVED BY PURCHASER RELATING TO ANY INSPECTION OF THE REAL PROPERTY AT NO COST TO SELLER. BY SEPARATELY EXECUTING THIS SECTION BELOW, PURCHASER AND SELLER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD THE ABOVE PROVISIONS COVERING LIQUIDATED DAMAGES.**

**Niagara Mohawk Power Corporation**

By:

*Susan M. Crockett*  
Name: Susan M. Crockett  
Title: v.p. Public Affairs

**County of Oswego**

By:

*John Reiss*  
Name: John Reiss  
Title: Chairman of the Board & President



4. **CLOSING.**

The Deed is to be delivered to Purchaser at the offices of the Oswego County Clerk in the City of Oswego, New York 13126 or at such other place as the parties may agree in writing. Delivery of the Deed by Seller and delivery of the Purchase Price by the Purchaser shall occur at such location on the date which is twenty (20) business days after satisfaction or waiver by Seller of **Seller's Approval Conditions** (as that term is defined in Paragraph 22(a) below) (hereinafter the "**Closing Date**"). If the Closing Date comes and goes and there has been no Closing; then, in such event, either party may upon ten (10) days advance written notice to the other party to this Agreement, declare that time is of the essence in the performance of this Agreement.

5. **CONDITION OF REAL PROPERTY.**

Subject to the Permitted Title Exceptions (inclusive of the "Schedule of Exclusions and Reservations" set forth on Exhibit B attached hereto), possession of the Real Property is to be delivered to the Purchaser at the time of the delivery of the Deed, the Real Property to be then:

- a) in substantially the same condition in which it is now;
- b) not in violation of any building or zoning laws; and
- c) free of all liens except as provided in Paragraph 2 hereof.

The Purchaser shall be entitled to an inspection of the Real Property within forty-eight (48) hours of the date scheduled for delivery of the Deed in order to determine whether the condition thereof complies with the terms of this Paragraph 5.

6. **EXTENSION TO MAKE REAL PROPERTY CONFORM.**

If the Real Property does not conform with the provisions hereof due to circumstances beyond Seller's control, then Seller shall use reasonable efforts to make the Real Property conform to the provisions hereof, in which event the Seller shall give written notice thereof to Purchaser at or before the time for performance hereunder, and thereupon the time for performance hereof, shall be extended for a period of thirty (30) days. Despite the foregoing obligation to use reasonable efforts to deliver the Real Property in conformity with the provisions hereof, Seller shall not be obligated to spend more than the Deposit cumulatively in order to make the Real Property conform hereto and/or to remove any lien or encumbrance such as a mechanic's or materialman's lien which is recorded against the Real Property after the Title Inspection Period set forth in Subparagraph 2.1 above.

7. **FAILURE TO MAKE REAL PROPERTY CONFORM.**

If, at the expiration of the extended time, the Seller shall have failed to make the Real Property conform (it being understood that the Purchaser shall accept all Permitted Title Exceptions), then at Purchaser's option, all obligations of the parties hereto shall cease, the Deposit shall be returned to Purchaser, and this Agreement shall be null and void and

without recourse to the parties hereto, except with respect to those provisions that expressly survive the termination of this Agreement.

**8. PURCHASER'S ELECTION TO ACCEPT TITLE.**

Purchaser shall have the election, at either the original or any extended time for performance, to accept the Deed and take title and possession of the Real Property in such condition as Seller is able and willing to deliver.

**9. EMINENT DOMAIN OR CASUALTY.**

a) Eminent Domain. If prior to the Closing Date any portion of the Real Property is taken or proposed to be taken or if the access is actually or proposed to be reduced or restricted by adoption of a resolution thereof by the applicable authority for any public or quasi-public use in condemnation proceedings or via right of eminent domain or deed in lieu thereof, Seller shall, within ten (10) days of the receipt of knowledge or notice thereof, but in no event no later than the Closing Date, notify Purchaser of such fact in writing and provide any and all information in Seller's possession concerning the same. If Seller receives such notice within sixty days of the Closing Date, said Closing Date shall be automatically extended for twenty-one (21) days if Purchaser elects to so extend the same. The Purchaser shall have the right to terminate this Agreement upon written notice to the Seller given no later than twenty-one (21) days after receipt of Seller's notice and notwithstanding anything to the contrary contained herein, Purchaser will receive a refund of the Deposit. If this Agreement is so terminated, neither party shall have any further rights or obligations hereunder, except with respect to those provisions that expressly survive the termination of this Agreement. If the Purchaser does not exercise this right to terminate this Agreement, the parties shall proceed pursuant to the terms hereof, and Seller shall assign and turn over, and the Purchaser shall be entitled to receive and keep, all awards, compensation or consideration received or to be received for the portion of the Real Property to be purchased hereunder, it being further agreed and understood that the Seller shall have the right to make a separate claim and recover from the condemning authority such compensation as may be awarded to Seller for the value of its exclusions and reserved easement rights and for the value of its fixtures and/or equipment situate thereon, along with any requisite moving and/or relocation costs attributable thereto, and it being further agreed and understood that in no case shall Purchaser retain any amounts in excess of the Purchase Price (with any overage belonging to Seller). The aforesaid compensation provisions of this Paragraph 9(a) shall survive the delivery of the Deed.

b) Casualty. (i) If prior to the Closing Date any portion of the Real Property suffers a loss or is damaged due to casualty, Seller shall, within ten (10) days of the receipt of knowledge or notice thereof, but in no event no later than the Closing Date, notify Purchaser of such fact in writing and provide any and all non-privileged information in Seller's possession concerning the same. If Seller receives such notice within thirty (30) days of the Closing Date, said Closing Date shall be automatically extended for twenty-one (21) days if Purchaser elects to so extend the same. In the event of a "major" (as hereinafter defined) loss or damage to the Real Property, the Purchaser shall have the right to terminate this Agreement upon written notice to the Seller given no later than twenty-one (21) days after receipt of Seller's notice and notwithstanding anything to the contrary contained herein, Purchaser will receive a

refund of the Deposit. If this Agreement is so terminated, neither party shall have any further rights or obligations hereunder, except with respect to those provisions that expressly survive the termination of this Agreement.

- (ii) If the loss or damage is not "major", or if the Purchaser does not exercise this right to terminate this Agreement, then this Agreement shall remain in full force and effect, provided that Seller shall, at Seller's option, either (1) perform any necessary repairs, or (2) assign to Purchaser all of Seller's right, title and interest in and to any insurance proceeds Seller has received with respect to any casualty insurance policies relating to the Real Property (with an adjustment on the Closing Statement for any deductible amount related thereto), it being further agreed and understood that the Seller shall have the right to make a separate claim and recover from the insurer such compensation as may be awarded to Seller for the value of its fixtures and/or equipment situate thereon, along with any requisite moving and/or relocation costs attributable thereto, and it being further agreed and understood that in no case shall Purchaser retain any amounts in excess of the Purchase Price (with any overage belonging to Seller). The aforesaid compensation provisions of this Paragraph 9(b) shall survive the delivery of the Deed. In the event that Seller elects to perform repairs upon the Real Property, Seller shall use reasonable efforts to complete such repairs promptly and the date of Closing shall be extended a reasonable time in order to allow for the completion of such repairs. Upon Closing, full risk of loss with respect to the Real Property shall pass to Purchaser.

(iii) For purposes of this subsection, "Major" loss or damage refers to damage to the Real Property due to a casualty such that the cost of repairing or restoring the improvements on the Real Property to substantially the same condition which existed prior to the event of damage would be, in the opinion of an architect selected by Seller and reasonably approved by Purchaser, equal to or greater than \$250,000.00. If Purchaser does not give written notice to Seller of Purchaser's reasons for disapproving an architect within five (5) business days after receipt of Seller's notice of the proposed architect, Purchaser shall be deemed to have approved the architect selected by Seller.

#### 10. APPORTIONMENTS.

Water and sewer charges, if any, assessments (special or otherwise), and real estate taxes for the then current year shall be apportioned as of the Closing Date and the net amount thereof shall be added to or subtracted from, as the case may be, the Purchase Price payable by the Purchaser at the time of delivery of the Deed.

If the amount of said charges, assessments, or taxes is not known at the time of the delivery of the Deed, they shall be apportioned on the basis of the charges, assessments, or taxes assessed for the preceding year, with a reapportionment as soon as the new charge, assessment, or tax rate and valuation can be ascertained; and, if the charges, assessments, or taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties hereto, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed. As a condition precedent to the Closing, the Purchaser shall have established a new account for utility services that are delivered (or to be delivered) to the Real Property

by the Seller and the parties shall have established a location and method for due and proper metering of said utilities to the Real Property, said location and method to be reasonably acceptable to Purchaser and in full compliance with the Seller's tariff for such services. The provisions of this Paragraph 10 shall survive the delivery of the Deed.

11. INSURANCE.

The Real Property shall, until delivery of the Deed to Purchaser, be kept insured by Seller in the same manner similar property owned by the Seller is insured from time to time.

12. DEFAULT; DAMAGES.

(a) The Purchaser shall be in default hereunder if the Seller sends a notice of default to Purchaser (which notice shall specify in detail the nature of the alleged default) and Purchaser then fails to cure any such alleged default within five (5) business days of its receipt of such written notice (provided, however, if such alleged default is not reasonably capable of being cured within said five (5) day period, such failure to cure shall not constitute an event of default so long as Seller undertakes affirmative acts to cure such default within said five (5) day period and thereafter diligently prosecutes the same to completion; it being further agreed that the mere inability to pay an amount owed hereunder due to financial troubles shall not give the Purchaser the right to extend the cure period). In the event of such default and Purchaser's failure to cure within the applicable cure period, the Seller shall have the right to terminate this Agreement and the Deposit shall be held by Seller as liquidated damages as provided in Paragraph 3 and this Agreement shall be null and void and without recourse to the parties hereto, except for any provisions of this Agreement which by their terms shall survive said termination.

(b) In the event the sale of the Real Property as contemplated hereunder is not consummated due to Seller's default hereunder, and the Purchaser has sent written notice of such alleged default to Seller (which notice shall specify in detail the nature of the alleged default) and the Seller thereafter fails to cure any such alleged default within five (5) business days of its receipt of such written notice (provided, however, if such failure is not reasonably capable of being cured within said five (5) day period, such failure shall not constitute an event of default so long as Seller undertakes affirmative acts to cure such failure within said five (5) day period and thereafter diligently prosecutes the same to completion; it being further agreed that the mere inability to pay an amount owed hereunder due to financial troubles shall not give the Seller the right to extend the cure period); THEN, IN SUCH EVENT, **THE PURCHASER SHALL HAVE THE RIGHT TO CHOOSE ONE OF ONLY TWO (2) LIQUIDATED REMEDIES: (A) TERMINATE THIS AGREEMENT AND RECEIVE A RETURN OF THE DEPOSIT, AND THIS AGREEMENT SHALL THEN BE NULL AND VOID AND WITHOUT RECOURSE TO THE PARTIES HERETO, EXCEPT FOR ANY PROVISIONS OF THIS AGREEMENT WHICH BY THEIR TERMS SHALL SURVIVE SAID TERMINATION OR (B) ELECT, AS TO ITS SOLE REMEDY, THE RIGHT TO BRING AN ACTION AGAINST SELLER FOR SPECIFIC PERFORMANCE, IT BEING EXPRESSLY AGREED AND UNDERSTOOD BY THE PARTIES HERETO THAT (i) THE FAILURE OF SELLER TO SATISFY OR WAIVE "SELLER APPROVAL CONDITIONS" (AS LATER DEFINED IN PARAGRAPH 22(a) BELOW), EACH OF WHICH**

ARE AND HEREBY BECOME A CONDITION PRECEDENT TO SELLER'S OBLIGATION TO CLOSE HEREUNDER, SHALL NOT CONSTITUTE AN EVENT OF DEFAULT WHICH WOULD ALLOW THE PURCHASER TO BRING AN ACTION FOR SPECIFIC PERFORMANCE HEREUNDER AND (ii) IN BRINGING SUCH AN ACTION, THE PURCHASER HEREBY AGREES THAT SELLER SHALL NOT THEREAFTER BE LIABLE TO PURCHASER IN ANY WAY FOR ANY ACTUAL OR ALLEGED DAMAGES OF PURCHASER WHICH ARE INCIDENTAL, CONSEQUENTIAL OR INDIRECT IN NATURE AND THE PURCHASER HEREBY EXPRESSLY WAIVES ANY SUCH OTHER CLAIM(S) UPON THE COMMENCEMENT OF SUCH AN ACTION FOR SPECIFIC PERFORMANCE.

Despite Seller's default hereunder, Seller shall be entitled to retain any statements, reports, documents, schedules, exhibits or other written information obtained from Purchaser in connection with this Agreement or the transaction contemplated herein free of charge.

BY SEPARATELY EXECUTING THIS SECTION 12, PURCHASER AND SELLER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTOOD THE ABOVE PROVISIONS COVERING DEFAULT AND WAIVER OF REMEDIES.

Niagara Mohawk Power Corporation

By:

*Susan M. Crossett*  
Name: Susan M. Crossett  
Title: V.P. Public Affairs

County of Oswego

By:

*John W. Johnson*  
Name: John W. Johnson  
Title: Chairman of the Board

13. ACCEPTANCE OF DEED.

The acceptance of a Deed by the Purchaser shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said Deed, and such as are otherwise expressly stated to survive the delivery of the Deed. Seller shall provide the Purchaser's attorney with a copy of the proposed deed at least fifteen (15) business days prior to Closing.

14. USE OF PURCHASE MONEY TO CLEAR TITLE.

To enable the Seller to make conveyance as herein provided, the Seller shall be obligated to use the purchase money or any portion thereof to clear the title to the Real Property of any or all encumbrances or interests which are not Permitted Title Exceptions. At closing, Purchaser agrees that Seller shall provide Purchaser with a letter of indemnification providing that the Seller shall procure and deliver to Purchaser for recording a release from the lien of Seller's Mortgage Indenture, with such release being provided to Purchaser within sixty (60) days immediately after the Closing Date.

15. CONSTRUCTION OF AGREEMENT.

This instrument is to be construed as a New York contract and it sets forth the entire agreement between the parties, supersedes any prior agreements between the parties, is binding upon and inures to the benefit of the parties hereto and their respective legal representatives, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Seller and the Purchaser. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the parties to it. The parties also acknowledge that they had an opportunity to consult legal counsel prior to the execution hereof and that the normal rule of construction (which would provide that any ambiguities are to be resolved against the drafting party) shall not be employed in the interpretation of this Agreement or any exhibits.

**16. TITLE.**

It is understood and agreed by the parties that if the Real Property shall not be in conformity with the title provisions of this Agreement, and if title to the Real Property is insurable for the benefit of Purchaser by a title insurance company in a fee owner's policy of title insurance at normal rates, then said policy may be purchased by Purchaser at its sole cost and expense.

**17. BENEFITS AND OBLIGATIONS; NO THIRD PARTY BENEFICIARIES.**

No party other than the parties hereto or their respective successors and assigns shall have any right or benefit herein, including without limitation, the right to insist upon or enforce against either Seller or Purchaser the performance of all or any of their respective obligations hereunder, and no such third party shall be deemed to have received any benefit as a result of any provisions of this Agreement.

**18. SELLER'S OBLIGATIONS PRIOR TO CLOSING.**

Except in the ordinary course of its business, Seller covenants and agrees that, without the prior written consent of Purchaser (whose consent shall not be unreasonably withheld, delayed or conditioned), Seller shall not take any affirmative action which might further encumber the title to the Real Property in any manner following the Title Inspection Period set forth in Subparagraph 2.1 above.

**19. NOTICE.**

Any notice required or permitted to be given hereunder shall be in writing and delivered by hand with a receipt therefore given by the recipient or mailed postage prepaid by registered or certified mail, return receipt requested, addressed to the parties as follows:

If to the Seller:           Niagara Mohawk Power Corporation  
                                  300 Erie Boulevard West  
                                  Syracuse, New York 13202  
                                  Attention: Pat Reap  
                                  Principal Analyst

With a copy to Seller's attorney:

Niagara Mohawk Power Corporation

144 Kensington Avenue  
Buffalo, NY 14214  
Attention: Michael Biehler, Associate Counsel

If to Purchaser: County of Oswego  
46 E. Bridge Street  
Oswego, New York 13126  
Attention: Stephen P. Lyman  
County Administrator

with a copy to Purchaser's attorney:

Richard C. Mitchell, Esq.  
County Attorney  
County of Oswego  
46 E. Bridge Street  
Oswego, New York 13126

Any such notice shall be deemed properly served and delivered for all purposes hereunder at the time such notice is delivered, if hand-delivered, or at the time indicated as stamped by any post office regularly maintained by the United States Postal Authority, if mailed via certified mail, return receipt requested and regular mail or upon a parties' receipt if delivered by reputable overnight mail service which obtains a signed receipt for delivery.

**20. LIABILITY OF SHAREHOLDER, TRUSTEE OR BENEFICIARY.**

If a party hereto is a corporation, no shareholder, officer or employee, or if a party hereto is a trust, no trustee or beneficiary of the trust, shall be personally liable for any obligation, express or implied hereunder. If Seller and Purchaser disclose in its execution of this Agreement that it is acting in a representative or fiduciary capacity, only the principal or estate represented shall be bound. If more than one person is named herein as Purchaser or Seller respectively, their obligations hereunder shall be joint and several.

**21. ACCESS AND INSPECTION.**

The Purchaser and its agents, independent contractors and invitees shall have the right until the forty-fifth (45th) day following the Effective Date of this Agreement, at Purchaser's expense, to enter upon the Real Property for the purpose of inspecting the Real Property, and conducting any surveys, borings, percolation tests, soil tests, measurements, environmental studies, engineering studies and any other tests and actions which the Purchaser reasonably desires to determine the suitability of the Real Property for purchase (including its title review which shall be conducted and governed, in part, by the terms and conditions imposed under Paragraph 2.1 above)(the "Inspection Period"). If Purchaser desires to update the existing abstract of title or to obtain title insurance or an instrument survey of the Real Property, such acts shall be at Purchaser's sole cost and expense. If Purchaser desires to do any inspection or testing at the Real Property, Purchaser shall do so only after notifying Seller in writing of its proposed intentions

(describing the intended activity with reasonable specificity) and subject to any terms and conditions imposed by Seller in its sole discretion, including, without limitation, the prompt restoration of the Real Property to substantially the same condition it was in prior to any such inspections or tests, at Purchaser's sole cost and expense. Purchaser acknowledges and understands that the Seller reserves the right but not the obligation to inspect and supervise any activities of Purchaser or its agents on the Real Property. Before entering upon the Real Property, Purchaser shall furnish to Seller evidence of general liability insurance coverage in such amounts and insuring against such risks as Seller may reasonably require. Purchaser understands and agrees that any on-site inspections of the Real Property shall occur at reasonable times agreed upon by Seller and Purchaser after reasonable prior notice to Seller and shall be conducted so as not to interfere unreasonably with the use of the Real Property by Seller. Purchaser shall be solely responsible for all costs and expenses associated with its due diligence hereunder, including any costs associated with obtaining any permits, licenses or similar approvals deemed necessary or desirable for the work contemplated. Purchaser shall observe and comply with all applicable federal, state and local laws, rules, ordinances and regulations in the conduct of its activities hereunder. Purchaser shall further not cause waste or damage to the Real Property. Upon the request of Seller, Purchaser shall furnish to Seller copies of any engineering studies, surveys, tests, and other reports received by Purchaser relating to the Real Property (collectively the "Reports") within a reasonable period of time following such request, which obligation shall survive the delivery of the Deed or any termination of this Agreement). Purchaser agrees to protect, indemnify, defend and hold Seller harmless from and against any lien or claim for liabilities, losses, costs, expenses (including reasonable attorneys' fees), damages or injuries arising from or in connection with any of the activities conducted by Purchaser or its agents in this Paragraph 21. Notwithstanding anything to the contrary in this Agreement, Purchaser's obligation to protect, indemnify, defend and hold Seller harmless as aforesaid shall survive the delivery of the Deed or any termination of this Agreement.

In the event that Purchaser, in its sole discretion, is not satisfied with the results of its inspection for any reason or no reason at all, then the Purchaser may at its option terminate the Agreement upon written notice to Seller within the Inspection Period. If Purchaser so notifies Seller on or before the expiration of the Inspection Period, the Deposit will be refunded and returned to Purchaser. If Purchaser so notifies Seller after the expiration of the Inspection Period, the Seller shall be entitled to retain the Deposit. Provided Seller's notice to terminate is made within the Inspection Period, this Agreement shall be null and void and without recourse to the parties hereto except for any provisions of this Agreement which by their terms shall survive termination.

**22. REPRESENTATIONS AND WARRANTIES OF SELLER; SELLER APPROVAL CONDITIONS.**

To induce Purchaser to enter into this Agreement, Seller hereby makes the following material representations and warranties, all of which are true and correct as of the date of this Agreement, shall be true and correct as of the date of the delivery of the Deed, and shall survive the delivery of the Deed:

- a) Subject to "Seller Approval Conditions" (as defined below), Seller has the full power, right and authority to enter into this Agreement. "Seller Approval Conditions" shall mean and include: (i) Seller's receipt and acceptance of all requisite governmental and/or



regulatory approvals on terms and conditions which are acceptable to Seller in its sole discretion as are required for the sale of the Real Property, including, but not limited to, the regulatory treatment of the proceeds from the sale of the Real Property that is acceptable to the Seller (such approvals to include, but not be limited to, NYS Public Service Law Section 70 approval from the New York State Public Service Commission) ("External Approval(s)") and (ii) senior management approval of this Agreement and/or approval of this proposed transaction by the Seller's board of directors, if deemed necessary or desirable by Seller ("Internal Approval"). Seller shall use reasonable good faith efforts to obtain Internal Approval on or before the end of the Title Inspection Period and, if so approved, shall thereafter seek to obtain all requisite External Approval(s). If Seller is not able to obtain either Internal Approval and/or all requisite External Approval(s) on terms and conditions which are acceptable to Seller in its sole discretion; then, in such event, all obligations of the parties hereto shall cease, the Deposit shall be returned to Purchaser, and this Agreement shall be null and void and without recourse to the parties hereto, except with respect to those provisions that expressly survive the termination of this Agreement.

- b) Subject to Subparagraph 22(a) above, this Agreement, and the documents to be executed and delivered by Seller in connection with the consummation of the transactions contemplated by this Agreement, are and will be valid, binding and enforceable upon Seller in accordance with their respective terms and conditions.
- c) Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code of 1986, as amended, and Income Tax Regulations) for purposes of United States income taxation.
- d) Seller has not filed any petition, nor has the Seller been the party against whom a petition has been filed in relation to any bankruptcy, insolvency, request for reorganization, assignment for benefit of creditors, for the appointment of a receiver or trustee, or for the arrangement of debt, nor to the best of Seller's knowledge is any such action threatened or contemplated.

## 23. REPRESENTATIONS AND WARRANTIES OF PURCHASER.

To induce Seller to enter into this Agreement, Purchaser hereby makes the following material representations and warranties, all of which are true and correct as of the date of this Agreement, shall be true and correct as of the date of the delivery of the Deed, and shall survive the delivery of the Deed:

- a) Purchaser has the full power, right and authority to enter into this Agreement.
- b) This Agreement and the documents to be executed and delivered by Purchaser in connection with the consummation of the transactions contemplated by this Agreement are and will be valid, binding, and enforceable upon Purchaser in accordance with their respective terms and conditions.
- c) Purchaser has not filed any petition, nor has the Purchaser been the party against whom a petition has been filed in relation to any bankruptcy, insolvency, request for reorganization, assignment for benefit of creditors, for the appointment of a receiver or trustee, or for the arrangement of debt, nor to the best of Purchaser's knowledge is any such action threatened or contemplated.

24. DEPOSIT.

The Deposit made hereunder shall be held by the Seller in escrow in a non-interest bearing account, pursuant to the terms set forth herein.

25. BROKER.

Seller and Purchaser represent each to the other that they have not engaged any broker, entered into a listing agreement or other contract or otherwise retained a broker in connection with the Real Property. Each party shall indemnify, defend and hold the other harmless from and against any loss, cost or damage suffered or incurred by the other as a result of a breach of the foregoing representation. The representations and obligations under this Paragraph shall survive the delivery of the Deed or, if the sale of the Real Property does not occur, the termination of this Agreement.

26. CLOSING DOCUMENTS.

Simultaneously with the delivery of the Deed, Seller shall deliver to Purchaser the following documents to be prepared by Seller:

- a) Such documents as the Purchaser may reasonably request to evidence due authorization to deliver the Deed or any other document required by this Agreement;
- b) An affidavit satisfying the requirements of Section 1445 of the Internal Revenue Code and regulations issued thereunder, stating under penalty of perjury Seller's address and United States taxpayer identification number and that Seller is not a foreign person;
- c) Internal Revenue Service Form W-8 or Form W-9 as applicable.

27. CLOSING COSTS.

The Purchaser shall be responsible for the payment at closing of the following costs associated with the transfer of the Real Property: the transfer taxes and recording fees of documents necessary to clear the title to the Real Property (it being understood that the Purchaser shall accept all Permitted Title Exceptions). The Purchaser shall further be responsible for the payment at closing of the following costs associated with the transfer of the Real Property: costs for recording of the Deed and other documents necessary to transfer title to Purchaser.

28. ENVIRONMENTAL CONDITION AND DISCLOSURE

- a) Purchaser acknowledges that the Real Property was the site of a release, or threat of release, of "Hazardous Materials" (as such term is defined below). Purchaser acknowledges that Seller has provided Purchaser with a copy of certain environmental reports listed in Exhibit C (the "Environmental Reports"). Seller makes no representations, either express or implied, as to the truth or accuracy of the Environmental Reports or any such other documents or information, all of which are

being provided by Seller for the sole use and benefit of Purchaser and may not be relied upon or provided to any third party without the prior written consent of Seller. For purposes of this Agreement, the term "Hazardous Materials" shall mean and include any oils, petroleum products, manufactured gas wastes and any other toxic or hazardous wastes, materials and substances which are defined, determined or identified as such in any applicable "Environmental Laws" (as such term is defined below), or in any judicial or administrative interpretation of Environmental Laws. "Environmental Laws" shall mean any and all federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees or other governmental requirements or restrictions relating to the environment or to emissions, discharges or releases of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, petroleum or petroleum products, chemicals or industrial, toxic or hazardous substances or wastes or the cleanup or other remediation thereof. The term "Seller-Created Environmental Conditions" shall mean any past, present, and Future Releases (as that term is defined in Paragraph #30(a)(ii) below) or threats of release of Hazardous Materials at, on or from the Real Property that is/are directly and solely attributable to the acts or omissions to act of Seller but shall not include any past, present, and Future Releases or threats of release that is/are caused by or is attributable to, in whole or in part, the acts or omissions to act of any other person or entity that is not the Seller (with all such other non-Seller-created releases or threats of release being hereinafter identified as the "Environmental Conditions").

- b) PURCHASER REPRESENTS AND WARRANTS TO SELLER THAT PURCHASER WILL CONDUCT, PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE REAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS PURCHASER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE REAL PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS MATERIALS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE REAL PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT. UPON CLOSING, PURCHASER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INVESTIGATIONS, AND, EXCEPT FOR LIABILITY FOR A BREACH OF ANY REPRESENTATION OR WARRANTY OF SELLER TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT, PURCHASER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES,

LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH PURCHASER MAY ASSERT AND/OR MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE REAL PROPERTY (hereinafter collectively referred to as a "Waiver, Release and Discharge"). The aforesaid Waiver, Release, and Discharge shall also include a Waiver, Release and Discharge for any Environmental Conditions at, on or from the Real Property, as well as (at least up to the "Seller Environmental Threshold", as that term is defined in Paragraph #30(a)(iii) below), any Seller-Created Environmental Conditions that are at, on or near the Real Property.

**29. AS-IS DISCLAIMERS.**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE REAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT, PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE REAL PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS OF WHATEVER NATURE, WHETHER KNOWN OR UNKNOWN AND SUBJECT TO THE PERMITTED TITLE EXCEPTIONS." PURCHASER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE REAL PROPERTY OR RELATING THERETO MADE OR FURNISHED BY SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT. PURCHASER ALSO ACKNOWLEDGES THAT THE PURCHASE PRICE REFLECTS AND TAKES INTO ACCOUNT THAT THE REAL PROPERTY IS BEING SOLD "AS-IS" AND IS SUBJECT TO THE PERMITTED TITLE EXCEPTIONS. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING OR ANY TERMINATION OF THIS AGREEMENT.

**30. POST-CLOSING ENVIRONMENTAL RESPONSIBILITIES: RELEASE AND COVENANT NOT TO SUE.**

- a) After the Closing and delivery of the Deed by Seller, Purchaser hereby assumes full and complete responsibility for any and all liabilities, including costs, expenses (including reasonable attorneys' and consultants' fees), fines, penalties, damages to

real or personal property or natural resource damages, remediation, soil and groundwater research and characterization costs, and response action costs relating to or with respect to:

- (i) The Environmental Conditions of the Real Property; and
  - (ii) Any releases or threat of release of Hazardous Materials occurring at or from the Real Property after the Closing ("Future Releases");
  - (iii) The Seller-Created Environmental Conditions, but only until Purchaser shall have expended One Million Dollars (\$1,000,000) to research and respond to same (hereinafter the "Seller Environmental Threshold"), at which point (and no sooner) the parties' future responsibilities for costs, expenses and liabilities over and above the Seller Environmental Threshold for Seller-Created Environmental Conditions shall be determined under prevailing law.
- b) Purchaser understands and acknowledges that there may be existing Environmental Conditions and/or Seller-Created Environmental Conditions on the Real Property not otherwise disclosed in the Environmental Reports and that, in acquiring the Real Property, Purchaser knowingly, willingly, and freely assumes the liability and risk of same as set forth in this Purchase and Sale Agreement.
- c) As additional consideration hereunder, and as an integral part of the Waiver, Release and Discharge set forth in this Purchase and Sale Agreement, Purchaser agrees to execute and deliver to Seller at Closing a "Covenant Not to Sue" substantially in the form attached hereto as Exhibit D.
- d) The provisions of this Paragraph 30 shall survive the Closing and delivery of the Deed.

31. **ENFORCEABILITY.**

A PARTY SHALL NOT BE DEEMED TO HAVE MADE OR ACCEPTED AN OFFER TO ENTER INTO ANY TRANSACTION BECAUSE IT HAS SENT AN UNSIGNED DRAFT OF THIS AGREEMENT TO THE OTHER PARTY. THIS DOCUMENT SHALL NOT BIND EITHER PARTY UNLESS IT HAS BEEN EXECUTED AND DELIVERED BY BOTH PARTIES EXECUTED ON THE DAY AND YEAR FIRST WRITTEN ABOVE.

32. **INDEMNIFICATION.**

After the Closing, Purchaser hereby agrees to protect, defend, hold harmless and indemnify Seller and its affiliates and subsidiaries and its/their respective successors or assigns, shareholders, directors, officers, employees, managers, members and attorneys from and against any and all claims, losses, liabilities, damages, settlements, penalties, fines, costs, interest and reasonable expenses (including without limitation any reasonable professional fees and expenses, including legal fees, response costs, compliance or permit fees, claims by third parties for personal injury, property damage,

diminution of property value, or lost income) suffered or incurred by, or asserted against, Seller, arising out of, or resulting from, in whole or in part ("Claims") from the following:

- a) **Environmental Conditions, Future Releases, and Seller-Created Environmental Conditions** (at least up to the Seller Environmental Threshold) that occur or arise on, at, or from the Real Property;
- b) Any and all activities or operations conducted on the Real Property after the Closing;
- c) Any release or threat of release of Hazardous Materials occurring at, on, or from the Real Property after the Closing;
- d) Any violation or noncompliance with any local, state, or federal law, statute, regulation, rule, order, or decree:
  - (i) arising out of or resulting from any Environmental Conditions, Future Releases, and Seller-Created Environmental Conditions (at least up to the Seller Environmental Threshold) existing on or migrating from the Real Property after the Closing, or
  - (ii) any activities or operations conducted on the Real Property after the Closing, or
- e) Any claims made by the New York State Department of **Environmental Conservation** (hereinafter "NYSDEC"), the United States Environmental Protection Agency (hereinafter "EPA"), or any third parties arising out of or resulting from:
  - (i) the Environmental Conditions, Future Releases, and Seller-Created Environmental Conditions (at least up to the Seller Environmental Threshold) on, at, or from the Real Property after the Closing, or
  - (ii) any and all activities or operations conducted on the Real Property after the Closing; or
  - (iii) any release or threat of release of Hazardous Materials occurring at, on or from the Real Property after the Closing;
- f) Any additional work required or otherwise suggested by NYSDEC or EPA on the Real Property or any other federal, state or local (public or private) agencies or individual with relevant jurisdiction over the Real Property after the Closing.
- g) The Purchaser, as a municipal county government and as additional consideration hereunder, agrees to enact all appropriate and requisite legislative and budgetary mandates within its budgetary process to ensure that its obligation to indemnify, defend and hold the Seller harmless, as set forth herein, has been duly authorized on an annual basis (if necessary) in the event the Purchaser is ever called upon to honor its aforesaid obligations.
- h) The provisions of this Paragraph 32 shall survive Closing and delivery of the Deed.

**33. OPTION TO PURCHASE**

As additional consideration hereunder, the Purchaser acknowledges and agrees that the Seller shall be entitled to reserve for itself in the Deed the right but not the obligation to re-purchase the Real Property for One Dollar (\$1.00) if there comes a time when any portion of the Real Property is sold, used, licensed, leased or conveyed for a non-governmental purpose (the "Option"), said Option to begin on the date of Closing and extend for a period of twenty (20) years thereafter. The reserved Option shall be prepared by counsel for the Seller prior to Closing and shall be in form and content that is consistent with New Real Property Law Section 291-e, and shall be reasonably acceptable to counsel for Purchaser, whose consent shall not be unreasonably denied, withheld or conditioned.

**34. GRANT OF FIRE TRAINING RIGHTS**

As additional consideration hereunder, the Purchaser acknowledges and agrees that the Seller shall be entitled to reserve for itself in the Deed the right but not the obligation to utilize the Real Property for structural fire training purposes on a going forward basis at no cost to Seller for a period of time not to exceed twenty (20) days per calendar year, said reservation of fire-training rights to be prepared by counsel for the Seller prior to Closing and shall be in form and content that is reasonably acceptable to counsel for Purchaser, whose consent shall not be unreasonably denied, withheld or conditioned.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.**

EXECUTED ON THE DAY AND YEAR FIRST WRITTEN ABOVE.

NIAGARA MOHAWK POWER CORPORATION

By *Susan M. Crossett*  
Name *Susan M. Crossett*  
Title *V.P. Public Affairs*

COUNTY OF OSWEGO

By *Russ M. Johnson*  
Name *Russ M. Johnson*  
Title *Chairman of the Regulators*





## **SCHEDULE OF EXHIBITS**

- Exhibit A -** Real Property Description
- Exhibit B -** Schedule of Exclusions and Reservations
- Exhibit C -** Environmental Reports
- Exhibit D -** Covenant Not to Sue

**EXHIBIT A**

**Real Property Description**

[The Purchaser shall attach its New Survey of the Real Property or at least a cross-hatched copy of the Tax Map for Parcel #110.84-2-1.12]



**Robert M. Burleigh**

**Licensed Land Surveyor**

10 Canalview Mall  
Suite D  
Fulton, New York 13069

Telephone (315) 593-2231  
Fax (315) 593-2236  
maps4u@alltel.net

November 22, 2006

**PROPOSED DEED DESCRIPTION**

ALL THAT OR PARCEL OF LAND, situate in the City of Oswego, County of Oswego, State of New York and being part of Subdivision 2 in Lot 87 in the 18<sup>th</sup>. Township of Scriba's Patent in said City, being more particularly described as follows: Commencing at a point situate in the centerline of East Seneca Street at its intersection with the centerline of Mitchell Street; thence, westerly along the centerline of East Seneca Street, a distance of 542.1' to a point; thence, S 07° 17' 21" W, a distance of 39.71' to a point in the south streetline of East Seneca Street and the Point of Beginning of the premises conveyed herein; thence, S 07° 17' 21" W, a distance of 902.43' to a point; thence, S 63° 30' 00" W, a distance of 907.60' to a point; thence, N 26° 30' 00" W, a distance of 750.00' to a point in the south streetline of East Seneca Street; thence, N 63° 30' 00" E along the south streetline of East Seneca Street, a distance of 1,409.48' to the point and place of beginning containing 19.95 acres of land.

## **EXHIBIT B**

### **Schedule of Exclusions and Reservations**

Seller expressly excludes, reserves and excepts from any conveyance hereunder title to the following:

#### **Exclusions**

(1) The Real Property is to be conveyed "**AS IS, WHERE IS, WITH ALL FAULTS OF WHATEVER NATURE, WHETHER KNOWN OR UNKNOWN AND SUBJECT TO THE PERMITTED TITLE EXCEPTIONS**" on the date of Closing subject to (i) any state of facts that an inspection or accurate survey of the Real Property would disclose and (ii) subject to and with the benefit of all matters of public record filed against the Real Property, along with all real property and interests in real property conveyed by, or otherwise expropriated from, the Seller subsequent to the date Seller purchased the Real Property, including each exclusion, reservation and exception identified herein and made a part hereof.

(2) All of Seller's (i) personal property, structures, fixtures, facilities, and equipment, and (ii) all rights and easements held by the Seller (whether reserved herein or by grant or reservation in other documents of record), any of which relate to Seller's business, including the transmission and distribution of high and low voltage electric energy and gas and for the transmission of intelligence and communications (by any means).

#### **Reserved Easement**

The exclusive perpetual right and easement to construct, reconstruct, install, repair, replace, maintain, add to, operate, inspect and patrol, for the transmission and distribution of high and low voltage electric energy and gas and for the transmission of intelligence and communications (by any means), lines of buried and above-ground wires and cables and lines of towers or poles or both with wires and cables strung upon and from the same, and associated above- and below-ground substations, switching facilities and equipment, and all necessary ducts, above- or below-ground conduits and piping, valves, markers, housings, connectors, pedestals, closures, lateral service lines, raceways, manholes, hand holes, riser poles, foundations, anchors, antennae, guys, braces, fittings, supporting structures, equipment and all other appurtenances related thereto (any of which may be erected and/or constructed at the same or different times) (all of which are collectively referred to as the "Facilities"), including without limitation a buried ground wire and such footbridges, causeways and ways of access, if any, as may be reasonably necessary for the convenient construction, reconstruction, installation, repair, replacement, maintenance, enhancements, operation, inspection and patrolling of the Facilities over, under, through, across and upon that portion of the Real Property described below as the Easement Area (hereinafter the "Easement Area"), including an area up to twenty (20) feet from the edge of the highways, public rights-of-way and roads abutting or running through the Real Property.

Also, the perpetual right and easement from time to time, without further payment therefore, to clear and keep cleared by physical, chemical or other means, said Easement Area of any and all trees, vegetation, underbrush and above- and below-ground structures, improvements or other obstructions, and trim and remove other trees and vegetation adjacent to the Easement Area that, in the opinion of Seller, may interfere with the construction, operation and maintenance of the Facilities (the first clearing may be for less than the full width and may be widened from

time to time to the full width); to pave, excavate and/or change the grade of the Easement Area as is reasonable, necessary and proper in connection with the exercise of the foregoing rights and easements; to renew, replace, add to and otherwise change the Facilities and each and every part thereof and all appurtenances thereto and the location thereof within said Easement Area; and to pass along said Easement Area to and from the adjoining lands and to pass over the Real Property to and from said Easement Area as reasonably required.

By its acceptance of the Deed for the Real Property, the Purchaser covenants and agrees that no act will be permitted within said Easement Area which is inconsistent with the rights and easements hereby reserved; that no building or structures will be erected above- or below-ground within the Easement Area other than the Facilities; and that the present grade or ground level of said Easement Area will not be changed by Purchaser by excavation or filling. The Purchaser further covenants and agrees with the Seller that the rights and easements reserved herein may not be changed or modified in whole or in part without the express written consent of the Seller, which consent the Seller may deny in its sole discretion.

It is the intention of the parties that the rights and easements hereby reserved to the Seller shall be assignable in whole and in part and that they shall be divisible among two or more owners, as to any rights created or reserved hereunder, so that each assignee or owner shall have the full rights and privileges herein reserved, to be owned and enjoyed by either in common or severally. Insofar as permitted by law, the provisions hereof are intended to bind and inure to the benefit of the successors and assigns in title to the parties hereto.

#### **Description of the Easement Area**

The "Easement Area" for Facilities which are used for the distribution of high and low voltage electric energy and gas and for the transmission and distribution of intelligence and communications shall be that portion of the Real Property which is no less than fifteen (15) feet measured parallel to each side of the centerline (as determined by Seller) of each such Facility located or to be located on the Real Property.

The "Easement Area" for existing electric energy transmission or sub-transmission Facilities (as defined below), inclusive of any of intelligence and communications Facilities associated therewith, shall be that portion of the Real Property which is no less than 150 feet measured parallel to each side of the centerline (as determined by Seller) of each such Facility located on the Real Property as of the date of Closing. The existing transmission and sub-transmission Facilities of the Seller as of the execution date hereof are as follows:

None.

**EXHIBIT C**

**Environmental Reports**

**[Reports to be supplied by Seller's Counsel]**

**EXHIBIT D**

**Covenant Not To Sue**

**[1<sup>st</sup> draft to be supplied by Seller's Counsel]**

## **ACKNOWLEDGEMENT, REAFFIRMATION, AND COVENANT NOT TO SUE**

This **ACKNOWLEDGMENT, REAFFIRMATION, AND COVENANT NOT TO SUE** ("Covenant"), dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007 [Closing Date], is granted by the COUNTY OF OSWEGO, a municipal corporation organized and existing under the laws of the State of New York, having an address of 46 E. Bridge Street, Oswego, New York 13126 (hereinafter "Releasor") and delivered to NIAGARA MOHAWK POWER CORPORATION, with an office at 300 Erie Boulevard West, Syracuse, New York 13202 ("Niagara Mohawk").

WHEREAS, Niagara Mohawk and the Releasor entered into a certain Purchase and Sale Agreement dated as of December 14, 2006 (the "P&S Agreement") ~~all terms not otherwise~~ defined in this Agreement shall have the meanings ascribed to them in the P&S Agreement; and

WHEREAS, Niagara Mohawk sold to the Releasor, and the Releasor purchased from Niagara Mohawk, the Real Property pursuant to the P&S Agreement; and

WHEREAS, the execution and delivery of this Covenant by Releasor represents additional consideration for the sale and purchase of the Real Property and is a condition precedent to said Closing.

NOW, THEREFORE, in consideration of the covenants and agreements set forth in the P&S Agreement, and such other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by Releasor, the Releasor does hereby agree as follows:

1. Releasor, for itself and its citizens, taxpayers, employees, and each of its duly elected and appointed officials, and its/their predecessors, successors, assigns, heirs, executors, and administrators, does hereby acknowledge and reaffirm its Waiver, Release and Discharge, as well as its obligation to defend, indemnify and hold Niagara Mohawk harmless, all as expressly set forth in the P&S Agreement. As an integral part of the foregoing, the Releasor does hereby covenant not to sue or assert, directly or indirectly, or through any other person or entity any such claim or allegation that has otherwise been waived, released or discharged by the express terms of the P&S Agreement. The aforesaid Waiver, Release and Discharge represent a final resolution of all such potential claims, and no judicial relief can be sought by the Releasor therefrom.

2. Releasor represents and warrants that the individual executing this Covenant has been fully authorized to grant this Covenant, which Covenant shall have a full and binding effect upon its governing body.

3. This Covenant, and its corresponding Waiver, Release and Discharge, cannot be lessened, changed or modified, unless same is in writing and signed by Niagara Mohawk. In the

event that any provision of the P&S Agreement concerning the Releasor's Waiver, Release and Discharge and/or this Covenant is held to be unenforceable or invalid by any court or regulatory authority of competent jurisdiction, the validity and therefore Niagara Mohawk's ability to enforce the remaining provisions shall not be affected and the Releasor hereby directs any such court or regulatory authority to interpret the remaining provisions of the P&S Agreement and/or this Covenant in a manner that will accomplish the stated goal and intent of same.

**IN WITNESS WHEREOF**, the Releasor has caused this Covenant to be duly executed and delivered to Niagara Mohawk as of the date first written above by its duly authorized representative.

**COUNTY OF OSWEGO**

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(printed)

Title: \_\_\_\_\_

Date: \_\_\_\_\_





### EXHIBIT 3

#### Oswego Fire School Facility – Property Transfer Proposed Accounting Treatment Journal Entries

The Company proposes to defer and amortize the deferred book cost of \$1,687,997.52.

	<u>dr</u>	<u>cr</u>
Accumulated Depreciation	718,344.71	
Loss	1,687,997.52	
Cash	-	
Plant <sup>1</sup>		2,406,342.23
Deferred Debit	1,687,997.52	
Loss		1,687,997.52

The following journal entries are proposed to be recorded upon the transfer of the Property to the County and each year thereafter through December 31, 2011 to reverse the loss and establish the deferral as an expense over the remainder of the Company's Merger Rate Plan:

	<u>dr</u>	<u>cr</u>	<u>FY</u>
Amortization of Deferred Debit Deferred Debit <sup>2</sup>	355,367.90	355,367.90	07/08
Amortization of Deferred Debit Deferred Debit	355,367.90	355,367.90	08/09
Amortization of Deferred Debit Deferred Debit	355,367.90	355,367.90	09/10
Amortization of Deferred Debit Deferred Debit	355,367.90	355,367.90	10/11
Amortization of Deferred Debit Deferred Debit	266,525.92	266,525.92	11/12

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<sup>1</sup> Represents record of transfer of Property. Amounts will be updated to the actual date of transfer.

<sup>2</sup> Amounts will be updated to the actual date of transfer.



#### **EXHIBIT 4**

#### **Oswego Fire School Facility – Property Transfer Three-Year Revenue and Expense Summary**

<b>ACTIVITY</b>	<b>FY 03/04</b>	<b>FY 04/05</b>	<b>FY 05/06</b>
O&M Expenses <sup>1</sup>	\$191,700	\$148,400	\$176,200

**Note:** Company's Fiscal Year ("FY") ends on 3/31.

	<b>CY 2004</b>	<b>CY 2005</b>	<b>CY 2006</b>
Property Taxes	\$ 32,003	\$ 33,069	\$ 31,279

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<sup>1</sup> O&M Expenses as shown are net of revenue proceeds. The last training classes performed under contract for others occurred in October 2004. As such, there were no revenues associated with the Facility in FY 05/06.



617.20  
**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
For UNLISTED ACTIONS Only

**Oswego Fire School Facility**  
**Property Transfer**

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

<b>1. APPLICANT/SPONSOR</b> National Grid USA	<b>2. PROJECT NAME</b> Oswego Fire School Property Transfer
<b>3. PROJECT LOCATION:</b> Municipality <u>Oswego</u> County <u>Oswego</u>	
<b>4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)</b> 720 East Seneca Street Oswego, NY 13216 (map attached)	
<b>5. PROPOSED ACTION IS:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
<b>6. DESCRIBE PROJECT BRIEFLY:</b> Transfer approximately 20 acres of property, including the fire training facilities, from National Grid USA (Niagara Mohawk Power Corporation) to Oswego County. No facility modifications are included as part of this project.	
<b>7. AMOUNT OF LAND AFFECTED:</b> Initially <u>20</u> acres    Ultimately <u>20</u> acres	
<b>8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly A deed restriction is filed with Oswego County that identifies previous contamination at this site.	
<b>9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT?</b> <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: The fire school is a commercial facility that was used for training of fire-fighting personnel, both private and municipal. The property is located adjacent to an existing landfill and other commercial facilities are located in the immediate area.	
<b>10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
<b>11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: Notification to NYSDEC required 60 days in advance of transfer.	
<b>12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Robert Cazzoli / Niagara Mohawk Power Corp.</u> Date: <u>3/20/07</u> Signature: <u>Robert J. Cazzoli</u>	

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

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

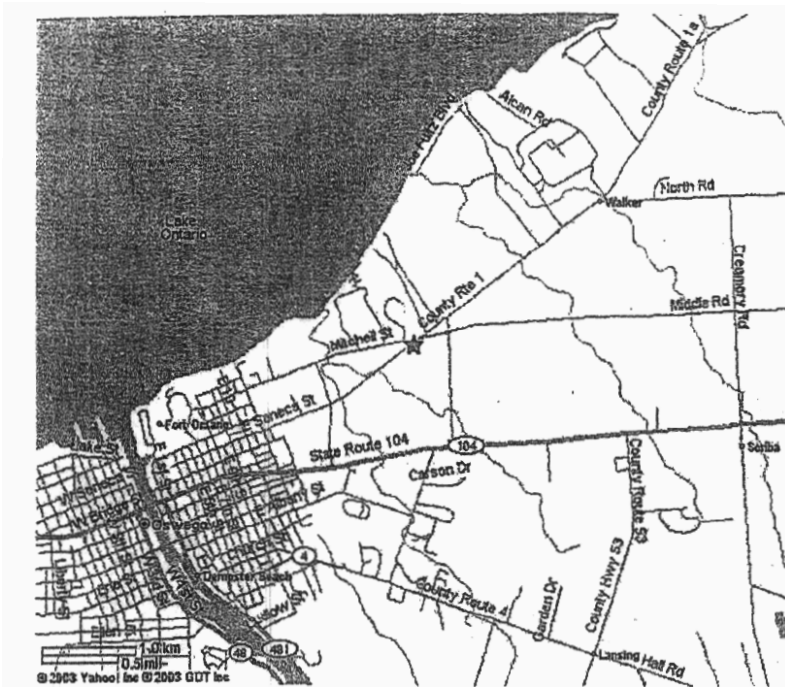
<b>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, coordinate the review process and use the FULL EAF.
<b>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6?</b> If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING:</b> (Answers may be handwritten, if legible) <div style="margin-left: 20px;"><b>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:</b> No. This project only includes a property transfer and makes no changes to the property. Future use would be subject to operation-specific permits or reviews, but would be consistent with past operation of the facility.</div> <div style="margin-left: 20px;"><b>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</b> No. This property transfer makes no changes to the property. The facility was an operating fire training facility.</div> <div style="margin-left: 20px;"><b>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</b> No. This property transfer makes no changes to the property. No expansion or modification of the property is intended with this transfer.</div> <div style="margin-left: 20px;"><b>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:</b> No. This property previously operated as a fire training facility. No changes are intended or addressed under this property transfer.</div> <div style="margin-left: 20px;"><b>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</b> No. This is solely a property transfer. Operation of the fire training facility is not addressed under this project.</div> <div style="margin-left: 20px;"><b>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</b> None identified.</div> <div style="margin-left: 20px;"><b>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</b> No. The property transfer has no such impact.</div>	
<b>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	
<b>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:	

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

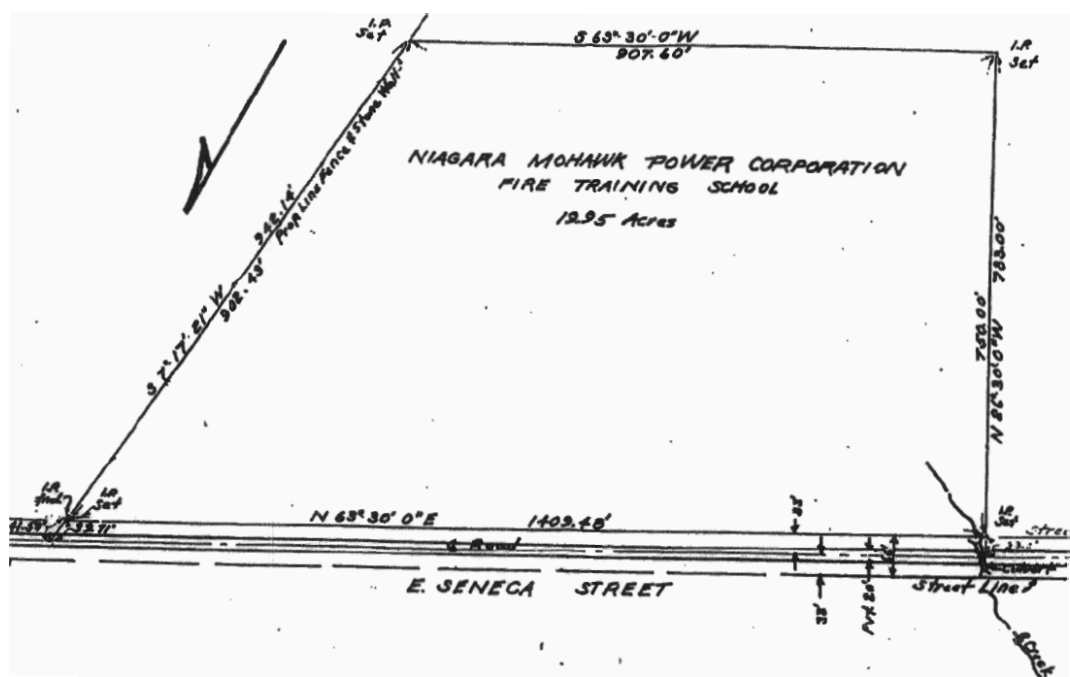
**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic 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.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> 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)

**LOCATION MAP – 720 East Seneca Street, City of Oswego.** The facility is located on the south side of East Seneca Street.



**SURVEY MAP –** Survey map prepared by Niagara Mohawk Power Corporation dated August 6, 1975 entitled “Oswego NY Fire Training Facilities, Property Map”







**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

18.1(a) CAPITAL STOCK AUTHORIZED BY CERTIFICATE OF INCORPORATION, AS LAST AMENDED:

**Preferred Stock with a par value of one hundred dollars (\$100 each), 3,400,000 shares**

**Preferred Stock with a par value of twenty five dollars (\$25 each), 19,600,000 shares**

**Preference Stock with a par value of twenty five dollars (\$25 each), 8,000,000 shares**

**Common Stock with \$1 par value, 250,000,000 shares**

18.1(b) & (c) CAPITAL STOCK AUTHORIZED BY THE COMMISSION AND ISSUED BY THE COMPANY:

<u>Class</u>	<u>Case Number</u>	<u>Date of Order</u>	<u>Series</u>	<u>Authorized and Issued Shares</u>	<u>Outstanding Shares</u>	<u>\$ Par Value</u>	<u>\$ Value Received</u>	<u>\$ Premium</u>	
Preferred		09-29-48	3.40%	200,000	57,536	100	20,030,000	30,000	Note A
	12733	(amended	3.60%	350,000	137,139	100	35,497,000	497,000	Note B
		09-20-49)	3.90%	240,000	94,967	100	24,554,000	554,000	Note C
	16720	05-04-54	4.10%	210,000	52,830	100	21,000,000		
	18346	05-13-57	5.25%	200,000	35,128	100	20,000,000		
	18737	02-17-58	4.85%	250,000	34,115	100	25,000,000		
	24455	08-02-67	6.10%	250,000	-	100	25,000,000		
	26290	08-01-72	7.72%	400,000	-	100	40,154,800	154,800	
	26438	06-12-73	7.45%	330,000	-	100	33,000,000		
		09-24-74							
	26770	(amended	10.60%	60,000	-	100	6,000,000		
		10-22-74)							
	26864	08-07-75	11.75%	300,000	-	100	30,000,000		
	27044	09-14-76	9.75%	1,200,000	-	25	30,000,000		
	27252	01-17-78	8.375%	1,600,000	-	25	40,000,000		
	27660	02-19-80	9.75%	1,020,000	-	25	25,500,000		
	27769	03-26-81	12.25%	700,000	-	25	17,500,000		
	27769	03-26-81	12.50%	620,000	-	25	15,500,000		
	27923	04-22-81	12.75%	250,000	-	100	25,000,000		
	28149	04-21-82	15.00%	800,000	-	25	20,000,000		
	28202	01-12-83	(a)	1,200,000	-	25	30,000,000		
	28454								
	28455	06-29-83	10.75%	1,600,000	-	25	40,000,000		
	25650		10.13%	250,000	-	100	25,000,000		
	28651	12-21-83	10.13%	1,000,000	-	25	25,000,000		
	28784								
	28785	05-30-84	(b)	2,000,000	-	25	50,000,000		
	28834	01-30-85	12.75%	1,000,000	-	25	25,000,000		
	28835								
	28836	01-30-85	(c)	2,000,000	-	25	50,000,000		
	28837								
	28894	12-17-86	8.75%	3,000,000	-	25	75,000,000		
	29273	07-15-87	8.70%	1,000,000	-	25	25,000,000		
	89-M-079	07-11-91	7.85%	914,005	-	25	22,850,125		
	93-M-0981	05-16-94	9.50%	6,000,000	-	25	150,000,000		
	99-M-0884	09-22-99	(d)	3,000,000	-	25	150,000,000		

**Preference:**

27318	05-09-78	7.75%	1,360,000	-	25	34,000,000
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- Adjustable rate, Series A
- Adjustable rate, Series B
- Adjustable rate, Series C
- Fixed adjustable rate, Series D, with a \$50 liquidation preference

FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)

18.1(b) & (c)

CAPITAL STOCK AUTHORIZED BY THE COMMISSION AND ISSUED BY THE COMPANY (continued):

Class	Case Number	Order Dated	Authorized Shares	\$ Par Value or Stated Value	Issued Shares	\$ Value received	\$ Premium
Common:							
			9,580,989	10	9,580,989	Note D	
			1,928,627	No-Class A	1,928,627	Note E	
	12733	09-29-48 (amended 09-20-49)	7,473,172	No	7,473,172	Note E	
			2,121,490	No	2,082,864.3	Note F	
	15593	12-18-51	1,000,000	No	1,000,000	22,643,000	
	16083	02-10-53	1,000,000	No	1,000,000	26,939,000	
	18134	01-07-57	1,454,680	No	1,414,368	Note G	
	18714	03-25-58	9,936	No	9,936	Note H	
	21886	10-10-61	700,000	No	700,000	31,343,900	
	23554	03-19-65	27,360,680	8	27,360,680	Note I	
	23754	10-19-65	41,750	8	41,750	Note J	751,500
	23957	03-29-66	1,400,000	8	1,400,000	31,722,600	20,522,600
	24401	08-02-67	39,372	8	39,372	Note K	536,444
	24984	01-21-69	14,628	8	14,628	Note L	285,975
	25021	02-18-69	8,250	8	8,250	Note M	
	25748	08-18-70	2,886,468	8	2,886,468	37,235,268	14,143,524
	25977	01-26-71	2,000,000	8	2,000,000	35,160,000	19,160,000
	26373	03-06-73	3,000,000	8	3,000,000	43,905,000	19,905,000
	26511	11-20-73	3,500,000	8	3,500,000	44,100,000	16,100,000
	26628	05-24-74	3,500,000	8	3,300,000	29,964,000	3,564,000
		(12-10-74)	3,600,000	8	3,000,000	30,585,000	6,585,000
	26770	(amended 06-11-75)	500,000 (a)	1	500,000	6,258,477	5,758,477
		08-07-85	900,000 (b)	1	900,000	11,172,879	10,272,879
			3,000,000		3,000,000	31,950,000	28,950,000
	26864	(amended 10-28-75)	500,000 (c)	1	275,886 (b)	3,790,894	3,515,008
					224,114 (a)	3,041,167	2,817,053
	27011	08-10-76	750,000 (c)	1	491,000 (b)	7,357,523	6,866,523
					259,000 (a)	3,763,377	3,504,377
	27023	07-07-76	4,000,000	1	4,000,000	51,580,000	47,580,000
	27128	03-15-77	1,500,000 (c)	1	796,970 (b)	12,159,874	11,362,904
					703,030 (a)	10,815,587	10,112,557
	27226	10-13-77	65,000 (d)	1	47,595	735,363	687,768
	27343	05-24-78	3,500,000	1	3,500,000	48,265,000	44,765,000
	27368	06-19-78	1,500,000 (c)	1	784,306 (b)	11,124,249	10,339,943
					715,694 (a)	14,919,718	14,204,024
	27456	03-06-79	2,250,000 (c)	1	1,258,454 (b)	12,272,886	11,014,432
					991,546 (a)	11,523,270	10,531,724
	27569	08-22-79	3,500,000	1	3,500,000	44,730,000	41,230,000
	27649	06-11-80	4,000,000	1	4,000,000	54,460,000	50,460,000
	27661	03-05-80	4,500,000	1	2,335,340 (a)	27,659,391	25,324,051
					2,164,660 (b)	26,154,127	23,989,467
	27802	08-29-80	200,000 (d)	1	200,000	2,462,618	2,262,618
	27924	06-18-81	5,000,000	1	5,000,000	57,500,000	52,500,000
	27999	07-01-81	3,000,000	1	3,000,000 (a)	39,474,671	36,474,671
	28000	07-01-81	3,000,000	1	3,000,000 (b)	40,899,688	37,899,688
	28150	06-23-82	5,000,000	1	5,000,000	76,000,000	71,000,000
	28151	07-14-82 (amended 01-26-83)	1,000,000	1	1,000,000	17,122,526	16,122,526
	28262	08-11-82	1,000,000	1	1,000,000 (d)	15,686,480	14,686,480
	28294	09-22-82	5,000,000	1	5,000,000 (a)	78,152,135	73,152,135
	28318	11-04-82	4,000,000	1	3,616,720 (b) (1)	55,914,099	52,297,379
	28449	05-18-83	2,000,000	1	2,000,000	33,240,000	31,240,000
	28460	05-18-83	2,000,000	1	2,000,000	35,180,000	33,180,000
	28461	08-17-83	1,000,000	1	1,000,000	14,695,294	13,695,294
	28462	11-22-83	1,000,000	1	1,000,000	13,685,000	12,685,000
	28652	03-28-84	2,000,000	1	2,000,000	25,370,000	23,370,000
	28653	10-03-84	2,000,000	1	2,000,000	32,940,008	30,940,008
	28737	05-02-84	4,000,000	1	4,000,000 (a)	67,127,550	63,127,550
	28786	08-15-84	1,000,000	1	1,000,000	15,479,768	14,479,768
	28878	09-05-84	1,500,000	1	500,000 (d)	8,820,255	8,320,255
	28877	10-03-84	1,000,000	1	1,000,000	18,401,846	17,401,846
	28943	01-03-85	5,000,000 (b)	-	1,612,131 (1)	29,913,189	28,301,058
	28985	02-20-85	2,000,000	-	2,000,000	33,350,000	31,350,000
	28986	05-29-85	1,000,000	1	1,000,000	20,288,071	19,288,071
	29034	06-13-85	6,000,000	1	5,920,437 (a)	91,160,486	85,240,049
	29140	09-19-85	1,000,000	1	234,226 (d) (1)	4,274,624	4,040,398
	29079	08-14-85	2,000,000	1	60,354 (1)	1,433,408	1,373,054
	29558-29562	08-19-87	5,000,000	1	3,757,381 (b)	50,780,176	47,022,795
					1,200,001 (d)	16,327,932	15,127,931
	88-M-218	01-12-89	6,000,000	1	0 (1)		
	89-M-253	02-27-89	6,000,000	1	0 (1)		
	91-M-1310	03-11-92	7,000,000	1	1,238,566 (b)	20,802,353	19,563,787
					2,141,802 (a)	39,074,848	36,933,046
	91-M-0948	04-29-92	356,460	1	445,329	Note N	
	92-M-1089	02-19-93	4,494,000	1	4,494,000	99,991,500	95,497,500
	97-M-1962	05-21-98	46,000,000	1	20,546,264	Note O	281,334,555
				1	22,399,248	Note P	282,511,130

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

**18.1(b) & (c) CAPITAL STOCK AUTHORIZED BY THE COMMISSION AND ISSUED BY THE COMPANY (continued):**

- (a) Sold through Automatic Dividend Reinvestment Plan (DRIP)
- (b) Sold through Employee Savings Fund Plan (ESFP)
- (c) Sold through DRIP and ESFP
- (d) Sold through Employee Stock Ownership Plan
- (1) PSC Case Expired

Notes:

- A. Shares were exchanged for like amount and series of Central New York Power Corporation stock.
- B. Shares were exchanged for like amount and series of Buffalo Niagara Electric Corporation stock.
- C. Shares were exchanged for like amount and series of New York Power and Light Corporation stock.
- D. Shares were issued to Niagara Hudson Power Corporation in exchange for the following no par common stock:
  - 1,586,358 shares of Central New York Power Corporation
  - 1,400,000 shares of New York Power and Light Corporation
  - 3,000,000 shares of Buffalo Niagara Electric Corporation
- E. Shares were issued to Niagara Hudson Power Corporation in exchange for 9,580,989 shares of Niagara Mohawk Power Corporation \$10 stated value common stock.
- F. Shares issued to meet the conversion privilege of its Class A stock.
- G. Shares issued upon conversion of \$45,066,400 principal amount of Convertible Debentures (cash amounting to \$184,403.76 paid in lieu of 5,056.94 fractional shares).
- H. Shares were exchanged for 3,312 shares of Cazenovia Electric Company common stock (subsequently merged into the Company).
- I. Shares were issued in place of 13,680,340 common shares (2 for 1 split).
- J. Shares were issued upon acquisition of 12,500 shares of capital stock of the Paul Smith's Electric Light and Power and Railroad Company (subsequently merged into the Company).
- K. Shares were issued upon acquisition of 2,316 shares of capital stock of the Adams Electric Light Company (subsequently merged into the Company).
- L. Shares were issued upon acquisition of 1,488 shares of capital stock of the Canton Electric Light and Power Company (subsequently merged into the Company).
- M. Shares were issued upon acquisition of 50 shares of capital stock of the Ellicottville Electric Light Company (subsequently merged into the Company).
- N. Shares were issued upon acquisition of 200 shares of capital stock of N.M. Suburban Gas, which in turn acquired Syracuse Suburban Gas Company, including subsequent common stock issuances in accordance with the acquisition agreement.
- O. Under the Master Restructuring Agreement, IPPs received these shares of the Company's common stock in exchange to terminate, restate or amend purchase power agreements.
- P. Under the Master Restructuring Agreement, IPPs received the cash proceeds from the public sale of the Company's common stock in exchange to terminate, restate or amend purchase power agreements.

FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)

18.1(d) TERMS OF PREFERENCE:

Preferred Stock

3.40% SERIES - \$100 par value

This series is designated as Preferred Stock, 3.40% Series, and provides for a dividend rate of 3.40% per annum. Upon voluntary dissolution, the holders are entitled to \$103.50 per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared. This series is redeemable in whole or in part at the option of the Company at \$103.50 per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared.

3.60% SERIES - \$100 par value

This series is designated as Preferred Stock, 3.60% Series, and provides for a dividend rate of 3.60% per annum. Upon voluntary dissolution, the holders are entitled to \$104.85 per share plus an amount equal to dividends accrued and unpaid on each share whether or not earned or declared. This series is redeemable in whole or in part at the option of the Company at \$104.85 per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared.

3.90% SERIES - \$100 par value

This series is designated as Preferred Stock, 3.90% Series, and provides for a dividend rate of 3.90% per annum. Upon voluntary dissolution, the holders are entitled to \$106 per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared. This series is redeemable in whole or in part at the option of the Company at \$106 per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared.

4.10% SERIES - \$100 par value

This series is designated as Preferred Stock, 4.10% Series, and provides for a dividend rate of 4.10% per annum. Upon voluntary dissolution, the holders are entitled to an amount equal to \$102 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$102 per share plus accrued dividends.

4.85% SERIES - \$100 par value

This series is designated as Preferred Stock, 4.85% Series, and provides for a dividend rate of 4.85% per annum. Upon voluntary dissolution, the holders are entitled to an amount equal to \$102 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$102 per share plus accrued dividends.

5.25% SERIES - \$100 par value

This series is designated as Preferred Stock, 5.25% Series, and provides for a dividend rate of 5.25% per annum. Upon voluntary dissolution, the holders are entitled to an amount equal to \$102 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$102 per share plus accrued dividends.

6.10% SERIES - \$100 par value

This series is designated as Preferred Stock, 6.10% Series, and provides for a dividend rate of 6.10% per annum. Upon voluntary dissolution, the holders are entitled to an amount equal to \$101 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$101 per share plus accrued dividends.

7.45% SERIES - \$100 par value

This series is designated as Preferred Stock, 7.45% Series, and provides a dividend rate of 7.45% per annum. Upon voluntary dissolution, the holders are entitled to the redemption price at the time applicable, plus dividends accrued and unpaid on each share, whether or not earned or declared. This series is redeemable in whole or in part at the option of the Company at the redemption price of \$101.69 per share through June 30, 1998, at \$101.45 per share thereafter and through June 30, 1999, at \$101.21 per share thereafter and through June 30, 2000, at \$100.97 per share thereafter and through June 30, 2001, at \$100.73 per share thereafter and through June 30, 2002, at \$100.49 per share thereafter and through June 30, 2003, at \$100.25 per share thereafter and through June 30, 2004, and at \$100.00 per share thereafter, in each case plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared. As a mandatory sinking fund the Company will call for redemption and retire on each June 30, 1977 through June 30, 2008, 18,000 shares, and on June 30, 2009 the balance of the shares outstanding, in each case at a redemption price of \$100 per share, plus an amount equal to the dividends accrued and unpaid, whether or not earned or declared.

7.72% SERIES - \$100 par value

This series is designated as Preferred Stock, 7.72% Series, and provides for a dividend rate of 7.72% per annum. Upon voluntary dissolution, the holders are entitled to an amount equal to \$102.36 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$102.36 per share plus accrued dividends.

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

**Adjustable Rate Series A - \$25 par value**

The series is designated as Preferred Stock, Series A and provides a dividend rate of not less than 6.50% per annum or greater than 13.50% per annum. The annual dividend per share was 10.00% of par value for the initial dividend period ended March 31, 1983 and is computed at 1.60% below the applicable rate in effect for each subsequent period. The applicable rate for any dividend period will be the highest of (1) the Treasury Bill Rate (2) the ten year constant maturity rate and (3) the twenty year constant maturity rate for such dividend period. The amount of dividends per share payable for each dividend period shall be computed by dividing the dividend rate for such dividend period by four and applying such rate against the par value. The dividend rate with respect to each dividend period will be calculated as promptly as practicable by the Company, confirmed in writing by independent accountants and published in a newspaper of general circulation in New York City prior to the new dividend period. Upon voluntary dissolution, the holders are entitled to receive \$25.00 per share plus accrued dividends.

**Adjustable Rate Series B - \$25 par value**

This series is designated as Preferred Stock, Series B and provides a dividend rate of not less than 7.50% per annum or greater than 16.50% per annum. The dividend rate for the initial dividend period ending December 31, 1984 was 13.375% per annum. For each quarterly period thereafter, dividend will be .625% above the applicable rate. The applicable rate for each dividend period, determined in advance of such period, will be the highest of the per annum three-month U.S. Treasury bill rate, the U.S. Treasury ten year constant maturity rate and the U.S. Treasury twenty year constant maturity rate. The amount of dividends per share payable for each dividend period shall be computed by dividing the dividend rate for such dividend period by four and applying such rate against the par value per share. The dividend rate with respect to each dividend period will be calculated as promptly as practical by the Company, confirmed in writing by independent accountants and published in a newspaper of general circulation in New York City prior to the new dividend period. Upon voluntary dissolution, the holders are entitled to receive \$25.00 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$25.00 per share, plus accrued dividends. As a sinking fund, the Company will call for the redemption and retire on September 30, 1993 and each September 30, thereafter to and including September 30, 2023, 50,000 shares and on August 15, 2024, 450,000 shares, in each case at \$25.00 per share plus accrued dividends.

**Adjustable Rate Series C - \$25 par value**

This series is designated as Preferred Stock, Series C and provides an annual dividend rate of 12.12% for the initial dividend period ending June 30, 1985 and at .40% above the Applicable Rate in effect for each subsequent period. The dividend rate for any dividend period shall in no event be less than 7% per annum or greater than 15.50% per annum. The applicable rate for each dividend period, determined in advance of such period, will be the highest of the arithmetic average of the two most recent weekly per annum Treasury Bill Rate, the Ten Year Constant Maturity Rate and the Twenty Year Constant Maturity Rate. The amount of dividends per share payable for each dividend period shall be computed by dividing the dividend rate for such dividend period by four and applying such rate against the par value. The dividend rate with respect to each dividend period will be calculated as promptly as practicable by the Company, confirmed in writing by independent accountants and published in a newspaper of general circulation in New York City prior to the new dividend period. Upon voluntary dissolution, the holders are entitled to receive \$25.00 per share plus accrued dividends. This series is redeemable in whole or in part at the option of the Company at \$25.00 per share, plus accrued dividends.

**Fixed Adjustable Rate Series D - \$25 par value**

This series is designated as Preferred Stock, Series D and provides a quarterly dividend at an annual rate of 6.905% for the initial period ending December 31, 2004. After December 31, 2004, dividends on the Series D Preferred Stock are payable quarterly, at an annual rate of 1.625%, plus the highest of the following rates which will be determined in advance of each quarter: the Treasury Bill Rate, the Ten Year Constant Maturity Rate or the Thirty Year Constant Maturity Rate. The annual dividend rate will not be less than 7.655% or greater than 13.655%. The amount of dividends per share payable for each dividend period shall be computed by dividing the dividend period by four and applying such rate against the par value. The amount of dividends paid will be adjusted if the Internal Revenue Code is amended to change the dividends received deduction. This series D Preferred Stock is redeemable all or in part at any time on or after December 31, 2004 at the option of the Company, at \$50 per share plus accrued dividends.

**ALL SERIES**

Accruals of dividends shall not bear interest. Not convertible or exchangeable for other securities of the corporation. Upon involuntary dissolution, the holders are entitled to the par value per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared.

No voting rights except upon default in payment of dividends in an aggregate amount equivalent to four full quarterly dividends on all shares of preferred stock outstanding. Upon such a default and until all dividends on all shares of preferred stock at time of default shall have been paid or declared or set apart for payment, the holders of the preferred stock, voting separately as a class and regardless of series, shall be entitled to elect a majority of the Board of Directors.

No preemptive rights to subscribe for, purchase or receive any part of the unissued stock of the Company or any stock of the Company to be issued by reason of any increase in the authorized capital stock of the Company.

FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)

Until dividends declared or set apart for payment for all series of preferred stock, no dividend to be paid or set apart for payment on the preference and common stock.

Upon dissolution, voluntary or involuntary, holders of preferred stock of each series then outstanding entitled to receive the sums per share fixed for the respective series before any distribution to holders of the preference and common stock. If assets distributable upon dissolution, voluntary or involuntary, are insufficient to permit payment to holders of preferred stock in full, then assets to be distributed ratably among the holders of respective series of preferred stock in proportion to sums which would be payable if assets were sufficient.

Legal rights of the Company to purchase or otherwise acquire shares of preferred stock not limited.

So long as any shares of the preferred stock of any series are outstanding, the Company is not permitted to do certain things without the consent of the holders of preferred stock which are set out in subdivisions (E), (F) and (G) of paragraph (5) of part D of the Article IV of the Certificate of Consolidation and Certification of Amendment both dated and filed January 5, 1950.

In late 1997, the Company's preferred shareholders gave the Company approval to increase the amount of unsecured debt the Company may issue by \$5 billion. Previously, the Company was able to issue \$700 million under the restrictions of its amended Certificate of Incorporation.

Preference Stock

No preference stock is currently outstanding.

ALL SERIES

Accruals of dividends shall not bear interest. Not convertible or exchangeable for other securities of the Company. Upon involuntary dissolution, the holders are entitled to the par value per share plus an amount equal to dividends accrued and unpaid on each share, whether or not earned or declared.

No voting rights except upon default in payment of dividends in an aggregate amount equivalent to six full quarterly dividends on all shares of preference stock outstanding. Upon such a default and until all dividends on all shares of preference stock at time of default shall have been paid or declared or set apart for payment, the holders of the preference stock, voting separately as a class and regardless of series, shall be entitled to elect two members of the Board of Directors.

No preemptive rights to subscribe for, purchase or receive any part of the unissued stock of the Company or any stock of the Company to be issued by reason of any increase in the authorized capital stock of the Company.

Dividend payable on last day of March, June, September and December in each year. Until dividends declared or set apart for payment for all series of preference stock, no dividend to be paid or set apart for payment on the common stock.

Upon dissolution, voluntary or involuntary, holders of preference stock of each series then outstanding entitled to receive the sums per share fixed for the respective series before any distribution to holders of the common stock. If assets distributable upon dissolution, voluntary or involuntary, are insufficient to permit payments to holders of preference stock in full, then assets to be distributed ratably among the holders of respective series of preference stock in proportion to sums which would be payable if assets were sufficient.

Legal rights of Company to purchase or otherwise acquire shares of preference stock not limited.

So long as any shares of the preference stock of any series are outstanding, the Company is not permitted to do certain things without the consent of the holders of the preference stock which are set out in subdivisions (D) and (E) of paragraph (7) of Part D of the Article IV of the Certificate of Consolidation and Certification of Amendment both dated and filed January 5, 1950.

FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)

18.1(e) TRANSFERS FROM SURPLUS OR OTHER ACCOUNTS TO NON-PAR STOCK ACCOUNTS:  
NONE

18.1(f) & (h) BONDS, ETC. AUTHORIZED BY THE COMMISSION AND ISSUED/OUTSTANDING BY THE COMPANY:

(A) First Mortgage Bonds issued by Niagara Mohawk Power Corporation and secured by mortgage referred to under 7(a) below:

Case Number	Date of Order	Face Value of Bonds Authorized and Issued	Amount Outstanding	Date of Issue	Interest Rate %	Date of Maturity
14626	01/17/50	\$ 40,000,000	(1)	01/01/50	2.75	01/01/80
15062	11/09/50	40,000,000	(1)	10/01/50	2.875	10/01/80
15593	12/19/51	15,000,000	(1)	12/01/51	3.375	12/01/81
16083	02/10/53	25,000,000	(1)	02/01/53	3.50	02/01/83
16459	10/16/53	40,000,000	(1)	10/01/53	3.25	10/01/83
16888	08/16/54	25,000,000	(1)	08/01/54	3.125	08/01/84
17797	04/24/56	30,000,000	(1)	05/01/56	3.625	05/01/86
18507	08/27/57	50,000,000	(1)	09/01/57	4.875	09/01/87
18984	05/26/58	50,000,000	(1)	06/01/58	3.875	06/01/88
21118	03/22/60	50,000,000	(1)	04/01/60	4.75	04/01/90
21886	10/10/61	40,000,000	(1)	11/01/61	4.50	11/01/91
23405	10/10/64	40,000,000	(1)	12/01/64	4.625	12/01/94
24135	10/11/66	45,000,000	(1)	11/01/66	5.875	11/01/96
24455	08/02/67	40,000,000	(1)	08/01/67	6.25	08/01/97
24790	07/16/68	60,000,000	(1)	08/01/68	6.50	08/01/98
25354	11/12/69	75,000,000	(4)	12/01/69	9.125	12/01/99
25977	01/26/71	65,000,000	(4)	02/01/71	7.375	02/01/01
26204	01/18/72	80,000,000	(4)	02/01/72	7.625	02/01/02
26290	08/01/72	80,000,000	(4)	08/01/72	7.75	08/01/02
26511	11/20/73	80,000,000	(4)	12/01/73	8.25	12/01/03
26726	09/24/74	125,000,000	(1)	10/01/74	12.60	10/01/81
26770	12/10/74	50,000,000	(4)	03/01/75	10.20	03/01/05
26864	08/07/75	50,000,000	(1)	09/01/75	10.625	09/01/85
27185	08/04/77	75,000,000	(4)	08/01/77	8.35	08/01/07
27267	12/20/77	50,000,000	(4)	12/01/77	8.625	12/01/07
27442	12/14/78	50,000,000	(4)	12/01/78	9.50	12/01/03
27569	08/22/79	100,000,000	(4)	09/01/79	9.95	09/01/04
27771	09/24/80	55,000,000	(4)	10/01/80	12.95	10/01/00
27772	02/11/81	50,000,000	(4)	03/01/81	15.00	03/01/91
27773	09/24/80	25,000,000	(4)	03/03/81	12.95	10/01/00
27925	08/07/81	25,000,000	(4)	08/11/81	14.875	08/11/88
27925	08/07/81	25,000,000	(4)	09/11/81	14.875	08/11/88
27926	10/01/81	50,000,000	(4)	03/12/82	15.50	03/01/92
27927	03/09/82	30,000,000	(4)	04/01/82	13.50	04/01/12
27928	06/09/82	75,000,000	(4)	06/17/82	15.75	06/01/92
27930						
27929	08/11/82	75,000,000	(4)	08/23/82	16.00	08/01/12
27931						
28255	10/26/82	100,000,000	(4)	11/30/82	12.875	11/01/12
28256						
28353	02/09/83	100,000,000	(4)	03/02/83	12.875	03/01/13
28354						
28456	04/06/83	50,000,000	(4)	05/09/83	11.00	05/01/93
28457	06/15/83	50,000,000	(4)	06/24/83	12.50	06/15/13
28463		20,000,000	(1)	04/09/84	12.00	03/01/89
28464	04/06/83	13,000,000	(4)	04/09/84	12.50	03/01/94
		17,000,000	(4)	04/09/84	12.625	03/01/99
28458						
28468	02/27/84	100,000,000	(4)	05/02/84	14.75	05/01/91
28648						
28788						
28789	06/13/84	100,000,000	(4)	08/08/84	11.25	07/01/14
28790						
28830	09/05/84	56,250,000	(4)	10/30/84	11.375	10/01/14
28831	09/05/84	13,000,000	(1)	10/30/84	9.125	10/01/89
28905	11/20/84	30,000,000	(1)	01/31/85	13.06	02/01/92
		20,000,000	(1)	02/28/85	13.06	02/01/92
28906	12/19/84	20,000,000	(1)	01/31/85	12.73	02/01/92
		10,000,000	(1)	02/20/85	12.73	02/20/92
		20,000,000	(1)	02/28/85	12.68	02/28/92
28646						
28833						
28907	10/30/85	75,000,000	(4)	11/20/85	8.875	11/01/25
29043						
29042						



FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)

18.1(f) & (h) BONDS, ETC. AUTHORIZED BY THE COMMISSION AND ISSUED/OUTSTANDING BY THE COMPANY (continued):

Case Number	Date of Order	Face Value of Bonds Authorized and Issued	Amount Outstanding	Date of Issue	Interest Rate %	Date of Maturity
29044						
29269	03/18/86	150,000,000	(4)	06/16/86	10.00	06/01/16
29270						
29271						
29272	05/28/86	150,000,000	(1)	08/05/86	8.875	08/01/94
29308						
29309						
29310						
29354	07/23/86	100,000,000	(4)	10/07/86	9.125	10/01/96
29350	07/23/86	100,000,000	(4)	11/20/86	10.0	11/01/16
29476	04/08/87	100,000,000	(4)	07/15/87	9.625	07/01/97
29477						
29553	04/27/88	200,000,000	(4)	05/12/88	9.875	05/01/98
29557						
88-M-182						
88-M-183	11/16/88	100,000,000	(4)	02/21/89	10.25	02/01/99
88-M-184						
88-M-254	03/13/89	100,000,000	(4)	04/12/89	10.375	04/01/99
88-M-255						
88-M-072	04/07/89	100,000,000	(1)	10/20/89	9.25	10/01/01
88-M-073						
89-M-074						
89-M-075						
89-M-1107	05/10/90	150,000,000	(1)	06/21/90	9.50	06/01/00
89-M-1108						
89-M-1109	05/10/90	150,000,000	(1)	11/28/90	9.75	11/01/05
89-M-1110						
90-M-688						
90-M-689	12/14/90	150,000,000	(4)	03/07/91	9.50	03/01/21
90-M-690						
90-M-691	12/11/91	150,000,000	(4)	04/14/92	8.75	04/01/22
90-M-692						
90-M-693						
91-M-0614	09/26/91	45,600,000	(6)	10/29/91	6.625	10/01/13
02-M-0391	06/10/02	45,600,000	45,600,000	12/17/03	Various	10/01/13
91-M-0640	08/20/92	115,705,000	115,705,000	07/07/94	Various	07/01/29
92-M-0152	05/14/92	300,000,000	(1)	06/10/92	8.00	06/01/04
92-M-0152		165,000,000	(4)	07/23/92	8.50	07/01/23
92-M-0152		220,000,000	(1)	08/26/92	7.375	08/01/03
93-M-0110	03/31/93	85,000,000	(1)	04/07/93	6.875	04/01/03
93-M-0110		210,000,000	(4)	04/07/93	7.875	04/01/24
93-M-0110	03/31/93	110,000,000	(1)	07/07/93	6.625	07/01/05
93-M-0246	08/05/93	230,000,000	(1)	09/15/93	5.875	09/01/02
93-M-0246		210,000,000	(1)	03/04/94	6.875	03/01/01
93-M-0981	05/16/94	275,000,000	275,000,000	05/23/95	7.75	05/15/06
98-M-1236	09/17/98	75,000,000	75,000,000	09/17/98	5.15	11/01/25
(B)	First Mortgage Bonds issued by Central New York Power Corporation:					
11642	11/15/44	48,000,000	(1)	10/01/44	3.0	10/01/74
(C)	First Mortgage Bonds issued by Buffalo Niagara Electric Corporation:					
11748	12/11/45	56,929,000	(1)	11/01/45	2.75	11/01/75
(D)	First Mortgage Bonds issued by New York Power and Light Corporation:					
11618	04/10/45	50,000,000	(1)	03/01/45	2.75	03/01/75
(E)	First Mortgage Bonds issued by Paul Smith's Electric Light and Power and Railroad Company:					
14515	03/20/50	1,100,000	(1)	04/01/50	3.375	04/01/75
	09/15/53					
16400	03/22/54	450,000	(1)	07/01/54	4.50	07/01/79
21302	09/13/60	450,000	(1)	05/01/60	5.50	05/01/85
(F)	Unsecured Convertible Debentures issued by Niagara Mohawk Power Corporation:					
18134	01/07/57	46,224,200	(2)	02/01/57	4.625	02/01/72
(G)	Promissory notes issued by Niagara Mohawk Power Corporation:					
26630	06/11/74	46,600,000	(4)	06/01/74	8.0	06/01/04
28020	08/19/81	50,000,000	(4)	09/23/81	18.0	09/15/89

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

18.1(f) & (h) BONDS, ETC. AUTHORIZED BY THE COMMISSION AND ISSUED/OUTSTANDING BY THE COMPANY (continued):

<u>Case Number</u>	<u>Date of Order</u>	<u>Face Value of Bonds Authorized and Issued</u>	<u>Amount Outstanding</u>	<u>Date of Issue</u>	<u>Interest Rate %</u>	<u>Date of Maturity</u>
28020	08/19/81	17,000,000	(4)	09/23/81	10.0	09/15/89
28981						
28982	06/26/85	100,000,000	100,000,000	09/05/85	Various	07/01/15
28983						
28646						
28833	10/30/85	75,000,000	75,000,000	12/23/85	Various	12/01/25
28907						
29043						
29357	09/10/86	50,000,000	50,000,000	12/18/86	Various	12/01/26
29352						
29353	12/17/86	100,000,000	(1)	Various	Various	Various
29415						
29474						
29475	04/08/87	100,000,000	(1)	Various	Various	Various
29478						
88M-256						
88M-257	05/03/89	100,000,000	(4)	Various	Various	Various
(H) New York State Energy Research And Development Authority (NYSERDA) Unsecured Promissory Note:						
28015	10/14/81	9,600,000	(1)	Various	Various	07/14/82
(I) NYSERDA Tax Exempt Revenue Notes:						
28465						
28466	06/29/83	56,000,000	(1)	Various	Various	Various
28467						
29416	12/17/86	25,760,000	25,760,000	03/26/87	Various	03/01/27
29417						
29512						
29513	04/08/87	93,200,000	93,200,000	07/16/87	Various	07/01/27
88-M-078						
88-M-079	09/28/88	69,800,000	69,800,000	12/28/88	Various	12/01/23
Revolving Credit and Term Loan Agreement: (commercial paper notes)						
27753	07/09/80	50,000,000	(1)	Various	Various	Various
Revolving Credit Agreement - Oswego Facilities Trust:						
27493	09/21/83	100,000,000	(4)	Various	Various	Various
Liability for Nuclear Fuel Disposal Costs:						
28525	03/20/84	139,061,770	(5)	03/20/84	Various	2010
Unsecured Promissory Notes:						
28465	05/30/84	20,000,000	(1)	07/31/84	15.02%	07/31/90
28465	05/30/84	30,000,000	(1)	08/27/84	15.02%	08/27/90
Swiss Franc Bonds issued by Niagara Mohawk Power Corporation:						
28980	08/14/85	50,000,000	(1)	11/14/85	5.50%	12/15/95
Obligation Under Capital Leases - Noncurrent:						
			4,166,638	Various	Various	Various
Revolving Credit and Loan Agreement:						
28875	09/19/84	25,000,000	(1)	12/31/86	Various	Various
93-M-0981	05/16/96	200,000,000	(1)	Various	Various	Various
NUG Contract Termination Liability						

[illegible]

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

18.1(g)

DESCRIPTION OF MORTGAGES:

The original Mortgage Trust Indenture of Central New York Power Corporation (name changed to Niagara Mohawk Power Corporation) dated October 1, 1937, and supplemental indentures dated as of the following dates: December 1, 1938, April 15, 1939, July 1, 1940, January 1, 1942, October 1, 1944, June 1, 1945, August 17, 1948, December 31, 1949, January 1, 1950, October 1, 1950, October 19, 1950, December 1, 1951, February 1, 1953, February 20, 1953, October 1, 1953, August 1, 1954, April 25, 1956, May 1, 1956, September 1, 1957, June 1, 1958, March 15, 1960, April 1, 1960, November 1, 1961, December 1, 1964, October 1, 1966, July 15, 1967, August 1, 1967, August 1, 1968, December 1, 1969, February 1, 1971, February 1, 1972, August 1, 1972, December 1, 1973, October 1, 1974, March 1, 1975, August 1, 1975, March 15, 1977, August 1, 1977, December 1, 1977, March 1, 1978, December 1, 1978, September 1, 1979, October 1, 1979, June 15, 1980, September 1, 1980, March 1, 1981, August 1, 1981, March 1, 1982, April 1, 1982, June 1, 1982, August 1, 1982, November 1, 1982, March 1, 1983, May 1, 1983, June 15, 1983, March 1, 1984, May 1, 1984, July 1, 1984, October 1, 1984, January 31, 1985, February 1, 1985, February 15, 1985, November 1, 1985, June 1, 1986, August 1, 1986, October 1, 1986, November 1, 1986, July 1, 1987, May 1, 1988, February 1, 1989, April 1, 1989, October 1, 1989, June 1, 1990, November 1, 1990, March 1, 1991 and October 1, 1991, April 1, 1992, June 1, 1992, July 1, 1992, August 1, 1992, April 1, 1993, July 1, 1993, September 1, 1993, March 1, 1994, July 1, 1994, May 1, 1995, March 20, 1996 and November 1, 1998 were given by Niagara Mohawk Power Corporation (Central New York Power Corporation prior to January 5, 1950) to the Marine Midland Trust Company of New York (Now HSBC Bank USA) as Trustee. The amount of the indebtedness authorized to be secured thereby is unlimited. The amount of indebtedness actually incurred by Niagara Mohawk Power Corporation was \$6,461,155,000 (for Niagara Mohawk Power Corporation and its prior companies, the amount of indebtedness actually incurred was \$6,618,084,000) and the amount presently outstanding is \$511,305,000. This mortgage covers all major properties of Niagara Mohawk Power Corporation.

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

<b>18.1(i) <u>AFFILIATED INTEREST:</u></b>	
Associated Companies - National Grid USA Service Company -Money Pool	\$14,985,009
Associated Companies - Niagara Mohawk Holdings, Inc	801,692
Associated Companies - Niagara Mohawk Holdings, Inc (5.8% Note due November 1, 2012)	29,000,000
Associated Companies - Niagara Mohawk Holdings, Inc (3.83% Note due June 30, 2010)	13,405,000
Associated Companies - Niagara Mohawk Holdings, Inc. (3.72% Note due November 1, 2012)	<u>13,020,000</u>
	<u>\$71,211,701</u>

<b>18.1(j) <u>OTHER INDEBTEDNESS:</u></b>	
Other current and accrued liabilities	<u>\$707,554,349</u>

**18.1(k) A. INTEREST ACCRUED FROM DECEMBER 31, 2004 TO DECEMBER 31, 2005 - LONG TERM DEBT:**

Interest on Mortgage Bonds	@	5.15%	\$ 3,862,500
Interest on Mortgage Bonds	@	6-5/8%	3,643,750
Interest on Mortgage Bonds	@	6-5/8%	1,090,853
Interest on Mortgage Bonds	@	9-3/4%	11,210,957
Interest on Mortgage Bonds	@	Floating	2,655,092
Interest on Mortgage Bonds	@	7-3/4%	21,312,500
Interest on NYSERDA Notes	@	Various	10,008,112
Interest on Senior Notes	@	7-5/8%	17,295,730
Interest on Senior Notes	@	7-3/4%	46,500,000
Interest on Senior Notes	@	8-7/8%	<u>17,750,000</u>
Total Interest on long-term debt			<u>\$135,329,494</u>

**B. INTEREST ACCRUED FROM DECEMBER 31, 2004 TO DECEMBER 31, 2005 - AFFILIATE DEBT**

Associated Companies-National Grid USA Service Company-Money Pool		\$14,985,009
Associated Companies-Niagara Mohawk Holdings, Inc.		801,692
Niagara Mohawk Holdings, Inc. (1)	@	5.8%
Niagara Mohawk Holdings, Inc. (1)	@	3.83%
Niagara Mohawk Holdings, Inc. (1)	@	3.72%
Total Interest on Debt to Associated Companies		<u>\$71,211,701</u>

**C. INTEREST ACCRUED FROM DECEMBER 31, 2004 TO DECEMBER 31, 2005 - OTHER:**

Financing Costs in Support of Debt	\$1,746,205
Interest on Nuclear Fuel Disposal Costs	4,365,190
Interest on NYPA ISO MOU	4,296,739
Interest on Customer Deposits	1,129,466
Interest on Gas Contingency Reserve Adjustment	3,536,073
Carrying Charges	(5,196,401)
Interest on NYSERDA	496,790
Miscellaneous Items	<u>1,823,065</u>
Total Other Interest Expense	<u>\$12,170,127</u>

**18.1(l) DIVIDENDS DECLARED AND PAID FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Preferred Stock	
3.40% Series (\$3.40 per share)	\$ 680,000
3.60% Series (\$3.60 per share)	1,260,000
3.90% Series (\$3.90 per share)	936,003
4.10% Series (\$4.10 per share)	861,000
4.85% Series (\$4.85 per share)	1,212,501
5.25% Series (\$5.25 per share)	1,050,001
6.10% Series (\$6.10 per share)	1,525,000
7.45% Series (\$7.45 per share)	1,184,550
7.72% Series (\$7.72 per share)	3,088,000
7.85% Series (\$7.85 per share)	269,060
Adjustable Rate Series A	1,950,001
Adjustable Rate Series B	2,976,563
Adjustable Rate Series C	3,500,000
Adjustable Rate Series D	<u>10,357,500</u>

**\$30,850,179**

Common Stock (dividends paid to Niagara Mohawk Holdings, Inc.)

37,160,000  
\$68,010,179

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

**DIVIDENDS DECLARED AND PAID FROM JANUARY 1, 2002 TO DECEMBER 31, 2002**

**Preferred Stock:**

3.40% Series (\$3.40 per share)	\$ 330,994
3.60% Series (\$3.60 per share)	694,890
3.90% Series (\$3.90 per share)	529,661
4.10% Series (\$4.10 per share)	393,638
4.85% Series (\$4.85 per share)	445,274
5.25% Series (\$5.25 per share)	405,756
6.10% Series (\$6.10 per share)	381,250
7.45% Series (\$7.45 per share)	279,375
7.72% Series (\$7.72 per share)	772,000
Adjustable Rate Series A	487,500
Adjustable Rate Series B	726,563
Adjustable Rate Series C	875,000
Adjustable Rate Series D	<u>5,471,608</u>

\$11,793,509  
63,913,966  
\$75,707,475

Common Stock (dividends paid to Niagara Mohawk Holdings, Inc.)

**DIVIDENDS DECLARED AND PAID FROM JANUARY 1, 2003 TO DECEMBER 31, 2003**

**Preferred Stock:**

3.40% Series (\$3.40 per share)	\$ 201,175
3.60% Series (\$3.60 per share)	496,184
3.90% Series (\$3.90 per share)	380,591
4.10% Series (\$4.10 per share)	220,678
4.85% Series (\$4.85 per share)	174,373
5.25% Series (\$5.25 per share)	184,921
Adjustable Rate Series D	<u>3,316,472</u>

\$ 4,974,394  
0  
\$ 4,974,394

Common Stock (dividends paid to Niagara Mohawk Holdings, Inc.)

**DIVIDENDS DECLARED AND PAID FROM JANUARY 1, 2004 TO DECEMBER 31, 2004**

**Preferred Stock:**

3.40% Series (\$3.40 per share)	\$ 195,623
3.60% Series (\$3.60 per share)	493,701
3.90% Series (\$3.90 per share)	370,372
4.10% Series (\$4.10 per share)	216,604
4.85% Series (\$4.85 per share)	179,104
5.25% Series (\$5.25 per share)	170,372
Adjustable Rate Series D	<u>1,736,953</u>

\$ 3,362,729  
0  
\$ 3,362,729

Common Stock (dividends paid to Niagara Mohawk Holdings, Inc.)

**DIVIDENDS DECLARED AND PAID FROM JANUARY 1, 2005 TO DECEMBER 31, 2005**

**Preferred Stock:**

3.40% Series (\$3.40 per share)	195,623
3.60% Series (\$3.60 per share)	493,701
3.90% Series (\$3.90 per share)	370,372
4.10% Series (\$4.10 per share)	216,604
4.85% Series (\$4.85 per share)	179,104
5.25% Series (\$5.25 per share)	<u>170,372</u>

1,625,776  
8,000,000  
\$ 9,625,776

Common Stock (dividends paid to Niagara Mohawk Holdings, Inc.)

18.1(m)

**CONTINGENT ASSETS AND LIABILITIES**

**Long-Term Contracts for the Purchase of Electric Power:** The Company has several types of long-term contracts for the purchase of electric power. The Company's commitments under these long-term contracts, as of December 31, 2005 are summarized in the table below. The Company did not enter into any new agreements in 2005 or 2004. For a detailed discussion of the financial swap agreements that the Company has entered into to hedge the costs of purchased electricity (which are not included in the table below), see Note L - Derivatives and Hedging Activities.

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

(In thousands of dollars)	
Year Ended December 31,	Estimated Payments
2006	\$455,224
2007	445,078
2008	418,082
2009	373,854
2010	261,139
Thereafter	2,293,787

If the Company needs any additional energy to meet its load it can purchase the electricity from other IPPs, other utilities, other energy merchants or through the NYISO at market prices. Substantially all of these contracts require power to be delivered before the Company is obligated to make payment.

**Gas Supply, Storage and Pipeline Commitments:** In connection with its regulated gas business, Niagara Mohawk has long-term commitments with a variety of suppliers and pipelines to purchase gas commodity, provide gas storage capability and transport gas commodity on interstate gas pipelines.

The table below sets forth Niagara Mohawk's estimated commitments at December 31, 2005, for the next five years, and thereafter.

(In thousands of dollars)		
Year Ended December 31,	Gas Supply	Gas Storage/Pipeline
2006	\$384,482	\$51,636
2007	210,385	47,636
2008	57,582	19,240
2009	-	5,310
2010	-	5,310
Thereafter	-	5,651

With respect to firm gas supply commitments, the amounts are based upon volumes specified in the contracts giving consideration for the minimum take provisions. Commodity prices are based on New York Mercantile Exchange quotes and reservation charges, when applicable. Storage and pipeline capacity commitments' amounts are based upon volumes specified in the contracts, and represent demand charges priced at current filed tariffs. At December 31, 2005, Niagara Mohawk's firm gas supply commitments have varying expiration dates, the latest of which is November 2006. The gas storage and transportation commitments have varying expiration dates with the latest being October 2012.

**Commodity Reconciliations:** As part of the Company's ongoing reconciliation of commodity costs and revenues, the Company identified several adjustments for the period from October 1, 2001 through April 30, 2003, and included them in filings with the PSC. Specifically, the Company requested recovery of \$36 million of commodity costs associated with the under-reconciliation of New York Power Authority (NYPA) hydropower revenues in its commodity adjustment clause, and proposed to refund \$24 million associated with other revenues that were not included in the commodity adjustment reconciliation. Following the filing, the PSC Staff completed a comprehensive audit of the Company's commodity costs and revenues from October 1, 2001 through December 31, 2003, and the Staff and the Company agreed that a refund of \$2.8 million should be provided to customers through that period. The PSC approved the refund on December 20, 2004.

**Environmental Contingencies:** The normal ongoing operations and historic activities of the Company are subject to various federal, state and local environmental laws and regulations. Like many other industrial companies, the Company's transmission and distribution business uses or generates some hazardous and potentially hazardous wastes and by-products. Under federal and state Superfund laws, potential liability for the historic contamination of property may be imposed on responsible parties jointly and severally, without fault, even if the activities were lawful when they occurred.

The Environmental Protection Agency (EPA), Department of Environmental Conservation (DEC), as well as private entities have alleged that the Company is a potentially responsible party under state or federal law for the remediation of an aggregate of approximately 100 sites, including 52 which are Company owned. The Company's most significant liabilities relate to manufactured gas plant (MGP) facilities formerly owned or operated by the Company's previous owners. The Company is currently investigating and remediating, as necessary, the MGP sites and certain other properties under agreements with the EPA and DEC.

The Company believes that obligations imposed on the Company because of the environmental laws will not have a material impact on its results of operations or its financial condition. The Company's Merger Rate Plan provides for the continued application of deferral accounting for variations in spending from amounts provided in rates related to these environmental obligations. As a result, the Company has recorded a regulatory asset representing the investigation, remediation and monitoring obligations it expects to recover from ratepayers.

The Company is pursuing claims against other potentially responsible parties to recover investigation and remediation costs it believes are the obligations of those parties. The Company cannot predict the success of such claims, however. As of December 31, 2005 and December 31, 2004, the Company had accrued liabilities related to its environmental obligations of \$412 million and \$308 million, respectively. The decrease in the accrued liabilities was primarily due to payments made for costs which were previously accrued. The high end of the range of potential liabilities at December 31, 2005 is estimated at \$539 million.

**Nuclear Contingencies:** As of December 31, 2005 and 2004, the Company has a liability of \$149 million and \$145 million, respectively, in other non-current liabilities for the disposal of nuclear fuel irradiated prior to 1983. In January 1983, the Nuclear Waste Policy Act of 1982 (the Nuclear Waste Act) established a cost of \$.001 per kWh of net generation for current disposal of nuclear fuel and provides for a determination of the Company's liability to the U.S. Department of Energy (DOE) for the disposal of nuclear fuel irradiated prior to 1983. The Nuclear Waste Act also provides three payment options for liquidating such liability and the Company has elected to delay payment, with interest, until the year in which Constellation Energy Group Inc, who purchased the Company's nuclear assets, initially plans to ship irradiated fuel to an approved DOE disposal facility. Progress in developing the DOE facility has been slow and it is anticipated that the DOE facility will not be ready to accept deliveries until at least 2010.

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

**Legal Matters:**

**Station Service Charges:** The Company previously owned three power plants (the Plants), which it sold to three affiliates of NRG Energy, Inc. in 1999: Huntley Power L.L.C., Dunkirk Power L.L.C. and Oswego Harbor, L.L.C. (collectively, the NRG Affiliates). The Company is involved in several proceedings with the NRG Affiliates to recover bills for station service rendered to the Plants. (Niagara Mohawk Power Corp. v. Huntley Power L.L.C., Dunkirk Power L.L.C. and Oswego Harbor, L.L.C.)

The most significant action in this matter is a proceeding before the Federal Energy Regulatory Commission (FERC) involving the Company's complaint against the NRG Affiliates for their failure to pay station service charges which the Company assessed under its state-approved retail tariffs. A state collection action and other proceedings have all been stayed pending the outcome of the FERC proceeding. As of December 31, 2005, the NRG Affiliates owed the Company \$48.1 million for station service. On November 19, 2004 and April 22, 2005, the FERC issued orders denying the Company's complaint and found that the NRG Affiliates do not have to pay state-approved retail rates for station service. The Company has appealed the orders to the US Court of Appeals for the District of Columbia Circuit. The Court has consolidated this appeal with the two retail bypass cases discussed below. Although subject to regulatory review and approval by the PSC as discussed below under "Retail Bypass", the Company believes that if the Court upholds the FERC's orders, the Company will be permitted to recover these unpaid station service charges under its rate plans.



**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

18.1(n)

**ANALYSIS OF MISCELLANEOUS PAID-IN CAPITAL CREDITS:**

Contribution by Niagara Hudson Power Corporation on January 5, 1950 of:		
Capital stocks of certain subsidiaries at aggregate stated values	\$7,356,600	
Other investments	<u>52,277</u>	\$ 7,408,877
Amount of cash received upon liquidation of Niagara Hudson Power Corporation in excess of the estimated liabilities		500,000
Contributions in aid of construction acquired upon merger of Old Forge Electric Corporation credited to unearned surplus pursuant to the commission's order dated March 18, 1952 - Case 13343		28,773
Unearned surplus of the Oswego Canal Company acquired upon merger as of March 31, 1952, less write-down of its utility plant by \$67,212.60		209,084
Transfer of the excess amounts reflected in the depreciation reserve balances at December 31, 1951 pursuant to the Commission's order dated July 8, 1953 in Case 14808		18,258,503
Excess of book value over purchase price of Capital stock of the Woodville Electric Light and Power Company - Case 17894		5,164
Refund of deposits for script certificates of Niagara Hudson Power Corporation which expired January 5, 1958		124,121
Proceeds per Court Order dated January 23, 1961 covering sale of unexchanged shares of Niagara Mohawk Power Corporation common stock (5,173 shares)		204,267
Excess at January 17, 1966 of the book value of Paul Smith's Electric Light and Power and Railroad Company (\$1,848,871) over 41,750 shares of the Company's common stock at market of \$26 per share (\$1,085,500) given therefore - Case 23754 by order dated October 15, 1965		763,371
Merger purchase accounting adjustments on January 31, 2005. Niagara Mohawk Holdings, Inc., parent of Niagara Mohawk Power Corporation became a wholly owned subsidiary of National Grid USA.		2,534,731,271
Return of capital dividend on common stock paid to Niagara Mohawk Holdings, Inc. (7/02)		86,086,034
Equity contribution made by parent company, Niagara Mohawk Holdings, Inc. (9/03)		309,000,000
To record subsidiaries on the "Equity" basis:		
Excess book value over the cost of investments at the date of acquisition of Canadian Niagara Power Co., Ltd. (\$3,547,284) and St. Lawrence Power Co. (\$903,145) as previously recorded on Company's books. Ownership of these companies was transferred to Opinac Energy Corporation (formerly Opinac Investments, Limited) during 1982.		4,360,429
Excess of book value over the cost of investment carried on the Company's books at date of acquisition of Moreau Manufacturing Corporation		<u>477,984</u>
		<u>\$2,962,157,878</u>

**FINANCIAL CONDITION OF  
NIAGARA MOHAWK POWER CORPORATION  
DECEMBER 31, 2005 (continued)**

18.1(n) ANALYSIS OF MISCELLANEOUS PAID-IN CAPITAL DEBITS:

Transfer to Common Capital Stock as authorized by the Commission in Case 16389 by order dated August 18, 1953	\$18,258,503
Excess of carrying value of lands, etc. relating to the St. Lawrence project over the consideration received pursuant to the Commission's order dated January 26, 1959 - Case 15212	5,271,767
Subsequent merger purchase accounting adjustments related to the merger of Niagara Mohawk Holdings, Inc. (parent) with National Grid USA	19,411,540
Transferred to Accumulated Provision for Depreciation of Electric Plant in Service an amount previously credited to Miscellaneous Paid-in Capital, representing the excess of the book value of Paul Smith's Electric Light and Power and Railroad Company, \$1,848,872 over 41,750 shares of \$8 per common stock of Company, \$1,085,500 as authorized by PSC - Case 23754	763,371
Excess of the cost of investment carried on the Company's books over the book value at date of acquisition of Beebe Island Corporation to record subsidiary on the "Equity" basis	<u>62,872</u>
Total Debits	<u>43,768,053</u>
Balance December 31, 2005	<u>\$ 2,918,389,825</u>

18.1(o) AMORTIZATION OF DEFERRED DEBITS AND DEFERRED CREDITS OR OTHER BALANCE SHEET ACCOUNTS:

Capital Stock Expense:

Capital stock expense is being amortized by debiting account 425 -  
Miscellaneous Amortization as any series of stock is redeemed and retired in accordance with sinking fund provisions.

Amortization of Debt Discount and Expense:

Original amounts of debt discount and expense applicable to bonds outstanding are being amortized in equal annual  
installments over the lives of the issues, by debiting account 428 - Amortization of Debt Discount and Expense. Also  
included in the debt expense being amortized are refunding premiums, commission and expenses relating to long-term debt  
reacquired prior to maturity.

Amortization of Premium on Debt:

Original amounts of premium applicable to bonds outstanding are being amortized in equal annual installments over the  
lives of the issues, by crediting account 429 - Amortization of Premium on Debt - Credit

18.1(p) INCOME STATEMENTS AND BALANCE SHEETS

Detailed income statement for the 12 months ending December 31, 2005 and December 31, 2004 and balance sheets at December 31, 2005 and  
December 31, 2004 are attached.



Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)</b>				
Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beg. of Year (c)	Balance at End of Year (d)
1	<b>UTILITY PLANT</b>			
2	Utility Plant (101-106, 114)	200-201	\$8,246,737,117	\$8,536,285,266
3	Construction Work in Progress (107)	200-201	207,309,793	127,126,482
4	TOTAL Utility Plant (Enter Total of lines 2 and 3)		8,454,046,910	8,663,411,748
5	(Less) Accum. Prov. for Depr. Amort. Depl. (108,111,115)	200-201	2,421,946,615	2,550,321,595
6	Net Utility Plant (Enter Total of line 4 less 5)	-	6,032,100,295	6,113,090,153
7	Nuclear Fuel (120.1-120.4, 120.6)	202-203	0	0
8	(Less) Accum. Prov. for Amort. of Nucl. Fuel Assemblies (120.5)	202-203	0	0
9	Net Nuclear Fuel (Enter Total of line 7 less 8)	-	0	0
10	Net Utility Plant (Enter Total of lines 6 and 9)	-	6,032,100,295	6,113,090,153
11	Utility Plant Adjustments (116)	122	0	0
12	Gas Stored Underground - Noncurrent (117)	-	0	0
13	<b>OTHER PROPERTY AND INVESTMENTS</b>			
14	Nonutility Property (121)	221	10,200,489	10,948,094
15	(Less) Accum. Prov. for Depr. and Amort. (122)	-	823,177	825,543
16	Investments in Associated Companies (123)	-	0	0
17	Investment in Subsidiary Companies (123.1)	224-225	9,295,163	5,128,770
18	(For Cost of Account 123.1, See Footnote Page 224, line 42)	-		
19	Noncurrent Portion of Allowances	-	0	0
20	Other Investments (124)	-	8,903,284	480,909
21	Special Funds (125-128)	-	29,460,596	30,084,209
22	TOTAL Other Property and Investments (Total of lines 14-17, 19-21)		57,036,355	45,816,439
23	<b>CURRENT AND ACCRUED ASSETS</b>			
24	Cash (131)	-	6,543,965	7,692,423
25	Special Deposits (132-134)	-	48,536,482	27,662,801
26	Working Fund (135)	-	763,228	91,405
27	Temporary Cash Investments (136)	-	0	0
28	Notes Receivable (141)	-	72,976	72,976
29	Customer Accounts Receivable (142)	-	460,029,785	504,368,868
30	Other Accounts Receivable (143)	-	52,953,008	84,736,540
31	(Less) Accum. Prov. for Uncollectible Acct.-Credit (144)	-	122,203,600	130,154,400
32	Notes Receivable from Associated Companies (145)	-	0	0
33	Accounts Receivable from Assoc. Companies (146)	-	11,137,238	7,548,189
34	Fuel Stock (151)	227	0	0
35	Fuel Stock Expenses Undistributed (152)	227	0	0
36	Residuals (Elec) and Extracted Products (153)	227	0	0
37	Plant Materials and Operating Supplies (154)	227	13,705,332	20,423,590
38	Merchandise (155)	227	0	0
39	Other Materials and Supplies (156)	227	0	0
40	Nuclear Materials Held for Sale (157)	202-203/227	0	0
41	Allowances (158.1 and 158.2)	228-229	0	0
42	(Less) Noncurrent Portion of Allowances	228-229	0	0
43	Stores Expense Undistributed (163)	-	1,543,727	219,331
44	Gas Stored Underground - Current (164.1)	-	85,649,337	109,180,727
45	Liquefied Natural Gas Stored and Held for Processing(164.2-164.3)	-	0	0
46	Prepayments (165)	-	53,721,245	40,706,437
47	Advances for Gas (166-167)	-	0	0
48	Interest and Dividends Receivable (171)	-	2,988	0
49	Rents Receivable (172)	-	4,777,223	195,096
50	Accrued Utility Revenues (173)	-	131,154,450	131,141,470
51	Miscellaneous Current and Accrued Assets (174)	-	1,922,964	3,760,455
52	Derivative Instrument Assets (175)	-	0	22,239,319
53	Derivative Instrument Assets- Hedges (176)	-	0	12,638,900
54	TOTAL Current and Accrued Assets (Enter Total of lines 24 thru 51)		\$750,310,348	\$842,524,127

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input checked="" type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)</b>				
Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beg. of Year (c)	Balance at End of Year (d)
55	<b>DEFERRED DEBITS</b>			
56	Unamortized Debt Expense (181)	-	\$36,590,232	\$32,014,628
57	Extraordinary Property Losses (182.1)	230	0	0
58	Unrecovered Plant and Regulatory Study Costs (182.2)	230	0	0
59	Other Regulatory Assets (182.3)	232	4,920,277,672	5,031,567,467
60	Prelim. Survey and Investigation Charges (Electric) (183)	-	1,788,370	349,287
61	Prelim. Survey and Investigation Charges (Gas) (183.1, 183.2)	-	24,949	26,661
62	Clearing Accounts (184)	-	4,647,376	(2,246,682)
63	Temporary Facilities (185)	-	0	0
64	Miscellaneous Deferred Debits (186)	233	14,294,585	39,151,497
65	Def. Losses from Disposition of Utility Plt. (187)	-	0	0
66	Research, Devel. and Demonstration Expend. (188)	352-353	0	0
67	Unamortized Loss on Reacquired Debt (189)	-	69,078,866	61,407,122
68	Accumulated Deferred Income Taxes (190)	234	1,282,932,913	971,977,737
69	Unrecovered Purchased Gas Costs (191)	-	0	0
70	<b>TOTAL Deferred Debits (Enter Total of lines 54 thru 67)</b>		<b>6,329,634,963</b>	<b>6,134,247,717</b>
71	<b>TOTAL Assets and Other Debits (Enter Total of lines 10, 11, 12, 22, 52, and 68)</b>		<b>\$13,169,081,961</b>	<b>\$13,135,678,436</b>

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)				
Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beg. of Year (c)	Balance at End of Year (d)
1	<b>PROPRIETARY CAPITAL</b>			
2	Common Stock Issued (201)	250-251	\$187,364,863	\$187,364,863
3	Preferred Stock Issued (204)	250-251	41,171,500	41,171,500
4	Capital Stock Subscribed (202, 205)	252	0	0
5	Stock Liability for Conversion (203, 206)	252	0	0
6	Premium on Capital Stock (207)	252	0	0
7	Other Paid-in Capital (208-211)	253	2,929,499,520	2,929,499,520
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)	254	0	0
11	Retained Earnings (215, 215.1, 216)	118-119	365,642,720	678,435,933
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119	(342,366)	(1,038,941)
13	(Less) Reacquired Capital Stock (217)	250-251	0	0
14	TOTAL Proprietary Capital (Enter Total of lines 2 thru 13)	-	3,523,336,237	3,835,432,875
15	<b>LONG-TERM DEBT</b>			
16	Bonds (221)	256-257	759,286,000	511,305,000
17	(Less) Reacquired Bonds (222)	256-257	0	0
18	Advances from Associated Companies (223)	256-257	1,200,000,000	1,200,000,000
19	Other Long-Term Debt (224)	256-257	1,516,199,000	1,213,760,000
20	Unamortized Premium on Long-Term Debt (225)	-	0	0
21	(Less) Unamortized Discount on Long-Term Debt-Debit (226)	-	1,612,821	1,202,464
22	TOTAL Long-Term Debt (Enter Total of Lines 16 thru 21)	-	3,473,872,179	2,923,862,536
23	<b>OTHER NONCURRENT LIABILITIES</b>			
24	Obligations Under Capital Leases - Noncurrent (227)	-	4,761,878	4,166,638
25	Accumulated Provision for Property Insurance (228.1)	-	0	0
26	Accumulated Provision for Injuries and Damages (228.2)	-	3,104,500	3,110,500
27	Accumulated Provision for Pensions and Benefits (228.3)	-	0	0
28	Accumulated Miscellaneous Operating Provisions (228.4)	-	0	0
29	Accumulated Provision for Rate Refunds (229)	-	0	0
30	TOTAL Other Noncurrent Liabilities (Enter Total of lines 24 thru 29)		7,866,378	7,277,138
31	<b>CURRENT AND ACCRUED LIABILITIES</b>			
32	Notes Payable (231)	-	0	0
33	Accounts Payable (232)	-	234,884,824	373,098,873
34	Notes Payable to Associated Companies (233)	-	727,040,380	740,000,000
35	Accounts Payable to Associated Companies (234)	-	33,514,008	24,471,786
36	Customer Deposits (235)	-	26,013,039	27,589,395
37	Taxes Accrued (236)	262-263	9,853,980	15,772,345
38	Interest Accrued (237)	-	45,896,266	36,482,016
39	Dividends Declared (238)	-	0	0
40	Matured Long-Term Debt (239)	-	0	0
41	Matured Interest (240)	-	0	0
42	Tax Collections Payable (241)	-	3,602,307	4,250,401
43	Miscellaneous Current and Accrued Liabilities (242)	-	123,753,045	88,561,539
44	Obligations Under Capital Leases - Current (243)	-	932,742	595,242
45	TOTAL Current and Accrued Liabilities (Enter Total of lines 32 - 44)		\$1,205,490,591	\$1,310,821,597

Name of Respondent Please fill in the following:		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)</b>				
Line No.	Title of Account (a)	Ref. Page No. (b)	Balance at Beg. of Year (c)	Balance at End of Year (d)
46	DEFERRED CREDITS			
47	Customer Advances for Construction (252)		\$2,532,939	\$2,342,984
48	Accumulated Deferred Investment Tax Credits (255)	266-267	41,547,000	38,815,597
49	Deferred Gains from Disposition of Utility Plant (256)		0	0
50	Other Deferred Credits (253)	269	1,840,763,656	2,115,845,840
51	Other Regulatory Liabilities (254)	278	479,909,478	472,854,472
52	Unamortized Gain on Reacquired Debt (257)	269	0	0
53	Accumulated Deferred Income Taxes (281 - 283)	272-277	2,593,763,503	2,428,425,397
54	TOTAL Deferred Credits (Enter Total of lines 47 thru 53)		\$4,958,516,576	\$5,058,284,290
55				
56				
57				
58				
59				
60				
61				
62				
63				
64				
65				
66				
67				
68	TOTAL Liabilities and Other Credits (Enter Total of lines 14, 22, 30, 45 and 54)		\$13,169,081,961	\$13,135,678,436

**Note:**

Please use the appropriate accounts under the heading "Other Noncurrent Liabilities" for accounts that the PSC classifies as "Operating Reserves".

Name of Respondent Niagara Mohawk Power Corporation	This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/2005
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**STATEMENT OF INCOME FOR THE YEAR**

1. Report amounts for accounts 412 and 413, Revenue and Expenses from Utility Plant Leased to Others, in another utility column (i, k, m, o) in a similar manner to a utility department. Spread the amount(s) over lines 02 through 24 as appropriate.

Incl

2. Report amounts in account 414, Other Utility Operating Income, in the same manner as accounts 412 and 413.

3. Report data for lines 7, 9, and 10 for Natural Gas companies using accounts 404.1, 404.2, 404.3, 407.1, and 407.2.

4. Use page 122-123 for important notes regarding the statement of income or any account thereof.

5. Give concise explanations concerning unsettled rate proceedings where a contingency exists such that refunds of material amount may need to be made to the utility's customers or which may result in a material refund to the utility with respect to power.

6. Give concise explanations concerning significant amount of any refunds made or received during the year resulting

Line No.	Account (a)	(Ref.) Page No. (b)	TOTAL	
			Current Year (c)	Previous Year (d)
1	<b>UTILITY OPERATING INCOME</b>			
2	Operating Revenues (400)	300-301	\$4,268,625,499	3,938,542,171
3	Operating Expenses			
4	Operation Expenses (401)	320-323	2,723,415,582	2,465,351,134
5	Maintenance Expenses (402)	320-323	129,086,971	149,968,825
6	Depreciation Expense (403)	336-337	193,327,262	192,698,182
7	Amort. & Depl. of Utility Plant (404-405)	336-337	8,831,314	8,650,012
8	Amort. of Utility Plant Acq. Adj. (406)	336-337	36,913	36,912
9	Amort. of Property Losses, Unrecovered Plant and Regulatory Study Costs (407)		0	0
10	Amort. of Conversion Expenses (407)		0	0
11	Regulatory Debits (407.3)		268,560,144	247,920,799
12	(Less) Regulatory Credits (407.4)		0	0
13	Taxes Other Than Income Taxes (408.1)	262-263	211,902,483	220,736,281
14	Income Taxes -- Federal (409.1)	262-263	(19,648,520)	(18,819,350)
15	-- Other (409.1)	262-263	1,232,013	9,183,040
16	Provision for Deferred Income Taxes (410.1)	234,272-277	265,462,000	416,772,961
17	(Less) Provision for Deferred Income Taxes -Cr. (411.1)	234,272-277	53,710,290	235,770,147
18	Investment Tax Credit Adj. -- Net (411.4)	266	0	0
19	(Less) Gains from Disp. of Utility Plant (411.6)		0	0
20	Losses from Disp. of Utility Plant (411.7)		615,611	7,355,423
21	(Less) Gain from Disposition of Allowances (411.8)		0	0
22	Losses from Disposition of Allowances (411.9)		0	0
23	<b>TOTAL Utility Operating Expenses (Enter Total of lines 4 thru 22)</b>		<b>3,729,111,483</b>	<b>3,464,084,072</b>
24	<b>Net Utility Operating Income (Enter Total of line 2 less 23) (Carry forward to page 117, line 25)</b>		<b>\$539,514,016</b>	<b>\$474,458,099</b>



Name of Respondent Niagara Mohawk Power Corporation	This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/30/05	Year of Report 12/31/04
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**STATEMENT OF INCOME FOR THE YEAR (Continued)**

from settlement of any rate proceeding affecting revenues received or costs incurred for power or gas pur revenues received or costs incurred for power or from that reported in prior reports. 9. Explain in a footnote if the previous year's figures are different from that reported in prior reports.

gas purchases, and a summary of the adjustments made to balance sheet, income, and expense accounts. 10. If the columns are insufficient for reporting additional utility departments, supply the appropriate account titles, lines 2 to 23, and report the information in the blank space on page 122-123 or in a footnote.

7. If any notes appearing in the report to stockholders are applicable to this Statement of Income, such notes may be included on page 122-123.

8. Enter on page 122-123 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

Electric Utility		Gas Utility		Other Utility		Line No.
Current Year	Previous Year	Current Year	Previous Year	Current Year	Previous Year	
(e)	(f)	(g)	(h)	(i)	(j)	
						1
\$3,304,561,337	\$3,175,168,934	\$963,553,706	\$762,882,044	\$510,456	\$491,193	2
						3
1,978,147,146	1,918,221,615	745,268,436	547,113,833	0	15,686	4
99,234,913	111,503,744	29,852,058	38,465,081	0	0	5
156,358,044	156,446,331	36,969,218	36,191,107	0	60,744	6
7,891,488	7,719,149	939,826	930,863	0	0	7
36,913	36,912	0	0	0	0	8
						9
0	0	0	0	0	0	
0	0	0	0	0	0	10
268,560,144	247,920,799	0	0	0	0	11
0	0	0	0	0	0	12
166,091,048	173,878,309	45,811,435	46,857,972	0	0	13
(3,551,669)	(25,214,350)	(16,096,851)	6,395,000	0	0	14
801,081	7,727,000	430,932	1,456,040	0	0	15
256,395,000	342,364,961	9,067,000	74,408,000	0	0	16
63,430,170	195,570,147	(9,719,880)	40,200,000	0	0	17
0	0	0	0	0	0	18
0	0	0	0	0	0	19
523,269	6,788,413	92,342	567,010	0	0	20
0	0	0	0	0	0	21
0	0	0	0	0	0	22
2,867,057,207	2,751,822,736	862,054,276	712,184,906	0	76,430	23
						24
437,504,130	423,346,198	101,499,430	50,697,138	510,456	414,763	

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) 6/30/05	Year of Report 12/31/04	
STATEMENT OF INCOME FOR THE YEAR (Continued)						
	Other Utility		Other Utility		Other Utility	
Line No.	Current Year (k)	Previous Year (l)	Current Year (m)	Previous Year (n)	Current Year (o)	Previous Year (p)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23	0	0	0	0	0	0
24	-	-	-	-	-	-

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
STATEMENT OF INCOME FOR THE YEAR (Continued)				
Line No.	Account (a)	(Ref.) Page No. (b)	TOTAL	
			Current Year (c)	Previous Year (d)
25	Net Utility Operating Income (Carried forward from page 114)	--	\$539,514,016	\$474,458,099
26	<b>OTHER INCOME AND DEDUCTIONS</b>			
27	Other Income			
28	Nonutility Operating Income			
29	Revenues From Merchandising, Jobbing and Contract Work (415)		0	0
30	(Less) Costs and Exp. of Merchandising, Job. & Contract Work (416)		0	0
31	Revenues From Nonutility Operations (417)		0	2,243,095
32	(Less) Expenses of Nonutility Operations (417.1)		8,600,037	11,376,484
33	Nonoperating Rental Income (418)		0	(199,333)
34	Equity in Earnings of Subsidiary Companies (418.1)	119	(696,575)	(221,715,235)
35	Interest and Dividend Income (419)		3,772,122	2,266,909
36	Allowance for Other Funds Used During Construction (419.1)		0	(74,582)
37	Miscellaneous Nonoperating Income (421)		763,974	220,973,693
38	Gain in Disposition of Property (421.1)		0	113,857
39	TOTAL Other Income (Enter Total of lines 29 thru 38)		(4,760,516)	(7,768,080)
40	Other Income Deductions			
41	Loss on Disposition of Property (421.2)		59,729	0
42	Miscellaneous Amortization (425)	340	0	0
43	Miscellaneous Income Deductions (426.1 - 426.5)	340	6,753,813	6,814,158
44	TOTAL Other Income Deductions (Total of lines 41 thru 43)		6,813,542	6,814,158
45	Taxes Applicable to Other Income and Deductions			
46	Taxes Other Than Income Taxes (408.2)	262-263	824,105	652,812
47	Income Taxes -- Federal (409.2)	262-263	(4,004,577)	23,000
48	Income Taxes -- Other (409.2)	262-263	1,102,407	0
49	Provision for Deferred Inc. Taxes (410.2)	234,272-277	0	0
50	(Less) Provision for Deferred Income Taxes -- Cr. (411.2)	234,272-277	10,474,209	23,000
51	Investment Tax Credit Adj. -- Net (411.5)		0	0
52	(Less) Investment Tax Credits (420)		3,071,000	2,947,000
53	TOTAL Taxes on Other Income and Deduct. (Total of 46 thru 52)		(15,623,274)	(2,294,188)
54	Net Other Income and Deductions (Enter Total of lines 39, 44, 53)		4,049,216	(12,288,050)
55	<b>INTEREST CHARGES</b>			
56	Interest on Long-Term Debt (427)		135,329,494	164,034,175
57	Amort. of Debt Disc. and Expense (428)		5,459,784	7,319,870
58	Amortization of Loss on Recquired Debt (428.1)		7,609,573	7,809,380
59	(Less) Amort. of Premium on Debt-Credit (429)		0	0
60	(Less) Amortization of Gain on Recquired Debt-Credit (429.1)		86,243	86,243
61	Interest on Debt to Assoc. Companies (430)	340	71,211,701	64,093,584
62	Other Interest Expense (431)	340	12,170,127	10,725,071
63	(Less) Allowance for Borrowed Funds Used During Construction-Cr. (432)		1,714,394	418,053
64	Net Interest Charges (Enter Total of lines 56 thru 63)		229,980,042	253,477,784
65	Income Before Extraordinary Items (Total of lines 25, 54 and 64)		313,583,190	208,692,265
66	<b>EXTRAORDINARY ITEMS</b>			
67	Extraordinary Income (434)		0	0
68	(Less) Extraordinary Deductions (435)		0	0
69	Net Extraordinary Items (Enter Total of line 67 less line 68)		0	0
70	Income Taxes -- Federal and Other (409.3)	262-263	0	0
71	Extraordinary Items After Taxes (Enter Total of line 69 less line 70)		0	0
72	Net Income (Enter Total of lines 65 and 71)		\$313,583,190	\$208,692,265

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>STATEMENT OF RETAINED EARNINGS FOR THE YEAR</b>				
<p>1. Report all changes in appropriated retained earnings, unappropriated retained earnings, and unappropriated undistributed subsidiary earnings for the year.</p> <p>2. Each credit and debit during the year should be identified as to the retained earnings account in which recorded (Accounts 433, 436 - 439 inclusive). Show the contra primary account affected in column (b).</p> <p>3. State the purpose and amount of each reservation or appropriation of retained earnings.</p> <p>4. List first account 439, Adjustments to Retained Earnings, reflecting adjustments to the opening balance of retained earnings. Follow by credit, then debit items in that order.</p> <p>5. Show dividends for each class and series of capital stock.</p> <p>6. Show separately the State and Federal income tax effect of items shown in account 439, Adjustments to Retained Earnings.</p> <p>7. Explain in a footnote the basis for determining the amount reserved or appropriated. If such reservation or appropriation is to be recurrent, state the number and annual amounts to be reserved or appropriated as well as the totals eventually to be accumulated.</p> <p>8. If any notes appearing in the report to stockholders are applicable to this statement, include them on pages 122-123.</p>				
Line No.	Item (a)	Contra Primary Account Affected (b)	Amount (c)	
<b>UNAPPROPRIATED RETAINED EARNINGS (Account 216)</b>				
1	Balance -- Beginning of Year		\$365,356,623	
2	Changes (Identify by prescribed retained earnings accounts)			
3	Adjustments to Retained Earnings (Account 439)			
4	Credit:			
5	Credit:			
6	Credit:			
7	Credit:			
8	Credit:			
9	TOTAL Credits to Retained Earnings (Acct. 439) (Total of lines 4 thru 8)		0	
10	Debit:			
11	Debit:			
12	Debit:			
13	Debit:			
14	Debit:			
15	TOTAL Debits to Retained Earnings (Acct. 439) (Total of lines 10 thru 14)		0	
16	Balance Transferred from Income (Account 433 less Account 418.1)		314,279,766	
17	Appropriations of Retained Earnings (Account 436)			
18				
19				
20				
21				
22	TOTAL Appropriations to Retained Earnings (Acct. 436) (Total of lines 18 thru 21)		0	
23	Dividends Declared -- Preferred Stock (Account 437)			
24	(3.40% = \$195.6K); (3.60% = \$493.7K); (3.90% = \$370.4K); (4.10% = \$216.6K);		(1,625,776)	
25	(5.25% = \$170.4K); (4.85% = \$179.1K)			
26				
27				
28				
29	TOTAL Dividends Declared -- Preferred Stock (Acct. 437) (Total of lines 24 thru 28)		(1,625,776)	
30	Dividends Declared -- Common Stock (Account 438)			
31			(8,000,000)	
32				
33				
34				
35				
36	TOTAL Dividends Declared -- Common Stock (Acct. 438) (Total of lines 31 thru 35)		(8,000,000)	
37	Transfers from Acct. 216.1, Unappropriated Undistributed Subsidiary Earnings		0	
38	Balance -- End of year (Total of lines 01, 09, 15, 16, 22, 29, 36 and 37)		670,010,613	

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>STATEMENT OF RETAINED EARNINGS FOR THE YEAR (Continued)</b>				
Line No.	Item (a)	Amount (b)		
	<b>APPROPRIATED RETAINED EARNINGS (Account 215)</b>			
	State balance and purpose of each appropriated retained earnings amount at end of year and give accounting entries for any applications of appropriated retained earnings during the year.			
39	Balance as of January 1, 2005	286,097		
40	Other Adjustments			
41	SERP Trust - Additional Minimum Liability	508,232		
42	Deferred Gains/(Losses) on Hedging Activities - Future Gas Supply	(1,155,960)		
43		8,786,951		
44				
45	TOTAL Appropriated Retained Earnings (Account 215)	8,425,320		
	<b>APPROPRIATED RETAINED EARNINGS - AMORTIZATION RESERVE, FEDERAL (Account 215.1)</b>			
	State below the total amount set aside through appropriations of retained earnings, as of the end of the year, in compliance with the provisions of Federally granted hydroelectric project licenses held by the respondent. If any reductions or changes other than the normal annual credits hereto have been made during the year, explain such items in a footnote.			
46	TOTAL Appropriated Retained Earnings -- Amortization Reserve, Federal (Account 215.1)			
47	TOTAL Appropriated Retained Earnings (Account 215, 215.1) (Enter Total of lines 45 and 46)	8,425,320		
48	TOTAL Retained Earnings (Account 215, 215.1, 216) (Enter Total of lines 38 and 47)	678,435,933		
	<b>UNAPPROPRIATED UNDISTRIBUTED SUBSIDIARY EARNINGS (ACCOUNT 216.1)</b>			
49	Balance -- Beginning of Year (Debit or Credit)	(342,366)		
50	Equity in Earnings for Year (Credit) (Account 418.1)	(696,575)		
51	(Less) Dividends Received (Debit)			
52	Other Changes (Explain)	0		
53	Balance -- End of Year (Total of Lines 49 thru 52)	(1,038,941)		

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
<b>STATEMENT OF CASH FLOWS</b>				
<p>1. If the notes to the cash flow statement in the respondent annual stockholders report are applicable to this statement, such notes should be included on pages 122-123. Information about noncash investing and financing activities should be provided on pages 122-123. Provide also on page 122 a reconciliation between "Cash and Cash Equivalents at End of Year" with related amounts on the balance sheet.</p> <p>2. Under "Other" specify significant amounts and group others.</p> <p>3. <b>Operating Activities -- Other:</b> Include gains and losses pertaining to operating activities only. Gains and losses pertaining to investing and financing activities should be reported in those activities. Show on page 122-123 the amounts of interest paid (net of amounts capitalized) and income taxes paid.</p>				
Line No.	Description (See Instructions for Explanations of Codes) (a)			Amounts (b)
1	Net Cash Flow from Operating Activities:			
2	Net Income (Line 72(c) on page 117)			\$313,583,190
3	Noncash Charges (Credits) to Income:			
4	Depreciation and Depletion			202,195,489
5	Amortization of (Specify)			268,560,144
6				
7				
8	Deferred Income Taxes (Net)			201,277,501
9	Investment Tax Credit Adjustment (Net)			(3,071,000)
10	Net (Increase) Decrease in Receivables			(59,998,051)
11	Net (Increase) Decrease in Inventory			(5,393,862)
12	Net (Increase) Decrease in Allowances Inventory			
13	Net Increase (Decrease) in Payables and Accrued Expenses			130,748,183
14	Net (Increase) Decrease in Other Regulatory Assets			(379,849,939)
15	Net Increase (Decrease) in Other Regulatory Liabilities			(7,055,006)
16	(Less) Allowance for Other Funds Used During Construction			0
17	(Less) Undistributed Earnings from Subsidiary Companies			(696,575)
18	Other: Gas Stored Underground			(23,531,390)
19	Changes in Other Assets and Liabilities - Other (except as noted below:)			(112,973,242)
20	Changes in Other Assets and Liabilities - Deferred Credits			171,991,839
21	Changes in Other Assets and Liabilities - Deferred Credits Haz Waste Provision			103,090,345
22	Changes in Other Assets and Liabilities - Accrued Utility Revenue			12,980
23	Nuclear Fuel Liability			0
24	Changes in Goodwill			11,166,082
25	Net Cash Provided by (Used in) Operating Activities (Total of lines 2 thru 25)			811,449,838
26				
27	Cash Flows from Investment Activities:			
28	Construction and Acquisition of Plant (including Land):			
29	Gross Additions to Utility Plant (less nuclear fuel)			(354,156,690)
30	Gross Additions to Nuclear Fuel			
31	Gross Additions to Common Utility Plant			(8,010,218)
32	Gross Additions to Nonutility Plant			
33	(Less) Allowance for Other Funds Used During Construction			0
34	Other: Utility Plant Retirement Costs			66,882,839
35				
36	Cash Outflows for Plant (Total of lines 27 thru 34)			(295,284,069)
37				
38	Acquisition of Other Noncurrent Assets (d)			
39	Proceeds from Disposal of Noncurrent Assets (d)			7,053,523
40				
41	Investments in and Advances to Assoc. and Subsidiary Companies			3,469,818
42	Contributions and Advances from Assoc. and Subsidiary Companies			
43	Disposition and Investments in (and Advances to)			
44	Associated and Subsidiary Companies			
45	Proceeds from Sales of Investment Securities (a)			

Name of Respondent Niagara Mohawk Power Corporation		This Report is: (1) <input type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/06	Year of Report 12/31/05
STATEMENT OF CASH FLOWS (Continued)				
<b>4. Investing Activities</b> Include at Other (line 31) net cash outflow to acquire other companies. Provide a reconciliation of assets acquired with liabilities assumed on pages 122-123.  Do not include on this statement the dollar amount of leases capitalized per USOA General Instruction 20. Instead provide a reconciliation of the dollar amount of leases capitalized with the plant cost on pages 122-123.		<b>5. Codes used:</b> (a) Net proceeds or payments. (b) Bonds, debentures and other long-term debt. (c) Include commercial paper. (d) Identify separately such items as investments, fixed assets, intangibles, etc.		
		<b>6. Enter on pages 122-123 clarifications and explanations</b>		
Line No.	Description (See Instruction No. 5 for Explanations of Codes) (a)	Amounts (b)		
46	Loans Made or Purchased			
47	Collections on Loans			
48				
49	Net (Increase) Decrease in Receivables			
50	Net (Increase) Decrease in Inventory			
51	Net (Increase) Decrease in Allowances Held for Speculation			
52	Net (Increase) Decrease in Payables and Accrued Expenses			
53	Other:			
54	Decrease in special deposits	20,873,681		
55				
56	Net Cash Provided by (Used in) Investing Activities			
57	(Total of lines 38 thru 55)	(263,887,047)		
58				
59	<b>Cash Flows from Financing Activities:</b>			
60	Proceeds from Issuance of:			
61	Long-Term Debt (b)	0		
62	Preferred Stock			
63	Common Stock			
64	Other:			
65				
66	Net Increase in Short-Term Debt (c)	12,959,620		
67	Other: Increase in Other Paid In Capital	0		
68				
69				
70	Cash Provided by Outside Sources (Total of lines 61 thru 69)	12,959,620		
71				
72	Payments for Retirement of:			
73	Long-term Debt (b)	(550,420,000)		
74	Preferred Stock	0		
75	Common Stock	0		
76	Other: Accumulated Other Comprehensive Income, Capital Stock Expense	0		
77				
78	Net Decrease in Short-Term Debt (c)			
79				
80	Dividends on Preferred Stock	(1,625,776)		
81	Dividends on Common Stock	(8,000,000)		
82	Net Cash Provided by (Used in) Financing Activities			
83	(Total of lines 70 thru 81)	(547,086,156)		
84				
85	Net Increase (Decrease) in Cash and Cash Equivalents			
86	(Total of lines 22, 57 and 83)	476,635		
87				
88	Cash and Cash Equivalents at Beginning of Year	7,307,193		
89				
90	Cash and Cash Equivalents at End of Year	\$7,783,828		

## NIAGARA MOHAWK POWER CORPORATION AND SUBSIDIARY COMPANIES

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**1. Basis of Presentation:** Niagara Mohawk Power Corporation (the Company) is subject to regulation by the New York State Public Service Commission (PSC) and the Federal Energy Regulatory Commission (FERC) with respect to its rates for service under a methodology that establishes prices based on the Company's cost. The Company's accounting policies conform to Generally Accepted Accounting Principles in the United States of America (GAAP), including the accounting principles for rate-regulated entities with respect to the Company's transmission, distribution and gas operations (regulated business), and are in accordance with the accounting requirements and ratemaking practices of the regulatory authorities.

The Company is a wholly-owned subsidiary of Niagara Mohawk Holdings, Inc. (Holdings), which in turn is wholly-owned by National Grid USA (National Grid).

The Company's consolidated financial statements include its accounts as well as those of its wholly owned subsidiaries. Inter-company balances and transactions have been eliminated.

**2. Goodwill:** The acquisition of the Company was accounted for by the purchase method, the application of which, including the recognition of goodwill, was recognized on the books of the Company, the most significant subsidiary of Holdings. The merger transaction resulted in approximately \$1.2 billion of goodwill. In accordance with Statement of Financial Accounting Standards (SFAS) No. 142, "Goodwill and Other Intangible Assets", the Company reviews its goodwill annually for impairment and when events or circumstances indicate that the asset may be impaired. The Company utilized a discounted cash flow approach incorporating its most recent business plan forecasts in the performance of the annual goodwill impairment test. The result of the annual analysis determined that no adjustment to the goodwill carrying value was required.

**3. Use of Estimates:** The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**4. Utility Plant:** The cost of additions to utility plant and replacements of retirement units of property are capitalized. Costs include direct material, labor, overhead and AFUDC (see below). Replacement of minor items of utility plant and the cost of current repairs and maintenance are charged to expense. Whenever utility plant is retired, its original cost, together with the cost of removal, less salvage, is charged to accumulated depreciation.



**5. Allowance for Funds Used During Construction (AFUDC):** The Company capitalizes AFUDC as part of construction costs in amounts equivalent to the cost of funds devoted to plant under construction for its regulated business. AFUDC represents an allowance for the cost of funds used to finance construction. AFUDC is capitalized in "Utility plant" with offsetting non-cash credits to "Other interest" and "Other income (deductions)" on the Consolidated Statement of Operations. This method is in accordance with an established rate-making practice under which a utility is permitted a return on, and the recovery of, prudently incurred capital costs through their ultimate inclusion in rate base and in the provision for depreciation. AFUDC rates are determined in accordance with FERC and PSC regulations. The AFUDC rates in effect at December 31, 2005 and 2004 were 3.05 percent and 1.22 percent, respectively. AFUDC is segregated into its two components, borrowed funds and other funds, and is reflected in the "Other interest" and "Other income (deductions)" sections, respectively, in the Company's Consolidated Statements of Operations. The amounts of AFUDC credits were recorded as follows:

(\$ in 000's)	Year Ended December 31,	
	2005	2004
Other income		
(deductions)	\$ -	\$ (75)
Other interest	1,714	418

**6. Depreciation:** For accounting and regulatory purposes, the Company's depreciation is computed on the straight-line basis using the average service lives. The Company performs depreciation studies to determine service lives of classes of property and adjusts the depreciation rates when necessary.

The weighted average service life, in years, for each asset category is presented in the table below:

	Year Ended December 31,	
	2005	2004
Asset Category:		
Electric	35	34
Gas	43	44
Common	21	17

**7. Revenues:** The Company bills its customers on a monthly cycle basis at approved tariffs based on energy delivered and a minimum customer service charge. Revenues are determined based on these bills plus an estimate for unbilled energy delivered between the cycle billing date and the end of the accounting period. The unbilled revenues included in accounts receivable at both December 31, 2005 and 2004 was approximately \$131 million.

The Company recognizes changes in accrued unbilled electric revenues in its results of operations. Pursuant to the Company's 2000 multi-year gas settlement (ended December 2004 with the Company having the right to request an increase at any time, if needed), changes in accrued unbilled gas revenues are deferred. At December 31, 2005 and 2004, approximately \$3 million and \$6 million, respectively, of unbilled gas revenues remain unrecognized in results of operations. The Company cannot predict when unbilled gas revenues will be allowed to be recognized in results of operations.

In August 2001, the PSC approved certain rate plan changes. The changes allowed for certain commodity-related costs to be passed through to customers beginning September 2001. At the same time, a transmission revenue adjustment mechanism was implemented which reconciles actual and rate forecast transmission revenues for pass-back to, or recovery from customers. The commodity adjustment clause and the transmission revenue adjustment mechanism continue to remain in effect under the Merger Rate Plan which became effective upon the closing of the merger on January 31, 2002.

The PSC approved a multi-year gas rate settlement agreement (amended through the Company's merger rate plan and ended in December 2004 with the Company having the right to request an increase at any time, if needed) in July 2000 that includes a provision for the continuation of a full gas cost collection mechanism, effective August 2000. This gas cost collection mechanism was originally reinstated in an interim agreement that became effective November 1999. Such gas cost collection mechanism continues under the Merger Rate Plan. The Company's gas cost collection mechanism provides for the collection or pass back of increases or decreases in purchased gas costs.

**8. Federal and State Income Taxes:** Regulated federal and state income taxes are recorded under the provisions of Financial Accounting Standards Board (FASB) SFAS No. 109 "Accounting for Income Taxes". Income taxes have been computed utilizing the asset and liability approach that requires the recognition of deferred tax assets and liabilities for the tax consequences of temporary differences by applying enacted statutory tax rates applicable to future years to differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities. Deferred investment tax credits are amortized over the useful life of the underlying property.

**9. Service Company Charges:** National Grid USA Service Company, Inc., an affiliated service company operating pursuant to the provisions of Section 13 of the Public Utility Holding Company Act of 1935, has furnished services to the Company at the cost of such services since the merger with National Grid. These costs approximated \$200 million and \$121 million for the years ended December 31, 2005 and 2004, respectively.

**10. Cash and Cash Equivalents:** The Company considers all highly liquid investments, purchased with an original maturity of three months or less, to be cash and cash equivalents.

**11. Restricted Cash:** Restricted cash consists of margin accounts for hedging activity, health care claims deposits, New York State Department of Conservation securitization for certain site cleanup, and worker's compensation premium deposit.

**12. Derivatives:** The Company accounts for derivative financial instruments under SFAS No. 133, "Accounting for Derivatives and Hedging Activities" (FAS 133), and SFAS No. 149, "Amendment of SFAS No. 133 on Derivative Instruments and Hedging Activities," as amended. Under the provisions of FAS 133, all derivatives except those qualifying for the normal purchase/normal sale exception are recognized on the balance sheet at their fair value. Fair value is determined using current quoted market prices. If a contract is designated as a cash flow hedge, the change in its market value is generally deferred as a component of other comprehensive income until the transaction it is hedging is completed. Conversely, the change in the market value of a derivative not designated as a cash flow hedge is deferred as a regulatory asset or liability as the Company has received approval from the PSC to establish a regulatory asset or liability for derivative instruments that did not qualify for hedge accounting and were the result of regulatory rulings. A cash flow hedge is a hedge of a forecasted transaction or the variability of cash flows to be received or paid related to a recognized asset or liability. To qualify as a cash flow hedge, the fair value changes in the derivative must be expected to offset 80% to 120% of the changes in fair value or cash flows of the hedged item.

**13. Comprehensive Income (Loss):** Comprehensive income (loss) is the change in the equity of a company, not including those changes that result from shareholder transactions. While the primary component of comprehensive income (loss) is reported net income or loss, the other components of comprehensive income (loss) relate to additional minimum pension liability recognition, deferred gains and losses associated with hedging activity, and unrealized gains and losses associated with certain investments held as available for sale. See Note C - Accumulated Other Comprehensive Income (Loss).

**14. Additional Minimum Pension Liability:** Additional minimum pension liability is recognized under SFAS No. 87, "Employers' Accounting for Pensions". Under current rate agreements with the PSC, the Company does not recognize its additional minimum pension liability (AML) for its qualified plan as a component of accumulated other comprehensive income but as a regulatory asset. The additional minimum pension liability for its non-qualified plan is recognized in accumulated other comprehensive income.

**15. Power Purchase Agreements:** The Company accounts for its power purchase agreements as executory contracts. The Company assesses several factors in determining how to account for its power purchase contracts. These factors include:

- the term of the contract compared to the economic useful life of the facility generating the electricity;
- the involvement, if any, that the Company has in operating the facility;
- the amount of any fixed payments the Company must make, even if the facility does not generate electricity; and
- the level of control the Company has over the amount of electricity generated by the facility, and who bears the risk in the event the facility is unable to generate.

**16. New Accounting Standards:** In March 2005, the Financial Accounting Standards Board (FASB) issued Interpretation No. 47 (FIN 47), "Accounting for Conditional Asset Retirement Obligations." FIN 47 will result in: (a) more consistent recognition of liabilities relating to asset retirement obligations, (b) more information about expected future cash outflows associated with those obligations and (c) more information about investments in long-lived assets because additional asset retirement costs will be recognized as part of the carrying amounts of the assets.

A conditional retirement obligation, which is referred to in Statement of Financial Accounting Standards (SFAS) No. 143, "Accounting for Asset Retirement Obligations," is defined in FIN 47 as a legal obligation to perform an asset retirement activity in which the timing and (or) method of settlement are conditional upon a future event that may or may not be within the entity's control. The obligation to perform the asset retirement activity is unconditional even though the uncertainty exists about the timing and (or) method of settlement. Uncertainty about the timing and (or) method of settlement of a conditional asset retirement obligation should be factored into the measurement of the liability when sufficient information exists. FIN 47 also clarifies when an entity has sufficient information to make a reasonable estimate of the fair value of an asset retirement obligation.

FIN 47 will become effective for the Company as of its March 31, 2006 fiscal year end. The Company is currently assessing the impact of the adoption of FIN 47 on its results of operations and financial position.

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections, a replacement of APB Opinion No. 20 and FASB Statement No. 3." Previously, Accounting Principles Board Opinion No. 20, "Accounting Changes" and SFAS No. 3, "Reporting Accounting Changes in Interim Financial Statements" defined the requirements for the accounting for and the reporting of a change in accounting principle. SFAS No. 154 requires retrospective application to prior periods' financial statements of changes in accounting principle, unless it is impracticable to determine either the period-specific effects or the cumulative effect of the change. When it is impracticable to determine the period-specific effects of an accounting change on one or more individual prior periods presented, SFAS No. 154 requires that the new accounting principle be applied to the balances of assets and liabilities as of the beginning of the earliest period for which retrospective application is practicable and that a corresponding adjustment be made to the opening balance of retained earnings for that period rather than being reported in an income statement.

SFAS No. 154 becomes effective for fiscal years ending after December 15, 2005, and the Company will adopt it as of its March 31, 2006 fiscal year end.

In December 2004, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 123R, "Share-Based Payment." SFAS No. 123R addresses the accounting for transactions in which a company receives employee services in exchange for (a) equity instruments of the company or (b) liabilities that are based on the fair value of the company's equity instruments or that may be settled by the issuance of such equity instruments. SFAS No. 123R also eliminates the ability to account for share-based compensation transactions using Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees," and requires that such transactions be accounted for using a fair-value-based method. SFAS No. 123R was originally effective for public companies for interim and annual periods beginning after June 15, 2005. In April 2005, however, the SEC delayed the effective date of SFAS No. 123R to annual, rather than interim, periods that begin after June 15, 2005. The SEC's new rule results in a six-month deferral for the Company and will be effective as of April 1, 2006. The Company does not anticipate that adoption of SFAS No. 123R will have a material impact on its results of operations or its financial position.

#### **17. Reclassifications:**

Certain amounts from prior years have been reclassified in the accompanying consolidated financial statements to conform to the current year presentation.

#### **NOTE B – RATE AND REGULATORY ISSUES**

The Company's financial statements conform to generally accepted accounting principles in the United States of America (GAAP), including the accounting principles for rate-regulated entities that apply to its regulated operations. SFAS No. 71, "Accounting for the Effects of Certain Types of Regulation," permits a public utility that is regulated on a cost-of-service basis to defer certain costs it would otherwise charge to expense, if authorized to do so by the regulator. These deferred costs are known as regulatory assets. The Company's regulatory assets were \$5.0 billion and \$4.9 billion as of December 31, 2005 and 2004, respectively. These regulatory assets are probable of recovery under the Company's Merger Rate Plan and Gas Multi-Year Rate and Restructuring Agreement. The Company believes the prices it will charge for electric service in the future, including Competitive Transition Charges (CTC), will be sufficient to recover and earn a return on the Merger Rate Plan's stranded regulatory assets over their planned amortization periods, assuming no unforeseen reduction in load or bypass of the CTC charges.

The Company's ongoing electricity business continues to be rate-regulated on a cost-of-service basis under the Merger Rate Plan and, accordingly, the Company continues to apply SFAS No. 71 to it. In addition, the Company's Independent Power Producer contracts, and the Purchased Power Agreements, which were entered into when the Company exited the power generation business, continue to be the obligations of the regulated business.

The Company is earning a return on most of its regulatory assets under its Merger Rate Plan.

On July 29, 2005, the Company filed its biannual CTC reset and deferral account recovery filing to reset rates charged to customers beginning January 1, 2006. The Company resets its CTC every two years under its Merger Rate Plan. The CTC reset is intended to account for changes in forecasted electricity and natural gas commodity prices, and the effects those changes have on the Company's above-market payments under legacy power contracts that otherwise would be stranded. In addition, the Merger Rate Plan allows the Company to recover amounts exceeding \$100 million in its deferral accounts (as projected through the end of each two-year CTC reset period through the end of the Merger Rate Plan). On December 27, 2005, the Public Service Commission (PSC) approved the Company's proposal for the new CTC effective January 1, 2006. The PSC also approved recovery of deferral account amounts of \$100 million in 2006 and \$200 million in 2007. For 2006, the actual deferral-related surcharge will begin in April 2006, with \$100 million to be collected over the last nine months of the 2006 calendar year. An audit of the deferral amount by regulatory Staff is ongoing. The Company will continue to defer costs and revenues, as applicable, through the end of the Merger Rate Plan on December 31, 2011. The Company's future filings for recovery of deferred amounts are subject to regulatory review and approval.

**Regulatory Tax Asset:** The regulatory tax asset represents the expected future recovery from ratepayers of the tax consequences of temporary differences between the recorded book basis and the tax basis of assets and liabilities. This amount is primarily timing differences related to depreciation. These amounts are recovered and amortized as the related temporary differences reverse.

**Deferred Environmental Restoration Costs:** This regulatory asset represents deferred costs associated with the Company's share of the estimated costs to investigate and perform certain remediation activities at sites which it may be associated. The Company's rate plans provide for specific rate allowances for these costs, with variances deferred for future recovery or pass-back to customers. The Company believes future costs, beyond the expiration of current rate plans, will continue to be recovered through rates.

**Pension and Post-retirement Benefit Plans:** Excess costs of the Company's pension and post-retirement benefits plans over amounts received in rates are deferred to a regulatory asset to be recovered in a future period. As a result of the closing of the merger, the Company revalued its assets and liabilities, which resulted in an increase to the Company's postretirement liability of approximately \$440 million.

**Additional Minimum Pension Liability:** The offset to any additional minimum pension liability associated with the Company's qualified pension plan is applied to this regulatory asset on a pre-tax basis instead of after-tax to other comprehensive income as determined by regulatory rulings.

**Loss on Reacquired Debt:** The loss on reacquired debt regulatory asset represents the costs to redeem certain long-term debt securities, which were retired prior to maturity. These amounts are amortized as interest expense ratably over the lives of the related issues in accordance with PSC directives.

**Other:** Included in the other regulatory asset is the accumulation of numerous miscellaneous regulatory deferrals, income earned on gas rate sharing mechanisms, the incentive earned on the sale of the fossil and hydro generation assets and certain New York Independent System Operator (NYISO) costs that were deferred for future recovery.

See Notes H, D and L for a discussion of regulatory asset accounts - Pensions and postretirement benefits Plans, Deferred environmental restoration costs and Swap contracts regulatory asset, respectively.

## NOTE C – ACCUMULATED OTHER COMPREHENSIVE INCOME

*(In thousands of dollars)*

	Gain (Loss) On Available- for-Sale Securities	Additional Minimum Pension Liability	Cash Flow Hedges	Total Accumulated Other Comprehensive Income (Loss)
Balance as of December 31, 2004	\$ 1,843	\$ (1,557)	\$ (280)	\$ 6
Investment activity, net of tax	(822)	-	-	(822)
Hedging activity, net of tax	-	-	45,910	45,910
Change in additional minimum pension liability, net of tax	-	508	-	508
Reclassification adjustment for gain included in net income, net of tax	(334)	-	(36,844)	(37,178)
Balance as of December 31, 2005	\$ 687	\$ (1,049)	\$ 8,786	\$ 8,424

Taxes on other comprehensive income for the following periods were:

<i>(In thousands of dollars)</i>	<b>For the Twelve Months Ended December 31,</b>	
	<b>2005</b>	<b>2004</b>
Investment activity	\$ 548	\$ (554)
Hedging activity	(30,607)	(3,835)
Change in additional minimum pension liability	(339)	15
Reclassification adjustment for gain included in net income	24,785	5,255
	\$ (5,613)	\$ 881

## NOTE D – COMMITMENTS AND CONTINGENCIES

**Commodity Reconciliations:** As part of the Company's ongoing reconciliation of commodity costs and revenues, the Company identified several adjustments for the period from October 1, 2001 through April 30, 2003, and included them in filings with the PSC. Specifically, the Company requested recovery of \$36 million of commodity costs associated with the under-reconciliation of New York Power Authority (NYPA) hydropower revenues in its commodity adjustment clause, and proposed to refund \$24 million associated with other revenues that were not included in the commodity adjustment reconciliation. Following the filing, the PSC Staff completed a comprehensive audit of the Company's commodity costs and revenues from October 1, 2001 through December 31, 2003, and the Staff and the Company agreed that a refund of \$2.8 million should be provided to customers through that period. The PSC approved the refund on December 20, 2004.

**Long-Term Contracts for the Purchase of Electric Power:** The Company has several types of long-term contracts for the purchase of electric power. The Company's commitments under these long-term contracts, as of December 31, 2005 are summarized in the table below. The Company did not enter into any new agreements in 2005 or 2004. For a detailed discussion of the financial swap agreements that the Company has entered into to hedge the costs of purchased electricity (which are not included in the table below), see Note L - Derivatives and Hedging Activities.

*(In thousands of dollars)*

Year Ended December 31,	Estimated Payments
2006	\$ 455,224
2007	445,078
2008	418,082
2009	373,854
2010	261,139
Thereafter	2,293,787

If the Company needs any additional energy to meet its load it can purchase the electricity from other IPPs, other utilities, other energy merchants or through the NYISO at market prices. Substantially all of these contracts require power to be delivered before the Company is obligated to make payment.

**Gas Supply, Storage and Pipeline Commitments:** In connection with its regulated gas business, the Company has long-term commitments with a variety of suppliers and pipelines to purchase gas commodity, provide gas storage capability and transport gas commodity on interstate gas pipelines.

The table below sets forth the Company's estimated commitments at December 31, 2005, for the next five years, and thereafter.

*(In thousands of dollars)*

Year Ended December 31,	Gas Supply	Gas Storage/ Pipeline
2006	\$ 384,482	\$ 51,636
2007	210,385	47,636
2008	57,582	19,240
2009	-	5,310
2010	-	5,310
Thereafter		5,651

With respect to firm gas supply commitments, the amounts are based upon volumes specified in the contracts giving consideration for the minimum take provisions. Commodity prices are based on New York Mercantile Exchange quotes and reservation charges, when applicable. Storage and pipeline capacity commitments' amounts are based upon volumes specified in the contracts, and represent demand charges priced at current filed tariffs. At December 31, 2005, the Company's firm gas supply commitments have varying expiration dates, the latest of which is November 2006. The gas storage and transportation commitments have varying expiration dates with the latest being October 2012.

**Environmental Contingencies:** The normal ongoing operations and historic activities of the Company are subject to various federal, state and local environmental laws and regulations. Like many other industrial companies, the Company's transmission and distribution business uses or generates some hazardous and potentially hazardous wastes and by-products. Under federal and state Superfund laws, potential liability for the historic contamination of property may be imposed on responsible parties jointly and severally, without fault, even if the activities were lawful when they occurred.

The Environmental Protection Agency (EPA), Department of Environmental Conservation (DEC), as well as private entities have alleged that the Company is a potentially responsible party under state or federal law for the remediation of an aggregate of approximately 100 sites, including 52 which are Company owned. The Company's most significant liabilities relate to manufactured gas plant (MGP) facilities formerly owned or operated by the Company's previous owners. The Company is currently investigating and remediating, as necessary, the MGP sites and certain other properties under agreements with the EPA and DEC.

The Company believes that obligations imposed on the Company because of the environmental laws will not have a material impact on its results of operations or its financial condition. The Company's Merger Rate Plan provides for the continued application of deferral accounting for variations in spending from amounts provided in rates related to these environmental obligations. As a result, the Company has recorded a regulatory asset representing the investigation, remediation and monitoring obligations it expects to recover from ratepayers.

The Company is pursuing claims against other potentially responsible parties to recover investigation and remediation costs it believes are the obligations of those parties. The Company cannot predict the success of such claims, however. As of December 31, 2005 and December 31, 2004, the Company had accrued liabilities related to its environmental obligations of \$412 million and \$308 million, respectively. The decrease in the accrued liabilities was primarily due to payments made for costs which were previously accrued. The high end of the range of potential liabilities at December 31, 2005 is estimated at \$539 million.

**Nuclear Contingencies:** As of December 31, 2005 and 2004, the Company has a liability of \$149 million and \$145 million, respectively, in other non-current liabilities for the disposal of nuclear fuel irradiated prior to 1983. In January 1983, the Nuclear Waste Policy Act of 1982 (the Nuclear Waste Act) established a cost of \$.001 per kWh of net generation for current disposal of nuclear fuel and provides for a determination of the Company's liability to the U.S. Department of Energy (DOE) for the disposal of nuclear fuel irradiated prior to 1983. The Nuclear Waste Act also provides three payment options for liquidating such liability and the Company has elected to delay payment, with interest, until the year in which Constellation Energy Group Inc, who purchased the Company's nuclear assets, initially plans to ship irradiated fuel to an approved DOE disposal facility. Progress in developing the DOE facility has been slow and it is anticipated that the DOE facility will not be ready to accept deliveries until at least 2010.

#### **Legal Matters:**

**Station Service Charges:** The Company previously owned three power plants (the Plants), which it sold to three affiliates of NRG Energy, Inc. in 1999: Huntley Power L.L.C., Dunkirk Power L.L.C. and Oswego Harbor, L.L.C. (collectively, the NRG Affiliates). The Company is involved in several proceedings with the NRG Affiliates to recover bills for station service rendered to the Plants. (*Niagara Mohawk Power Corp. v. Huntley Power L.L.C., Dunkirk Power L.L.C. and Oswego Harbor, L.L.C.*)



The most significant action in this matter is a proceeding before the Federal Energy Regulatory Commission (FERC) involving the Company's complaint against the NRG Affiliates for their failure to pay station service charges which the Company assessed under its state-approved retail tariffs. A state collection action and other proceedings have all been stayed pending the outcome of the FERC proceeding. As of December 31, 2005, the NRG Affiliates owed the Company \$48.1 million for station service. On November 19, 2004 and April 22, 2005, the FERC issued orders denying the Company's complaint and found that the NRG Affiliates do not have to pay state-approved retail rates for station service. The Company has appealed the orders to the US Court of Appeals for the District of Columbia Circuit. The Court has consolidated this appeal with the two retail bypass cases discussed below. Although subject to regulatory review and approval by the PSC as discussed below under "Retail Bypass", the Company believes that if the Court upholds the FERC's orders, the Company will be permitted to recover these unpaid station service charges under its rate plans.

**Retail Bypass:** As discussed in more detail in the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2005, a number of generators have complained or withheld payments associated with the Company's delivery of station service to their generation facilities, arguing that they should be permitted to bypass the Company's retail charges. The FERC issued two orders on complaints filed by the Company's station service customers in December 2003 which allowed two generators to net their station service electricity with power produced and to avoid state-authorized charges for deliveries made over distribution facilities. These orders directly conflict with the Company's state-approved tariffs and the orders of the PSC on station service rates. The December 2003 FERC orders, if upheld, will permit these generators to bypass the Company's state-jurisdictional station service charges for electricity, including those set forth in the filing that was approved by the PSC on November 25, 2003. The Company filed for rehearing of these orders, and the FERC denied these requests in January 2005. The Company has appealed the December 2003 and January 2005 orders to the U.S. Court of Appeals for the District of Columbia Circuit.

In an order dated May 10, 2004, in a related proceeding concerning the New York Independent System Operator (NYISO), the FERC reaffirmed its reasoning of the December 2003 orders. In so ruling, the FERC indicated that the NYISO station service order would be limited to merchant generators self-supplying their own power, and it should not be interpreted to apply to self-supplying retail industrial and commercial customers that do not compete with incumbent utilities for customer load. The Company appealed the order to the U.S. Court of Appeals for the District of Columbia Circuit on July 9, 2004.

The Court has consolidated these appeals for hearing. Final briefs were filed, and oral argument has been set for April 10, 2006.

These FERC orders have increased the risk that generators will be able to bypass local distribution company charges (including stranded cost recovery charges) when receiving service through the NYISO. The Company included recovery of lost revenues resulting from the FERC's station service rulings as part of its deferral recovery proposal made with the PSC on July 29, 2005. The Company's deferral recovery is subject to ongoing audit by the PSC Staff.

# NOTE E – LONG-TERM DEBT

Long-term debt consisted of the following (in thousands):

Series	Rate %	Maturity	2005	2004
<b>First Mortgage Bonds:</b>				
6 5/8%	6.625	July 1, 2005	-	110,000
9 3/4%	9.750	November 1, 2005	-	137,981
7 3/4%	7.750	May 15, 2006	275,000	275,000
<b>Senior Notes:</b>				
7 5/8%	7.625	October 1, 2005	-	302,439
8 7/8%	8.875	May 15, 2007	200,000	200,000
7 3/4%	7.750	October 1, 2008	600,000	600,000
<b>Tax exempt:</b>				
5.15%	5.150	November 1, 2025	75,000	75,000
2013	Variable	October 1, 2013	45,600	45,600
2015	Variable	July 1, 2015	100,000	100,000
2023	Variable	December 1, 2023	69,800	69,800
2025	Variable	December 1, 2025	75,000	75,000
2026	Variable	December 1, 2026	50,000	50,000
2027	Variable	March 1, 2027	25,760	25,760
2027	Variable	July 1, 2027	93,200	93,200
2029	Variable	July 1, 2029	115,705	115,705
<b>Notes Payable:</b>				
NM Holdings Note	3.720	July 31, 2009	350,000	350,000
NM Holdings Note	3.830	June 30, 2010	350,000	350,000
NM Holdings Note	5.800	November 1, 2012	500,000	500,000
Unamortized discounts			(1,202)	(1,613)
<b>Total long-term debt</b>			<b>2,923,863</b>	<b>3,473,872</b>
Long-term debt due within one year			275,000	550,420
<b>Total long-term debt, excluding current portion</b>			<b>\$2,648,863</b>	<b>\$2,923,452</b>

Substantially all of the Company's operating properties are subject to mortgage liens securing its mortgage debt. Several series of First Mortgage Bonds and Promissory Notes were issued to secure a like amount of tax-exempt revenue bonds issued by the New York State Energy Research and Development Authority (NYSERDA). Approximately \$575 million of such securities bear interest at short-term adjustable interest rates (with an option to convert to other rates, including a fixed interest rate which would require the Company to issue First Mortgage Bonds to secure the debt) which averaged 2.39 percent for the year ended December 31, 2005, 1.29 percent for the year ended December 31, 2004. Pursuant to agreements between NYSERDA and the Company, proceeds from such issues were used for the purpose of financing the construction of certain pollution control facilities at the Company's generation facilities (which the company subsequently sold) or to refund outstanding tax-exempt bonds and notes (see Note F).

On May 1, 2003, the Company completed the restructuring of \$414 million of variable rate tax-exempt bonds. The variable rate bonds are currently in the auction rate mode and are backed by bond insurance, which allowed the Company to terminate \$424 million of letter of credit facilities that were in place to provide liquidity support for principal and interest while the bonds were in a variable rate mode. The restructuring of the \$414 million of tax-exempt bonds was accomplished through a non-cash transaction.

The aggregate maturities of long-term debt for the five years subsequent to December 31, 2005, excluding capital leases are approximately:

(\$'s in millions)	
Calendar Year	Amount
2006	\$ 275
2007	200
2008	600
2009	350
2010	350
Thereafter	1,150
Total	\$ 2,925

The current portion of capital lease obligations is reflected in the other current liabilities line item on the Consolidated Balance Sheet and was approximately \$600,000 and \$1.0 million at December 31, 2005 and 2004, respectively. The non-current portion of capital lease obligations is reflected in the "Other" line item on the Consolidated Balance Sheet and was approximately \$4 million and \$5 million at December 31, 2005 and 2004, respectively.

At December 31, 2005, the Company's long-term debt, excluding intercompany debt, had a fair value of approximately \$2.5 billion. The fair market value of the Company's long-term debt was estimated based on the debts' coupons and remaining lives along with the current interest rate conditions.

### Early Extinguishment of Debt

During the years ended December 31, 2003, and 2004, the Company defeased or redeemed approximately \$670 million and \$116 million, respectively, in long-term debt prior to its scheduled maturity.

Losses resulting from the early redemption of debt are recorded as a regulatory asset. They are deferred and amortized as interest expense ratably over the lives of the related issues in accordance with PSC directives as discussed in Note B – Rate and Regulatory Issues – Loss on Reacquired Debt.

## NOTE F – SHORT-TERM DEBT

The Company had short-term debt outstanding of \$740 million and \$705 million at December 31, 2005, 2004, respectively, from the inter-company money pool. The Company has regulatory approval from the Securities and Exchange Commission (SEC), under the Public Utility Holding Company Act of 1935, to issue up to \$1 billion of short-term debt. National Grid and certain subsidiaries, including the Company, operate a money pool to more effectively utilize cash resources and to reduce outside short-term borrowings. Short-term borrowing needs are met first by available funds of the money pool participants. Borrowing companies pay interest at a rate designed to approximate the cost of outside short-term borrowings. Companies that invest in the pool share the interest earned on a basis proportionate to their average monthly investment in the money pool. Funds may be withdrawn from or repaid to the pool at any time without prior notice. The average interest rate for the money pool was 3.37 percent and 1.50 percent for fiscal years 2005 and 2004, respectively.

The Company had no short-term debt outstanding to third-parties at December 31, 2005 or 2004.

## NOTE G – FEDERAL AND STATE INCOME TAXES

Following is a summary of the components of federal and state income tax and a reconciliation between the amount of federal income tax expense reported in the Consolidated Statements of Operations and the computed amount at the statutory tax rate:

<i>(In thousands of dollars)</i>		Year Ended December 31,	
		2005	2004
<i>Components of federal and state income taxes:</i>			
<i>Current tax expense (benefit):</i>			
Federal	\$	(23,653)	\$ (21,743)
State		2,334	9,183
		(21,319)	(12,560)
<i>Deferred tax expense (benefit):</i>			
Federal		180,913	166,440
State		17,294	14,540
		198,207	180,980
Total	\$	176,888	\$ 168,420
<i>Total income taxes in the consolidated statements of operations:</i>			
Income taxes charged to operations	\$	193,335	\$ 168,149
Income taxes credited to "(Other income) deductions"		(16,447)	-
Total	\$	176,888	\$ 168,149

Reconciliation between federal income taxes and the tax computed at prevailing U.S. statutory rate on income before income taxes:

<i>(In thousands of dollars)</i>	Year Ended December 31,	
	2005	2004
Computed tax	\$ 171,665	\$ 131,989
<i>Increase (reduction) including those attributable to flow-through of certain tax adjustments:</i>		
Prior period adjustment	(3,497)	10,412
Depreciation	11,914	18,562
Cost of removal	(6,889)	(5,742)
Allowance for funds used during construction - (a)	(10)	26
State income taxes	12,758	15,420
Non-deductible executive compensation	-	-
Accrual to return adjustment	-	-
Debt premium and mortgage recording tax	2,595	351
Real estate taxes	-	-
E.S.O.P. dividends	(1,307)	-
Dividends exclusion – federal income tax returns	(155)	(124)
Provided at other than statutory rate	-	-
Voluntary Early Retirement Plan	-	-
Medicare Act	(7,324)	-
Subsidiaries	287	262
Deferred investment tax credit reversal	(3,071)	(2,947)
Other	(78)	211
Total	5,223	36,431
Federal and State Income Taxes	\$ 176,888	\$ 168,420

(a) Includes Carrying Charges (Interest Expense) imposed by the PSC.

The deferred tax liabilities (assets) were comprised of the following:

At December 31 ( <i>In thousands of dollars</i> )	2005	2004
Alternative minimum tax	\$ (115,546)	\$ (89,466)
Unbilled revenues	(23,458)	(21,038)
Non-utilized NOL carryforward	(13,272)	(409,117)
Liability for environmental costs	(193,367)	(124,755)
Voluntary early retirement program		
Bad debts	(54,808)	
Pension and other post-retirement benefits	(251,279)	(194,653)
Other	(320,247)	(443,904)
<b>Total deferred tax assets</b>	<b>(971,977)</b>	<b>(1,282,933)</b>
Depreciation related	939,337	955,519
Investment tax credit related	38,816	41,547
Deferred environmental restoration costs	194,918	124,330
Merger rate plan stranded costs	814,436	997,207
Merger fair value pension and OPEB adjustment	116,305	111,992
Bond redemption and debt discount		
Pension and other post-retirement benefits		
Other	363,429	404,716
<b>Total deferred tax liabilities</b>	<b>2,467,241</b>	<b>2,635,311</b>
Net accumulated deferred income tax liability	\$ 1,495,264	\$ 1,352,378
Current portion (net deferred tax asset)	(179,454)	(277,428)
<b>Net accumulated deferred income tax liability (non-current)</b>	<b>\$ 1,674,718</b>	<b>\$ 1,629,806</b>

The Company has been audited and reported on by the Internal Revenue Service (IRS) through January 31, 2002.

In December 1998, the Company received a ruling from the IRS which provided that the amount of cash and the value of common stock that was paid by the Company to the subject terminated IPP Parties was deductible in 1998 which resulted in the Company not paying any regular federal income taxes for 1998, and further generated a substantial net operating loss for federal income tax purposes. The Company carried back a portion of the unused net operating loss (NOL) to the years 1996 and 1997, and also for the years 1988 through 1990, which resulted in federal income tax refunds of \$135 million that were received in January 1999. As a result of the merger with National Grid, the Company is now part of the consolidated tax return filing group of National Grid Holdings, Inc. (the parent company, through an intermediary entity, of National Grid). The Company anticipates that the consolidated tax filing group will be able to utilize the remaining NOL carryforward prior to its expiration in 2019. The amount of the NOL carryforward as of December 31, 2005 and 2004 was \$38 million and \$579 million, respectively. National Grid's ability to utilize the NOL carryforward generated as a result of the MRA and the utilization of alternative minimum tax credits is affected by the rules of Section 382 of the Internal Revenue Code.

There were no valuation allowances for deferred tax assets at December 31, 2005 or 2004.

## NOTE H - EMPLOYEE BENEFITS

### *Summary*

The Company has a non-contributory defined benefit pension plan covering substantially all employees. The pension plan is a cash balance pension plan design and under that design, pay-based credits are applied based on service time, and interest credits are applied based on an average annual 30-year Treasury bond yield. In addition, a large number of employees hired by the Company prior to July 1998 are cash balance design participants who receive a larger benefit if so yielded under pre-cash balance conversion final average pay formula provisions. Employees hired by the Company following the August 1998 cash balance design conversion participate under cash balance design provisions only.

Supplemental nonqualified, non-contributory executive retirement program provides additional defined pension benefits for certain executives.

The Company provides postretirement benefits other than pensions (PBOPs). PBOP benefits include health care and life insurance coverage to eligible retired employees. Eligibility is based on certain age and length of service requirements and in some cases retirees must contribute to the cost of their coverage.

### *Funding Policy*

Funding policy is determined largely by the Company's settlement agreements with the PSC and what is recovered in rates. However, the contribution for any year will not be less than the minimum contribution required by federal law or greater than the maximum tax-deductible amount.

### *Plan Assets*

The target asset allocations for the benefit plans are:

	Pension Benefits		Non-Union PBOPs		Union PBOPs	
	2005	2004	2005	2004	2005	2004
U.S. equities	42%	44%	30%	50%	49%	45%
Global equities (including U.S.)	6%	7%	-	-	-	-
Non-U.S. equities	12%	11%	20%	5%	21%	15%
Fixed income	35%	35%	50%	45%	30%	40%
Private equity and property	5%	3%	-	-	-	-
	100%	100%	100%	100%	100%	100%

The percentage of the fair value of total plan assets at December 31:

	Pension Benefits		Non-Union PBOPs		Union PBOPs	
	2005	2004	2005	2004	2005	2004
U.S. equities	46%	46%	30%	50%	49%	52%
Global equities (including U.S.)	8%	8%	-	-	-	-
Non-U.S. equities	13%	13%	22%	6%	22%	16%
Fixed income	33%	33%	48%	44%	29%	32%
Private equity and property	-	-	-	-	-	-
	100%	100%	100%	100%	100%	100%

The Company manages benefit plan investments to minimize the long-term cost of operating the Plans, with a reasonable level of risk. Risk tolerance is determined as a result of a periodic asset/liability study which analyzes plan liabilities and plan funded status and results in the determination of the allocation of assets across equity and fixed income securities. Equity investments are broadly diversified across U.S. and non-U.S. stocks, as well as across growth, value, and small and large capitalization stocks. Likewise, the fixed income portfolio is broadly diversified across the various fixed income market segments. For the PBOP plan, since the earnings on a portion of the assets are taxable, those investments are managed to maximize after tax returns consistent with the broad asset class parameters established by the asset allocation study. Investment risk and return is reviewed by the investment committee on a quarterly basis.

The estimated rate of return for various passive asset classes is based both on analysis of historical rates of return and forward looking analysis of risk premiums and yields. Current market conditions, such as inflation and interest rates, are evaluated in connection with the setting of the long-term assumption. A small premium is added for active management of both equity and fixed income. The rates of return for each asset class are then weighted in accordance with the target asset allocation, and the resulting long-term return on asset rate is then applied to the market-related value of assets.

*Assumptions used for Benefits Accounting*

The following weighted average assumptions were used to determine the pension and PBOP benefit obligations and net periodic costs for the calendar years ending December 31.

	Pension Benefits		PBOP	
	2005	2004	2005	2004
<b>Benefit obligations</b>				
Discount rate	5.75%	6.25%	5.75%	5.75%
Rate of compensation increase	3.90%	3.25%	n/a	n/a
Expected long-term rate of return	8.25%	8.50%	8.21%	7.88%
<b>Health care cost trend rate</b>				
Initial	n/a	n/a	9.00%	9.00%
Ultimate	n/a	n/a	5.00%	5.00%
Year ultimate rate reached	n/a	n/a	2010	2009
<b>Net periodic benefit cost</b>				
Discount rate	5.75%	6.25%	5.75%	6.25%
Rate of compensation increase	3.25%	3.25%	n/a	n/a
Expected long-term rate of return	8.50%	8.50%	8.29%	8.00%
<b>Health care cost trend rate</b>				
Initial	n/a	n/a	9.00%	10.00%
Ultimate	n/a	n/a	5.00%	5.00%
Year ultimate rate reached	n/a	n/a	2009	2008

The expected contribution to the Company's pension and PBOP plans during calendar year 2006 are approximately \$72 million and \$78 million, respectively.



### Pension Benefits

The Company's net periodic benefit cost for the years ended December 31, 2005 and 2004 included the following components:

(In thousands)	2005	2004
Service cost	\$31,826	\$ 29,080
Interest cost	74,431	70,972
Expected return on plan assets	(67,398)	(67,436)
Amortization of unrecognized prior service cost	3,295	1,437
Amortization of unrecognized loss	32,199	24,718
Net periodic benefit costs before settlement / curtailments	74,353	58,771
Settlement and curtailment loss	-	1,749
Net periodic benefit costs	\$74,353	\$ 60,520

The following table provides a reconciliation of the plans' fair value of assets for the calendar years 2005 and 2004.

(In thousands)	2005	2004
Fair value of plan assets at beginning of period	\$872,665	\$ 839,067
Actual return on plan assets	57,822	87,365
Company contributions	74,269	84,138
Benefits paid	(102,064)	(127,626)
Settlements	-	(10,279)
Fair value of plan assets at end of period	\$902,692	\$ 872,665

The following table provides the changes in the Company's pension plans' benefit obligations, reconciliation of the benefit obligation, funded status and the amounts recognized in the balance sheet at December 31:

(In thousands)	2005	2004
Accumulated benefit obligation	\$ 1,242,464	\$ 1,257,243
Benefit obligation at beginning of period	\$1,322,096	\$ 1,227,395
Service cost	31,826	29,080
Interest cost	74,431	70,972
Actuarial loss	47,480	108,354
Plan amendments	7,000	24,201
Benefits paid	(102,064)	(127,627)
Settlements	-	(10,279)
Benefit obligation at end of period	\$1,380,769	\$ 1,322,096

(In thousands)	2005	2004
<b>Funded status</b>	<b>\$(478,076)</b>	<b>\$(449,432)</b>
Unrecognized actuarial loss	254,986	230,530
Unrecognized prior service cost	37,749	33,339
<b>Net amount recognized on the balance sheet</b>	<b>\$(185,341)</b>	<b>\$(185,563)</b>

(In thousands)	2005	2004
<b>Amounts recognized on the balance sheet consist of:</b>		
Employee pension liability	\$(421,539)	\$(353,621)
Intangible asset	40,339	10,990
Regulatory assets	194,118	157,068
Accumulated other comprehensive income	1,741	-
<b>Net amount recognized</b>	<b>\$(185,341)</b>	<b>\$(185,563)</b>

The following pension benefit payments, which reflect expected future services, as appropriate, are expected to be paid from the Company's pension plan:

(In thousands)	Pension Benefits
2006	\$110,428
2007	\$109,437
2008	\$110,415
2009	\$115,393
2010	\$120,370
2011-2015	\$666,727

**Postretirement Benefit Plans Other than Pensions:** The Company's total cost of PBOPs for the years ended December 31, 2005 and 2004 included the following components:

(In thousands)	2005	2004
Service cost	\$18,558	\$ 10,925
Interest cost	69,667	60,598
Expected return on plan assets	(45,672)	(43,136)
Amortization of unrecognized prior service cost	14,568	2,273
Amortization of unrecognized net (gain) loss	28,692	24,254
<b>Net periodic benefit costs</b>	<b>\$85,813</b>	<b>\$ 54,914</b>

The following table provides a reconciliation of the Company's portion of the Companies' PBOP fair value of assets for the fiscal years ended December 31, 2005 and 2004.

(In thousands)	2005	2004
Fair value of plan assets at beginning of period	\$591,998	\$ 577,012
Actual return on plan assets during year	33,633	52,460
Company contributions	20,100	17,051
Benefits paid from plan assets	(60,616)	(54,525)
<b>Fair value of plan assets at end of period</b>	<b>\$585,115</b>	<b>\$ 591,998</b>

The following provides the reconciliation of the benefit obligation, funded status and the assumptions used in developing the obligations for the Company's PBOP plan at December 31:

(In thousands)	2005	2004
Benefit obligation at beginning of period	\$1,186,215	\$963,035
Service cost	18,558	10,925
Interest cost	69,667	60,598
Actuarial loss	68,036	125,282
Plan amendments	-	152,967
Benefits paid	(64,747)	(55,117)
Medicare Act of 2003	-	(71,475)
<b>Benefit obligation at end of period</b>	<b>\$1,277,729</b>	<b>\$1,186,215</b>

(In thousands)	2005	2004
Funded status	\$(692,614)	\$(594,218)
Unrecognized prior service cost	136,126	150,694
Unrecognized actuarial loss	223,769	172,387
<b>Net amount recognized</b>	<b>\$(332,719)</b>	<b>\$(271,137)</b>

The following PBOP benefit payments and subsidies, which reflect expected future service, as appropriate, are expected to be paid:

(In thousands)	Payments	Subsidies
2006	\$62,750	\$3,964
2007	\$64,600	\$4,345
2008	\$64,850	\$4,718
2009	\$64,350	\$4,985
2010	\$63,700	\$5,197
2011-2015	\$306,750	\$27,418

#### *Additional Minimum Pension Liability*

The Company has recorded an additional minimum pension liability of approximately \$236 million and \$186 million at December 31, 2005 and 2004, respectively, for its qualified pension plans because the pension plans' accumulated benefit obligation was in excess of the accrued pension liability on the balance sheet. While the offset to this entry would normally be a charge after-tax to other comprehensive income, due to the nature of its rate plan, the Company has instead recorded a pre-tax regulatory asset.

#### *Defined contribution plan*

The Company also has a defined contribution pension plan (employee savings fund plan) that covers substantially all employees. Employer matching contributions of approximately \$8 million, and \$7 million were expensed for the calendar years ended December 31, 2005 and 2004, respectively.

A one-percentage point change in assumed health care cost trend rates would have the following effects:

(In thousands)	2005	2004
Increase 1%		
Total of service cost plus interest cost	\$16,834	\$ 8,514
Post-retirement benefit obligation	\$197,531	\$117,556
Decrease 1%		
Total of service cost plus interest cost	\$(13,894)	\$(7,499)
Post-retirement benefit obligation	\$(171,012)	\$(106,590)

#### *PSC Audit*

In August 2003, the New York State PSC approved a settlement with the Company following an audit that identified reconciliation issues between the rate allowance and actual costs of the Company's pension and other post-retirement benefits. The settlement resolved all issues associated with those obligations for the period prior to its acquisition by National Grid and, among other things, covered the funding of the Company's pension and PBOP plans. As part of the settlement, the Company provided \$100 million of tax-deductible funding during fiscal 2003 and an additional \$209 million of tax-deductible funding by the end of fiscal 2004. Under the settlement, the Company will earn a rate of return of at least 6.60 percent (nominal) on the \$209 million of funding through December 31, 2011 and is eligible to earn 80 percent of the amount by which the rate of return on the pension and post-retirement benefit funds exceeds 5.34 percent (nominal) measured as of that date.

#### *Voluntary Early Retirement Offer*

In fiscal 2004, National Grid made a voluntary early retirement offer (VERO) to eligible non-union employees. The Company expensed approximately \$19 million of VERO costs in the fiscal 2004. This amount included approximately \$9 million allocated to the Company from National Grid USA Service Company, an affiliate.

#### *Settlement Losses*

As the result of the decline in the stock market since the close of the merger with Niagara Mohawk and a reduction in the discount rate applied to pension obligations, the Company has an unrecognized loss in its pension plans. Under SFAS No. 88 "Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits" (FAS 88), the Company must recognize a portion of this loss immediately when payouts from the plans exceed a certain amount. The Company recognized approximately \$22 million in fiscal 2004 relating to the remeasurement of the benefit plans from the VERO.

In July 2004, the Company obtained PSC approval that would provide rate recovery for approximately \$14 million of the \$30 million pension settlement loss incurred in fiscal 2003. In addition, the agreement covers the funding of the entire settlement loss to benefit plan trust funds. The Company has filed a petition with the PSC seeking recovery of a \$21 million pension settlement loss incurred in fiscal year 2004.

*Regulatory treatment of pensions and PBOP plans*

In addition to the regulatory assets established in connection with purchase accounting and the additional minimum pension liability discussed above, the regulatory asset account "Pension and postretirement benefit plans" includes certain other components. First, the Company is required under the Merger Rate Plan to defer the difference between pension and postretirement benefit expense and the allowance in rates for these costs. Also, the regulatory asset account includes the unamortized portion of the merger early retirement program costs, a postretirement benefit phase-in deferral established in the mid-1990's, and the offset to the additional minimum pension liability discussed above. The merger early retirement program costs are being amortized unevenly over the 10 years of the Merger Rate Plan with larger amounts being amortized in the earlier years. This amortization in calendar 2005 and 2004 was approximately \$4 million and \$8 million, respectively. The phase-in deferral is being amortized at a rate of approximately \$3 million per year.

**NOTE I – PREFERRED STOCK**

The Company has certain issues of non-participating preferred stock, which provide for redemption at the option of the Company, as shown in the table below. From time to time the Company repurchases shares of its preferred stock when it is approached on behalf of its shareholders. On December 31, 2004, the Company redeemed all outstanding Cumulative Fixed/Adjustable Rate Series D Preferred Stock for \$25 million.

A summary of cumulative preferred stock at December 31, 2005 and 2004 is as follows (in thousands except for share data):

	Shares Outstanding		Amount		Call Price
	2005	2004	2005	2004	
<b>\$100 par value-</b>					
3.40% Series	57,536	57,536	\$5,754	\$5,754	\$103.50
3.60% Series	137,139	137,139	13,714	13,714	104.85
3.90% Series	94,967	94,967	9,497	9,497	106.00
4.10% Series	52,830	52,830	5,283	5,283	102.00
4.85% Series	35,128	35,121	3,513	3,512	102.00
5.25% Series	34,115	34,112	3,411	3,411	102.00
<b>\$25 par value-</b>					
Adjustable Rate					
Series D	-	-	-	-	50.00 *
<b>Total</b>	<b>411,715</b>	<b>411,705</b>	<b>41,172</b>	<b>\$41,171</b>	

(\*) Called on December 31, 2004.

## NOTE J – SEGMENTS

Segmental information is presented in accordance with the management responsibilities and economic characteristics of the Company's business activities. The Company is primarily engaged in the business of the purchase, transmission and distribution of electricity and the purchase, distribution, sale and transportation of natural gas in New York State. The Company's reportable segments are electricity-transmission, electricity-distribution and gas-distribution. Certain information regarding the Company's segments is set forth in the following tables. Corporate assets consist primarily of other property and investments, cash, restricted cash, current deferred income taxes and unamortized debt expense.

(in millions of dollars)						
Electric Distribution						
	Distribution	Stranded Cost Recoveries	Total	Gas- Distribution	Electric- Transmission	Total Segments
<b>Twelve Months Ended December 31, 2005</b>						
Operating Revenue	\$ 2,449	\$ 592	\$ 3,041	\$ 963	\$ 260	\$ 4,264
Operating income before income taxes	331	182	513	104	107	724
Depreciation and amortization	129	-	129	38	35	202
Amortization of stranded costs	-	268	268	-	-	268
<b>Twelve Months Ended December 31, 2004</b>						
Operating Revenue	\$ 2,468	\$ 450	\$ 2,918	\$ 763	\$ 255	\$ 3,936
Operating income before income taxes	270	177	447	92	102	641
Depreciation and amortization	130	-	130	37	35	202
Amortization of stranded costs	-	247	247	-	-	247

(in millions of dollars)							
Electric-Distribution							
	Distribution	Stranded Cost Recoveries	Total	Gas- Distribution	Electric- Transmission	Corporate	Total Segments
<b>December 31, 2005</b>							
Goodwill	\$ 697	\$ -	\$ 697	\$ 215	\$ 303	\$ -	\$ 1,215
Total assets	5,308	3,257	8,565	2,069	1,589	402	12,625
<b>December 31, 2004</b>							
Goodwill	\$ 708	\$ -	\$ 708	\$ 215	\$ 303	\$ -	\$ 1,226
Total assets	5,064	3,367	8,431	1,821	1,542	612	12,406

## NOTE K – STOCK BASED COMPENSATION

Prior to the merger, stock appreciation rights (SARs), tied to the price of the Holdings' share price were granted to officers, key employees and directors. The table below sets forth the activity under the SARs program for the periods December 31, 2004 through December 31, 2005.

	SARs*	Units	Options	Options Wtd. Avg. Exercise Price
Outstanding at December 31, 2004	306,235			
Exercised	(114,167)			
Outstanding at December 31, 2005	192,068			

The Company's SARs program provided for the acceleration of vesting upon the occurrence of certain events relating to a change in control, merger, sale of assets or liquidation of the Company. On January 31, 2002, the acquisition of Holdings' by National Grid was completed and outstanding Holdings SARs were converted to National Grid plc (NG) American Depositary Share (ADS) SARs. The SARs are payable in cash based on the increase in the ADS price from a specified level. As such, for these awards, compensation expense is recognized based on the value of Holdings' stock price or NG's ADS price over the vesting period of the award.

Included in the Company's results of operations for years ended December 31, 2005 and 2004, is approximately \$231,000 and \$4 million, respectively, related to the SARs program.

Since SARs are payable in cash, the accounting under APB No. 25 and SFAS No. 123 is the same.

In December 2004, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 123R, "Share-Based Payment." SFAS No. 123R addresses the accounting for transactions in which a company receives employee services in exchange for (a) equity instruments of the company or (b) liabilities that are based on the fair value of the company's equity instruments or that may be settled by the issuance of such equity instruments. SFAS No. 123R also eliminates the ability to account for share-based compensation transactions using Accounting Principles Board (APB) Opinion No. 25, "Accounting for Stock Issued to Employees," and requires that such transactions be accounted for using a fair-value-based method. SFAS No. 123R was originally effective for public companies for interim and annual periods beginning after June 15, 2005. In April 2005, however, the SEC delayed the effective date of SFAS No. 123R to annual, rather than interim, periods that begin after June 15, 2005. The SEC's new rule results in a six-month deferral for the Company and will be effective as of April 1, 2006. The Company does not anticipate that adoption of SFAS No. 123R will have a material impact on its results of operations or its financial position.

## NOTE L – DERIVATIVES AND HEDGING ACTIVITIES

In the normal course of business, the Company is party to derivative financial instruments (derivatives) that are principally used to manage commodity prices associated with its natural gas and electric operations. These financial exposures are monitored and managed as an integral part of the Company's overall financial risk-management policy. At the core of the policy is a condition that the Company will engage in activities at risk only to the extent that those activities fall within commodities and financial markets to which it has a physical market exposure in terms and volumes consistent with its core business. The Company does not issue or intend to hold derivative instruments for speculative trading purposes. Derivatives are accounted for in accordance with SFAS 133, which requires derivatives to be reported at fair value as assets or liabilities on the balance sheet. The change in fair value of instruments that qualify for hedge accounting are deferred in Accumulated Other Comprehensive Income and will be reclassified through purchased electricity or purchased gas expense within the next twelve months. Other instruments are deferred in regulatory assets or liabilities according to current rate agreements and are reclassified through purchased electricity or gas expense in the hedge months. The Company's rate agreements allow for the pass-through of the commodity costs of electricity and natural gas, including the costs of the hedging programs.

The Company has eight indexed swap contracts, expiring in June 2008 that resulted from the MRA. These derivatives are not designated as hedging instruments and are covered by regulatory rulings that allow the gains and losses to be recorded as regulatory assets or regulatory liabilities. As of December 31, 2005 and 2004, the Company had recorded liabilities at net present value of \$662 million and \$578 million, respectively, for these swap contracts and had recorded a corresponding swap contracts regulatory asset. The asset and liability are amortized over the remaining term of the swaps as nominal energy quantities are settled and are adjusted as periodic reassessments are made of energy price forecasts.

At December 31, 2005, the Company projects that it will make the following payments in connection with its swap contracts for the calendar years 2006 through 2008, subject to changes in market prices and indexing provisions:

Year Ended December 31,	Projected Payment (in thousands of dollars)
2006	\$ 305,809
2007	260,634
2008	95,337
Total	\$ 661,780

The Company uses New York Mercantile Exchange (NYMEX) gas futures to hedge the gas commodity component of its indexed swap contracts. These instruments, as used, do not qualify for hedge accounting status under SFAS 133. Cash flow hedges that qualify under SFAS 133 are as follows: NYMEX gas futures for the purchases of natural gas and NYMEX electric swap contracts hedging the purchases of electricity.



The following table represents the open positions at December 31, 2005 and the results on operations of these instruments for the year ended December 31, 2005.

(\$'s in 000's)		Balances as of December 31, 2005				
Derivative Instrument	Asset*	Regulatory Deferral	Accumulated OCI**, net of tax	Accumulated Deferred on Income Tax OCI**	Year Ended Gain/(Loss) Reclass to Commodity Costs	
<i>Qualified for Hedge Accounting</i>						
NYMEX futures - gas supply	\$ 12,638.9	\$ -	\$ (16,186.4)	\$ -	\$ 36,843.8	
NYMEX electric swaps - electric supply	\$ -	\$ -	\$ -	\$ 3,260.2	\$	
<i>Non-Qualified for Hedge Accounting</i>						
NYMEX futures - IPP swaps/non-MRA IPP	\$ 21,101.6	\$ -	\$ 31,068.0	\$ -	\$ 63,969.7	

At December 31, 2004, the Company recorded a deferred gain on the futures contracts hedging the IPP swaps and non-MRA IPP of \$8.5 million, offset by the consolidated balance sheet item "Derivative Instruments" for \$7.7 million, with the resulting \$0.8 million having settled through cash for the hedge month of January 2005. For the twelve months ended December 31, 2004, settlement of NYMEX futures contracts resulted in a decrease to purchased power expense of \$27.5 million.

The gains and losses on the derivatives that are deferred and reported in accumulated other comprehensive income will be reclassified as purchased energy expense in the periods in which expense is impacted by the variability of the cash flows of the hedged item. For the twelve months ended December 31, 2005, the realized net gain of \$36.8 million from hedging instruments, as shown in the table above, was recorded to gas purchases offset by a corresponding increase in the cost of a comparable amount of gas. For the twelve months ended December 31, 2004, a net loss of \$7.7 million was recorded to gas purchases offset by a corresponding decrease in the cost of a comparable amount of gas.

The actual amounts to be recorded in purchased energy expense are dependent on future changes in the contract values, the majority of these deferred amounts will be reclassified to expense within the next twelve months. A nominal amount of the hedging instruments extend into April 2006. There were no gains or losses recorded during the year from the discontinuance of gas futures or electric swap cash flow hedges.

The Company recorded a deferred gain on NYMEX electric swap contracts to hedge electricity purchases of \$3.3 million and \$0.3 million at December 31, 2005 and 2004, respectively.

#### NOTE M – RESTRICTION ON COMMON DIVIDENDS

The indenture securing the Company's mortgage debt provides that retained earnings shall be reserved and held unavailable for the payment of dividends on common stock to the extent that expenditures for maintenance and repairs plus provisions for depreciation do not exceed 2.25 percent of depreciable property as defined therein. These provisions have never resulted in a restriction of the Company's retained earnings.

The Company is limited by the Merger Rate Plan and under FERC and SEC orders with respect to the amount of dividends it can make to Holdings. The Company is allowed to make dividends in an amount up to the pre-merger retained earnings balance plus any earnings subsequent to the merger, together with other adjustments that are authorized under the Merger Rate Plan and other regulatory orders.

#### NOTE N – ADDITIONAL PAID-IN CAPITAL

The following table details the changes in the equity account, "Additional paid-in capital"

(\$ in 000's)	
<b>December 31, 2004</b>	<b>\$ 2,929,501</b>
Equity contribution from Holdings	-
Net loss on preferred stock tender offers	-
<b>December 31, 2005</b>	<b>\$ 2,929,501</b>

#### NOTE O – COST OF REMOVAL

In 2001, FASB issued FAS 143. FAS 143 provides accounting requirements for retirement obligations associated with tangible long-lived assets. The Company was required to adopt FAS 143 as of April 1, 2003. Retirement obligations associated with long-lived assets included within the scope of FAS 143 are those for which there is a legal obligation under existing or enacted law, statute, written or oral contract, or by legal construction under the doctrine of promissory estoppel.

The Company does not have any material asset retirement obligations arising from legal obligations as defined under FAS 143. However, under the Company's current and prior rate plans it has collected through rates an implied cost of removal for its plant assets. This cost of removal collected from customers differs from the FAS 143 definition of an asset retirement obligation in that these collections are for costs to remove an asset when it is no longer deemed usable (i.e. broken or obsolete) and not necessarily from a legal obligation. For a vast majority of its electric and gas transmission and distribution assets the Company would use these funds to remove the asset so a new one could be installed in its place.

The cost of removal collections from customers has historically been embedded within accumulated depreciation (as these costs have been charged over time through depreciation expense). With the adoption of FAS 143 the Company has reclassified these cost of removal collections to a regulatory liability account to more properly reflect the future usage of these collections. The Company estimates it has collected over time approximately \$334 million and \$318 million for cost of removal through December 31, 2005 and December 31, 2004, respectively.

In March 2005, the FASB issued FIN 47 that clarifies that the term 'conditional asset retirement obligation' used in SFAS No. 143, 'Accounting for Asset Retirement Obligation' (SFAS 143) refers to a legal obligation to perform an asset retirement activity in which the timing and/or method of settlement are conditional on a future event that may or may not be within the control of the Group. This statement will be effective for the fiscal year ended March 31, 2006 for the Company. The adoption of FIN 47 is not expected to have a material impact on the Company's results of operations or its financial position.

#### NOTE P – QUARTERLY FINANCIAL DATA (UNAUDITED)

Operating revenues, operating income, and net income (loss) by quarter from January 1, 2004 through December 31, 2005 are shown in the following table. The Company believes it has included all adjustments necessary for a fair presentation of the results of operations for the quarters. Due to the seasonal nature of the regulated utility business, the annual amounts are not generated evenly by quarter during the year. The Company's quarterly results of operations reflect the seasonal nature of its business, with peak electric loads in summer and winter periods. Gas sales peak in the winter.

		<i>In thousands of dollars</i>		
Quarter Ended		Operating Revenues	Operating Income	Net Income
December 31,	2005	\$1,109,285	\$119,502	\$63,304
	2004	907,037	116,611	55,517
September 30,	2005	\$981,081	\$131,043	\$76,251
	2004	912,868	114,948	50,218
June 30,	2005	\$958,832	\$119,385	\$57,349
	2004	890,239	104,614	40,835
March 31,	2005	\$1,215,027	\$164,521	\$116,679
	2004	1,223,922	131,882	62,123

#### NOTE Q – DIFFERENCE BETWEEN UNIFORM SYSTEM OF ACCOUNTS AND GAAP

In accordance with the Federal Energy Regulatory Commission (FERC) Form 1 instructions, these notes are included in the Company's published annual reports which may include reclassifications not made for FERC reporting purposes. These financial statements are prepared in accordance with the accounting requirements of the FERC as set forth in its applicable Uniform System of Accounts and published accounting releases. This is a comprehensive basis of accounting consistent with GAAP, except for:

- the presentation of statements of cash flows, income statement and retained earnings for only one period instead of the two periods required by GAAP
- lack of disclosure of the current portion of long-term debt on the balance sheet
- the balance sheet classification of cost of removal collections from customers