

PSC NO: 220 ELECTRICITY  
NIAGARA MOHAWK POWER CORPORATION  
INITIAL EFFECTIVE DATE: JANUARY 10, 2011  
STAMPS: Issued in Compliance with Order issued December 17, 2010 in Case No. 98-M-1343.

LEAF: 209  
REVISION: 1  
SUPERSEDING REVISION:

## GENERAL INFORMATION

### 39. RETAIL ACCESS PROGRAM

The Retail Access Program is defined as the transmission, distribution and delivery by the Company to the customer of electricity furnished by the customer or by a third party on the customer's behalf pursuant to the provisions of this Rule, this Tariff, and the NYISO Tariff. The Company and ESCo are governed by this Rule, as well as by the requirements set forth in the Public Service Commission's Uniform Business Practices ("UBP"), in Case No. 98-M-1343, issued and effective December 17, 2010, incorporated as Addendum No. 2 of this Tariff, which may be modified from time to time. These requirements include the rights and responsibilities which are governed under the Home Energy Fair Practices Act ("HEFPA"), Public Service Law, Article 2.

#### 39.1 PURPOSE

This Rule governs (1) Delivery Service to customers who purchase electric energy and capacity from an ESCo or on their own behalf as Direct Customers; and (2) participation of ESCos/Direct Customers in the Company's Retail Access Program. Delivery Service is defined as the transmission and distribution of electricity to a customer, which may be subject to the recovery of Competitive Transition Charges.

#### 39.2 RETAIL ACCESS CUSTOMER ELIGIBILITY

39.2.1 All customers are eligible to purchase energy and capacity as a Direct Customer or from an ESCo provided the ESCo has met eligibility requirements set forth in Section 2 of the UBP.

39.2.2 To be eligible to be a Direct Customer, a customer must meet the criteria set forth in Section 1 of the UBP.

39.2.3 If a customer has any portion of its electricity requirements provided on unmetered service under this Tariff or receives 25 Hertz service, both services will not be eligible to participate in the Retail Access Program.

#### 39.3 ESCO/DIRECT CUSTOMER ELIGIBILITY REQUIREMENTS

39.3.1 Appendix A, Section 2 of the UBP sets forth the process that an applicant is required to follow for a DPS finding of eligibility to sell electricity as an ESCo, that an ESCo is required to maintain eligibility, and that the Company must follow for discontinuance of an ESCo or Direct Customer participation in this program.

Issued by Thomas B. King, President, Syracuse, NY