



April 1, 2010

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

Re: Case 09-E-0310 – In the Matter of the American Recovery and Reinvestment Act of 2009 – Utility Filings for New York Economic Stimulus

Surcharge Recovery Mechanism Proposal

Dear Secretary Brillling:

Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid” or the “Company”) hereby submits its proposed surcharge mechanism including proposed PSC No. 220 Electricity Rule No. 59 (“Rule 59”) tariff leaf and supporting documentation thereto in compliance with the Commission’s July 27, 2009 Order Authorizing Recovery of Costs Associated with Stimulus Projects (the “Order”)¹ as follows:

Original Leaf No. 263.4
Original Leaf No. 263.5

To PSC No. 220 Electricity

Effective: August 1, 2010

The Order directed utilities to file appropriate tariff amendments for the implementation of the rate designs approved by the Commission within 30 days of a favorable determination by the U.S. Department of Energy (“DOE”) on their respective grant applications for the Smart Grid Investment Grant (“SGIG”) Program or the Smart Grid Demonstration (“SGD”) Program, with such tariffs to become effective on 90 days’ notice.² Your Honor subsequently granted to all utilities an extension of the filing deadline for the surcharge recovery mechanism to March 1, 2010.³ On February 26, 2010, the filing deadline was further extended to April 1, 2010 in anticipation that a resolution would be reached on the issue of federal income tax liability on DOE grants in favor of non-taxability.⁴

The Order approved certain project proposals submitted by the utilities and authorized the recovery by utilities of eligible project costs through the use of a surcharge mechanism, while preserving the Commission’s ability to judge the prudence of approved project expenditures. To

¹ Case 09-E-0310, *et al.*, *In the Matter of the American Recovery and Reinvestment Act of 2009 – Utility Filings for New York Economic Stimulus, et al.*, Order Authorizing Recover of Costs Associated with Stimulus Projects (issued and effective July 27, 2009).

² *Id.* at 64-65 (Ordering Clause No. 8).

³ *See* letter from Secretary Brillling dated January 21, 2010.

⁴ *See* letter from Secretary Brillling dated February 26, 2010.

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date, National Grid, along with the primary applicants and other project partners, have been selected as recipients of DOE grants to cover 50% of the costs of the following approved projects:

- **NYISO Phasor Measurement Unit (“PMU”) Project**

This NYISO-sponsored statewide project in collaboration with the New York Transmission Owners (“TOs”) consists of installing PMUs throughout the New York Control Area to improve the ability of the NYISO and utilities to assess real-time conditions on the bulk power system for improved system reliability through corrective and preventative measures. National Grid’s role is to install PMUs at 11 locations on 230 kV and 345 kV substations and collect the data in a central phasor data concentrator for transmittal to and analysis by the NYISO at a total cost of \$2 million.

- **NYISO Capacitor Project**

This NYISO-sponsored statewide project to improve the efficient operation of the bulk power system consists of adding capacitors in strategic locations to: (i) increase voltage levels; (ii) reduce reactive power requirements; (iii) reduce system losses; and (iv) create additional transfer capacity. National Grid’s role is to provide 286 MVAR of added capacitance at a total cost of \$17 million.

- **Premium Power Corporation Energy Storage Demonstration Project**

This Premium Power Corporation-sponsored project is intended to demonstrate energy storage systems for utility grid applications using long-duration advanced zinc bromine flow batteries. National Grid’s role is to install two energy storage units at its Rock Cut Road Substation and one unit at Syracuse University to be controlled as a fleet for the purpose of exploring substation-feeder storage control methods at a total cost of \$6.7 million.

The surcharge authorized by the Order charges customers for the incremental costs associated with the approved projects, adjusted for any operational savings or other benefits once the projects are placed in service. National Grid’s tariff leaf containing Rule 59, entitled Smart Program Adjustment Surcharge (“SPAS”) sets forth the Company’s proposed surcharge mechanism for the collection of approved project costs.

An illustrative example of the calculation of this surcharge for the approved projects is appended hereto as Exhibit A. The SPAS will be calculated volumetrically based on forecast sales and applied to the delivery portion of applicable customer bills. As shown on Attachment 1 to Exhibit A, the SPAS is designed to collect the revenue requirement on incremental capital investment, net of any grants or other benefits received or requested after the approved projects or substantial portions thereof are placed in-service. The SPAS will recover costs not otherwise recovered in base delivery service rates or other surcharges. The development of the incremental revenue requirements for each of the approved projects is shown in Attachment 2 to Exhibit A. The sum of these revenue requirements will be divided by the most recently approved sales forecast for the recovery period for those service classifications and customers who are otherwise subject to the Company’s System Benefit Charge (“SBC”) set forth in PSC No. 220 Electricity

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Rule No. 41. Please note that ongoing DOE grant contract negotiations for all three approved projects could result in changes to cost, scope and/or timing assumptions underlying this illustrative calculation.

National Grid believes it is appropriate to assess the SPAS on the same basis as the SBC for two reasons. First, the approved programs are of a nature that is consistent with the public policy programs whose costs are permitted to be recovered under the SBC. Second, the expected level of costs to be recovered is modest. As shown on Attachment 1 to Exhibit B, the illustrative SPAS charge is only 0.05 mills per kWh (\$0.00005/kWh). This is equivalent to approximately 3¢ per month for a typical 500 kWh/month SC-1 residential customer. For this level of cost recovery, a more elaborate class-specific rate recovery mechanism is not warranted.

The Order anticipated that this tariff leaf filing would include updated supporting documentation for the approved project costs, inclusive of capital and operating costs, along with estimated in-service dates and job estimates.⁵ However, grant contract negotiations between DOE and the primary applicant for each approved project are not sufficiently advanced to allow National Grid to provide updated cost, job creation/retention, or in-service information at this time. After the DOE grant contracts are finalized and the grants awarded, the Company will update this information via the quarterly progress reports to be provided to the Director of the Office of Electric, Gas and Water in compliance with the Order.⁶ Further, National Grid recommends that the Commission suspend the effective date of the tariff leaves until such time as the final project costs and expected in-service dates for each approved project are known; at which time, the Company will supplement this filing with the foregoing information, supporting documentation, updated revenue requirements, revised tariff leaves, and an initial SPAS factor statement with an effective date 90 days from the submission date of such supplemental filing.

The Order authorizes surcharges that are limited to no more than the project cost estimates identified in Exhibit C to the Order, with DOE providing a 50% matching grant.⁷ The tax implications of DOE grant awards were not considered at the time of National Grid's July 2, 2009 updated filing or the Commission's Order. However, on March 10, 2010, the Department of Treasury and DOE jointly released guidance on the tax treatment for grantees receiving funding under the SGIG Program whereby the Internal Revenue Service ("IRS") is providing a safe harbor under section 118(a) of the U.S. Internal Revenue Code of 1986 ("IRC") for corporations in receipt of SGIG Program grant funding. Based on this guidance, the illustrative calculations for the surcharge provided in Exhibit B hereto are predicated on the grant awards associated with the NYISO PMU Project and NYISO Capacitor Project not being subject to federal income taxes. However, as the guidance explicitly states that the safe harbor provision does not apply to grants under 42 U.S.C. 17384 (Smart Grid technology research, development and demonstration), the illustrative calculations for the surcharge provided in Exhibit B are predicated on the SGD grant award for the Premium Power Corporation Energy Storage Demonstration Project being subject to federal income taxes. Accordingly, the Company is seeking the Commission's approval to allow full recovery of any federal income taxes incurred by National Grid associated with the Premium Power grant award. Should the IRS subsequently

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 62.

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determine that SGD program grants will not be subject to federal income taxes, the surcharge calculation will be appropriately modified by National Grid.

A proposed draft Notice of Proposed Agency Action for publication in the State Register pursuant to the State Administrative Procedure Act is appended hereto as Exhibit B to comply with the Order's requirement that the proposed surcharge mechanism be noticed for public comment.⁸ National Grid requests a waiver of the newspaper publication requirement in accordance with the provisions of Public Service Law §66(12) and the Commission's rules at 16 NYCRR §720-8.

Questions relative to this filing can be directed to the following:

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Respectfully submitted,

/s/ Catherine L. Nesser

Catherine L. Nesser

Enc.

cc: Michael Corso, DPS, w/enclosures (via electronic mail)
Michael Worden, DPS, w/enclosures (via electronic mail)
Patrick Piscitelli, DPS, w/enclosures (via electronic mail)
Cathy Hughto-Delzer, w/enclosures (via electronic mail)
Diedre Matthews, w/enclosures (via electronic mail)
Janet Audunson, w/enclosures
Active Parties in Case 09-E-0310, w/enclosures (via electronic mail)

⁸ See Order at 59.