

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Nine Mile Point Nuclear Station, LLC)	
)	
)	Docket No. EL03-_____
v.)	
)	
Niagara Mohawk Power Corporation)	
)	

**COMPLAINT OF NINE MILE POINT NUCLEAR STATION, LLC AGAINST
NIAGARA MOHAWK POWER CORPORATION**

Pursuant to Section 206 of the Federal Power Act (“FPA”), 16 U.S.C. § 824e (2000), and 18 C.F.R. § 385.206 (2003), Nine Mile Point Nuclear Station, LLC (“Nine Mile”) submits this complaint against Niagara Mohawk Power Corporation (“Niagara Mohawk”). As described more fully below, Nine Mile, which owns two nuclear generating facilities, is eligible to self-supply station power¹ pursuant to the provisions

¹ “Station power” referred to herein means “the Energy used by a Generator: 1) for operating electric equipment located on the Generator site, or portions thereof, owned by the same entity that owns the Generator, which electrical equipment is used by the Generator exclusively for the production of Energy and any useful thermal energy associated with the production of Energy; and 2) for the incidental heating, lighting, air conditioning and office equipment needs of buildings, or portions thereof, that are: a) owned by the same entity that owns the Generator; b.) located on the Generator site; and c.) used by the Generator exclusively in connection with the production of Energy and any useful thermal energy associated with the production of Energy... .” See New York Independent System Operator, FERC Electric Tariff, Original Volume No. 2, First Revised Sheet No. 67A, Section 2.172c (station power definition). See also, *PJM Interconnection, L.L.C.*, 94 FERC ¶ 61,251 (2001) at 61,889 (“*PJM II*”), order denying reh’g and providing clarification, 95 FERC ¶ 61,333 (2001)(“*PJM III*”).

of the NYISO tariff.² Nine Mile has provided Niagara Mohawk with notice of termination with respect to certain station power retail service accounts, (hereinafter “Designated Accounts”).³ Accordingly, Nine Mile began to provide its station power through on-site or remote self-supply for the equipment subject to the Designated Accounts pursuant to the NYISO tariff upon the expiration of the notice period specified under Niagara Mohawk’s retail service tariff termination provisions (*i.e.*, on September 17, 2003).

Based on its operations to date, Nine Mile anticipates that each generating unit will experience positive net output over the monthly netting period provided under the NYISO tariff. In addition, to the extent required for a unit that experiences a prolonged outage, Nine Mile intends to self supply such unit’s station power remotely from power generated by the sister unit, the output of which will be delivered using only transmission facilities for the Designated Accounts.⁴

Thus, under Commission precedent, Nine Mile will be entirely self-sufficient with respect to station power for the Designated Accounts, and should incur no retail

² New York Independent System Operator Market Administration and Control Area Services Tariff (“NYISO tariff”), Section 4.24.

³ The meters associated with the Designated Accounts were identified to NYISO and approved for participation in the NYISO station power settlement process and are listed in Exhibit 7 (page 1 of 6). Nine Mile has several additional station power accounts presently served by Niagara Mohawk and has the right to submit additional accounts for participation in the NYISO station power settlement process but has not done so at this time.

⁴ This is certainly true for four of the five Designated Accounts. The fifth account appears to be served at a lower voltage. Thus, to the extent that this account is self-supplied through remote self-supply using facilities that are distribution facilities, Nine Mile will pay for use of those facilities consistent with the NYISO tariff and Commission precedent.

service charges under those accounts from Niagara Mohawk. Only FERC jurisdictional transmission charges for the remote self-supply of station power, if applicable, should be charged. However, Niagara Mohawk has not responded to Nine Mile's notice of termination but previously stated its intention to continue to assess unlawful retail charges upon Nine Mile for the Designated Accounts despite the NYISO tariff provisions and Commission precedent to the contrary.

In addition, Niagara Mohawk has refused to comply with its obligations under the NYISO tariff to coordinate with the NYISO to ensure that Nine Mile is able to self-supply station power for the Designated Accounts and to ensure an accurate settlement account process pursuant to the NYISO tariff. For example, Niagara Mohawk has not accepted the buses associated with the Designated Accounts in a manner that enables self-supply pursuant to the NYISO tariff. This is contrary to Niagara Mohawk's obligations under the ISO/Transmission Owner Agreement which states: "Each Transmission Owner shall be responsible for collecting and making available to the ISO billing quality metering data and any other information for the Transmission District required by the ISO for billing purposes."⁵ Certainly, "billing quality metering data" is required to account for station power under the NYISO tariff. The result of Niagara Mohawk's failure to comply with its obligations is that Nine Mile

⁵ See ISO/Transmission Owner's Agreement, Section 2.05, (which also provides that "...Operation of the NYS Power System will be a cooperative effort coordinated by the ISO control center in conjunction with each Transmission Owner's control center and will require the exchange of all reasonably necessary information..."). See also NYISO tariff, Section 3.5 (ISO Procedures)("The ISO shall develop, and modify as appropriate, procedures for the efficient and non-discriminatory operation of the ISO Administered Markets... . Additionally, the Transmission Owners will provide megawatt, megavar, voltage readings, transmission system data (facility ratings and impedance data, and maintenance schedules for all Transmission Facilities Under ISO Operational Control.").

may receive incorrect bills from NYISO as well as retail bills for the Designated Accounts from Niagara Mohawk, despite Nine Mile's termination of retail service for the Designated Accounts and self-supply under the NYISO tariff.

Moreover, Niagara Mohawk initially issued notices of termination for nonpayment of distribution charges to several similarly situated generators that began supplying their own station power pursuant to the NYISO tariff and refused to pay Niagara Mohawk's unlawful charges. Niagara Mohawk has since stated that while a legal dispute is pending regarding its assessment of distribution charges for station power service, it does not intend to exercise, but retains, the "right of shutting off delivery service to wholesale generators for non-payment, to the extent non-payment relates to this pending legal issue."⁶ In light of the recent blackout in the Northeast, it is particularly troubling that Niagara Mohawk would consider taking any such action that could threaten regional reliability, particularly when the fundamental problem is Niagara Mohawk's noncompliance with NYISO rules and FERC precedent.

In short, Niagara Mohawk's stance jeopardizes the timely implementation of station power service for Nine Mile in accordance with the NYISO tariff and will impose impermissible and unlawful retail charges upon Nine Mile, as well as potentially inaccurate charges by NYISO due to Niagara Mohawk's failure to coordinate with and assist NYISO in providing meter information essential to administer accurately the NYISO settlement process.

⁶ See Niagara Mohawk Letter to Independent Power Producers of New York (June 26, 2003), attached hereto as Exhibit 1. Because Niagara Mohawk may change its mind about exercising this "right" at any time, Nine Mile requests that the Commission order Niagara Mohawk to maintain Nine Mile's interconnection to the transmission system during the pendency of this dispute.

Nine Mile requests that the Commission:

1. Direct Niagara Mohawk to cease charging retail rates after September 16, 2003 for the accounts that Nine Mile designates and the NYISO approves as netting station power pursuant to the NYISO tariff, to the extent Nine Mile is net positive for each month, through either on-site or remote self-supply of station power;
2. Direct Niagara Mohawk to comply with its obligations under the NYISO tariff and coordinate with NYISO to provide meter or other information to NYISO to ensure that Nine Mile is charged accurately for its self-supply of station power pursuant to Section 4.24 the NYISO tariff; and
3. Grant such other relief as is necessary and appropriate to (i) allow Nine Mile to self-supply station power service in accordance with the provisions of the NYISO tariff, and (ii) prevent Niagara Mohawk from denying, delaying or otherwise impeding Nine Mile from self-supplying station power service for the Designated Accounts.

Nine Mile seeks expeditious Commission action. Expeditious Commission action will ensure that Nine Mile can exercise its right to self-supply station power in accordance with the NYISO tariff, effective as of September 17, 2003, without threat or incurrence of inaccurate, duplicate or otherwise unlawful charges.

I. CORRESPONDENCE AND COMMUNICATIONS

All communications with respect to this matter should be addressed as follows:

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II. STATEMENT OF FACTS

1. Nine Mile is a Delaware limited liability company and a wholly-owned indirect subsidiary of Constellation Energy Group, Inc. Nine Mile entered into asset purchase agreements with Niagara Mohawk and others dated December 11, 2000. Pursuant to the asset purchase agreement, Nine Mile owns 100% of Nine Mile Point Unit No. 1 and 82% of Nine Mile Point Unit No. 2,⁷ nuclear generating facilities in Oswego, New York (“Facility”). Nine Mile operates both Unit No. 1 and Unit No. 2, which are located within the New York Independent System Operator (“NYISO”) control area and interconnected to the transmission facilities of Niagara Mohawk. Nine Mile’s ownership shares of Unit Nos. 1 and 2 equate to ownership of 1,550 MW of the combined units’ capacity of 1,757 MW.

2. Niagara Mohawk, a subsidiary of National Grid USA, a registered holding company, is located in the State of New York. Niagara Mohawk provides transmission and distribution service to over 1.5 million industrial, commercial and residential customers.

3. Nine Mile Units 1 and 2 routinely maintain net positive output on a monthly basis. In addition, both units have never been down simultaneously for an entire monthly netting interval. Nine Mile expects to meet its station power needs for the Designated Accounts through onsite self-supply or, on occasion, remote self-supply between the units. As shown in the simplified one-line diagrams of transmission interconnection, attached as Exhibit 2, only transmission facilities will be used to facilitate the remote self-supply station power for the Designated Accounts; no state

⁷ The remaining 18% interest in Unit No. 2 is held by Long Island Power Authority.

jurisdictional distribution facilities will be involved.⁸ The Facility puts power onto the grid at 345 kV via several switchyards owned by Niagara Mohawk. Unit 1 of the Facility is interconnected to the Niagara Mohawk transmission system and sends power to the transmission grid via two 345 kV transmission lines.⁹ The transmission line labeled #8 on the one-line diagram connects Unit 1 to Niagara Mohawk's Clay substation. The transmission line labeled #9 on the one-line diagram connects Unit 1 to Niagara Mohawk's Scriba substation.¹⁰ Unit 2 of the Facility is interconnected to the Niagara Mohawk transmission system via a 345 kV line. The line labeled #23 on the one-line diagram is a 345 kV transmission line that connects Unit 2 to Niagara Mohawk's Scriba substation. Station power, to the extent it is remotely self-supplied to Unit 1, is received at 115 kV via transmission lines leading from Niagara Mohawk's South Oswego (line #1) and Fitzpatrick (line #4) substations. Remotely self-supplied station power is also received at 345 kV via transmission lines leading from Niagara Mohawk's Clay substation (line #8) and Niagara Mohawk's Scriba substation (line # 9). Station power, to the extent it is remotely self-supplied to Unit 2, is received at 115 kV via transmission lines leading from Niagara Mohawk's Scriba substation (lines #5 and #6). Unit 2 is also configured to receive remotely self-supplied station power at 345 kV, but this has not been Unit 2's normal operating practice. As recognized by NYISO, if Unit 1 or Unit 2 is off-line (*i.e.*, cannot maintain net positive output for a given month), the other unit may provide station power for the Designated Accounts.¹¹

⁸ See fn. 4 (above).

⁹ See Exhibit 2.

¹⁰ *Id.*

¹¹ See NYISO email from Frank Ciani (June 10, 2003) which is attached as Exhibit 3.

4. Prior to September 17, 2003, Nine Mile received station power service for the Designated Accounts under Niagara Mohawk's retail tariff SC-7.¹² Pursuant to SC-7, a customer may terminate service upon 90 days' prior notice to Niagara Mohawk.

5. Nine Mile is eligible to self-supply its station power pursuant to the provisions of Section 4.24 the NYISO tariff, which became effective on April 1, 2003.¹³ Pursuant to these provisions, a generator may self-supply its station power requirements if it has positive net output when measured over a monthly period.

6. Pursuant to NYISO's procedures for its station power settlement process, generators desiring to self-supply station power are required to submit certain information to NYISO for it to determine the correct modeling requirements for each generation site and identify metering configurations.¹⁴ On June 9, 2003, Nine Mile forwarded this information to NYISO.¹⁵ NYISO has accepted and approved Nine Mile's participation in the station power settlement process. However, according to NYISO, NYISO sends meter information to Niagara Mohawk, which must determine which meters are qualified for the program and adjust its accounting to reflect the billing changes.¹⁶ To date, there have been two problems: (1) Niagara Mohawk has not appropriately designated the buses associated with Nine Mile's self-supply of station power, and (2) Niagara Mohawk has not submitted data to NYISO sufficient to enable

¹² P.S.C No. 207 Electricity, Service Classification No. 7 (Sale of Standby Service to Customer With On-Site Generation Facilities)("SC-7").

¹³ A copy of this section of the NYISO tariff is attached as Exhibit 4.

¹⁴ See Exhibit 6.

¹⁵ See Exhibit 7.

¹⁶ See Exhibit 3.

self-supply under the NYISO tariff. Thus, Niagara Mohawk has not met the requisite requirements for NYISO to account for self-supply, *i.e.*, determined the meters that qualify for the program and provided the billing changes to appropriately reflect Nine Mile's self-supply of station power.

7. On June 19, 2003, Nine Mile representatives participated in a teleconference with representatives of Niagara Mohawk. Nine Mile informed Niagara Mohawk of its intention to self-supply station power for several accounts through netting as permitted under the NYISO tariff and that a notice of its desire to terminate service under rate SC-7 for these accounts was imminent. Niagara Mohawk indicated that, notwithstanding Nine Mile's self-supply of station power, it would continue to assess retail delivery charges for the Designated Accounts.

8. On June 19, 2003, Nine Mile provided notice of termination to Niagara Mohawk with respect to the Designated Accounts.¹⁷ Niagara Mohawk has failed to comply with Nine Mile's request to provide a status report prior to expiration of the ninety (90) day notice period regarding its efforts to facilitate timely implementation of NYISO netting for the designated accounts. Nine Mile initiated self-supply of its station power in accordance with the NYISO tariff upon the expiration of the notice period specified under Niagara Mohawk's retail service tariff, *i.e.*, on September 17, 2003.

9. On June 26, 2003, Niagara Mohawk sent a letter to Independent Power Producers of New York ("IPPNY"), a trade association that represents independent power producers.¹⁸ In the letter, Niagara Mohawk stated:

¹⁷ See Notice of Termination which is attached as Exhibit 5.

¹⁸ See Exhibit 1.

We are aware that there are many generators who are maintaining that, as a result of the implementation of the new NYISO tariff pertaining to station service that went into effect April 1, 2003, generators opting for service under the tariff are not required to pay distribution charges assessed by Niagara Mohawk. Please be advised that Niagara Mohawk disagrees with this position.

...

Related to this subject matter, Niagara Mohawk is planning to make a filing at the New York Public Service Commission (“NYPSC”) to amend our rates that are applied to generators for station service. This filing is being prepared and we expect to make it shortly. In order to operate consistently with the NYISO tariff, the filing will remove transmission and commodity charges from our SC-7 rates for those generators who have chosen to take transmission and commodity-related service directly from the NYISO for station service deliveries. *In our view, station service retains an element of state-jurisdictional distribution delivery service. For that reason we firmly believe that we are entitled to continue assessing state-jurisdictional distribution-related charges for the distribution component of the service.*¹⁹ [emphasis added]

In this letter, Niagara Mohawk clearly stated its intention to continue imposing unlawful charges on Nine Mile and other generators based upon its incorrect view that station service always retains an element of state-jurisdictional distribution delivery service.

10. On July 10, 2003, Niagara Mohawk filed with the NYPSC proposed revisions to SC-7 purporting to “harmonize the Company’s tariff with the recently approved tariff of the New York Independent System Operator... and recent orders of

¹⁹ See Exhibit 1.

the Federal Energy Regulatory Commission... relating to the provision of station service to generators.”²⁰ In its transmittal letter, Niagara Mohawk asserted that:

Since the issuance of FERC’s order approving the NYISO services tariff, there has been some confusion among Niagara Mohawk’s Customers regarding the effect of FERC’s ruling. In fact, some generators have taken the position that they are now entitled to completely bypass all state jurisdictional charges as a result of the approval of the NYISO Services Tariff... . Approval of this filing by the Commission [NYPSC] will provide needed clarification that the Company is authorized under state law to continue to bill generators for the state jurisdictional component of this delivery service.²¹

Thus, Niagara Mohawk is seeking NYPSC authorization to impose charges for service that FERC has already found to be impermissible.

11. Niagara Mohawk has attempted to impose improper, unlawful, and discriminatory charges upon similarly situated generators. Similar issues involving Niagara Mohawk’s practices regarding station power charges implicated in this complaint are pending before the Commission in two other complaint proceedings. *See AES Somerset, LLC v. Niagara Mohawk Power Corporation*, Docket No. EL03-204 (Complaint filed June 25, 2003), and *Niagara Mohawk Power Corporation v. Huntley Power LLC, et al.*, Docket No. EL03-27-000 (Complaint filed November 26, 2002). In addition, similar issues are implicated in the pending rehearing of the Commission order in *KeySpan Ravenswood, Inc. v. New York Independent System Operator, Inc.*, 101 FERC ¶

²⁰ *See* Case No. 01-E-1847 — Reduced Delivery Rates for Standby Service for NYISO Station Service Customers. The transmittal letter is attached as Exhibit 8.

²¹ *See* Exhibit 8.

61,230 (2002) (order granting rehearing for further consideration issued January 22, 2003).

III. ARGUMENT

A. Nine Mile may lawfully self-supply its station power needs through onsite self-supply or through remote self-supply pursuant to the NYISO tariff and Commission precedent.

Nine Mile is eligible to self-supply its station power pursuant to the provisions of Section 4.24 the NYISO tariff, which became effective on April 1, 2003. Pursuant to these provisions, a generator may self-supply its station power requirements if it has positive net output when measured over a monthly period. Section 4.24 of the NYISO tariff states in relevant part:

A Generator may self-supply Station Power in accordance with the following provisions.

(a) A Generator may self-supply Station Power during any calendar month when either:

1. Its net output for that month is positive; or
2. Its net output for that month is negative and the Generator, during the same month, has available at other Generators owned by the same entity that owns the Generator positive net output in amount at least sufficient to offset fully such negative net output (hereinafter referred to as "remote self-supply of Station Power")... .

(b) A Generator's net output for the month may be positive because either:

1. The Generator is physically supplying Energy for its Station Power needs, using its own facilities, and without using facilities owned by any Transmission Owner; or

2. The Generator's Station Power Requirements for the month, including all Energy received for use as Station Power, regardless of its voltage or the metering point of receipt, are less than the amount of Energy that the Generator injects into the New York State Power System for the month.²²

As described above, Nine Mile Units 1 and 2 routinely maintain positive output on a monthly basis. In addition, both units have never been down simultaneously for an entire monthly netting interval. Nine Mile expects to meet its station power needs for the Designated Accounts through onsite self-supply or on occasion through remote self-supply between the units.

In *PJM II*, the Commission found that a generating facility can self-supply its station power needs so long as its net output is positive. The Commission set forth the circumstances regarding when a generator can net its station power requirements from its gross output without being required to purchase station power under a retail tariff. The Commission stated that "a generator may net its station power requirements against the generating facility's gross output whenever the generating facility's gross output exceeds or equals its station power requirements, that is, when the generator is self-supplying its station power requirements."²³ The Commission further explained that a generating facility that self-supplies its station power, either from an on-site source or a remote source owned by the same entity, is not subject to retail rates because the self-supply of energy does not involve a "sale."²⁴

²² See Exhibit 4.

²³ *PJM Interconnection, L.L.C.*, 94 FERC ¶ 61,251 at 61,882 (2001) ("*PJM II*"), order denying reh'g and providing clarification, 95 FERC ¶ 61,333 (2001) ("*PJM III*").

²⁴ *PJM II* at 61,890. See also, *KeySpan-Ravenswood, Inc.*, 101 FERC ¶ 61,230 at P21. (2002) ("*KeySpan*").

The Commission explained that a generating facility does not have to be net positive on an instantaneous basis, but rather the determination can be measured over a reasonable time period.²⁵ The Commission stated that a day or week “would be reasonable time periods over which station power may be netted,” and that the Commission “would also look favorably upon the use of a longer time period over which to measure netting.”²⁶ In *PJM IV*, the Commission found that PJM’s monthly netting proposal was consistent with its station power approach articulated in *PJM II* and *PJM III*.²⁷ The Commission also has approved a monthly netting period for NYISO because it is consistent with the PJM netting period, it promotes uniformity in treatment of station power among merchant generators and vertically integrated utilities, and it corresponds to NYISO’s billing and accounting practices.²⁸

In the *PJM II* proceeding, the Commission addressed the issue of whether generating facilities must take station power service under Niagara Mohawk’s retail rates. The Commission stated:

To the extent that Niagara Mohawk is charging NRG for the provision of station under a retail rate when NRG is in fact self-supplying its own power requirements, this practice is not consistent with our findings herein.²⁹

²⁵ *PJM II* at 61,892.

²⁶ *PJM II* at 61,892.

²⁷ *PJM Interconnection, LLC*, 95 FERC ¶ 61,470 at 62,685 (2001) (“*PJM IV*”).

²⁸ *KeySpan* at P 24.

²⁹ *PJM II* at 61,893. See also, *Midwest Generation, LLC*, 99 FERC ¶ 61,166 at 61,672 (2002).

The Commission has clearly stated that a transmission and distribution utility cannot require a merchant generator to take retail station power service under retail rates:

NYSEG cannot require any merchant generator to buy station power under SC-11 (or any other retail rate) when the generator is self-supplying station power from either on-site or remote generating resources, since in those circumstances, there is no energy sale (for end use or otherwise).³⁰

Furthermore, there is no historical basis for Niagara Mohawk to impose retail station power service charges. When Niagara Mohawk owned and operated the Facility, Niagara Mohawk did not separately account for station power and pay for it under retail rates—it engaged in the industry standard practice of netting station power for the equipment subject to the Designated Accounts. There is no basis for Niagara Mohawk to prevent Nine Mile from practicing netting, or remote self-supply.³¹ Moreover, the basis for the Commission’s finding in *PJM II* was to ensure comparable treatment of merchant generators and integrated utilities. The Commission found that the practice of netting station power “will better ensure comparable treatment, and will address the concerns of the merchant generators that some vertically-integrated utilities

³⁰ *PJM II* at 61,893.

³¹ When Nine Mile purchased the facility, it made no commitment to purchase station power from Niagara Mohawk. Indeed, Nine Mile has the right, but clearly no obligation, to obtain station power from Niagara Mohawk. See Section 2.5 of the interconnection agreements requiring Niagara Mohawk to provide Nine Mile with off-site power supplied in accordance with the rates, terms, and conditions set forth in Niagara Mohawk’s retail tariff. See *Niagara Mohawk Power Corporation*, 96 FERC ¶ 61,027 (2001)(order accepting interconnection agreements). While Nine Mile has taken service pursuant to Niagara Mohawk’s retail tariff, Nine Mile has provided Niagara Mohawk with notice of termination in accordance with the requirements of that retail tariff for the Designated Accounts.

are favoring their own or affiliated generating facilities to the competitive disadvantage of merchant generators.”³² The Commission has considered and rejected the argument that, given the operating characteristics of the transmission system in New York, it is not reasonable to treat generators self-supplying station power differently from those purchasing station power from third parties.³³ The Commission accepted NYISO’s station power self-supply methodology, citing the “comparable treatment” rationale articulated in *PJM II*.³⁴

It is unlawful, discriminatory, and contrary to Commission precedent for Niagara Mohawk to prevent Nine Mile from self-supplying station power for the Designated Accounts pursuant to the NYISO tariff and to require Nine Mile to continue to pay retail charges for these accounts. Niagara Mohawk has threatened to continue to assess retail charges for the Designated Accounts after the termination period. In addition, NYISO’s ability to administer Section 4.24 of its tariff, including its processing of settlement account data, is dependent upon Niagara Mohawk providing the necessary metering, accounting, and billing changes for the Designated Accounts as referred to in the email from NYISO Customer Relations representative.³⁵ It is Nine Mile’s understanding that, to date, Niagara Mohawk has taken no action to facilitate the NYISO’s ability to properly administer its account settlement process. Nor has Nine Mile received assurances from Niagara Mohawk that it is pursuing, or even intends to take such action. It appears that Niagara Mohawk has neither appropriately designated

³² *PJM II* at 61,893.

³³ *KeySpan* at P 22-23.

³⁴ *KeySpan* at P 23.

³⁵ See Exhibit 3.

the buses associated with Nine Mile's self-supply of station power nor supplied NYISO with sufficient data to enable Nine Mile to self-supply under the NYISO tariff. Nine Mile requires the Commission's intervention on this matter because Niagara Mohawk's behavior threatens Nine Mile's ability to self-supply station power under the NYISO tariff, or, at a minimum, to receive accurate wholesale and retail bills associated with its self-supply of station power. Prompt Commission action is necessary to ensure accurate billing under the NYISO tariff.

B. The Commission has determined that merchant generators that self-supply station power are not subject to retail charges since there is no sale for end use. In addition, generators that self-supply station power via remote self-supply over transmission facilities are only subject to FERC jurisdictional transmission rates.

The Commission has consistently held that station power may be netted by a generator against its output at all times without retail delivery service from the local utility provided that the generator maintains net positive output over the netting period. On May 15, 2002, the Commission issued four orders³⁶ related to station power. The crux of those orders was whether the delivery of remotely self-supplied station power required the payment of local distribution charges. The Commission's decision in each proceeding turned on the type of facilities used to deliver station power, with the Commission concluding that to the extent the delivery of station power is accomplished over transmission facilities, such delivery is subject to the jurisdiction of

³⁶ See *KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.*, 99 FERC ¶ 61,167 (2002) ("KeySpan-Ravenswood Order"); *Sunbury Generation, LLC v. PPL Electric Utilities Corporation*, 99 FERC ¶ 61,168 at 61,683 (2002), *order on reh'g*, 100 FERC ¶ 61,200 (2002) ("Sunbury"); *Midwest Generation, LLC v. Commonwealth Edison Co.*, 99 FERC ¶ 61,166 (2002) ("Midwest"); *USGen New England, Inc.*, 99 FERC ¶ 61,169 at 61,686 (2002), *order on reh'g*, 100 FERC ¶ 61,199 ("USGen").

FERC, and the generator may make arrangements under the applicable FERC rate.³⁷

Consistent with the Commission's determination, the NYISO tariff provides that:

(f) When a Generator self-supplies Station Power during any month... the Generator will not incur any charges for Transmission Service. When a Generator remotely self-supplies Station Power..., the Generator shall, to the extent that Transmission Service is involved, pay for Transmission Service for the quantity of Energy that the Generator remotely self-supplies. Such Transmission Service shall be provided under part II of the ISO OATT and shall be charged the hourly rate under Schedule 7 of the ISO OATT for Firm Point-to-Point Transmission Service... .³⁸

In *KeySpan*, the Commission approved NYISO's methodology for netting self-supply of station power, finding in part, that it eliminated disparities between merchant generators and vertically integrated utilities.³⁹ The Commission rejected Niagara Mohawk's position that its distribution rates should apply where no distribution facilities are used.⁴⁰ Niagara Mohawk has requested rehearing on this point, but pursuant to the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(e)(2003), this request does not stay the proceeding and the Commission's decision is otherwise final.⁴¹

Despite the Commission's clear determination on this issue, Niagara Mohawk threatens to charge unlawful retail distribution rates for station power (either under SC-7 or the replacement rate pending before the NYPSC), even if station power is self-

³⁷ *KeySpan* at ¶ 20; *Sunbury* at 61,680; *USGen* at 61,684-85.

³⁸ See Exhibit 4 (NYISO tariff, Section 4.24 (f)).

³⁹ *KeySpan* at P 23.

⁴⁰ *KeySpan* at P 19-21.

⁴¹ See Motion for Clarification and Request for Rehearing of Niagara Mohawk Power Corporation, Docket No. EL01-50-004 (December 23, 2003).

supplied on-site, or is remotely self-supplied by Nine Mile utilizing only transmission level facilities. Based upon the interconnection and power flows at the Nine Mile Facility (described above), and the fact that Nine Mile expects to be net positive as it provides for station power via onsite self-supply, there is no basis for Niagara Mohawk to impose any retail charges. Nine Mile recognizes that, in the event of remote self-supply, NYISO will charge a Commission-jurisdictional transmission rate under the NYISO tariff associated with the movement and transformation of station power over transmission facilities for the Designated Accounts.

C. Niagara Mohawk is violating and threatening to further violate the terms of the NYISO tariff and Commission precedent.

The Commission approved the provisions of the NYISO tariff permitting generating facilities to self-supply their station power requirements in the same manner as PJM's station power tariff rules, by obtaining energy from the transmission system at location based marginal prices.⁴² Despite the Commission's clear rulings that no retail rates can be applied to self-supplied station power, Niagara Mohawk has indicated that it will continue to bill Nine Mile retail rates for self-supplied station power. This is evidenced by Niagara Mohawk's representations to Nine Mile on June 19, 2003, and Niagara Mohawk's statement in its letter to IPPNY dated June 26, 2003 (described above). Niagara Mohawk seeks to impose these charges for the Designated Accounts either pursuant to its current rate SC-7, for which Nine Mile has delivered Notice of Termination, or the replacement rate currently pending before the PSC in Docket No. 01-E-1847.⁴³

⁴² *KeySpan-Ravenswood, Inc.*, 101 FERC ¶ 61,230 (2002).

⁴³ Niagara Mohawk sought an October 1, 2003 effective date for the replacement rate. The NYPSC has not yet acted on the matter.

In either case, Niagara Mohawk's charges are based on its faulty assertion that there is always a state jurisdictional component to station service, even when generators self-supply station service. Niagara Mohawk is acting in disregard of the fact that the Commission has considered, and rejected, Niagara Mohawk's position.⁴⁴ Contrary to Niagara Mohawk's speculation that "[s]ince the issuance of FERC's order approving the NYISO services tariff, there has been some confusion among Niagara Mohawk's Customers regarding the effect of FERC's ruling"⁴⁵ any confusion that remains is on the part of Niagara Mohawk and the resulting hindrance to generators caused by Niagara Mohawk's failure to abide by Commission precedent. What is clear, however, is Niagara Mohawk's failure to assist NYISO's administration of its station power rules by providing the meter readings and other wholesale administration tasks which NYISO is dependent upon the transmission owners to provide.

IV. HARM CAUSED BY NIAGARA MOHAWK

Due to Niagara Mohawk's failure to assist with NYISO's administration of its station power rules, NYISO will be unable to accurately account for and issue bills reflecting Nine Mile's self-supply of station power. Moreover, Nine Mile will continue to receive retail bills. If Niagara Mohawk adheres to its stated intention to unlawfully charge Nine Mile for station power service received pursuant to the NYISO tariff for the Designated Accounts, extrapolation based upon past bills submitted by Niagara Mohawk under rate SC-7 indicates that Nine Mile will be billed hundreds of thousands

⁴⁴ *KeySpan* at P 19-21. Niagara Mohawk obviously understands that the Commission has considered and rejected its position, otherwise there would have been no purpose for Niagara Mohawk to file its Motion for Clarification and Request for Rehearing on this point in Docket No. EL01-50-004 (December 23, 2003).

⁴⁵ *See* Exhibit 8.

of dollars in unlawful charges each month for the Designated Accounts.⁴⁶ At a minimum, Niagara Mohawk's refusal to cooperate with NYISO invariably will result in inaccurate settlement accounts and charges under the NYISO tariff for station power. In addition, if unchecked, Niagara Mohawk's tactics will harm wholesale competition in the NYISO system relative to generators interconnected to other systems that comply with Commission precedent, to the extent customers are foreclosed from self-supplying station power.

V. ADDITIONAL REQUIREMENTS OF RULE 206

In accordance with 18 C.F.R. § 385.206(b)(6), Nine Mile made good faith efforts to resolve these matters with Niagara Mohawk but its efforts were rebuffed.⁴⁷ Dispute resolution procedures pursuant to the NYISO tariff or Niagara Mohawk's retail tariff are not a practical alternative given the parties' fundamental disagreement over state and federal jurisdictional issues and the application of the NYISO tariff.

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, Nine Mile requests that the Commission:

1. Direct Niagara Mohawk to cease charging retail rates after September 16, 2003 for the accounts that Nine Mile designates and the NYISO approves as netting station power pursuant to the NYISO tariff, to the extent Nine

⁴⁶ Moreover, to the extent that Nine Mile elects to self-supply with respect to additional accounts, the total amount at risk will increase substantially.

⁴⁷ Senior personnel from Constellation Energy attempted to discuss this issue with senior Niagara Mohawk personnel *prior* to providing notice of cancellation of retail service to Niagara Mohawk on the Designated Accounts. Niagara Mohawk informed Constellation personnel that Niagara Mohawk did not, and indeed would not, agree to Nine Mile's ability to self-supply station service under the NYISO tariff.

Mile is net positive for each month, through either on-site or remote self-supply of station power;

2. Direct Niagara Mohawk to comply with its obligations under the NYISO tariff and coordinate with NYISO to provide meter or other information to NYISO to ensure that Nine Mile is charged accurately for its self-supply of station power pursuant to Section 4.24 the NYISO tariff; and
3. Grant such other relief as is necessary and appropriate to (i) allow Nine Mile to self-supply station power service in accordance with the provisions of the NYISO tariff, and (ii) prevent Niagara Mohawk from denying, delaying or otherwise impeding Nine Mile from self-supplying station power service for the Designated Accounts.

Respectfully submitted,



Michael J. Rustum

David M. DeSalle

Dickstein Shapiro Morin & Oshinsky, LLP

2101 L Street, NW

Washington DC 20037

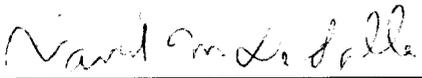
Counsel for Nine Mile Point Nuclear
Station, LLC

September 26, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have simultaneously served a copy of the foregoing document upon each person required to be served in accordance with Commission rules.

Dated at Washington, D.C. this 26th day of September, 2003.



David M. DeSalle

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Nine Mile Point Nuclear Station, LLC)	
)	
)	Docket No. EL03-_____
v.)	
)	
Niagara Mohawk Power Corporation)	

NOTICE OF COMPLAINT

Take notice that on September 26, 2003, Nine Mile Point Nuclear Station, LLC, ("Nine Mile") filed a Complaint against Niagara Mohawk Power Company ("Niagara Mohawk"). The Complaint asserts that Niagara Mohawk, in violation of the terms of the NYISO tariff and Commission precedent, will impose unlawful charges upon Nine Mile associated with Nine Mile's self-supply of station power.

Copies of the Complaint have been served by e-mail, messenger, or overnight delivery on Niagara Mohawk, as well as the New York Public Service Commission. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three

digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date:

EXHIBIT 1

Niagara Mohawk

A National Grid Company

Ronald T. Gerwatowski, Esq.
General Counsel
Phone: 315-428-6013
Fax: 315-428-5740

June 26, 2003

Mr. Gavin Donahue
CEO & President
Independent Power Producers of New York
19 Dove Street
Suite 302
Albany, NY 12210

Dear Mr. Donohue:

This letter is written as a follow up to our telephone conversation on Wednesday, June 25.

As you indicated on the phone to Susan Crossett and me, you have received word from some of your member-generators that they received termination notices from Niagara Mohawk. We are in the process of tracking down the accounts that may have received these notices. Please be advised that, to the extent this occurred, we believe these notices would have been automatically generated by our computer system because of the status of unpaid bills triggered in the computer system.

We are aware that there are many generators who are maintaining that, as a result of the implementation of a new NYISO tariff pertaining to station service that went into effect April 1, 2003, generators opting for service under that tariff are not required to pay distribution charges assessed by Niagara Mohawk. Please be advised that Niagara Mohawk disagrees with this position. Nevertheless, we recognize there is a legal dispute between Niagara Mohawk and these generators over the extent to which generators are required to pay for station service deliveries. For that reason, while this legal dispute is pending, we do not intend to exercise our right of shutting off delivery service to wholesale generators for non-payment, to the extent the non-payment relates to this pending legal issue. To the extent notices went out, this was unintentional and we will take steps to identify and code the accounts to avoid this in the future.

In order to assure that we identify all the affected accounts, it would be helpful to us if you could identify the generators who received these notices. If we received a list of the generators, along with account numbers, it could expedite our coding process and assure that we do not inadvertently miss an affected account. In the meantime, should

300 Erie Boulevard West
Syracuse, NY 13202-4250

Mr. Gavin Donohue
June 26, 2003
Page 2

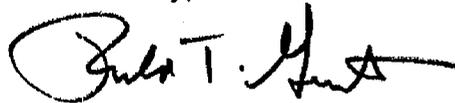
this happen again for any of your members, I encourage you to call me or Susan Crossett directly before anyone assumes that we are taking steps to terminate service.

Related to this subject matter, Niagara Mohawk is planning to make a filing at the New York Public Service Commission ("NYPSC") to amend our rates that are applied to generators for station service. This filing is being prepared and we expect to make it shortly. In order to operate consistently with the NYISO tariff, the filing will remove transmission and commodity charges from our SC-7 rates for those generators who have chosen to take transmission and commodity-related service directly from the NYISO for station service deliveries. In our view, station service retains an element of state-jurisdictional distribution delivery service. For that reason, we firmly believe that we are entitled to continue assessing state-jurisdictional charges for the distribution component of the service. Assuming our filing is approved by the NYPSC, the Company will charge generators only for the state-jurisdictional distribution-related charges under the tariff. As a part of the filing, we also will propose an appropriate, retroactive adjustment to the bills that have been sent out for delivery service taken on and after April 1, 2003.

Please note that this letter should not be construed as an agreement on the part of Niagara Mohawk that any generator has the right to refuse payment of our bills that have been rendered. In fact, non-paying generators continue to accrue a balance, including late payment charges, which we believe are due and payable. Moreover, this letter should not be construed as a waiver by Niagara Mohawk of its right to pursue any claims or seek any legal remedies relating to the issue of station service in a court or regulatory agency of competent jurisdiction.

I hope this helps to clarify Niagara Mohawk's position.

Sincerely,



Ronald T. Gerwatowski

RTG/az

c: Susan M. Crossett

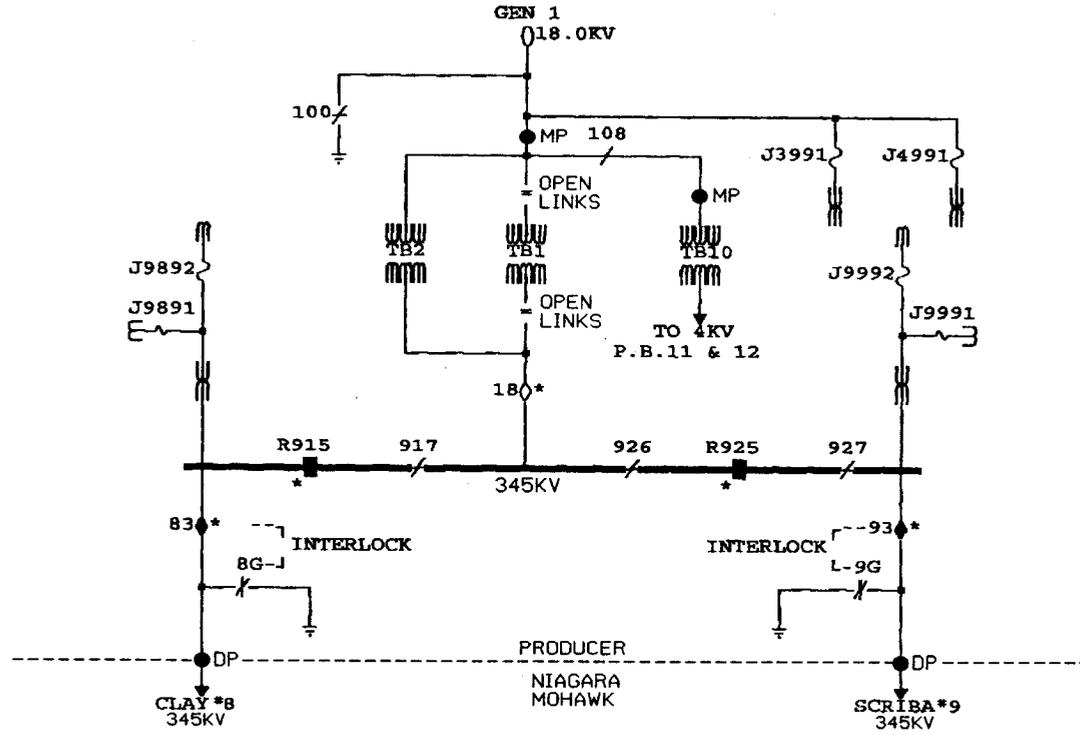
EXHIBIT 2

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 49

SCHEDULE A

NINE MILE POINT - UNIT 1



MP = METERING POINT
DP = DELIVERY POINT
* = SUPERVISORY STATUS ONLY

DP- IS LOCATED AT THE TAKE-OFF STRUCTURE ATTACHMENTS OF LINE#8 AND LINE#9.

Niagara Mohawk			
NIAGARA MOHAWK POWER CORPORATION			
NINE MILE POINT STATIONS			
INTERCONNECTION DIAGRAMS			
NO.	SH. NO. 1	DATE	8/00

Issued by: []
[Title]

Effective: [], 2000

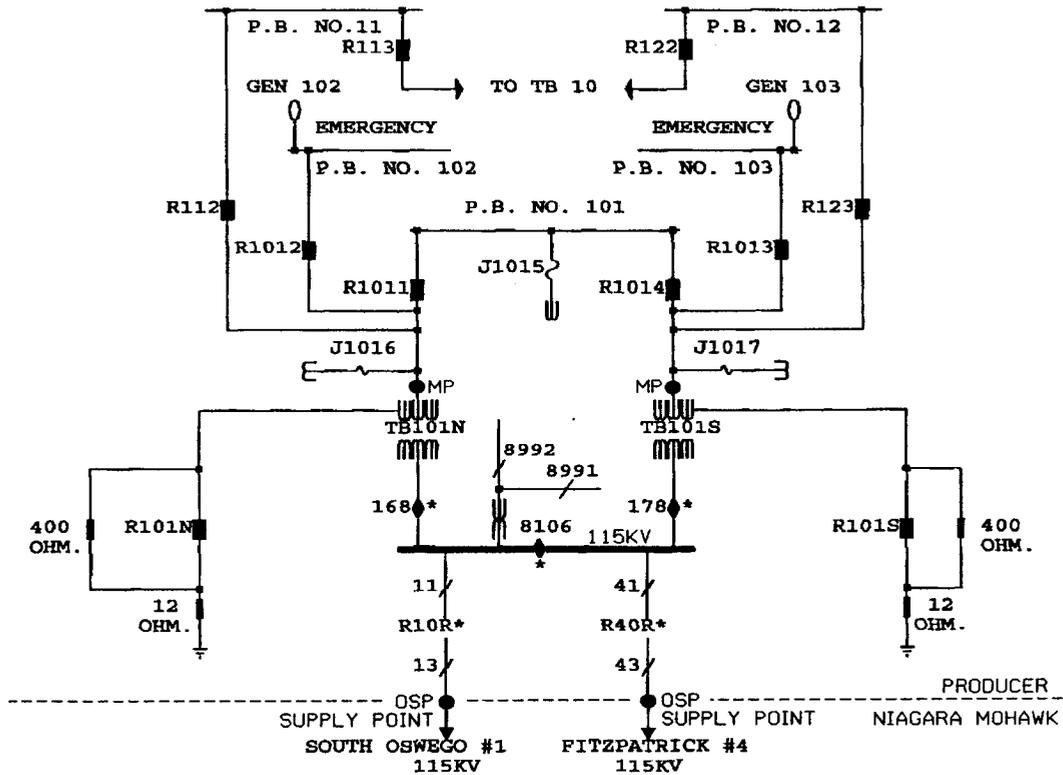
Issued on: [], 2000

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 50

SCHEDULE A

NINE MILE POINT - UNIT 1
115KV OFF-SITE POWER



MP = METERING POINT
OSP = OFF SITE POWER
* = SUPERVISORY STATUS ONLY

OSP SUPPLY POINT - IS LOCATED AT THE
HINGE END OF SW*13 AND SW*43.

Niagara Mohawk			
NIAGARA MOHAWK POWER CORPORATION			
NINE MILE POINT STATIONS			
INTERCONNECTION DIAGRAMS			
NO.	SH. NO. 2	DATE	8/00

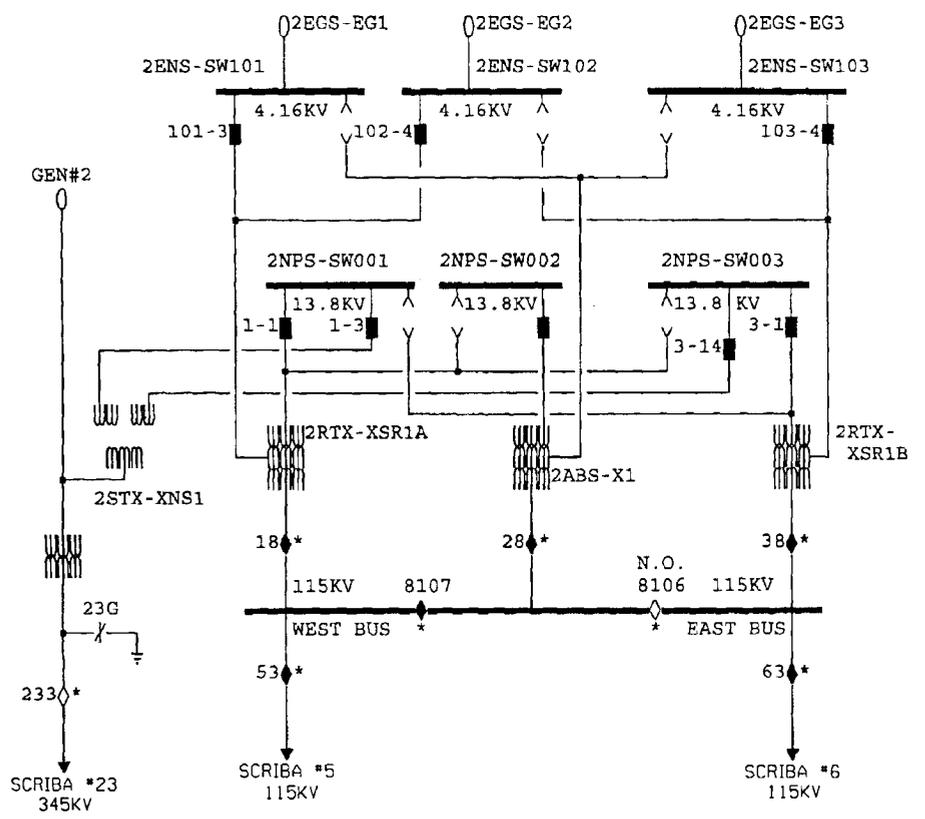
Issued by: []
[Title]

Effective: [], 2000

Issued on: [], 2000

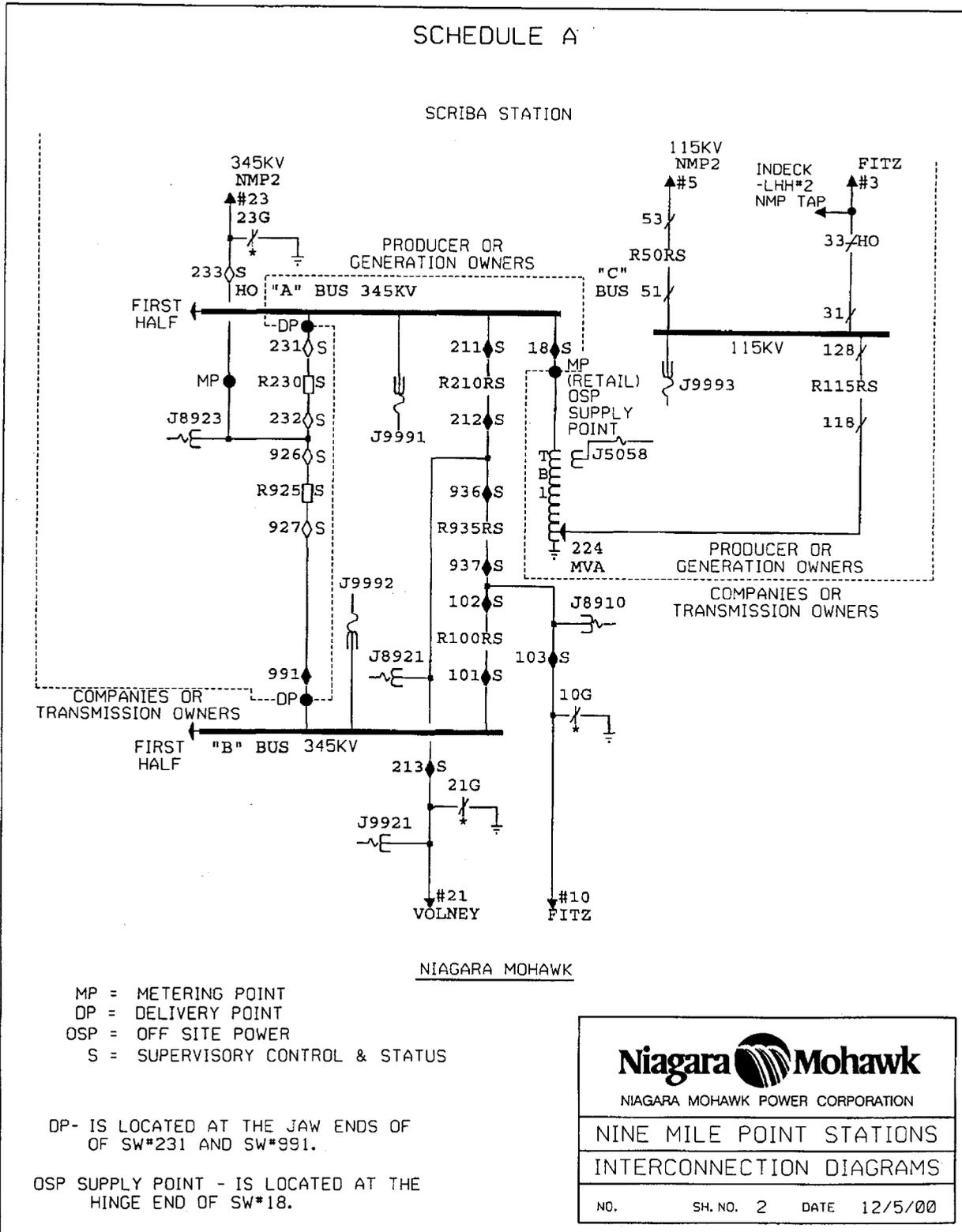
SCHEDULE A

NINE MILE 2



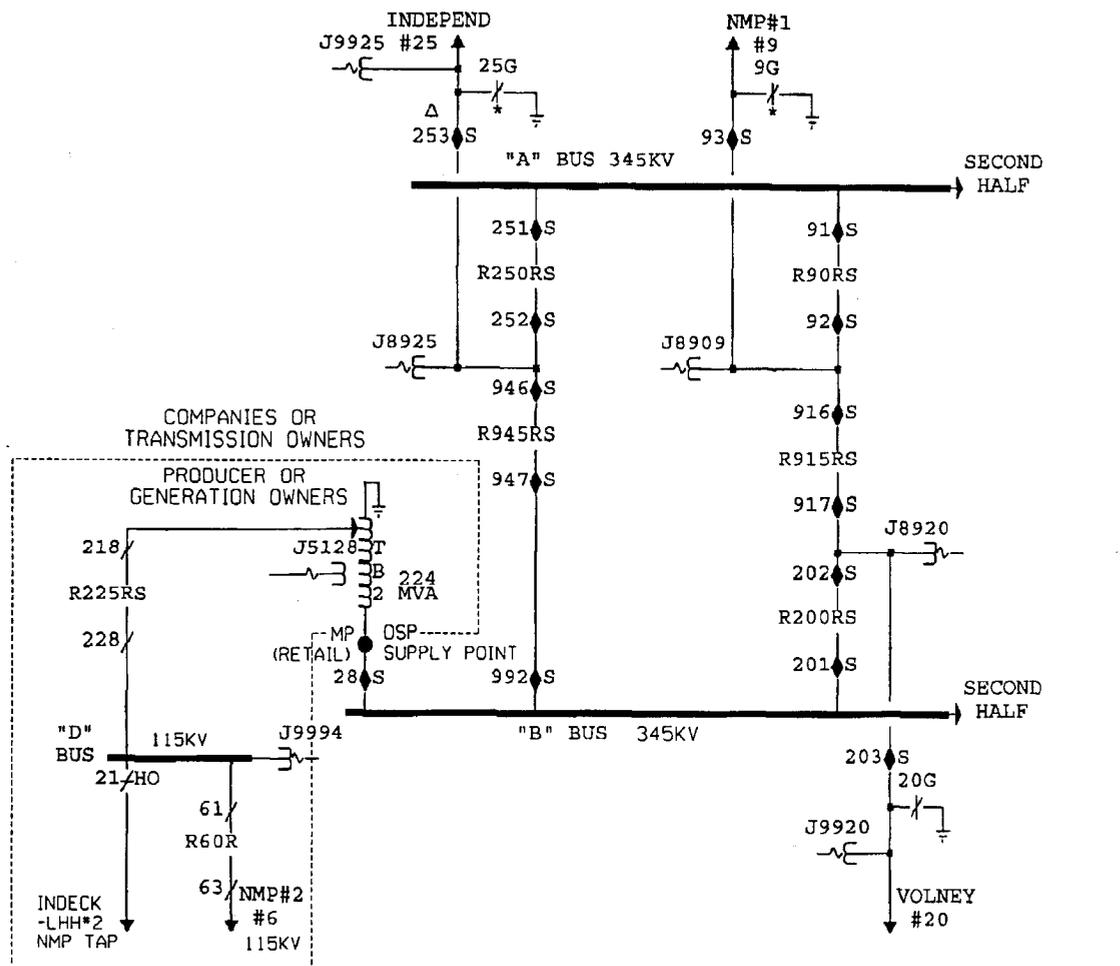
* = SUPERVISORY STATUS ONLY

		
NIAGARA MOHAWK POWER CORPORATION		
NINE MILE POINT STATIONS INTERCONNECTION DIAGRAMS		
NO.	SH. NO. 1	DATE 12/5/00



SCHEDULE A

SCRIBA STATION



NIAGARA MOHAWK

MP = METERING POINT
OSP = OFF SITE POWER
S = SUPERVISORY CONTROL & STATUS

OSP SUPPLY POINT - IS LOCATED AT THE HINGE END OF SW*28.

 NIAGARA MOHAWK POWER CORPORATION		
NINE MILE POINT STATIONS		
INTERCONNECTION DIAGRAMS		
NO.	SH. NO. 3	DATE 12/5/00

EXHIBIT 3

-----Original Message-----

From: FCiani@nyiso.com [mailto:FCiani@nyiso.com]

Sent: Tuesday, June 10, 2003 2:31 PM

To: Joe.Lewis@constellation.com

Subject: Station Power busses

Joe -

As a follow-up to our phone conversation, your Station Power Load and Gen Busses have been created and are active under the Nine Mile Nuclear Station LLC.

The Station Power LSEs are

NMPT1SP

NMPT2SP

The Load busses are

NMPT1SP_SP_NMPT1

NMPT2SP_SP_NMPT2

Two LSEs and two load busses were required since two generators are on site. If one of the units is off-line, the other may provide Station Power. With only one LSE/Bus, only one unit could provide Station Power. Tim Waire is the MIS Admin for these LSEs. He has the authority to add users or modify current users privileges to include bidding on these busses. Energy and Price-Cap Energy bids are allowed in the DAM market and Energy bids in the HAM for the Real-Time Market

I will send the account meter information to Nimo. They ultimately determine which meters qualify for the program. They also must adjust their accounting to reflect the billing changes. Some TO's didn't make the billing change from retail to Station Power in a timely manner. As a result, MPs got two invoices for the same energy.

As a reminder, I will need originals of the station power application for our records. Let me know if you have any questions.

Regards,
Frank

Frank Ciani
NYISO Customer Relations
Phone: 518-356-7529
Fax:: 518-356-6146
Email: fciani@nyiso.com

EXHIBIT 4

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2

First Revised Sheet No. 107
Superseding Original Sheet No. 107

4.24 Procurement of Station Power

A Generator may self-supply Station Power in accordance with the following provisions.

(a) A Generator may self supply Station Power during any calendar month when either:

1. Its net output for that month is positive; or
2. Its net output for that month is negative and the Generator, during the same month, has available at other Generators owned by the same entity that owns the Generator positive net output in an amount at least sufficient to offset fully such negative net output (hereinafter referred to as “remote self-supply of Station Power”). A Generator may not remotely self-supply Station Power from Generators that are owned by its owner’s corporate affiliates.

- i. If an entity owns a portion of a jointly owned Generator it may remotely self-supply its other Generators up to the amount of its entitlement to Energy from the jointly-owned Generator provided that:
 - (A) the entity has the right to call upon that Energy for its own use; and
 - (B) the Energy entitlement is not characterized as a sale from the jointly owned Generator to any of its joint owners.

Issued by: William J. Museler, President
Issued on: September 20, 2002

Effective: March 22, 2003

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. EL01-50-000, issued May 15, 2002, .99 FERC ¶ 61,167 (2002).

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2

First Revised Sheet No. 108
Superseding Original Sheet No. 108

- (b) A Generator's net output for the month may be positive because either:
1. The Generator is physically supplying Energy for its Station Power needs, using its own facilities, and without using facilities that are owned by any Transmission Owner; or
 2. The Generator's Station Power requirements for the month, including all Energy received for use as Station Power, regardless of its voltage or the metering point of receipt, are less than the amount of Energy that the Generator injects into the New York State Power System for the month.
- (c) The determination of net output under this Section 4.24 shall apply only to determine whether the Generator self-supplied Station Power during the month and will not affect the price of Energy sold or consumed by the Generator at any bus during any hour during the month.
- (d) When a Generator has positive net output for an interval and is delivering Energy into the New York State Power System, it will be paid the Real-Time or Day-Ahead LBMP at its bus, as appropriate, for all of the Energy delivered pursuant to the ISO Services Tariff. Conversely, when a Generator has negative net output for an interval and is self-supplying Station Power from the New York State Power System under Section 4.24.(a).1 or 4.24.(a).2, it will pay the Real-Time or Day-Ahead LBMP, as appropriate, for all of the Energy consumed, pursuant to the ISO Services Tariff.

Issued by: William J. Museler Effective: March 22, 2003
Issued on: September-December 20, 2002
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. EL01-50-000, issued ~~May 15~~ November 22, 2002, 99101 FERC ¶ 61,230+67 (2002).

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2

Original Sheet No. 109

(e) The ISO will determine the extent to which each affected generator self-supplied its Station Power requirements or obtained Station Power from third-party providers (including corporate affiliates) during the month and will incorporate that determination in its accounting and billing. To the extent that Station Power deliveries from third parties, including corporate affiliates of a Generator's owner, involve an unbundled Transmission Service component, the Generator shall take Transmission Service under Part IV of the ISO OATT unless the Generator has made other arrangements with the local Transmission Owner under the Transmission Owner's retail access tariff.

(f) When a Generator self-supplies Station Power during any month according to Section 4.24.(a).1., above, the Generator will not incur any charges for Transmission Service. When a Generator remotely self-supplies Station Power according to Section 4.24.(a).2 above, the Generator shall, to the extent that Transmission Service is involved, pay for Transmission Service for the quantity of Energy that the Generator remotely self-supplies. Such Transmission Service shall be provided under Part II of the ISO OATT and shall be charged the hourly rate under Schedule 7 of the ISO OATT for Firm Point-to-Point Transmission Service, provided however, that the terms and charges under Schedules 1 through 3, 5, 6, 8 and 9 of the ISO OATT shall not apply to such service.

The amount of Energy that a Generator transmits in conjunction with remote self-supply

Issued by: William J. Museler
Issued on: September 20, 2002

Effective: March 22, 2003

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. EL01-50-000, issued May 15, 2002, 99 FERC ¶ 61,167 (2002).

New York Independent System Operator, Inc.
FERC Electric Tariff
Original Volume No. 2

Original Sheet No. 110

of Station Power will not be affected by any other sales, purchases, or transmission of Capacity or Energy by or for such Generator under any other provisions of the ISO OATT or ISO Services Tariff.

(g) A Generator may remotely self-supply Station Power from an External Generator owned by the same entity that owns the Generator only if the External Generator has positive net output during the month and if the Generator has scheduled Imports into the NYCA from the External Generator during the month in an amount at least sufficient to offset fully its negative net output for the month.

Issued by: William J. Museler, President
Issued on: September 20, 2002

Effective: March 22, 2003

Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. EL01-50-000, issued May 15, 2002, 99 FERC ¶ 61,167 (2002).

EXHIBIT 5

Raymond L. Wenderlich
Vice President
Constellation Generation Group, LLC

1997 Annapolis Exchange Parkway
Suite 600
Annapolis, Maryland 21401
410 897-5037
raymond.l.wenderlich@hdq.cn.com



June 19, 2003

VIA FACSIMILE AND CERTIFIED MAIL

Niagara Mohawk Power Corporation
300 Erie Boulevard
West Syracuse, New York 13202
Attn: Vice President - Distribution Finance

Re: 90-Day Notice of Termination of SC-7 Retail Station Service

Dear Mr. Tasker:

The purpose of this letter is to give the required ninety (90) day notice of intent to terminate retail service, in accordance with the provisions of Service Classification No. 7 (Sale of Standby Service to Customers with On-Site Generation Facilities). Nine Mile Point Nuclear Station, LLC Units 1 and 2 (collectively, "NMP") through their undersigned agent, Constellation Generation Group, LLC, thus provide notice of permanent cancellation of retail service currently received under Niagara Mohawk Power Corporation's ("NMPC's") retail tariff for the following accounts and all meters associated therewith (known meter numbers are provided for NMPC convenience only and are not intended to limit the meters associated with each account):

- 01210-24002 (including, but not limited to, meter nos. 80-732-773; 80-732-772)
- 04491-23004 (NMP has requested meter identifications from NMPC, but NMPC has not yet provided these meter identifications to NMP)
- 06110-86009 (including, but not limited to, meter nos. 80-732-775; 80-732-774)
- 07930-82005 (including, but not limited to, meter nos. 81-378-163; 81-378-169)
- 07591-10024 (including, but not limited to, meter nos. 81-378-166; 81-378-170)

NMP is reviewing its remaining billing accounts and reserves the right to designate additional accounts subject to termination of service in the future.

After termination of retail service under these accounts, NMP will self-supply the electricity for the equipment formerly served under these NMP accounts, as permitted under the NYISO Tariff and in accordance with Federal Energy Regulatory Commission precedent. Additionally, NMP provides NMPC notice that, 90 days from the date of this letter, NMP elects

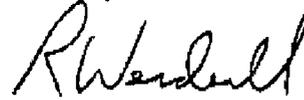
Director of Energy Transactions
June 19, 2003
Page 2

to reduce its Standby Contract Demand by the amount of station load that no longer will be served under the above-listed accounts.

We anticipate that the ninety (90) day notice period will provide NMPC adequate time to complete necessary technical coordination and establish a communication process with the NYISO in order to comply with NYISO meter reporting requirements. NMP requests that NMPC provide a status report prior to the expiration of the ninety (90) day period regarding its efforts to facilitate timely implementation of NYISO netting for the accounts identified above.

Your prompt attention to this matter is appreciated. Please do not hesitate to contact me at 410-897-5037 if you have any questions.

Sincerely,



Raymond Wenderlich
Vice President
Constellation Generation Group, LLC

cc: John Conway
Steven Miller
Peter Crinigan
Michael Rustum
David Johnson

EXHIBIT 6

Frank Ciani
NYISO Customer Relations
Phone: 518-356-7529
Fax: 518-356-6146
Email: fciani@nyiso.com

Market Relations
03/03/2003 12:20 PM

To: Market Relations/NYISO@NYISO
cc:

Subject: NYISO - Station Power Settlement Process - Additional
Information regarding submittal of Station Power data

Dear Generator Owners,

The NYISO is beginning the process of modeling load buses for generator station power. Please review the attached memorandum and supply the requested information, if you choose to participate. In order to model the load buses by April 1, 2003, information must be received by March 6, 2003. Information will be accepted after March 6, 2003, and the buses will be modeled as soon after April 1, 2003 as is possible.

Please read below, as the options for sending data are as follows:

1. Electronic data can be attached in an email and then sent to market_relations@nyiso.com.

-or-

2. Hard copy diagrams/schematics with meter details can be mailed to us care of your NYISO Customer Representative at:

NYISO Station Power Exhibits
5172 Western Turnpike
Altamont, NY 12009

If you have questions, please call your Customer Relations representative or the Customer Relations Help Desk at 518-356-6060.

Regards,

Customer Relations

(See attached file: Station Power Questionnaire.pdf)

Memo



To: Generation Suppliers who would like to participate in the NYISO Station Power Settlement Process
From: NYISO
Date: 2/28/2003
Re: Station Power Diagrams

Urgent: Please provide no later than 3/6/03 to ensure modeling is complete by April 1st

The NYISO would like to request the following information to determine:

- The correct modeling requirements for each plant/site
- The identification of each plant/site metering configuration
 1. Identify the corporate affiliation of each generation facility and the associated billing organization as defined in the Market Information System (MIS)
 2. Identify all generation facilities at a location that will be bid and measured as an aggregate for actual station power service, each individual facility should align with those that are currently bid for power supply
 3. When unit(s) is providing energy to the network is all station power provided internal to the station?
 - Yes
 - If No, please provide additional details
 4. For each generation facility provide a diagram similar to the examples provided below (the provided diagrams are for illustration purposes only – your station diagrams are preferred)
 5. Identify on the diagram the billing quality meters providing station power service to the generation facilities, it will be assumed that the total of the meters identified will be the actual station power consumed on an hourly basis for each generating facility or group of facilities
 6. List the identifications stated in question number 2 and 5 above in the attached table of Electric Accounts
 7. Provide any additional information with respect to the provision of station power that you feel may require special consideration or additional definition of metering requirements
 - i.e. station power metering is shared between two units under different corporate entities

If you have any questions please contact us via e-mail at market_relations@nyiso.com or at the Customer Relations Help Desk at (518-356-6060)

Best Regards

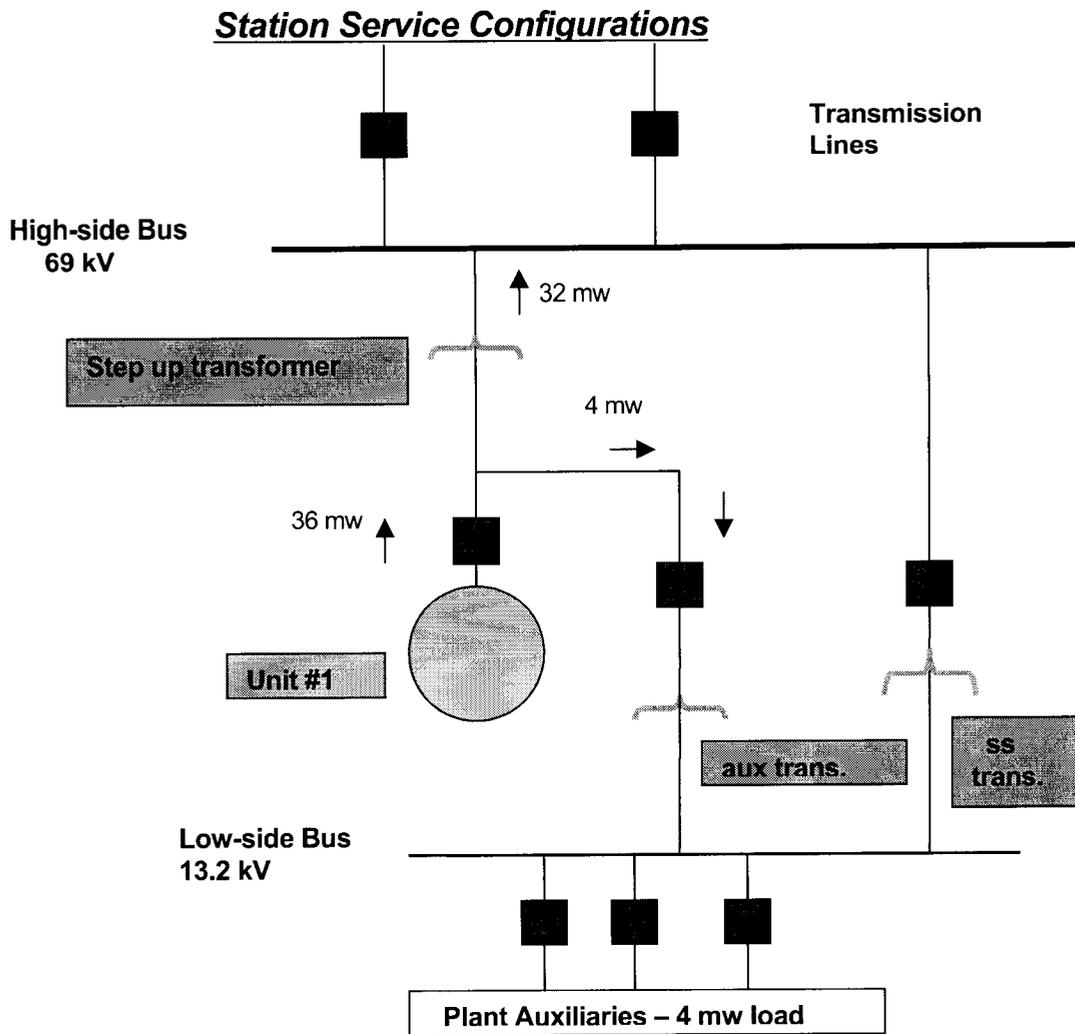


Figure 1 – Self Supply

When the generator is on line, it self supplies the plant auxiliaries off the low side, 13.2 kV bus, through the auxiliary transformer

For illustration purposes only

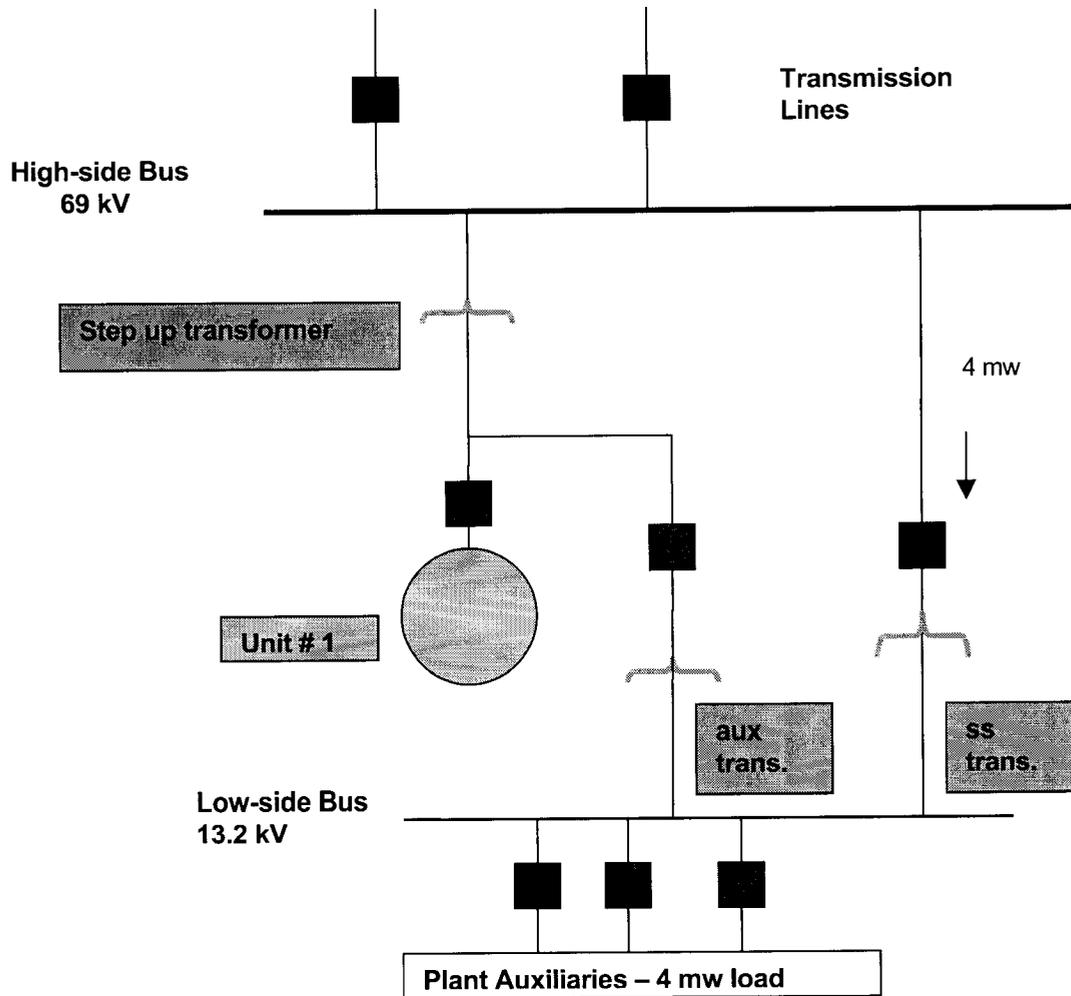


Figure 2 – off system

When the generator is off line, the plant auxiliaries are fed from the system through the station service transformer. In this example the feed is from the 69 kv bus. It could also come from a distribution line.

For illustration purposes only

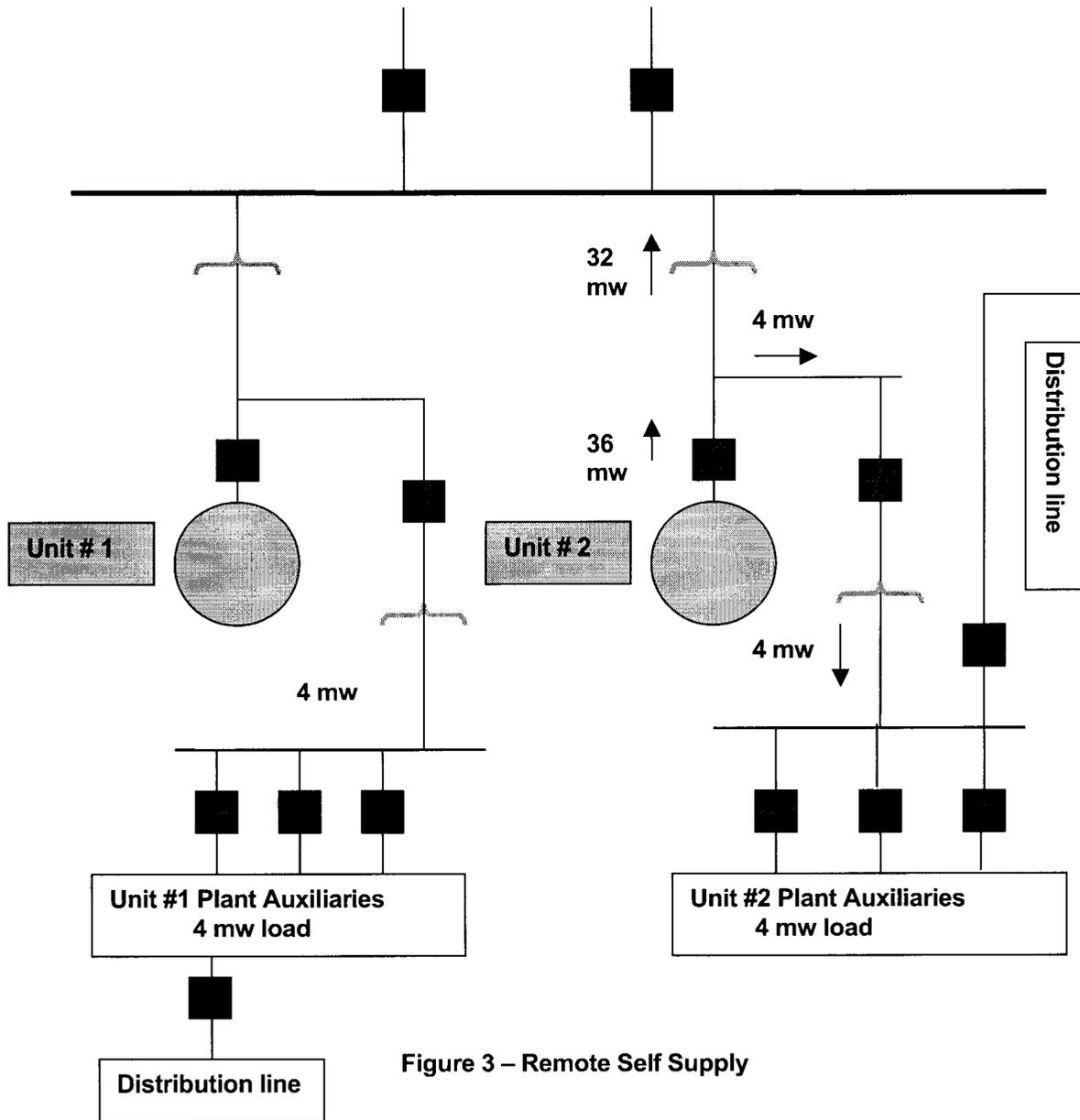


Figure 3 – Remote Self Supply

When unit #1 is off line, Unit 2 feeds both its own 4 mw plant load plus unit 1's 4 mw plant load. The feed in this example is through Unit #2's auxiliary transformer and across the bus tie.

Note that there is a distribution line backup feed in case both units are off line.

For illustration purposes only



Please list meters whose reading(s) will be used for the determination of station power service. The GENLSE item shown in column 1 will actually be named by NYISO but, for purposes of identifying generator station power we need for you to identify the remaining columns with the information that will be bid and settled as one point for reporting load.

Identify the individual generators as illustrated below:

GENLSE_1	GEN PTID	GEN Name	Meter Authority	Account #	Meter #	Description
	12345	GENX1	DMP01	xxxxx	yyyyyy	zzzzzzzz
				aaaaaa	bbbbbb	ccccccc
				dddd	eeeeee	fffffff
	12001	GENY2	DMP01	ggggg	hhhhh	iiiiiii
				jjjjjj	kkkkk	lllllll
				mmm	nnnnn	ooooo
GENLSE_2	22222	GENE3	DMP02	ppppp	ssssss	ttttttt
				qqqqq	rrrr	uuuuu

This spreadsheet should include all generators that you currently bid as identified in the Market Information System (MIS).

EXHIBIT 7

JUN-04-2003 WED 01:58 PM

FAX NO.

P. 02

①

Nine Mile generation revenue Metering Information

GEN PTID	GEN Name	Authority	Account #	Meter #	Description
GENLSE_1	Unit 1 R915	NIMO	01210-24002	80-732-773	345 KV output, also used for backfeed during outages
	Unit 1 R925			80-732-772	
	Unit 1 R40	NIMO	06110-86009	80-732-775	115 KV for plant auxiliaries
	Unit 1 R10			80-732-774	
	Unit 2 line 23	NIMO	07930-82005	81-378-163	345 KV output
	Unit backfeed			81-378-169	
	Unit 2 line 5	NIMO	07591-10024	81-378-166	115 KV plant auxiliaries
	Unit 2 line 6			81-378-170	

JUN-04-2003 WED 01:58 PM

FAX NO.

P. 03

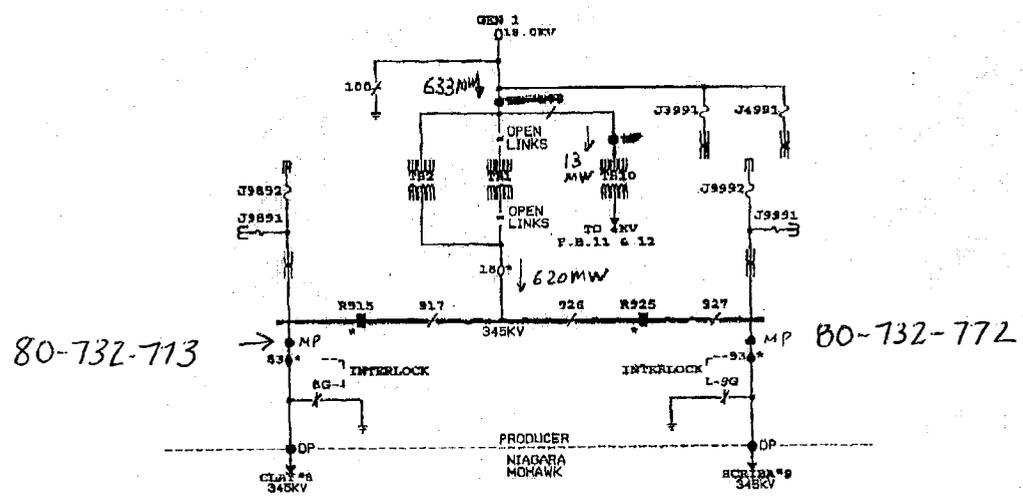
UNIT 1 345KV 80732773 (2-1)

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 49

SCHEDULE A

NINE MILE POINT - UNIT 1



MP = METERING POINT
DP = DELIVERY POINT
* = SUPERVISORY STATUS ONLY

DP- IS LOCATED AT THE TAKE-OFF STRUCTURE ATTACHMENTS OF LINE#8 AND LINE#9.
When Unit 1 is offline and Unit 2 is running, Unit 2 supplies power to Unit 1 via the 345KV line and/or 115KV lines

Niagara Mohawk			
NIAGARA MOHAWK POWER CORPORATION			
NINE MILE POINT STATIONS			
INTERCONNECTION DIAGRAMS			
NO.	SH. NO. 1	DATE	B/BB

Effective: [], 2000

JUN-04-2003 WED 01:58 PM

FAX NO.

P. 04

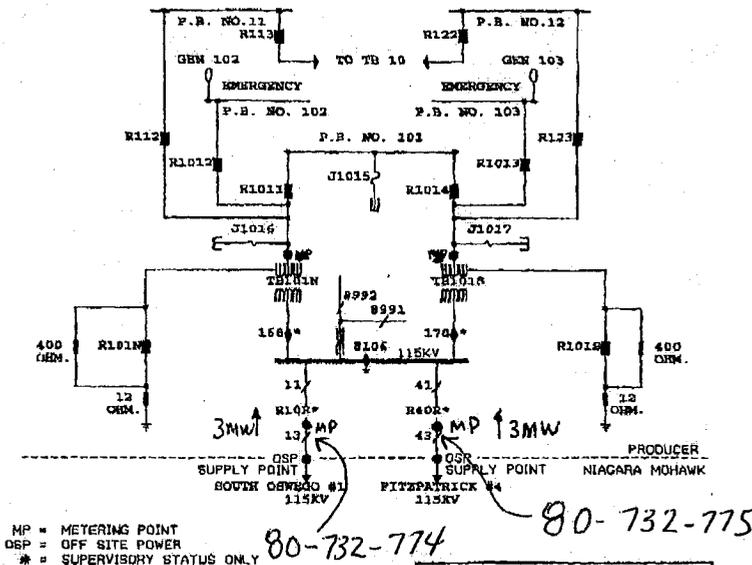
(11)

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 50

SCHEDULE A

NINE MILE POINT - UNIT 1
115KV OFF-SITE POWER



MP = METERING POINT
OSP = OFF SITE POWER
* = SUPERVISORY STATUS ONLY

OSP SUPPLY POINT - IS LOCATED AT THE
HINGE END OF SW*13 AND SW*43.

Niagara Mohawk	
NIAGARA MOHAWK POWER CORPORATION	
NINE MILE POINT STATIONS	
INTERCONNECTION DIAGRAMS	
NO.	SH. NO. 2 DATE 8/88

Issued by: []

Effective: [], 2000

[Title]

Issued on: [], 2000

JUN-04-2003 WED 01:58 PM

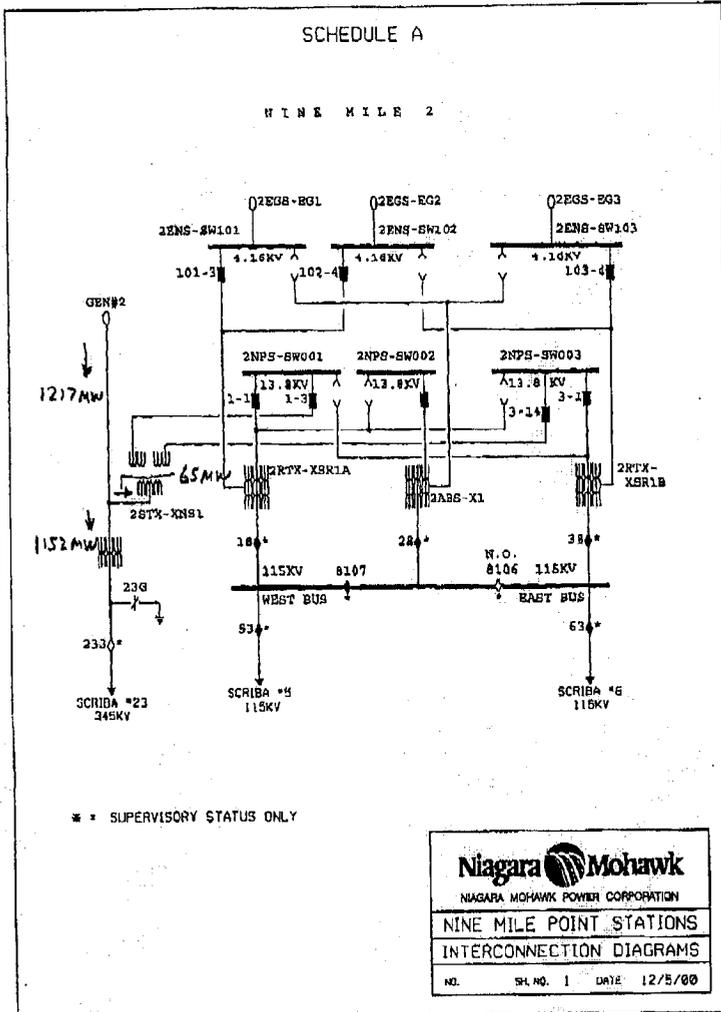
FAX NO.

P. 05

2-3

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 50



JUN-04-2003 WED 01:59 PM

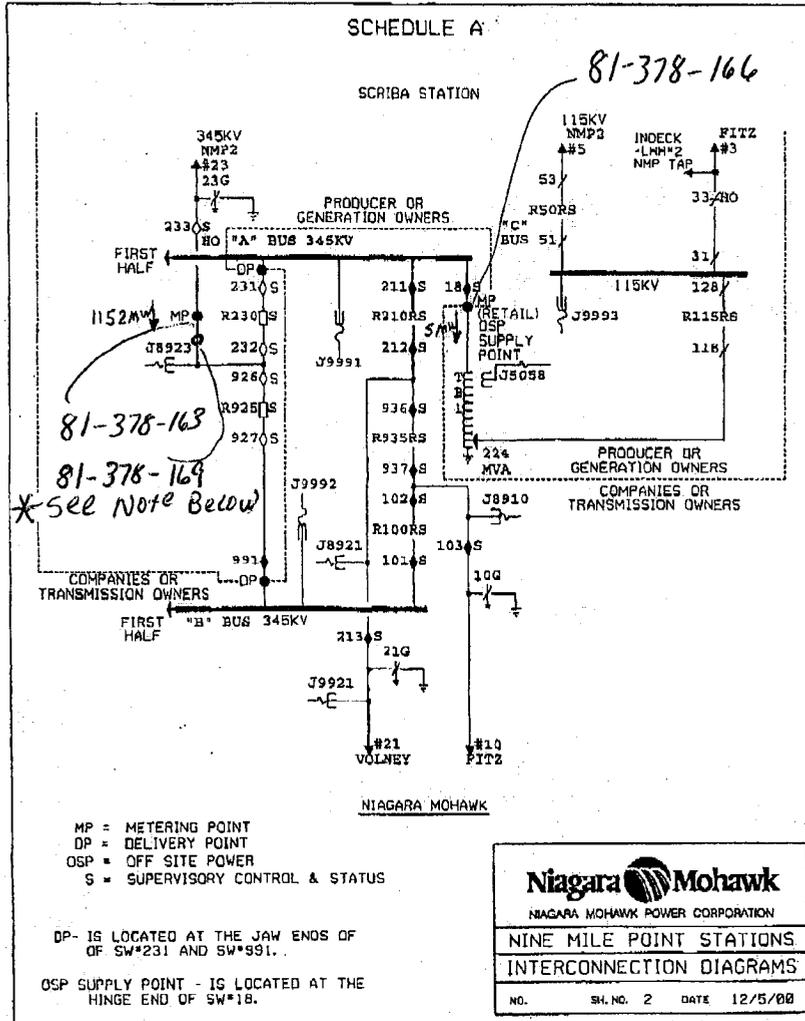
FAX NO.

P. 06

2-4

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 51



NOTE

* Meter used for backfeed from the system when generator off line if needed. This method of backfeed has not been used to date.

JUN-04-2003 WED 01:59 PM

FAX NO.

P. 07

2-5

Niagara Mohawk Power Corporation
FERC Electric Rate Schedule No. []

Original Sheet No. 52

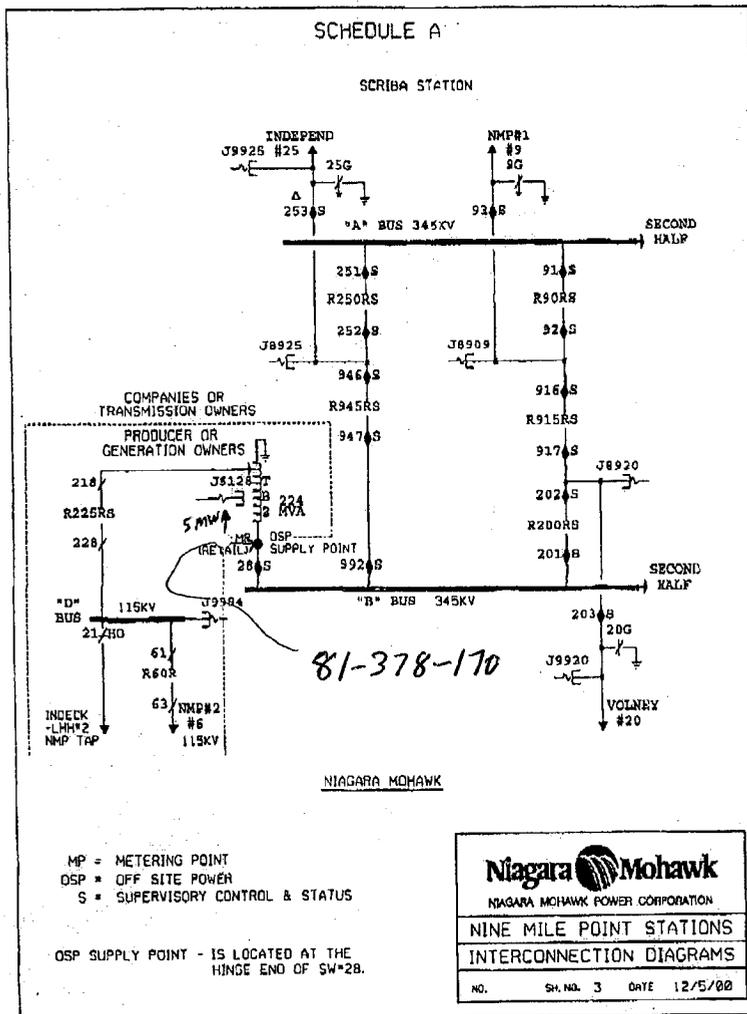


EXHIBIT 8



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July 10, 2003

Honorable Janet H. Deixler, Secretary
State of New York
Public Service Commission
Office of the Secretary, 19th Floor
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case No. 01-E-1847 – Reduced Delivery Rates for Standby Service for NYISO Station Service Customers

Dear Secretary Deixler:

The attached leaves, issued by Niagara Mohawk Power Corporation (“Company”), are being transmitted for filing in accordance with the requirements of the Public Service Commission (“Commission”), State of New York.

Seventh Revised Leaf No. 77-O28
Seventh Revised Leaf No. 106-B
Original Leaf No. 106-O

To P.S.C. No. 207 Electricity

Effective: October 1, 2003

This filing proposes revisions to the Company’s S.C. No. 7 Tariff – Sale of Standby Service to Customers with On-Site Generation Facilities. The purpose of the revisions is to harmonize the Company’s tariff with the recently approved tariff of the New York Independent System Operator (“NYISO”) and recent orders of the Federal Energy Regulatory Commission (“FERC”) relating to the provision of station service to generators. Specifically, FERC recently approved an amendment to the NYISO Market Administration and Control Area Services Tariff (“NYISO Services Tariff”). This amendment establishes rules for determining when a generator is self-supplying or remote self-supplying its facilities with station power or is receiving station power from a third party. In addition, the NYISO Services Tariff establishes rules to determine how and when transmission charges under the NYISO tariff are to be assessed. Because the NYISO Services Tariff now provides an option for generators to take FERC-jurisdictional transmission service directly from the NYISO, the Company needs to reduce the delivery charges in its currently effective S.C. No. 7 service tariff to reflect the removal of the FERC-jurisdiction transmission services costs embedded in that rate. By reducing the delivery charges, the Company will be able to bill Customers for the state jurisdictional component of the delivery service, without double collecting transmission charges from Customers who have opted for transmission service under the NYISO Services Tariff.

In addition, the NYISO Services Tariff effectively permits generators to use the NYISO system to “self supply” its commodity service. As a result, the Company also is proposing to exempt those generators taking transmission service directly from the NYISO from the Electricity Supply Service charges normally assessed by the Company under Rule No. 46 – Electricity Supply Cost of PSC No. 207 Electricity (“Rule 46 ESS”) when commodity service is taken from the NYISO. For those Customers who do not opt to take transmission or commodity service

from the NYISO, current S.C. No. 7 charges as well as Rule 46 Electricity Supply Service will continue to apply, as appropriate.

The net effect of these revisions will be a delivery services rate reduction for generators taking service under the NYISO Services Tariff.

Background

In its May 15, 2002, Order¹ in Docket No. EL-50, the Federal Energy Regulatory Commission (“FERC”) addressed a complaint filed by KeySpan-Ravenswood, Inc. (“KeySpan”) against NYISO alleging that NYISO’s Services Tariff failed to address transmission of station power. In particular, KeySpan requested modifications to NYISO’s Services Tariff to allow generators directly connected to the transmission grid to obtain station power from NYISO and to net such power against its sales to the NYISO, thus treating station power as negative generation. The FERC’s May 15 Order granted KeySpan’s complaint and directed the NYISO to submit a compliance filing that addressed the delivery of station power. NYISO was also instructed by the FERC that it must allow self-supplying merchant generators to net station power against gross output over some reasonable time period.

On September 20, 2002, NYISO submitted its compliance filing, proposing to adopt rules very similar to those accepted by the FERC in a series of PJM orders.² In its compliance filing, NYISO proposed to add to its Services Tariff a new provision defining station power, consistent with the PJM orders, as energy used for operating the electrical equipment, and for meeting incidental heating, lighting, air conditioning and office equipment needs on a generator site. NYISO also proposed to adopt a new provision addressing procurement of station power in three circumstances: (1) self-supply, (2) remote self-supply at the price set by the NYISO Locational Based Marginal Price (“LBMP”) markets and (3) third party supply. The proposed Services Tariff modifications permit generators to arrange for any necessary transmission service under NYISO’s Open Access Transmission Tariff (“OATT”).

NYISO further proposed to adopt a one-month netting period³ for station power commodity service. Monthly netting also determines whether a generator has, in fact, self-supplied its commodity, in which case it will not pay FERC-jurisdictional transmission charges. If the generator resorts to remote self-supply or third party supply to meet its station power needs, monthly netting will determine the quantity of transmission that the generator must obtain.

In its November 22, 2002 Order⁴ in Docket No. EL01-50, FERC accepted for filing tariff revisions submitted by the NYISO on September 20, 2002, to comply with the May 15 Order. In response to NYISO’s September 20 filing, Orion Power New York GP, Inc. (“Orion”) requested the FERC to direct NYISO to clarify that all energy received by a generator, regardless of voltage, is netted against all energy produced by a facility in a given month. The FERC, in its November 22 Order, granted Orion’s request and directed NYISO to file revised tariff sheets to incorporate the clarification.

Furthermore, the FERC, in its November 22 Order, reaffirmed its policy that “[d]epending on the situation, the delivery of station power could be over transmission under our jurisdiction, or involve local distribution facilities subject to state jurisdiction, or both.”⁵ The FERC also stated “[a]ny delivery of station power over local distribution

¹ KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc., 99 FERC ¶ 61,167, order on reh’g, 100 FERC ¶ 61,201 (2002).

² PJM Interconnection, LLC, 94 FERC ¶ 61,251 (2001) (“PJM II”); PJM Interconnection, LLC, 95 FERC ¶ 61,333 (2001) (“PJM III”); PJM Interconnection, LLC, 95 FERC ¶ 61,470 (2001) (“PJM IV”).

³ The “netting period” is the time interval over which the sum of a generator’s injections of energy to and withdrawals of energy from the New York State Power System is measured.

⁴ KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc., 101 FERC ¶ 61,230 (2002) (“November 22 Order”).

⁵ See PJM III at 62,184

facilities, and the compensation for such delivery is a matter properly for the New York Commission and not for this Commission.”⁶

On December 20, 2002, NYISO submitted its compliance filing with the FERC’s November 22 Order; and, on April 1, 2003, NYISO’s Services Tariff as modified on September 20 and December 20, 2002 became effective.

Retroactive Billing Adjustment and Application of Delivery Billing Credits

Since the effective date of the NYISO Services Tariff, the Company has continued to bill generators for station service under the current S.C. No. 7 services tariff. For that reason, bills issued for delivery service provided on and after April 1, 2003 have contained not only state jurisdictional charges, but also embedded FERC jurisdictional transmission charges and the commodity charges pursuant to Rule 46.

During the interim period prior to the effective date of this tariff amendment, the Company is taking steps to assure that it does not double bill generators for commodity. That is, to the extent generators have fulfilled all of the requirements of the NYISO to obtain commodity service directly from the NYISO, they would be eligible under Rule 39 of the Company’s retail access tariff to be treated as “Direct Customers” of the NYISO. As such, the Company should not charge these generators for commodity service. Because this is a new rule of the NYISO with highly complex rules, however, the Company has not yet been able to adjust the bills of the generators who may have received commodity service on or after April 1, 2003 from the NYISO. The Company intends to confirm with the NYISO which generators have actually received commodity service and make appropriate adjustments to generator bills that have been automatically issued by the Company’s billing system, to the extent generators have complied with the NYISO requirements for such service. Prospectively, such eligible generators will be treated as “Direct Customers” and not be billed commodity service under the Company’s SC-7 tariff. Because of the complexity of the NYISO rules and the need to coordinate with the NYISO, however, it may take an extended period of time for appropriate billing adjustments to be made.

Similarly, the Company proposes that it be authorized to retroactively credit Customer bills for a portion of the delivery component of station service that has been provided on and after April 1, 2003, to the extent generators have fulfilled all of the NYISO requirements to take service from the NYISO. The credit would be equal to the difference between currently effective S.C. No. 7 delivery charges and the proposed reduced S.C. No. 7 delivery charges that otherwise would have applied. In addition to approval of the tariff amendments, the Company specifically requests authorization to retroactively apply the delivery credit for those generators who opted to commence service under the NYISO Services Tariff on and after April 1, 2003 and complied with the NYISO rules for such service.

Clarification of the Continued Effectiveness of State-Jurisdictional Rates

Since the issuance of the FERC’s order approving the NYISO Services Tariff, there has been some confusion among Niagara Mohawk’s Customers regarding the effect of the FERC’s ruling. In fact, some generators have taken the position that they are now entitled to completely bypass all state jurisdictional charges as a result of the approval of the NYISO Services Tariff. Of course, this position is not supported by the law. Approval of this filing by the Commission will provide needed clarification that the Company is authorized under state law to continue to bill generators for the state jurisdictional component of this delivery service.

Proposed Tariff Leaves

In summary, the Company’s filing is intended to segregate state-jurisdictional charges from FERC-jurisdictional charges, in a manner that harmonizes the distribution tariff with the FERC-approved NYISO Tariff. In that regard, the tariff leaves provide the means for NYISO customers to avail themselves of station power service through the NYISO’s Services Tariff. The workpapers included in this filing support reduced delivery rates by separating S.C. No. 7 delivery rates into transmission and distribution components based on the Niagara Mohawk’s

⁶ See November 22 Order at 61,250 and generally Sunbury Generation, LLC, 99 FERC ¶ 61,168 at 61,683, order on reh'g, 100 FERC ¶ 61,200 (2002); USGen New England, Inc., 99 FERC ¶ 61,169 at 61,686, order on reh'g, 100 FERC ¶ 61,199 (2002).

Secretary Deixler

-4-

July 10, 2003

FERC filed and approved settlement OATT rate of \$1.89 per kW. A detailed explanation of the determination of the proposed reduced delivery rates is provided in Workpaper 3.

Specifically, Leaf No. 106-O, Special Provision J included with this filing outlines the qualifications and provides the monthly rates applicable to S.C. No. 7 Customers, whose parent service classification is S.C. No. 3 and 3A, receiving transmission and commodity Station Power services directly from the NYISO. A modification to Form G has also been included with this filing to require Customer's who qualify for this reduced customer charges to provide their NYISO PTID ("Point Identifier") received upon registration with the NYISO.

The form required by the State Administrative Procedures Act is included with this filing.

Newspaper advertising as required in Public Service Law 66(12)(b) will be made on July 31, August 7, 14 and 21, 2003.

Please contact the undersigned of any action taken regarding this filing.

Sincerely;

James J. Bonner Jr.

cc: Active Parties List (12-28-2002)