

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 9, 2021

COMMISSIONERS PRESENT:

John B. Howard, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
David J. Valesky
John B. Maggiore
Rory M. Christian

CASE 21-E-0310 - Petition of Niagara Mohawk Power Corporation
Pursuant to Section 70 of the New York State
Public Service Law Regarding the Transfer of
Certain Property to the County of Albany.

ORDER AUTHORIZING TRANSFER OF STREET LIGHTING FACILITIES

(Issued and Effective September 13, 2021)

BY THE COMMISSION:

INTRODUCTION

On June 4, 2021, Niagara Mohawk Power Corporation
d/b/a National Grid (National Grid or the Company) filed a
petition (the Petition) requesting authorization under Public
Service Law (PSL) §70 to sell certain street lighting facilities
(Facilities),¹ located within the County of Albany (the County),
to the County for \$151,695. By this Order, National Grid is

¹ The Facilities consist of approximately 98 luminaires and
associated lamps, mast arms, electrical connections, wiring,
and other appurtenances, as well as certain identified street
lighting poles.

authorized to sell the Facilities to the County subject to the conditions stated herein.

BACKGROUND

The County currently takes street lighting service from National Grid under P.S.C. No. 214 - Electricity, Service Classification (S.C.) No. 2 - Street Lighting - Unmetered - Company Owned, Company Maintained. Under this service classification, the Company owns, operates, and maintains the Facilities used by the County, which consist of approximately 98 luminaires and appurtenant facilities. According to the Petition, after the transfer of the Facilities, National Grid will provide the County energy-only service through S.C. No. 3 - Street Lighting - Unmetered - Customer Owned, Customer Maintained. Upon closing, the County will be generally responsible for the operation and maintenance of the Facilities. The Company states that the sale of the Facilities will not adversely impact the reliability, safety, operation, or maintenance of the Company's electric distribution system.

National Grid determined the estimated sale price of the assets in accordance with the methodology set forth in the rate order, issued in Case 17-E-0238.² According to the Rate Order, if a municipality wishes to purchase all the street lighting assets within its taxing jurisdiction, National Grid is required to sell those street lighting assets at the municipal-specific net book value (NBV), plus transaction and transition costs associated with the sale. The Rate Order sets forth the method for determining the municipal-specific NBV of the street

² Case 17-E-0238, National Grid - Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued March 15, 2018) (Rate Order), Joint Proposal, §§9.3.1 - 9.3.3, at 55-59.

lighting assets being sold. As of March 31, 2021, the original book cost of the Facilities within the County was \$212,911, with accumulated depreciation of \$55,404, resulting in a NBV of \$157,507.³ The Petition includes an estimated sale price of \$151,695, which reflects the NBV of \$157,507 as of March 31, 2021, plus estimated transaction and transition costs of approximately \$2,209, less an adjustment of \$8,021, which will be absorbed by shareholders and not charged to the County.⁴ The transition costs associated with the sale include the costs related to billing and data changes and updating the Company's geographic information system. Transaction costs, if any, consist of the applicable transfer taxes, recording fees, and mortgage indenture release fees associated with the sale. Pursuant to the PSA between National Grid and the County, the purchase price will be updated at the time of closing to reflect the NBV, incorporating any plant asset additions and retirements subsequent to March 31, 2021.

The License Agreement between National Grid and the County, appended to the PSA provided in Schedule A to the Petition, sets forth the requirements of the County upon

³ According to the Petition and the Agreement for Purchase and Sale of Street Lights (PSA) dated April 5, 2021, the NBV at May 7, 2020, of the Facilities being sold was \$139,990 and the estimated transition and transaction costs were \$2,209, resulting in an estimated sale price of \$142,199.

⁴ The Company updated and corrected the NBV to reflect identified assets in additional tax districts, which increased the County's municipal-specific NBV. The Company has agreed that its shareholders will absorb an amount of \$8,021 and will not seek to recover it from the County or ratepayers. The Facilities sold to the County will be taken off of the Company's books at their NBV at the time of the closing.

transfer of the street lighting assets.⁵ Specifically, the County must install disconnect equipment within 24 months after the transfer. Additionally, the County must have qualified electrical workers perform any required work within proximity of the electric system. For 24 months following the transfer, the County will be able to convert the streetlights to light emitting diodes (LEDs) and those conversions will not constitute a material change under the Company's tariffs.⁶

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on June 30, 2021 [SAPA No. 21-E-0310SP1]. The time for submission of comments pursuant to the Notice expired on August 30, 2021. No comments were received.

⁵ Pursuant to the License Agreement, the County shall have no obligation to perform "make-ready work" related to the pre-existing conditions of "authorized attachments" or "facilities" at a location until such time as a customer makes a material change.

⁶ Pursuant to National Grid's outdoor lighting tariff, P.S.C. No. 214 - Electricity, Leaf No. 8, a material change is defined as "any addition, retirement, installation, removal, replacement, relocation, and/or reconfiguration of a single equipment component, assembly, device or other element and/or the aggregate of equipment components that comprise an assembly or installation at a designated location." Pursuant to the License Agreement, neither the conversion of an existing luminaire to a like-kind LED luminaire with similar physical and operational characteristics in the same location and orientation as the existing luminaire, nor the initial installation of disconnect equipment, will be considered a material change if such changes are made within 24 months of the transaction closing, except as to facilitate accurate billing and inventory records.

LEGAL AUTHORITY

Pursuant to PSL §70, the Commission has legal authority to review the proposed transfer of utility property to the County and to determine whether to grant, deny, or modify National Grid's request for authorization to transfer the Facilities. Pursuant to PSL §§5, 65, and 66, the Commission has the legal authority to review, as well as modify, reject, or approve filings, including the authority to make accounting and ratemaking determinations concerning the transfer of utility assets.

STATE ENVIRONMENTAL QUALITY REVIEW

Together with its Petition, National Grid provided Part 1 of a Short Environmental Assessment Form (EAF) in conformance with the State Environmental Quality Review Act (SEQRA) requirements found at 6 NYCRR §617.6(a)(3). The proposed sale is an Unlisted action, as defined in 6 NYCRR §617.2(b)(4)(ak). The action does not rise to the level of a Type I action and is not listed on the Commission's Type II list of activities (16 NYCRR §7.2) or those found in 6 NYCRR §617.5. National Grid states that the action will have no significant adverse environmental effects. No other agency exercises jurisdiction relating to the proposed action. Accordingly, the Commission assumed Lead Agency responsibilities for the environmental review under SEQRA and has determined that a coordinated review is not necessary.

The Commission determines that the proposed sale of the Facilities to the County will not result in any significant adverse effects to land and water uses, or natural resources in the County and associated area, in the vicinity of the existing electric service cables and lighting facilities. No

construction, disturbance, excavation, or demolition will be undertaken as part of the proposed action.

After review of the Petition, the Commission concludes, based on the criteria for determining significance listed in 6 NYCRR §617.7(c), that there will be no change to the operation of the existing Facilities that will result in adverse environmental impacts. Department of Public Service Staff has completed Parts 2 and 3 of the Short EAF.

As Lead Agency, the Commission determines that the proposed action will not have a significant impact on the environment and adopts a negative declaration pursuant to SEQRA. Because no adverse environmental impacts were found, no public notice requesting comments is required. A negative declaration concerning this unlisted action is attached to this Order. The completed Short EAF will be retained in the Commission's files with a copy made publicly available.

DISCUSSION AND CONCLUSION

When considering a proposed sale of utility property, the Commission assesses whether the proposed transaction will impact the utility's provision of safe and adequate service, and whether the transaction is in the public interest. The sale of the Facilities to the County will not impact the reliability, safety, operation, or maintenance of National Grid's electric distribution system. Upon transfer, the County will take energy-only service from National Grid.

Generally, after the sale, the County will be responsible for the operation and maintenance of the Facilities. However, National Grid shall continue to be responsible for stray voltage testing of the street lighting facilities, in

conformance with the Commission's Safety Standards.⁷ The Company and the County executed a License Agreement for pole attachments, appended to the PSA between National Grid and the County. The License Agreement governs customer-owned street and area lighting attachments including: luminaires, supporting brackets, and/or wires, conductors, circuitry or other components existing or proposed to be placed on utility poles and structures.

Additionally, the County is required to enable isolation of the County-owned Facilities from the utility-owned distribution system. To do this, the County will install electric disconnection equipment. The County will also remove National Grid identification labels from the transferred assets. These separation activities must be completed within 24 months of the closing date. After the sale, the County will be responsible for any deficiencies found on the County-owned Facilities.

The estimated sale price of \$151,695 was determined based on the methodology set forth in the Rate Order, which includes the estimated NBV as of March 31, 2021, of \$157,507 plus the transaction and transition costs of \$2,209. The sale price, however, will result in a book loss in the amount of \$8,021, which will be absorbed by the Company's shareholders. Consistent with the Rate Order, the PSA between National Grid and the County states that the sale price will be updated to reflect the NBV of the Facilities at the time of closing. The update will reflect any plant additions, depreciation accruals, and retirements subsequent to March 31, 2021. The sale price

⁷ Case 04-M-0159, Proceeding to Examine the Safety of Electric Transmission and Distribution Systems, Order Granting in Part Petition to Modify Electric Safety Standards (issued January 13, 2015), Appendix A, §3.

will be determined by adding the actual transaction and transition costs to the updated NBV of the assets being sold, less the \$8,021 adjustment. Accordingly, the transfer will not impose any additional costs on other electric ratepayers.⁸

As a result of the transfer, the Company will avoid certain costs related to the Facilities, such as replacement costs, property taxes, and ongoing maintenance costs. Additionally, the annual target for the Company's revenue decoupling mechanism will be reduced to reflect the changes in facilities charge revenues resulting from the sale. Moreover, the County plans to install energy efficient LED luminaires to provide localized lighting benefits and reduce energy consumption, which will further the State's energy efficiency initiative.

Therefore, given the benefits of the proposed sale of the Facilities to the County, the Commission finds that the proposed transfer is in the public interest and will not adversely affect National Grid's ability to provide safe and adequate service. Accordingly, National Grid is authorized to transfer the Facilities to the County. The authority to transfer the Facilities is granted for one year from the issuance of this Order and shall expire if the transaction does not occur within that time period. The Company is to notify the Commission if the sale of the Facilities is not completed within

⁸ The Commission's Order in Case 17-M-0815, Proceeding on Motion of the Commission on Changes in Law that Affect Rates, Order Determining Rate Treatment of Tax Changes (issued August 9, 2018) required the preservation of benefits resulting from the 2017 Tax Cuts and Job Act for customers. The excess deferred federal income taxes associated with the assets being sold and transferred shall remain on the Company's books as a regulatory liability, until the Commission determines the appropriate disposition of the benefits to customers through the Company's next base rate or an alternative proceeding.

one year of the date of this Order. In such notification, National Grid shall provide a brief explanation as to why the transfer did not occur.

The Company's proposed accounting entries for the transaction are to retire the street lighting assets being sold, record the proceeds from the sale to the accumulated depreciation reserve, and record the book loss from the sale to be absorbed by the Company's shareholders. The proposed accounting entries are reasonable and consistent with the Uniform System of Accounts for electric utilities. Accordingly, the proposed accounting entries are approved. The Company shall file a copy of the actual journal entries for review to ensure compliance with the accounting treatment described in the Petition.

The Commission orders:

1. The petition of Niagara Mohawk Power Corporation d/b/a National Grid for authority to transfer the street lighting facilities within the County of Albany, New York to the County of Albany is granted. The authority is granted for one year from the issuance of this Order and shall expire if the transaction is not completed within that time period.

2. Niagara Mohawk Power Corporation d/b/a National Grid shall file with the Secretary, within 60 days of the final transfer of the street lighting facilities to the County of Albany, a copy of the actual journal entries recorded to account for this transaction, together with the related workpapers.

3. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

4. This proceeding is closed pending compliance with Ordering Clause 2 or written notification by Niagara Mohawk Power Corporation d/b/a National Grid that the transfer was not completed within one year of the date of the issuance of this Order.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 21-E-0310 - Petition of Niagara Mohawk Power Corporation
Pursuant to Section 70 of the New York State
Public Service Law Regarding the Transfer of
Certain Property to the County of Albany.

NOTICE OF DETERMINATION OF SIGNIFICANCE
(NEGATIVE DECLARATION)

NOTICE is hereby given that an Environmental Impact Statement will not be prepared in connection with the approval by the Public Service Commission (the Commission) of the transfer of certain street lighting facilities to the County of Albany based on the Commission's determination, in accordance with Article VIII of the Environmental Conservation Law, that such action will not have a significant adverse effect on the environment. The exercise of this approval constitutes an Unlisted action, as is defined in 6 NYCRR §617.2(ak).

Based on the Commission's review of the record, the Commission finds that the proposed action, which grants authority to Niagara Mohawk Power Corporation d/b/a National Grid to sell certain street lighting facilities to the County of Albany will not have a significant adverse environmental impact.

The address of the Public Service Commission, the Lead Agency for the purposes of the environmental quality review of this project, is Three Empire State Plaza, Albany, New York 12223-1350. Questions may be directed to Andrew Timbrook

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(Andrew.Timbrook@dps.ny.gov) at (518) 486-2463 or by writing to the address above.

MICHELLE L. PHILLIPS
Secretary