

PSC NO: 220 ELECTRICITY
NIAGARA MOHAWK POWER CORPORATION
INITIAL EFFECTIVE DATE: FEBRUARY 13, 2016

LEAF: 194.2
REVISION: 2
SUPERSEDING REVISION: 1

GENERAL INFORMATION

34. ECONOMIC DEVELOPMENT PROGRAMS (Continued)

34.6 Program 5 - Recharge New York ("RNY") Power Program

34.6.2 Subscription Procedure (Continued)

34.6.2.5 The Company will commence RNY service effective the first day of the calendar month at least thirty (30) days after receiving ~~a fully executed and signed Agreement from NYPA notice from NYPA. NYPA shall also provide 30 days' notice to the Company for changes in the kW allocation and termination on any kW allocation for customers receiving an RNY allocation.~~

34.6.3 Billing Methodology:

34.6.3.1 The billing period for customers served under Program 5 shall be the calendar month. ~~When a customer's eligibility for Program 5 expires, that customer shall revert back to the billing period of the applicable service classification as specified by the Company.~~

34.6.3.2 Reserved for Future Use ~~In the event that NYPA is unable to deliver in any billing period any portion or all of the RNY power to the Company as contracted for, each customer shall have his contract lowered by the amount of reduced deliveries, allocated on a prorata basis across all current RNY contract demands. All such load not delivered and subsequently replaced with load supplied by the Company shall be billed according to the rates and provisions of the Service Classification applicable to the customer's load served by the Company during the periods of the reduced deliveries.~~

34.6.3.3 Customers served under Program 5-RNY, are subject to the following Rules:

34.6.3.3.1 Customers served under Program 5 RNY Power will be subject to the rates, charges, and adjustments specified in their applicable parent service classification. All reactive demand is billed at the parent service classification's reactive demand rate.

34.6.3.3.2 RNY allocations under this program shall be exempt from Rule 41 – System Benefit Charge (which includes SBC and EEPs), Rule No. 49-Renewable Portfolio Surcharge, and Rule 57-RDM.

34.6.3.3.2 Rule 32, Increase in Rates Applicable in Municipality Where Service is Supplied, shall be applied to the total billing amount.

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SERVICE CLASSIFICATION NO. 12 (Continued)

5. STANDARDIZED DISCOUNT RATES (Continued)

- 5.4.4 Payment of Undisputed Bills: Customer shall be current in its payment of all undisputed bills, and may be required to furnish a security deposit in the amount that the Company would otherwise be authorized to require under Commission rules, as a precondition to receiving any discounted service by the Company. Customers who have executed a deferred payment agreement with the Company consistent with Rule 26.9 - Deferred Payment Agreement ("DPA") for Non-Residential Customers of this Tariff, and are in full compliance with the requirements of this DPA shall be eligible to receive these discounts.
- 5.4.5 Resales Prohibited: Customer is prohibited from reselling or otherwise furnishing any of the electricity provided pursuant to a Customer Service Agreement authorized by this Service Classification No. 12 to any third party, regardless of whether such sale or furnishing would otherwise be authorized by Rule 8 of the Tariff.
- 5.4.6 Increase in Rates and Charges: The rates and charges under Section 5 of this Service Classification No. 12 will be increased by a tax factor pursuant to Rule 32.
- 5.4.7 Contract Filing Requirements: A standardized discount rate contract will be jointly filed with the Commission by the utility and the customer, subject to full confidentiality protection, for both the Company and the customer, as a trade secret. A quarterly summary of contract activity shall also be filed by the Company containing individual customers' information and shall be filed subject to full confidentiality protection as a trade secret.

6. INDIVIDUALLY NEGOTIATED RATES

- 6.1 Eligibility Criteria for Individually Negotiated Rates: Where the Company determines at its sole discretion that the eligibility criteria in Section 4 of this Service Classification No. 12 have been satisfied and that the Standardized Discount provided in Section 5 of this Service Classification No. 12 is insufficient to address the Qualifying Customer's economic threat, a Qualifying Customer shall individually negotiate its rates and Customer Service Agreement with the Company under this Section 6 of this Service Classification No. 12 provided they meet the additional requirements of this Section 6.
- 6.1.1 Retention: On Site Generation and Fuel Switching: Qualifying Customers demonstrating that the on-site generation and fuel switching alternatives available to them make them Contestable Customers shall be eligible to individually negotiate rates and Customer Service Agreements with the Company designed to respond to their demonstrated on-site generation and fuel switching alternatives.
- 6.1.2 Customers Receiving a Portion of Their Requirements from NYPA: Qualifying Customers receiving a portion of their requirements from NYPA shall be eligible to individually negotiate Customer Service Agreements with the Company designed to respond to the demonstrated competitive alternatives for which they qualify for service under this Service Classification No. 12.
- 6.1.3 Manufacturing Customer and Service Sector Customers: A Qualifying Customer who is also a Manufacturing Customer or Service Sector Customer as defined in Sections 3.3 and 3.5, respectively, not meeting the requirements of Sections 6.1.1 or 6.1.2 of this Service Classification No. 12 shall individually negotiate Customer Service Agreements with the Company designed to respond to the demonstrated competitive alternatives for which they qualify for service under this Service Classification No. 12 where any one of the following tests is satisfied:

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SERVICE CLASSIFICATION NO. 12 (Continued)

6. INDIVIDUALLY NEGOTIATED RATES (Continued)

- 6.1.2.1 Customer imposes, or in the Company's opinion is likely to impose, monthly electric peak billed Company demand in excess of 2,000 kW; or
- 6.1.2.2 Has an average monthly load factor or, in the Company's opinion is likely to impose an average load factor, of at least 70 percent; or
- 6.1.2.3 Demonstrates that the customer's annual total electricity bill represents at least 7 percent of the facility's annual gross revenue from sales; or
- 6.1.2.4 Currently employs 250 or more workers; or
- 6.1.2.5 Is in the Paper/Paperboard Manufacturing (NAICS Code 3221), Chemicals Manufacturing (NAICS Code 325), Non-Metallic Mineral Products (NAICS Code 327), or Primary Metal Manufacturing (NAICS Code 331) industries.

6.2 Standards for Individually Negotiated Rate Agreements:

- 6.2.1 **Negotiating Standards:** In cases where individual negotiation of rates and Customer Service Agreements is authorized by Section 6.1 of this Service Classification No.12, the Company will negotiate on a case-by-case basis in a manner consistent with the New York State Public Service Commission's Opinion Nos. 96-12 and 94-15 and the Order and attached Guidelines issued April 14, 2005 in Case No. 03-E-1761.
- 6.2.2 **Term:** Except as provided in this Section 6.2.2, no individually negotiated Customer Service Agreements establishing rates for electric service shall have a term in excess of five (5) years. If a customer desires a contract with a term in excess of five (5) years and the Company is willing to agree to this arrangement, the Company will request authorization from the New York State Public Service Commission to enter into that arrangement. If the Commission grants the Company the authority it requests on terms acceptable to the Company, the Company will then enter into the agreement.
- 6.2.3 **Adjustments to Standard Rates and Charges:** Customers receiving individually negotiated rates and Customer Service Agreements pursuant to this Service Classification No.12 shall be subject to all adjustments and surcharges as required by the New York Public Service Commission that would have applied to the customer if it had received non-discounted service under the service classification otherwise applicable to the customer's usage. All such adjustments and surcharges shall be determined in accordance with the corresponding rules of the standard tariffs and shall be increased by a tax factor in accordance with Rule 32. Nothing contained in this section shall be construed as limiting Customers' rights to petition the New York State Public Service Commission for a waiver of the application of such surcharges and adjustments.
 - 6.2.3.1 Customers served under SC-12 will not be subject to Rule No. 42.3.2 and Rule No. 42.3.3 of Rule 42-Merchant Function Charge.
- 6.2.4 **Contract Filing Requirements:** ~~The Company shall file information concerning each individually negotiated Customer Service Agreement required by the New York State Public Service Commission in its Order and attached Guidelines dated April 14, 2005 in Case No. 03-E-1761 within 30 days of the execution of that Customer Service Agreement. An individually negotiated rate contract will be jointly filed with the Commission by the utility and the customer, subject to full confidentiality protection, for both the Company and the customer, as a trade secret. A quarterly summary of contract activity shall also be filed by the Company containing individual customers' information and shall be filed subject to full confidentiality protection as a trade secret.~~