

Attachment I

SERVICE AGREEMENT NO. 2827

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

New York Independent System Operator, Inc.)
) Docket No. ER24 - ____
)

IMPLEMENTATION AGREEMENT

Pursuant to Section 205 of the Federal Power Act (“FPA”), 16 U.S.C. § 824d, and Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations, 18 C.F.R. § 35, *et seq.*[], and Section 4.1.9.3 of the New York Independent System Operator Inc. (“NYISO”) Market Administration and Control Area Services Tariff (“Services Tariff”), Ravenswood Operations, LLC f/k/a Helix Ravenswood, LLC (“Ravenswood”) and the NYISO (individually “Party” and collectively the “Parties”) hereby submit this Implementation Agreement fully resolving issues related to the compensation and the agreed upon terms and conditions under which Ravenswood will generate electric energy using 0.15% sulfur No. 4 Fuel Oil (“Fuel Oil”) in lieu of natural gas in furtherance of New York State Reliability Council’s Local Reliability Rule G.2 (Loss of Generator Gas Supply - New York City) (“Rule G.2”) (“Fuel Oil Burn for G.2”) during a one-year period beginning May 1, 2023 and ending April 30, 2024. It also confirms the agreed upon cost sharing mechanism whereby Ravenswood and the NYISO will share the prudently incurred capital costs associated with converting the onsite storage facilities and infrastructure to #4 and/or #2 fuel oil as well as associated revisions to electric generating Units 10, 20, and 30. Payments made by the NYISO for commodity, emissions and fuel oil taxes,

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as applicable, shall be in accordance with its Services Tariff.¹

As this Implementation Agreement is fair and reasonable, in the public interest, consistent with previously approved settlement agreements among the Parties and other market participants and, to the best of the Parties' knowledge, unopposed, the Parties urge prompt approval by the Commission of this Implementation Agreement without condition or modification to be effective as of January 1, 2024.

SECTION ONE

PROVISION OF FUEL OIL BURN FOR G.2

1.1 During the term of this Implementation Agreement, in return for the payments described in Section 2, in response to requests from NYISO and/or Con Edison as the Transmission Owner designated by Rule G.2, Ravenswood will burn Fuel Oil for G.2 needs, unless it would cause electric generating Units 10, 20, or 30 (collectively "Units" or individually "Unit") to violate the emissions limitations contained in their current permits. In the event Ravenswood forecasts in any notice required by Section 1.2 hereof that one or more of its Units is likely to violate the emissions limitations contained in their current permits, Ravenswood will make a good faith effort to obtain a waiver from EPA from these limits for the applicable unit(s). However, this Implementation Agreement does not require Ravenswood to invest in any improvements, changes or upgrades to its Units to reduce emissions further than current air permit limits, and Ravenswood is not seeking compensation under this Implementation Agreement in order to make such improvements, changes or upgrades. Ravenswood reserves all rights it may have to seek

¹ Con Edison Steam is also sharing in the costs associated with the provision of comingled Fuel Oil supply and burning, however those agreements are not subject to the Commission's jurisdiction. Nevertheless, the filing includes information related to how costs are divided among the three uses.

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separate recovery of such costs in a new proceeding if and when any Unit is required to reduce its emissions, provided, however, that nothing in this Implementation Agreement shall limit or abridge any Party's or non-party's right to protest the recovery of such costs. In the event that Ravenswood receives a request to provide Fuel Oil Burn for G.2 and Ravenswood is forecasting that such burn is likely to cause one or more of its Units to violate the emissions limitations contained in the applicable air permit(s), Ravenswood will notify the NYISO and Con Edison System Operation, as the Transmission Owner designated by Rule G.2, that continued operation of the Unit(s) will be limited to burning natural gas unless and until an applicable waiver request is granted that fully relieves Ravenswood from its emission limitations for the applicable Unit(s) or Ravenswood no longer is forecasting that additional use of Fuel Oil will result in the Unit(s) violating the emissions limitations contained in the applicable air permit(s). Ravenswood will notify the NYISO, Con Edison System Operation, and the City of New York when it submits its waiver request to the EPA and/or, if applicable, the New York State Department of Environmental Conservation and will provide a copy of such waiver request to the NYISO, Con Edison System Operation, and the City of New York on a confidential basis subject to limited distribution as described in Section 1.2 below.

- 1.2 Ravenswood shall provide the NYISO and Con Edison System Operation, as the Transmission Owner designated by Rule G.2, on a confidential basis, the following notifications and communications related to its actual and forecast Fuel Oil burn that would violate the emissions limitations contained in the current permits. Ravenswood's confidential notifications and communications will remind Con Edison, as the Transmission Owner designated by Rule G.2, of its obligation not to disclose any of the information Ravenswood provides in such confidential notifications and communications to any "marketing function employee" as that term is defined in 18

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C.F.R §358.3. To the extent the forecasts provided by Ravenswood as described below cause it to believe that one or more Units is likely to violate the emissions limitations contained in the current permits, Ravenswood shall specifically identify such forecast in the Notice.

In order to efficiently provide Fuel Oil Burn for G.2 and satisfy its Fuel Oil procurement, storage, handling, and delivery obligations for all Fuel Oil use at the Ravenswood site during the period of May 1, 2023 through April 30, 2024, Ravenswood and Ravenswood Services LLC will co-mingle the use of their Fuel Oil storage and delivery facilities as well as Operation and Maintenance (“O&M”) activities and administrative services with the use of other Fuel Oil customers served from the Ravenswood site (“co-mingling”). Accordingly, during the period May 1, 2023 through April 30, 2024, Ravenswood will provide Fuel Oil Burn for G.2 using a portion of the following oil storage and delivery facilities: (i) one (1) offsite storage tank (which equates to approximately 177,350 barrels of working storage); (ii) one (1) large (approximately 40,000 barrel) annual time chartered transient barge; (iii) the Lemon Creek stationary barge (approximately 90,000 barrel shell capacity); (iv) one (1) large (approximately 40,000 barrels) seasonally time chartered transient barge (expected for 3-5 months) (“Seasonal Barge”) and (v) Ravenswood’s existing onsite Fuel Oil storage tank (approximately 45,000 barrels), subject to the Minimum Reserve Quantity required by the existing agreement between Ravenswood and Con Edison Steam. The off-site storage tank leases require the lessor to pay for tank cleaning at the end of the lease and when required inspections are due. It is assumed that one cleaning will occur during this lease term because the tank must be cleaned at the end of its lease. Estimated costs were included in the prior Implementation Agreement and will be used to clean the

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tank at the end of this term. Actual costs will be subject to a true-up at the end of the one-year term as outlined in Section 2.4. In addition, Ravenswood will also provide certain associated acquisition and transport administrative services.

CONVERSION FROM #6 TO #4

As of January 1, 2020, Ravenswood is no longer permitted to burn #6 Fuel Oil.² Accordingly, to continue to burn fuel oil beyond May 2020 for any purpose, capital investments had to be made to convert its storage, infrastructure and the Units' fuel oil burn capabilities. The Parties agreed that it was prudent for Ravenswood to proceed with the conversion process and that the costs incurred would be allocated and recovered as set forth in FERC Docket No. ER21-302-000 and the associated letter order issued on December 18, 2020.

CONVERSION FROM #4 TO #2

In addition, the Parties previously agreed to share the costs associated with converting facilities at the Ravenswood site associated with fuel oil handling from #4 to #2. The NYISO will share 1/3 of the prudently incurred capital costs associated with converting the onsite storage facilities and infrastructure to #2 fuel oil.³ Any costs associated with retrofitting, adjusting or tuning Units 10, 20 and 30 will be paid equally by the NYISO and Ravenswood.

The actual cost to transition from #4 fuel oil to #2 fuel oil is not known with certainty at this time because it depends on what actual work is required to accomplish the transition.

One variable is the cost to clean infrastructure and whether any piping needs to be

² NYC Local Law No. 38.

³ Con Edison Steam is also sharing 1/3 of the costs associated with the provision of comingled Fuel Oil supply, however those agreements are not subject to the Commission's jurisdiction. Nevertheless, the filing includes information related to how costs are divided among the NYISO, Ravenswood and Con Edison Steam. The existing fuel oil tank that supplies Unit 40 will not be interconnected to the other fuel oil systems at this time.

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replaced based on the change from #4 fuel oil to #2.

Converting to #2 could include the following:

- Tank 106 Cleaning
- Barge Connecticut Cleaning
- Barge Lemon Creek Cleaning
- Boiler oil system piping cleaning
- Barge to tank 106 pipe cleaning
- Unit 10, 20 and 30 adjustments and tuning (Ravenswood will work with the NYISO to evaluate the costs and benefits of modifying some of the main fuel guns to an alternative igniter type such as Plasma Arc Igniters. The total number and location of the alternative igniters would be evaluated to determine the load flexibility and reliability to re-ignite in case of a flame out.

Depending upon condition and how well it can be cleaned, some of the pipe connecting the barges to the 106 Tank may need to be replaced. A budget estimate to complete the project is approximately \$9.7 million (which is 1/3 the cost being reimbursed for the new tank that was constructed for the conversion from #6 to #4). As additional engineering and analysis is performed, we will keep the NYISO informed and evaluate cost saving opportunities. Pipe replacement and cleaning will be minimized to the extent practicable while still ensuring fuel oil specifications can be maintained.

No additional cleaning costs are being collected as part of the one-year extension. The cleaning costs associated with the off-site and onsite tanks, barges and piping will be credited with the cleaning costs previously collected. The final cost of cleaning will be

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subject to the true-up in accordance with the same process in the current agreements.

The NYISO will share 1/2 of the prudently incurred capital costs associated with converting Units 10, 20 and 30 to #2 fuel oil. Once the conversion is finalized, the associated costs and the agreement to reimburse them will be filed with the Commission for approval.

SECTION TWO

PAYMENT BY THE NYISO FOR COMINGLED SERVICES FOR THE PERIOD MAY 1, 2023 THROUGH APRIL 30, 2024

2.1 The NYISO will pay Ravenswood the Demand Charges and O&M Costs set forth below as compensation for Ravenswood's provision of Fuel Oil Burn for G.2 for the period May 1, 2023 through April 30, 2024. The term Demand Charges as used herein refers to a charge that will enable Ravenswood to recover costs for transporting, maintaining, storing, and handling Fuel Oil to provide Fuel Oil Burn for G.2 that Ravenswood incurs regardless of the amount of Fuel Oil Burn for G.2 it provides. The categories of costs that comprise the basis for the Demand Charge include, fixed and variable costs associated with leasing off-site tanks, fixed and variable costs associated with leasing the various barges, as well as the cost associated with labor to staff 24/7 readiness for Fuel Oil operation, procurement, logistics and management, taxes, Fuel Oil carrying charges and testing. Confidential Appendix A contains an itemization of the costs that form the basis for the Demand Charges. The term O&M Costs has the meaning set forth in Section 2.3.3 hereof. For purposes of this Implementation Agreement, "Year 1" shall be the period May 1, 2023 through April 30, 2024.

2.1.1 The NYISO's obligation to pay Ravenswood is conditioned on the NYISO's continuing authority to obtain the Demand Charges from all load withdrawals in

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the Consolidated Edison Transmission District (other than withdrawals to supply station power) under this Implementation Agreement, the OATT and the Services Tariff.

2.2 Demand Charges⁴

2.2.1 For Year 1, the NYISO shall pay to Ravenswood a Demand Charge of \$3,763,491.17.⁵ This compares to the \$3,732,190.56 cost for 2022. In general, costs are largely consistent with prior years.

2.2.2 The NYISO shall pay Ravenswood the Demand Charges for Year 1 regardless of: (i) whether Fuel Oil has been burned in accordance with G.2; (ii) the relative cost of the Fuel Oil compared to natural gas reflected in the reference levels for the Units; and (iii) any revisions to the Services Tariff or Rule G.2 that occur after the date this Implementation Agreement is executed. Demand Charges will be adjusted as noted in Section 2.4.1 based on the actual lease cost of the Seasonal Barge and true up for tank and barge cleaning.

2.3 O&M Costs

2.3.1 For every barrel of Fuel Oil burned in furtherance of G.2 that is eligible for commodity cost compensation in accordance with Section 4.1.9.2 of the Services Tariff, the NYISO shall also pay Ravenswood a per barrel O&M Cost as noted in confidential Appendix A for Fuel Oil Burn for G.2 associated with the use of the ancillary Fuel Oil equipment at the Ravenswood Generating Station. The O&M

⁴ With respect to off-site tank lease, transient barge lease, Lemon Creek barge, Seasonal Barge, and on-site tank, Con Edison Steam, the NYISO and Ravenswood each pay 1/3 of the costs. With respect to O&M, Con Edison Steam pays 44%, the NYISO pays 22 2/3% and Ravenswood pays 33 1/3%. These percentages are noted in the Appendices.

⁵ The Demand Charges represent a settlement amount based on the detailed Appendix A.

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Cost shall be fixed for the term of this Implementation Agreement and shall not be subject to escalation.

2.4 Reconciliation of Tank Cleaning and Seasonal Barge payments

2.4.1 To obtain a true-up of the invoiced Seasonal Barge payments for the period May 1, 2022 through April 30, 2024, Ravenswood shall provide to the NYISO all barge invoices by June 15, 2024. Should the invoiced Seasonal Barge costs paid by Ravenswood exceed the Seasonal Barge payment made by more than \$25,000, the NYISO shall reimburse Ravenswood for the total excess of the invoiced cost over the Seasonal Barge payment made. Should the Seasonal Barge payment made exceed the invoiced Seasonal Barge cost paid by Ravenswood by more than \$25,000, Ravenswood shall reimburse the NYISO for the total excess of the Seasonal Barge payments made over the Seasonal Barge cost paid by Ravenswood. To obtain a true-up of the invoiced tank cleaning costs during the term of this Implementation Agreement, Ravenswood shall provide to the NYISO all tank cleaning invoices by June 15, 2024. Should the invoiced amounts paid by Ravenswood for tank cleaning exceed the estimated cost included in the Demand Charge, by more than \$25,000, the NYISO shall reimburse Ravenswood for the total excess of the invoiced amounts. Should the amounts paid to Ravenswood for tank cleaning exceed the estimated cost included in the Demand Charge, by more than \$25,000, Ravenswood shall reimburse the NYISO for the total excess.

2.4.2 True-up payments to or from Ravenswood, if any, for Seasonal Barge costs shall be included on the NYISO invoices to Ravenswood for the month of July 2024. True-up payments to or from Ravenswood, if any, for Tank Cleaning shall be

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included on the NYISO invoices to Ravenswood for the month of July 2024.

Calculations and payments of True-up payments may be extended by written agreement of the parties based on actual receipt of invoices and completion of cleaning activities.

2.5 The NYISO shall pay Ravenswood the Demand Charge in three equal amounts using the NYISO's normal billing cycle for the three calendar months following Commission approval of the Agreement. The payments will include interest, calculated in accordance with the NYISO Services Tariff, from January 1, 2024 to the disbursement date of the monthly invoice on which the payment appears.

2.6 NYISO will allocate Demand Charges and O&M Costs, paid to Ravenswood pursuant to this Implementation Agreement, under the provisions of Section 6.1.7 of the NYISO's Open Access Transmission Tariff ("OATT"), that are in effect at the time this Implementation Agreement is executed, to all load withdrawals in the Con Edison Transmission District (Load Zones H, I and J) based on each Load Serving Entity's ("LSE's") load ratio share.

2.6.1 Demand Charges, paid pursuant to Sections 2.2 and 2.5 of the Implementation Agreement, will be allocated among all load withdrawals in the Con Edison Transmission District (Load Zones H, I and J) based on each LSE's load ratio share for the same month that the Demand Charge payments to Ravenswood are invoiced.

2.6.2 All O&M Costs paid pursuant to Section 2.3 of the Implementation Agreement shall be allocated among all load withdrawals in the Con Edison Transmission District (Load Zones H, I and J) based on each LSE's load ratio share for the same

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month that the O&M cost payments to Ravenswood are invoiced.

- 2.7 To the extent that Ravenswood determines during the term of this Implementation Agreement that it needs to obtain a spot barge to provide Oil Burn for G.2 beyond those initially designated in this Implementation Agreement, Ravenswood will inform the NYISO, and others as appropriate, of the need and its attempt to obtain the spot barge, and negotiate the cost of the spot barge which includes the costs of heating, tugging, booming, testing and inspections to the extent they can be procured (hereinafter referred to as "Supplemental Costs"). If such spot barge is obtained, Ravenswood shall bear one-third (1/3) of such Supplemental Costs and the NYISO shall pay to Ravenswood and recover two-thirds (2/3) of such Supplemental Costs as a cost for Fuel Oil Burn for G.2 pursuant to Section 6.1.7 of the OATT unless Con Edison Steam determines that it needs Fuel Oil that would be procured pursuant to this Section. If Con Edison Steam determines that it does need additional Fuel Oil that would be procured pursuant to this Section, and it provides written notice to Ravenswood of such determination no later than five business days following notice from Ravenswood that it needs to obtain a spot barge to provide Fuel Oil Burn for G.2, the NYISO shall pay to Ravenswood and recover one-third (1/3) of such Supplemental Costs as a cost for Fuel Oil Burn for G.2 pursuant to Section 6.1.7 of the OATT; Con Edison Steam shall bear one-third (1/3) of such Supplemental Costs; and Ravenswood shall bear one-third (1/3) of such Supplemental Costs. The NYISO shall pay Ravenswood all Supplemental Costs for which the NYISO is responsible under this Section in the billing cycle immediately after the cycle in which such costs were incurred and billed to the NYISO and shall allocate such payments to Ravenswood among all load withdrawals in the Con Edison Transmission District (Load Zones H, I and J) pursuant to Section 6.1.7 of the OATT as a cost for Fuel Oil Burn for G.2 based on each LSE's load ratio share for the month for which the payments to Ravenswood of the Supplemental Costs are invoiced. Payments of interest, if any, shall be paid in accordance with the NYISO's normal billing cycles.

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2.8 The Parties understand that the components comprising the Demand Charge, and the determination of the on-site O&M Costs, reflect certain estimated costs, and the Parties agree that such estimates are reasonable and that Ravenswood shall provide documentation of such reasonableness upon request. In the event Ravenswood's actual costs making up the Demand Charges and O&M Costs differ from the estimates, there will be no true-up for these costs in either direction other than those specifically described. Thus, Ravenswood shall not be entitled to impose a surcharge, and no market participant shall be entitled to a refund with respect to the Demand Charges and O&M Costs.

2.9 Consideration for Implementation Agreement

2.9.1 In consideration of the terms agreed to herein, Ravenswood will: (a) (i) arrange for, operate, and maintain the facilities outlined in Section 1.3 and (ii) generate electric energy using Fuel Oil for G.2 under the terms of this Implementation Agreement for the period May 1, 2023 through April 30, 2024 from at least one of its existing generating facilities at the Ravenswood site; and (b) not submit a separate filing under Section 205 of the Federal Power Act ("FPA") seeking a rate or tariff for Ravenswood's provision of Fuel Oil Burn for G.2 for the period of May 1, 2023 through April 30, 2024.

2.9.2 Also in consideration of the terms agreed to herein, no Party shall file a complaint under FPA Section 206 seeking rates, or terms and conditions, for Fuel Oil Burn for G.2 for the period May 1, 2023 through April 30, 2024 that differ from those agreed to in this Implementation Agreement.

SECTION THREE

TERMINATION/AMENDMENT

- 3.1 Except for outstanding payment obligations under Section Two hereof, this Implementation Agreement shall terminate on April 30, 2024. Notwithstanding the immediately preceding sentence, the Parties are free to enter into negotiations to extend the termination date of this Implementation Agreement and/or negotiate a new agreement for Ravenswood's provision of Fuel Oil Burn for G.2 subsequent to April 30, 2024, in each instance subject to Commission approval. If any such negotiations are not concluded by January 1, 2024, subject to Sections Six and Seven hereof, the Parties reserve all rights they may have to make filings with the Commission, or oppose such filings, as each Party deems appropriate, with respect to Ravenswood's provision of Fuel Oil Burn for G.2 for the period subsequent to April 30, 2024, including but not limited to Ravenswood filing a rate schedule under FPA Section 205, and/or the NYISO filing an unexecuted Implementation Agreement under Section 4.1.9 of its Services Tariff, or a Party filing a complaint under FPA Section 206. Such negotiations shall be subject to the consultation requirements in Section 4.1.9 of the Services Tariff.
- 3.2 Parties shall retain all rights under the FPA, under Section 4.1.9 of the Services Tariff, and under all other provisions in the Services Tariff, to the extent applicable, as discussed in Sections Six and Seven of this Implementation Agreement.

SECTION FOUR

SECTION 4.1.9 OF THE NYISO SERVICES TARIFF AND PRE-EXISTING AGREEMENTS

- 4.1 This Implementation Agreement constitutes the full and complete agreement of the Parties with respect to the subject matter addressed herein for Ravenswood's provision of

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Fuel Oil Burn for G.2 for the period May 1, 2023 through April 30, 2024 and supersedes all prior negotiations, understandings, and agreements, whether written or oral, between the Parties with respect to the subject matter described herein. The Parties agree that the Implementation Agreement and Minimum Oil Burn Agreement entered into in settlement of matters related to the period May 1, 2023 through April 30, 2024 will expire and have no further force or effect after April 30, 2024. The Parties also agree that this Implementation Agreement does not affect or change the provisions of the Services Tariff, including Section 4.1.9. They further agree that Ravenswood's compensation for the provision of Fuel Oil Burn for G.2 for the period May 1, 2023 through April 30, 2024, as specified in Section 1 hereof, shall be pursuant to this Implementation Agreement.

- 4.2 Except as otherwise noted herein, for the period May 1, 2023 through April 30, 2024, where there are differences between Section 4.1.9 of the Services Tariff and the terms of this Implementation Agreement, the terms of this Implementation Agreement govern.
- 4.3 All references within this Implementation Agreement to Section 4.1.9 of the Services Tariff refer to the provisions of Section 4.1.9 as they exist as of the date this Implementation Agreement is executed.

SECTION FIVE

COMMISSION ORDER

- 5.1 For purposes of this Implementation Agreement, a Commission order shall be deemed a Final Order when the last date for filing a request for rehearing with the Commission has expired if no rehearing request is filed by that date and there are no other matters pending related to the filing of this Implementation Agreement. To the extent the Commission accepts this Implementation Agreement subject to a condition or modification and any Party files a request for rehearing, each Party shall have the right to

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withdraw from this Implementation Agreement, which withdrawal may be exercised in such Party's sole discretion.

SECTION SIX

FILING RIGHTS

- 6.1 This Implementation Agreement does not address (1) Ravenswood's legal authority, if any, to have its own rate schedule on file under FPA Section 205 to provide Fuel Oil Burn for G.2, *i.e.*, burn Fuel Oil in lieu of natural gas in furtherance of Rule G.2, or (2) Ravenswood's obligation, if any, to provide Fuel Oil Burn for G.2 and to be compensated for doing so, pursuant to an unexecuted Implementation Agreement under Section 4.1.9 of its Services Tariff. These issues are contested and unresolved, however, the Parties agree that the Commission can and should accept this Implementation Agreement without addressing them.
- 6.2 In signing this Implementation Agreement, other than as outlined in Sections 6.3 and 7.2 of this Implementation Agreement, no Party waives any rights it may possess to have rates on file under Section 205 of the FPA, or to make FPA Section 205 or 206 filings.
- 6.3 No Party will make a Section 205 filing or a Section 206 filing seeking a rate or a revised rate to compensate Ravenswood for burning Fuel Oil in furtherance of Rule G.2 for the period May 1, 2023 through April 30, 2024 or to modify the terms and conditions in this Implementation Agreement, unless the Parties, by mutual consent, agree to modify the terms and conditions in this Implementation Agreement. Nevertheless, the Parties specifically reserve the right to raise all arguments in support of, or in opposition to, Ravenswood's provision of Fuel Oil Burn for G.2 under Ravenswood's own FPA Section 205 rate schedule and/or pursuant to an unexecuted Implementation Agreement under Section 4.1.9 of the NYISO Services Tariff, including in each instance proposed terms and

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conditions and compensation for Fuel Oil Burn for G.2, for a period subsequent to April 30, 2024.

- 6.4 The Parties hereby reserve all rights to which they are entitled under Sections 205 and 206 of the FPA, except as set forth herein.
- 6.5 For the sole purpose of settling the compensation matters described herein, this Implementation Agreement represents a fair and reasonable negotiated settlement that is in the public interest. The term of this Implementation Agreement shall not limit or restrict the arguments that the Parties may put forth or the positions that the Parties may take in any future proceeding before the Commission that are not specifically agreed to herein.

SECTION SEVEN

EFFECTIVE DATE AND GENERAL RESERVATIONS

- 7.1 This Implementation Agreement shall become effective as of May 1, 2023 upon an order approving the Implementation Agreement becoming a Final Order as defined in Paragraph 4.1 herein. If the Commission accepts the Implementation Agreement without modification, no Party will request rehearing or otherwise appeal or support rehearing requests or appeals by others.
- 7.2 No Party shall use this Implementation Agreement, or the terms hereof, as evidence to support, or oppose, an argument that Ravenswood is obligated to provide Fuel Oil Burn for G.2, or to be compensated for doing so, under Section 4.9.1 of the Services Tariff, or that Ravenswood has the right to have its own rate schedule for Fuel Oil Burn for G.2 under Section 205 of the FPA.
- 7.3 This Implementation Agreement is an integrated whole and is expressly conditioned on

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the Commission's acceptance of all provisions herein without modification or condition. Notwithstanding the foregoing, if the Commission's approval of this Implementation Agreement is conditioned on a modification of this Implementation Agreement or on any other condition, such modification or condition shall be considered to be accepted unless a Party objecting to such condition or modification serves written notice on the other Party of its intent to seek rehearing of the order approving the Implementation Agreement as modified or conditioned within a period of ten days from the date of such order. Should Commission approval be subject to condition or modification of this Implementation Agreement, each Party shall then have the right, as determined in its sole discretion, to withdraw as a signatory of the Implementation Agreement. In the event that a Party withdraws, the Implementation Agreement shall not constitute any part of the record with respect to establishing payments to Ravenswood to burn Fuel Oil for G.2 needs and shall not be used for any purpose in this or any future docket.

- 7.4 Commission approval of this Implementation Agreement shall constitute the requisite waiver of any and all otherwise applicable Commission regulations, to the extent necessary, to permit implementation of the provisions of this Implementation Agreement.
- 7.5 This Implementation Agreement is made upon the express understanding that it constitutes a negotiated agreement and, except as otherwise expressly provided for herein, no Party shall be deemed to have approved, accepted, agreed to, or consented to any principle or policy relating to rate design, rate calculation, or any other matter affecting or relating to any of the compensation, charges, classifications, terms, conditions, principles, or issues associated with this Implementation Agreement. This

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Implementation Agreement shall not be deemed to be a “settled practice” as that term was interpreted and applied in *Public Service Commission of New York v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980), and shall not be the basis for any decision with regard to the burden of proof in any future litigation. This Implementation Agreement shall not be cited as precedent, nor shall it be deemed to bind either Party in any future proceeding including, but not limited to, any Commission proceeding, except in any proceeding to enforce this Implementation Agreement.

7.6 The discussions among the Parties and other entities that have produced this Implementation Agreement have been conducted on the explicit understanding, pursuant to Rules 602(e) and 606 of the Commission’s Rules of Practice and Procedures, that all offers and any comments on these offers are privileged and not admissible as evidence against any participant who objects to their admission and that any discussions of the Parties and other entities with respect to offers of settlement is not subject to discovery or admissible in evidence.

7.7 The Implementation Agreement is subject to the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (“Mobile Sierra doctrine”) to the full extent legally permissible and as interpreted in *Morgan Stanley Capital Group Inc. v. Pub. Util District No. 1*, 128 S. Ct. 2733 (2008), *NRG Power Marketing LLC v. Me. Pub. Utils, Comm’n*, 130 S. Ct. 693 (2010) and *Dominion Transmission Inc. v. FERC*, 533 F.3d 845 (2008).

7.8 Headings in this Implementation Agreement are included for convenience only and are not intended to have any significance in interpretation of this Implementation Agreement. Signatures may occur by counterparts. Such signatures shall have the same effect as if all signatures were on the same document.

SECTION EIGHT

SUPPORT OF FULL SETTLEMENT

8.1 The Parties agree that this Implementation Agreement resolves all issues related to the manner in which Ravenswood will be compensated for providing Fuel Oil Burn for G.2 for the period May 1, 2023 through April 30, 2024.

Respectfully submitted,

RAVENSWOOD
OPERATIONS LLC f/k/a
HELIX RAVENSWOOD, LLC

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Dated as of: December 15, 2023

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Dated as of: December 15, 2023