SERVICE AGREEMENT NO. 2407

AMENDED AND RESTATED

INTERCONNECTION AGREEMENT
 BETWEEN

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
 AND

COGEN TECHNOLOGIES LINDEN VENTURES, L.P.

Dated as of MARCH 1, 2018

TABLE OF CONTENTS

i

SERVICE AGREEMENT NO. 2407

Page Number

ARTICLE 1. DEFINITIONS 1

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION 11

2.1 Effective Date 11

2.2 Term of Agreement 11

2.3 Termination 11

2.4 Termination Costs 11

2.5 Disconnection 12

2.6 Survival 12

2.7 Existing Interconnection Rights 12

ARTICLE 3. REGULATORY FILINGS 12

3.1 Filing 12

ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE 13

4.1 Provision of Service 13

4.2 No Transmission Delivery Service 13

4.3 No Other Services 13

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND

CONSTRUCTION 13

5.1 Options 13

5.2 General Conditions Applicable to Option to Build 14

5.3 Liquidated Damages 14

5.4 Power System Stabilizers 14

5.5 Equipment Procurement 14

5.6 Construction Commencement 14

5.7 Work Progress 14

5.8 Information Exchange 14

5.9 Limited Operation 15

5.10 Developer’s Attachment Facilities (“DAF”) 15

5.11 Connecting Transmission Owner’s Attachment Facilities Construction 15

5.12 Access Rights 15

5.13 Lands of Other Property Owners 15

5.14 Permits 15

5.15 Early Construction of Base Case Facilities 15

5.16 Suspension 16

5.17 Taxes 16

5.18 Tax Status; Non-Jurisdictional Entities 20

5.19 Modification 21

ARTICLE 6. TESTING AND INSPECTION 22

6.1 Pre-Commercial Operation Date Testing and Modifications 22

6.2 Post-Commercial Operation Date Testing and Modifications 22

6.3 Right to Observe Testing 22

6.4 Right to Inspect 22

ARTICLE 7. METERING 22

7.1 General 22

7.2 Check Meters 23

7.3 Standards 23

ii

SERVICE AGREEMENT NO. 2407

7.4 Testing of Metering Equipment 23

7.5 Metering Data 24

ARTICLE 8. COMMUNICATIONS 24

8.1 Developer Obligations 24

8.2 Remote Terminal Unit 24

8.3 No Annexation 25

ARTICLE 9. OPERATIONS 25

9.1 General 25

9.2 NYISO and Connecting Transmission Owner Obligations 25

9.3 Developer Obligations 25

9.4 Start-Up and Synchronization 25

9.5 Real and Reactive Power Control 26

9.6 Outages and Interruptions 27

9.7 Switching and Tagging Rules 30

9.8 Use of Attachment Facilities by Third Parties 30

9.9 Disturbance Analysis Data Exchange 31

ARTICLE 10. MAINTENANCE 31

10.1 Connecting Transmission Owner Obligations 31

10.2 Developer Obligations 31

10.3 Coordination 31

10.4 Secondary Systems 31

10.5 Operating and Maintenance Expenses 32

ARTICLE 11. PERFORMANCE OBLIGATION 32

11.1 Developer Attachment Facilities 32

11.2 Connecting Transmission Owner’s Attachment Facilities 32

11.3 System Upgrade Facilities and System Deliverability Upgrades 32

11.4 Special Provisions for Affected Systems 32

11.5 Provision of Security 32

11.6 Developer Compensation for Emergency Services 32

11.7 Line Outage Costs 32

ARTICLE 12. INVOICE 33

12.1 General 33

12.2 Final Invoice 33

12.3 Payment 33

12.4 Disputes 33

ARTICLE 13. EMERGENCIES 33

13.1 Obligations 33

13.2 Notice 33

13.3 Immediate Action 34

13.4 NYISO and Connecting Transmission Owner Authority 34

13.5 Developer Authority 35

13.6 Limited Liability 35

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW 35

14.1 Regulatory Requirements 35

14.2 Governing Law 36

ARTICLE 15. NOTICES 36

iii

SERVICE AGREEMENT NO. 2407

15.1 General 36

15.2 Billings and Payments 36

15.3 Alternative Forms of Notice 36

15.4 Operations and Maintenance Notice 36

ARTICLE 16. FORCE MAJEURE 36

16.1 Force Majeure 37

ARTICLE 17. DEFAULT 37

17.1 Default 37

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE 38

18.1 Indemnity 38

18.2 No Consequential Damages 39

18.3 Insurance 39

ARTICLE 19. ASSIGNMENT 41

19.1 Assignment 41

ARTICLE 20. SEVERABILITY 42

20.1 Severability 42

ARTICLE 21. COMPARABILITY 42

21.1 Comparability 42

ARTICLE 22. CONFIDENTIALITY 42

22.1 Confidentiality 42

ARTICLE 23. ENVIRONMENTAL RELEASES 46

23.1 Developer and Connecting Transmission Owner Notice 46

ARTICLE 24. INFORMATION REQUIREMENT 46

24.1 Information Acquisition 46

24.2 Information Submission by Connecting Transmission Owner 46

24.3 Updated Information Submission by Developer 46

24.4 Information Supplementation 46

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS 47

25.1 Information Access 47

25.2 Reporting of Non-Force Majeure Events 47

25.3 Audit Rights 47

25.4 Audit Rights Periods 48

25.5 Audit Results 48

ARTICLE 26. SUBCONTRACTORS 48

26.1 General 48

26.2 Responsibility of Principal 48

26.3 No Limitation by Insurance 49

ARTICLE 27. DISPUTES 49

27.1 Submission 49

27.2 External Arbitration Procedures 49

27.3 Arbitration Decisions 49

27.4 Costs 50

27.5 Termination 50

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS 50

28.1 General 50

ARTICLE 29. MISCELLANEOUS 51

iv

SERVICE AGREEMENT NO. 2407

29.1 Binding Effect 51

29.2 Conflicts 51

29.3 Rules of Interpretation 51

29.4 Compliance 52

29.5 Joint and Several Obligations 52

29.6 Entire Agreement 52

29.7 No Third Party Beneficiaries 52

29.8 Waiver 52

29.9 Headings 53

29.10 Multiple Counterparts 53

29.11 Amendment 53

29.12 Modification by the Parties 53

29.13 Reservation of Rights 53

29.14 No Partnership 53

29.15 Other Transmission Rights 53

Appendices

v

AMENDED AND RESTATED

LARGE GENERATOR INTERCONNECTION AGREEMENT

THIS AMENDED AND RESTATED LARGE GENERATOR INTERCONNECTION
AGREEMENT (“Agreement”) is made and entered into this 1st day of March 2018, by and
between Cogen Technologies Linden Ventures, L.P., a limited partnership organized and
existing under the laws of the State of Delaware (“Developer” with a Large Generating Facility)
and Consolidated Edison Company of New York, Inc., a corporation organized and existing
under the laws of the State of New York (“Connecting Transmission Owner”). Developer or
Connecting Transmission Owner each may be referred to as a “Party” or collectively referred to
as the “Parties.”

RECITALS

WHEREAS, the New York Independent System Operator, Inc. (“NYISO”) operates the New York State Transmission System and Connecting Transmission Owner owns certain facilities included in the New York State Transmission System;

WHEREAS, Developer owns, controls and operates the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement;

WHEREAS, Developer and Connecting Transmission Owner are parties to a Power Purchase Agreement, dated April 14, 1989, which was first amended by on September 17, 1990; and later amended by a second amendment dated December 22, 1993 and was amended a third time of August 1, 1999 (collecting the “PPA”);

WHEREAS, the Connecting Transmission Owner’s obligation to purchase energy generated by the Large Generating Facility under the PPA expired on April 30, 2017;

WHEREAS, the PPA also provided for the interconnection of the Developer’s Large Generating Facility into the Connecting Transmission Owner’s transmission facilities; and

WHEREAS, Developer and Connecting Transmission Owner desire to restate the Developer’s interconnection rights for the Large Generating Facility.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, the Parties agree to amend and restate the Original Agreement in its entirety as follows:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the

meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 30.1.0 of
Attachment X or Section 25.1 of Attachment S of the NYISO OATT.

1

Affected System shall mean an electric system other than the transmission system owned, controlled or operated by the Connecting Transmission Owner that may be affected by the proposed interconnection.

Affected System Operator shall mean the entity that operates an Affected System.

Affected Transmission Owner shall mean the New York public utility or authority (or its

designated agent) other than the Connecting Transmission Owner that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, and (ii) owns, leases or otherwise possesses an interest in a portion of the New York State Transmission System where System Deliverability Upgrades or System Upgrade Facilities are installed pursuant to Attachment X and Attachment S of the Tariff.

Affiliate shall mean, with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization,
directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term “control” shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

Ancillary Services shall mean those services that are necessary to support the transmission of Capacity and Energy from resources to Loads while maintaining reliable operation of the New York State Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to Environmental Law.

Applicable Reliability Councils shall mean the NERC, the NPCC and the NYSRC.

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable
Reliability Councils, and the Transmission District to which the Developer’s Large Generating
Facility is directly interconnected, as those requirements and guidelines are amended and
modified and in effect from time to time; provided that no Party shall waive its right to challenge
the applicability or validity of any requirement or guideline as applied to it in the context of this
Agreement.

Attachment Facilities shall mean the Connecting Transmission Owner’s Attachment Facilities
and the Developer’s Attachment Facilities. Collectively, Attachment Facilities include all
facilities and equipment between the Large Generating Facility and the Point of Interconnection,
including any modification, additions or upgrades that are necessary to physically and
electrically interconnect the Large Generating Facility to the New York State Transmission
System. Attachment Facilities are sole use facilities and shall not include Stand Alone System
Upgrade Facilities, Distribution Upgrades, System Upgrade Facilities or System Deliverability
Upgrades.

2

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by NYISO, Connecting Transmission Owner or Developer;
described in Section 30.2.3 of the Large Facility Interconnection Procedures.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Byway shall mean all transmission facilities comprising the New York State Transmission

System that are neither Highways nor Other Interfaces. All transmission facilities Zone J and Zone K are Byways.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Capacity Region shall mean one of four subsets of the Installed Capacity statewide markets

comprised of Rest of State (Zones A through F), Lower Hudson Valley (i.e., Load Zones G, H, and I), Long Island (Zone K), and New York City (Zone J).

Capacity Resource Interconnection Service (“CRIS”) shall mean the service provided by

NYISO to interconnect the Developer’s Large Generating Facility to the New York State

Transmission System or to the Distribution System in accordance with the NYISO Deliverability Interconnection Standard, to enable the New York State Transmission System to deliver electric capacity from the Large Generating Facility, pursuant to the terms of the NYISO OATT.

Class Year Deliverability Study shall mean an assessment, conducted by the NYISO staff in
cooperation with Market Participants, to determine the System Deliverability Upgrades required
for each generation and merchant transmission project included in the Class Year
Interconnection Facilities Study to interconnect to the New York State Transmission System or
to the Distribution System in compliance with the NYISO Deliverability Interconnection
Standard.

Clustering shall mean the process whereby a group of Interconnection Requests is studied

together, instead of serially, for the purpose of conducting the Interconnection System Reliability Impact Study.

Commercial Operation shall mean the status of a Large Generating Facility that has
commenced generating electricity for sale, excluding electricity generated during Trial
Operation.

Commercial Operation Date of a unit shall mean the date on which the Large Generating
Facility commenced Commercial Operation as identified in Appendix E to this Agreement.

Confidential Information shall mean any information that is defined as confidential by Article 22 of this Agreement.

3

Connecting Transmission Owner shall mean the New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate
commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point of Interconnection, and (iii) is a Party to this Agreement.

Connecting Transmission Owner’s Attachment Facilities shall mean all facilities and

equipment owned, controlled or operated by the Connecting Transmission Owner from the Point
of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Large
Generator Interconnection Agreement, including any modifications, additions or upgrades to
such facilities and equipment. Connecting Transmission Owner’s Attachment Facilities are sole
use facilities and shall not include Stand Alone System Upgrade Facilities or System Upgrade
Facilities.

Control Area shall mean an electric power system or combination of electric power systems to
which a common automatic generation control scheme is applied in order to: (1) match, at all
times, the power output of the Generators within the electric power system(s) and capacity and
energy purchased from entities outside the electric power system(s), with the Load within the
electric power system(s); (2) maintain scheduled interchange with other Control Areas, within
the limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s)
within reasonable limits in accordance with Good Utility Practice; and (4) provide sufficient

generating capacity to maintain Operating Reserves in accordance with Good Utility Practice. A Control Area must be certified by the NPCC.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 17 of this Agreement.

Deliverability Interconnection Standard shall mean the standard that must be met by any

Large Generating Facility proposing to interconnect to the New York State Transmission System or to the Distribution System and become a qualified Installed Capacity Supplier. To meet the
NYISO Deliverability Interconnection Standard, the Developer of the proposed Large
Generating Facility must, in accordance with the rules in Attachment S to the NYISO OATT,
fund or commit to fund the System Deliverability Upgrades identified for its project in the Class Year Deliverability Study.

Developer shall mean an Eligible Customer developing a Large Generating Facility, proposing to connect to the New York State Transmission System, in compliance with the NYISO
Minimum Interconnection Standard.

Developer’s Attachment Facilities shall mean all facilities and equipment, as identified in

Appendix A of this Agreement, that are located between the Large Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such
facilities and equipment necessary to physically and electrically interconnect the Large
Generating Facility to the New York State Transmission System. Developer’s Attachment
Facilities are sole use facilities.

4

Dispute Resolution shall mean the procedure described in Article 27 of this Agreement for resolution of a dispute between the Parties.

Distribution System shall mean the Transmission Owner’s facilities and equipment used to

distribute electricity that are subject to FERC jurisdiction, and are subject to the NYISO’s LGIP or SGIP under FERC Order Nos. 2003 and/or 2006. The term Distribution System shall not include LIPA’s distribution facilities.

Distribution Upgrades shall mean the additions, modifications, and upgrades to the Connecting
Transmission Owner’s Distribution System at or beyond the Point of Interconnection to facilitate
interconnection of a Large Facility or Small Generating Facility and render the transmission
service necessary to affect the Developer’s wholesale sale of electricity in interstate commerce.
Distribution Upgrades do not include Interconnection Facilities, System Upgrade Facilities, or
System Deliverability Upgrades. Distribution Upgrades are sole use facilities and shall not
include Stand Alone System Upgrade Facilities, System Upgrade Facilities, or System
Deliverability Upgrades.

Effective Date shall mean the date on which this Agreement becomes effective upon execution by the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Emergency State shall mean the condition or state that the New York State Power System is in when an abnormal condition occurs that requires automatic or immediate manual action to
prevent or limit loss of the New York State Transmission System or Generators that could
adversely affect the reliability of the New York State Power System.

Energy Resource Interconnection Service (“ERIS”) shall mean the service provided by
NYISO to interconnect the Developer’s Large Generating Facility to the New York State
Transmission System in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive Energy and Ancillary Services from the Large Generating Facility, pursuant to the terms of the NYISO OATT.

Engineering & Procurement (E&P) Agreement shall mean an agreement that authorizes

Connecting Transmission Owner to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq. (“FPA”).

FERC shall mean the Federal Energy Regulatory Commission (“Commission”) or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war,
insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or
equipment, any order, regulation or restriction imposed by governmental, military or lawfully

5

established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure
event does not include acts of negligence or intentional wrongdoing by the Party claiming Force
Majeure.

Generating Facility shall mean Developer’s device for the production of electricity identified in
Appendix C, but shall not include the Developer’s Attachment Facilities or Distribution
Upgrades.

Generating Facility Capacity shall mean the net seasonal capacity of the Generating Facility and the aggregate net seasonal capacity of the Generating Facility where it includes multiple energy production devices.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved
by a significant portion of the electric industry during the relevant time period, or any of the
practices, methods and acts which, in the exercise of reasonable judgment in light of the facts
known at the time the decision was made, could have been expected to accomplish the desired
result at a reasonable cost consistent with good business practices, reliability, safety and
expedition. Good Utility Practice is not intended to be limited to the optimum practice, method,
or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts
generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory
or administrative agency, court, commission, department, board, or other governmental
subdivision, legislature, rulemaking board, tribunal, or other governmental authority having
jurisdiction over any of the Parties, their respective facilities, or the respective services they
provide, and exercising or entitled to exercise any administrative, executive, police, or taxing
authority or power; provided, however, that such term does not include Developer, NYISO,
Affected Transmission Owner, Connecting Transmission Owner, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials or substances defined as or

included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Highway shall mean 115 kV and higher transmission facilities that comprise the following

NYCA interfaces: Dysinger East, West Central, Volney East, Moses South, Central East/Total
East, UPNY-SENY and UPNY-ConEd, and their immediately connected, in series, Bulk Power
System facilities in New York State. Each interface shall be evaluated to determine additional
“in series” facilities, defined as any transmission facility higher than 115 kV that (a) is located in
an upstream or downstream zone adjacent to the interface and (b) has a power transfer
distribution factor (DFAX) equal to or greater than five percent when the aggregate of generation
in zones or systems adjacent to the upstream zone or zones which define the interface is shifted
to the aggregate of generation in zones or systems adjacent to the downstream zone or zones
which define the interface. In determining “in series” facilities for Dysinger East and West

6

Central interfaces, the 115 kV and 230 kV tie lines between NYCA and PJM located in LBMP Zones A and B shall not participate in the transfer. Highway transmission facilities are listed in ISO Procedures.

Initial Synchronization Date shall mean the date upon which the Large Generating Facility is initially synchronized and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Developer reasonably expects it will be

ready to begin use of the Connecting Transmission Owner’s Attachment Facilities to obtain back feed power.

Interconnection Facilities Study shall mean a study conducted by NYISO or a third party

consultant for the Developer to determine a list of facilities (including Connecting Transmission
Owner’s Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System
Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study),
the cost of those facilities, and the time required to interconnect the Large Generating Facility
with the New York State Transmission System or with the Distribution System. The scope of
the study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures.

Interconnection Facilities Study Agreement shall mean the form of agreement contained in Appendix 4 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection Facilities Study.

Interconnection Feasibility Study shall mean a preliminary evaluation of the system impact and cost of interconnecting the Large Generating Facility to the New York State Transmission System, the scope of which is described in Section 30.6 of the Standard Large Facility
Interconnection Procedures.

Interconnection Feasibility Study Agreement shall mean the form of agreement contained in Appendix 2 of the Standard Large Facility Interconnection Procedures for conducting the
Interconnection Feasibility Study.

Interconnection Request shall mean a Developer’s request, in the form of Appendix 1 to the Standard Large Facility Interconnection Procedures, in accordance with the Tariff, to
interconnect a new Large Generating Facility to the New York State Transmission System or to the Distribution System, or to increase the capacity of, or make a material modification to the operating characteristics of, an existing Large Generating Facility that is interconnected with the New York State Transmission System or with the Distribution System.

Interconnection Study shall mean any of the following studies: the Interconnection Feasibility Study, the Interconnection System Reliability Impact Study, and the Interconnection Facilities Study described in the Standard Large Facility Interconnection Procedures.

Interconnection System Reliability Impact Study (“SRIS”) shall mean an engineering study,
conducted in accordance with Section 30.7 of the Large Facility Interconnection Procedures, that
evaluates the impact of the proposed Large Generating Facility on the safety and reliability of the
New York State Transmission System and, if applicable, an Affected System, to determine what
Attachment Facilities Distribution Upgrades and System Upgrade Facilities are needed for the

7

proposed Large Generation Facility of the Developer to connect reliably to the New York State Transmission System or to the Distribution System in a manner that meets the NYISO Minimum Interconnection Standard.

Interconnection System Reliability Impact Study Agreement shall mean the form of

agreement contained in Appendix 3 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection System Reliability Impact Study.

IRS shall mean the Internal Revenue Service.

Large Generating Facility shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

Large Generator Interconnection Agreement (“LGIA”) shall mean this Agreement, the form of interconnection agreement applicable to an Interconnection Request pertaining to a Large Generating Facility, that is included in Attachment X of the NYISO OATT.

Loss shall mean any and all losses relating to injury to or death of any person or damage to

property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other
obligations by or to third parties, arising out of or resulting from the Indemnified Party’s
performance or non-performance of its obligations under this Agreement on behalf of the
Indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the
Indemnified Party.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Metering Equipment shall mean all metering equipment installed or to be installed at the Large Generating Facility pursuant to this Agreement at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote
terminal unit, communications equipment, phone lines, and fiber optics.

Minimum Interconnection Standard shall mean the reliability standard that must be met by

any Large Generating Facility proposing to connect to the New York State Transmission System or to the Distribution System. The Standard is designed to ensure reliable access by the
proposed project to the New York State Transmission System. The Standard does not impose any deliverability test or deliverability requirement on the proposed interconnection.

NERC shall mean the North American Electric Reliability Council or its successor organization.

New York State Transmission System shall mean the entire New York State electric

transmission system, which includes (i) the Transmission Facilities under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with this Agreement or its performance.

8

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.
NYSRC shall mean the New York State Reliability Council or its successor organization.

Optional Interconnection Study shall mean a sensitivity analysis based on assumptions specified by the Developer in the Optional Interconnection Study Agreement.

Optional Interconnection Study Agreement shall mean the form of agreement contained in Appendix 5 of the Standard Large Facility Interconnection Procedures for conducting the Optional Interconnection Study.

Other Interfaces shall mean interfaces into New York capacity regions, Zone J and Zone K, and external ties into the New York Control Area.

Party or Parties shall mean Connecting Transmission Owner or Developer or any combination of the above.

Point of Change of Ownership shall mean the point, as set forth in Appendix C to this Agreement, where the Developer’s Attachment Facilities connect to the Connecting Transmission Owner’s Attachment Facilities.

Point of Interconnection shall mean the point, as set forth in Appendix C to this Agreement, where the Attachment Facilities connect to the New York State Transmission System or to the Distribution System.

Queue Position shall mean the order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by NYISO.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a
Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and
are otherwise substantially equivalent to those a Party would use to protect its own interests.

Scoping Meeting shall mean the meeting between representatives of the Developer, NYISO and
Connecting Transmission Owner conducted for the purpose of discussing alternative
interconnection options, to exchange information including any transmission data and earlier
study evaluations that would be reasonably expected to impact such interconnection options, to
analyze such information, and to determine the potential feasible Points of Interconnection.

Services Tariff shall mean the NYISO Market Administration and Control Area Tariff, as filed
with the Commission, and as amended or supplemented from time to time, or any successor tariff
thereto.

Site Control shall mean documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the Large Generating
Facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an
exclusivity or other business relationship between Developer and the entity having the right to sell, lease or grant Developer the right to possess or occupy a site for such purpose.

9

Stand Alone System Upgrade Facilities shall mean System Upgrade Facilities that a Developer may construct without affecting day-to-day operations of the New York State Transmission
System during their construction. Connecting Transmission Owner and the Developer must
agree as to what constitutes Stand Alone System Upgrade Facilities and identify them in
Appendix A to this Agreement.

Standard Large Facility Interconnection Procedures (“LFIP”) shall mean the

interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that are included in Attachment X of the NYISO OATT.

System Deliverability Upgrades shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to Byways and Highways and Other Interfaces on the existing New York State Transmission
System and Distribution System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard at the requested level of Capacity Resource Interconnection Service.

System Protection Facilities shall mean the equipment, including necessary protection signal
communications equipment, required to (1) protect the New York State Transmission System
from faults or other electrical disturbances occurring at the Large Generating Facility and (2)
protect the Large Generating Facility from faults or other electrical system disturbances
occurring on the New York State Transmission System or on other delivery systems or other
generating systems to which the New York State Transmission System is directly connected.

System Upgrade Facilities shall mean the least costly configuration of commercially available
components of electrical equipment that can be used, consistent with Good Utility Practice and
Applicable Reliability Requirements, to make the modifications to the existing transmission
system that are required to maintain system reliability due to: (i) changes in the system,
including such changes as load growth and changes in load pattern, to be addressed in the form
of generic generation or transmission projects; and (ii) proposed interconnections. In the case of
proposed interconnection projects, System Upgrade Facilities are the modifications or additions
to the existing New York State Transmission System that are required for the proposed project to
connect reliably to the system in a manner that meets the NYISO Minimum Interconnection
Standard.

Tariff shall mean the NYISO Open Access Transmission Tariff (“OATT”), as filed with the
Commission, and as amended or supplemented from time to time, or any successor tariff.

Trial Operation shall mean the period during which Developer is engaged in on-site test

operations and commissioning of the Large Generating Facility prior to Commercial Operation.

10

Article 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date.

This Agreement shall become effective upon execution by the Parties, subject to

acceptance by FERC, or if filed unexecuted, upon the date specified by FERC. Connecting Transmission Owner shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 Term of Agreement.

Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of twenty (20) years from the Effective Date and shall automatically be renewed for each
successive one-year period thereafter.

2.3 Termination.

Written Notice.

This Agreement may be terminated by the Developer after giving the Connecting

Transmission Owner ninety (90) Calendar Days advance written notice, or by the Connecting Transmission Owner notifying FERC after the Large Generating Facility permanently ceases Commercial Operations.

Default.

Any Party may terminate this Agreement in accordance with Article 17.

Compliance.

Notwithstanding Articles 2.3.1 and 2.3.2, no termination of this Agreement shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs.

If a Party elects to terminate this Agreement pursuant to Article 2.3.1 above, the

terminating Party shall pay all costs incurred (including any cancellation costs relating to orders
or contracts for Attachment Facilities and equipment) or charges assessed by the other Party, as
of the date of the other Party’s receipt of such notice of termination, that is the responsibility of
the terminating Party under this Agreement. In the event of termination by a Party, both Parties
shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as
a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or
approved by FERC.

11

2.5 Disconnection.

Upon termination of this Agreement, Developer and Connecting Transmission Owner will take all appropriate steps to disconnect the Developer’s Large Generating Facility from the New York State Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating
Party’s Default of this Agreement or such non-terminating Party otherwise is responsible for
these costs under this Agreement.

2.6 Survival.

This Agreement shall continue in effect after termination to the extent necessary to

provide for final billings and payments and for costs incurred hereunder; including billings and payments pursuant to this Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit Developer and Connecting Transmission Owner each to have access to the lands of the other pursuant to this Agreement or other applicable agreements, to
disconnect, remove or salvage its own facilities and equipment.

2.7 Existing Interconnection Rights

Upon the acceptance of this Agreement by the Commission, those provisions contained
in the Power Purchase Agreement, dated April 14, 1989 between Consolidated Edison Company
of New York, Inc. and Cogen Technologies, Inc. that govern Developer's interconnection rights
shall terminate.

Article 3. REGULATORY FILINGS

3.1 Filing.

Connecting Transmission Owner shall file, or cause to be filed, this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information related to studies for interconnection asserted by Developer to contain Confidential Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT. If the Developer has executed this Agreement, or any amendment thereto, the Developer shall reasonably cooperate with Connecting Transmission Owner with respect to such filing and to provide any information reasonably requested by Connecting Transmission Owner needed to comply with Applicable Laws and Regulations.

12

ARTICLE 4. SCOPE OF INTERCONNECTION SERVICE

4.1 Provision of Service.

Developer will receive interconnection service of the following types for the term of this Agreement, as determined by the NYISO, pursuant to the NYISO Tariff.

Product.

Pursuant to the NYISO OATT, Developer will receive Energy Resource Interconnection Service and Capacity Resource Interconnection Service at the Point of Interconnection, as
determined by the NYISO, pursuant to the NYISO Tariff.

Developer

Developer is responsible for ensuring that its actual Large Generating Facility output matches the scheduled delivery from the Large Generating Facility to the New York State Transmission System, consistent with the scheduling requirements of the NYISO’s FERCapproved market structure, including ramping into and out of such scheduled delivery, as measured at the Point of Interconnection, consistent with the scheduling requirements of the NYISO OATT and any applicable FERC-approved market structure.

4.2 No Transmission Delivery Service.

The execution of this Agreement does not constitute a request for, nor agreement to

provide, any Transmission Service under the NYISO OATT, and does not convey any right to deliver electricity to any specific customer or Point of Delivery. If Developer wishes to obtain Transmission Service on the New York State Transmission System, then Developer must request such Transmission Service in accordance with the provisions of the NYISO OATT.

4.3 No Other Services.

The execution of this Agreement does not constitute a request for, nor agreement to

provide Energy, any Ancillary Services or Installed Capacity under the NYISO Market

Administration and Control Area Services Tariff (“Services Tariff”). If Developer wishes to

supply Energy, Installed Capacity or Ancillary Services, then Developer will make application to do so in accordance with the NYISO Services Tariff.

Article 5. Interconnection Facilities Engineering, Procurement, And Construction

5.1 Options.

Intentionally left blank.

Standard Option.

Intentionally left blank.

13

Alternate Option.

Intentionally left blank.

Option to Build.

Intentionally left blank.

Negotiated Option.

Intentionally left blank

5.2 General Conditions Applicable to Option to Build.

Intentionally left blank.

5.3 Liquidated Damages.

Intentionally left blank.

5.4 Power System Stabilizers.

Intentionally left blank.

5.5 Equipment Procurement.

Intentionally left blank.

5.6 Construction Commencement.

Intentionally left blank.

5.7 Work Progress.

Intentionally left blank.

5.8 Information Exchange.

Intentionally left blank.

14

5.9 Limited Operation.

Intentionally left blank.

5.10 Developer’s Attachment Facilities (“DAF”).

Intentionally left blank.

DAF Specifications.

Intentionally left blank.

No Warranty.

Intentionally left blank.

DAF Construction.

Intentionally left blank.

5.11 Connecting Transmission Owner’s Attachment Facilities Construction.

Intentionally left blank.

5.12 Access Rights.

Intentionally left blank.

5.13 Lands of Other Property Owners.

Intentionally left blank.

5.14 Permits.

Intentionally left blank.

5.15 Early Construction of Base Case Facilities.

Intentionally left blank.

15

5.16 Suspension.

Intentionally left blank.

5.17 Taxes.

Developer Payments Not Taxable.

The Developer and Connecting Transmission Owner intend that all payments or property transfers made by Developer to Connecting Transmission Owner for the installation of the
Connecting Transmission Owner’s Attachment Facilities and the System Upgrade Facilities and the System Deliverability Upgrades shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code and any applicable state income tax laws, and shall not be taxable as contributions in aid of construction or otherwise under the
Internal Revenue Code and any applicable state income tax laws.

Representations and Covenants.

In accordance with IRS Notice 2001-82 and IRS Notice 88-129, Developer represents

and covenants that (i) ownership of the electricity generated at the Large Generating Facility will
pass to another party prior to the transmission of the electricity on the New York State
Transmission System, (ii) for income tax purposes, the amount of any payments and the cost of
any property transferred to the Connecting Transmission Owner for the Connecting
Transmission Owner’s Attachment Facilities will be capitalized by Developer as an intangible
asset and recovered using the straight-line method over a useful life of twenty (20) years, and
(iii) any portion of the Connecting Transmission Owner’s Attachment Facilities that is a “dual-
use intertie,” within the meaning of IRS Notice 88-129, is reasonably expected to carry only a
de-minimis amount of electricity in the direction of the Large Generating Facility. For this
purpose, “de-minimis amount” means no more than 5 percent of the total power flows in both
directions, calculated in accordance with the “5 percent test” set forth in IRS Notice 88-129.
This is not intended to be an exclusive list of the relevant conditions that must be met to conform
to IRS requirements for non-taxable treatment.

At Connecting Transmission Owner’s request, Developer shall provide Connecting

Transmission Owner with a report from an independent engineer confirming its representation in clause (iii), above. Connecting Transmission Owner represents and covenants that the cost of the Connecting Transmission Owner’s Attachment Facilities paid for by Developer will have no net effect on the base upon which rates are determined.

Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon the Connecting Transmission Owner.

Notwithstanding Article 5.17.1, Developer shall protect, indemnify and hold harmless

Connecting Transmission Owner from the cost consequences of any current tax liability imposed against Connecting Transmission Owner as the result of payments or property transfers made by Developer to Connecting Transmission Owner under this Agreement, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Connecting
Transmission Owner.

16

Connecting Transmission Owner shall not include a gross-up for the cost consequences
of any current tax liability in the amounts it charges Developer under this Agreement unless (i)
Connecting Transmission Owner has determined, in good faith, that the payments or property
transfers made by Developer to Connecting Transmission Owner should be reported as income
subject to taxation or (ii) any Governmental Authority directs Connecting Transmission Owner
to report payments or property as income subject to taxation; provided, however, that Connecting
Transmission Owner may require Developer to provide security, in a form reasonably acceptable
to Connecting Transmission Owner (such as a parental guarantee or a letter of credit), in an
amount equal to the cost consequences of any current tax liability under this Article 5.17.
Developer shall reimburse Connecting Transmission Owner for such costs on a fully grossed-up
basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written
notification from Connecting Transmission Owner of the amount due, including detail about how
the amount was calculated.

This indemnification obligation shall terminate at the earlier of (1) the expiration of the ten-year testing period and the applicable statute of limitation, as it may be extended by the Connecting Transmission Owner upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

Tax Gross-Up Amount.

Developer’s liability for the cost consequences of any current tax liability under this

Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed
to by the parties, this means that Developer will pay Connecting Transmission Owner, in
addition to the amount paid for the Attachment Facilities and System Upgrade Facilities and
System Deliverability Upgrades, an amount equal to (1) the current taxes imposed on Connecting
Transmission Owner (“Current Taxes”) on the excess of (a) the gross income realized by
Connecting Transmission Owner as a result of payments or property transfers made by
Developer to Connecting Transmission Owner under this Agreement (without regard to any
payments under this Article 5.17) (the “Gross Income Amount”) over (b) the present value of
future tax deductions for depreciation that will be available as a result of such payments or
property transfers (the “Present Value Depreciation Amount”), plus (2) an additional amount
sufficient to permit the Connecting Transmission Owner to receive and retain, after the payment
of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Connecting Transmission
Owner’s composite federal and state tax rates at the time the payments or property transfers are
received and Connecting Transmission Owner will be treated as being subject to tax at the
highest marginal rates in effect at that time (the “Current Tax Rate”), and (ii) the Present Value
Depreciation Amount shall be computed by discounting Connecting Transmission Owner’s
anticipated tax depreciation deductions as a result of such payments or property transfers by
Connecting Transmission Owner’s current weighted average cost of capital. Thus, the formula
for calculating Developer’s liability to Connecting Transmission Owner pursuant to this Article

5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount - Present Value
of Tax Depreciation))/(1 - Current Tax Rate). Developer’s estimated tax liability in the event

17

taxes are imposed shall be stated in Appendix A, Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades.

Private Letter Ruling or Change or Clarification of Law.

At Developer’s request and expense, Connecting Transmission Owner shall file with the
IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to
be paid, by Developer to Connecting Transmission Owner under this Agreement are subject to
federal income taxation. Developer will prepare the initial draft of the request for a private letter
ruling, and will certify under penalties of perjury that all facts represented in such request are
true and accurate to the best of Developer’s knowledge. Connecting Transmission Owner and
Developer shall cooperate in good faith with respect to the submission of such request.

Connecting Transmission Owner shall keep Developer fully informed of the status of
such request for a private letter ruling and shall execute either a privacy act waiver or a limited
power of attorney, in a form acceptable to the IRS, that authorizes Developer to participate in all
discussions with the IRS regarding such request for a private letter ruling. Connecting
Transmission Owner shall allow Developer to attend all meetings with IRS officials about the
request and shall permit Developer to prepare the initial drafts of any follow-up letters in
connection with the request.

Subsequent Taxable Events.

If, within 10 years from the date on which the relevant Connecting Transmission Owner
Attachment Facilities are placed in service, (i) Developer Breaches the covenants contained in
Article 5.17.2, (ii) a “disqualification event” occurs within the meaning of IRS Notice 88-129, or
(iii) this Agreement terminates and Connecting Transmission Owner retains ownership of the
Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades, the
Developer shall pay a tax gross-up for the cost consequences of any current tax liability imposed
on Connecting Transmission Owner, calculated using the methodology described in Article

5.17.4 and in accordance with IRS Notice 90-60.

Contests.

In the event any Governmental Authority determines that Connecting Transmission

Owner’s receipt of payments or property constitutes income that is subject to taxation,

Connecting Transmission Owner shall notify Developer, in writing, within thirty (30) Calendar
Days of receiving notification of such determination by a Governmental Authority. Upon the
timely written request by Developer and at Developer’s sole expense, Connecting Transmission
Owner may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon
Developer’s written request and sole expense, Connecting Transmission Owner may file a claim
for refund with respect to any taxes paid under this Article 5.17, whether or not it has received
such a determination. Connecting Transmission Owner reserves the right to make all decisions
with regard to the prosecution of such appeal, protest, abatement or other contest, including the
selection of counsel and compromise or settlement of the claim, but Connecting Transmission
Owner shall keep Developer informed, shall consider in good faith suggestions from Developer

18

about the conduct of the contest, and shall reasonably permit Developer or an Developer representative to attend contest proceedings.

Developer shall pay to Connecting Transmission Owner on a periodic basis, as invoiced
by Connecting Transmission Owner, Connecting Transmission Owner’s documented reasonable
costs of prosecuting such appeal, protest, abatement or other contest. At any time during the
contest, Connecting Transmission Owner may agree to a settlement either with Developer’s
consent or after obtaining written advice from nationally-recognized tax counsel, selected by
Connecting Transmission Owner, but reasonably acceptable to Developer, that the proposed
settlement represents a reasonable settlement given the hazards of litigation. Developer’s
obligation shall be based on the amount of the settlement agreed to by Developer, or if a higher
amount, so much of the settlement that is supported by the written advice from nationally-
recognized tax counsel selected under the terms of the preceding sentence. The settlement
amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of
the current tax liability. Any settlement without Developer’s consent or such written advice will
relieve Developer from any obligation to indemnify Connecting Transmission Owner for the tax
at issue in the contest.

Refund.

In the event that (a) a private letter ruling is issued to Connecting Transmission Owner
which holds that any amount paid or the value of any property transferred by Developer to
Connecting Transmission Owner under the terms of this Agreement is not subject to federal
income taxation, (b) any legislative change or administrative announcement, notice, ruling or
other determination makes it reasonably clear to Connecting Transmission Owner in good faith
that any amount paid or the value of any property transferred by Developer to Connecting
Transmission Owner under the terms of this Agreement is not taxable to Connecting
Transmission Owner, (c) any abatement, appeal, protest, or other contest results in a
determination that any payments or transfers made by Developer to Connecting Transmission
Owner are not subject to federal income tax, or (d) if Connecting Transmission Owner receives a
refund from any taxing authority for any overpayment of tax attributable to any payment or
property transfer made by Developer to Connecting Transmission Owner pursuant to this
Agreement, Connecting Transmission Owner shall promptly refund to Developer the following:

(i) Any payment made by Developer under this Article 5.17 for taxes that is
attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) Interest on any amounts paid by Developer to Connecting Transmission Owner for such taxes which Connecting Transmission Owner did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC’s regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by Developer to the date Connecting
Transmission Owner refunds such payment to Developer, and

(iii) With respect to any such taxes paid by Connecting Transmission Owner, any
refund or credit Connecting Transmission Owner receives or to which it may be entitled from
any Governmental Authority, interest (or that portion thereof attributable to the payment

19

described in clause (i), above) owed to the Connecting Transmission Owner for such

overpayment of taxes (including any reduction in interest otherwise payable by Connecting
Transmission Owner to any Governmental Authority resulting from an offset or credit);
provided, however, that Connecting Transmission Owner will remit such amount promptly to
Developer only after and to the extent that Connecting Transmission Owner has received a tax
refund, credit or offset from any Governmental Authority for any applicable overpayment of
income tax related to the Connecting Transmission Owner’s Attachment Facilities.

The intent of this provision is to leave both the Developer and Connecting Transmission
Owner, to the extent practicable, in the event that no taxes are due with respect to any payment
for Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades
hereunder, in the same position they would have been in had no such tax payments been made.

Taxes Other Than Income Taxes.

Upon the timely request by Developer, and at Developer’s sole expense, Connecting

Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other
than federal or state income tax) asserted or assessed against Connecting Transmission Owner
for which Developer may be required to reimburse Connecting Transmission Owner under the
terms of this Agreement. Developer shall pay to Connecting Transmission Owner on a periodic
basis, as invoiced by Connecting Transmission Owner, Connecting Transmission Owner’s
documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest.
Developer and Connecting Transmission Owner shall cooperate in good faith with respect to any
such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or
cannot be deferred, no amount shall be payable by Developer to Connecting Transmission
Owner for such taxes until they are assessed by a final, non-appealable order by any court or
agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due
and payable after appeal, Developer will be responsible for all taxes, interest and penalties, other
than penalties attributable to any delay caused by Connecting Transmission Owner.

5.18 Tax Status; Non-Jurisdictional Entities.

Tax Status.

Each Party shall cooperate with the other Party to maintain the other Party’s tax status.
Nothing in this Agreement is intended to adversely affect the tax status of any Party or the status
of any Connecting Transmission Owner with respect to the issuance of bonds including, but not
limited to, Local Furnishing Bonds. Notwithstanding any other provisions of this Agreement,
Consolidated Edison Company of New York, Inc. shall not be required to comply with any
provisions of this Agreement that would result in the loss of tax-exempt status of any of their
Tax-Exempt Bonds or impair their ability to issue future tax-exempt obligations. For purposes
of this provision, Tax-Exempt Bonds shall include the obligations of the Consolidated Edison
Company of New York, Inc., the interest on which is not included in gross income under the
Internal Revenue Code.

20

5.19 Modification.

General.

Either the Developer or Connecting Transmission Owner may undertake modifications to
its facilities covered by this Agreement. If either the Developer or Connecting Transmission
Owner plans to undertake a modification that reasonably may be expected to affect the other
Party’s facilities, that Party shall provide to the other Party, and to NYISO, sufficient
information regarding such modification so that the other Party and NYISO may evaluate the
potential impact of such modification prior to commencement of the work. Such information
shall be deemed to be Confidential Information hereunder and shall include information
concerning the timing of such modifications and whether such modifications are expected to
interrupt the flow of electricity from the Large Generating Facility. The Party desiring to
perform such work shall provide the relevant drawings, plans, and specifications to the other
Party and NYISO at least ninety (90) Calendar Days in advance of the commencement of the
work or such shorter period upon which the Parties may agree, which agreement shall not
unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Developer to
submit an Interconnection Request, Connecting Transmission Owner shall provide, within sixty

(60) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the New York State Transmission System, Connecting Transmission Owner’s Attachment Facilities or System Upgrade Facilities or System Deliverability Upgrades
necessitated by such Developer modification and a good faith estimate of the costs thereof. The Developer shall be responsible for the cost of any such additional modifications, including the cost of studying the impact of the Developer modification.

Standards.

Any additions, modifications, or replacements made to a Party’s facilities shall be

designed, constructed and operated in accordance with this Agreement, NYISO requirements and Good Utility Practice.

Modification Costs.

Developer shall not be assigned the costs of any additions, modifications, or replacements that Connecting Transmission Owner makes to the Connecting Transmission Owner’s
Attachment Facilities or the New York State Transmission System to facilitate the
interconnection of a third party to the Connecting Transmission Owner’s Attachment Facilities or the New York State Transmission System, or to provide Transmission Service to a third party under the NYISO OATT, except in accordance with the cost allocation procedures in Attachment S of the NYISO OATT. Developer shall be responsible for the costs of any additions,
modifications, or replacements to the Developer Attachment Facilities that may be necessary to maintain or upgrade such Developer Attachment Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

21

Article 6. Testing And Inspection

6.1 Pre-Commercial Operation Date Testing and Modifications.

Intentionally left blank

6.2 Post-Commercial Operation Date Testing and Modifications.

Developer and Connecting Transmission Owner shall each at its own expense perform
routine inspection and testing of its facilities and equipment in accordance with Good Utility
Practice and Applicable Reliability Standards as may be necessary to ensure the continued
interconnection of the Large Generating Facility with the New York State Transmission System
in a safe and reliable manner. Developer and Connecting Transmission Owner shall each have
the right, upon advance written notice, to require reasonable additional testing of the other
Party’s facilities, at the requesting Party’s expense, as may be in accordance with Good Utility
Practice.

6.3 Right to Observe Testing.

Developer and Connecting Transmission Owner shall each notify the other Party, and the NYISO, in advance of its performance of tests of its Attachment Facilities. The other Party, and the NYISO, shall each have the right, at its own expense, to observe such testing.

6.4 Right to Inspect.

Developer and Connecting Transmission Owner shall each have the right, but shall have
no obligation to: (i) observe the other Party’s tests and/or inspection of any of its System
Protection Facilities and other protective equipment, including Power System Stabilizers; (ii)
review the settings of the other Party’s System Protection Facilities and other protective
equipment; and (iii) review the other Party’s maintenance records relative to the Attachment
Facilities, the System Protection Facilities and other protective equipment. NYISO shall have
these same rights of inspection as to the facilities and equipment of Developer and Connecting
Transmission Owner. A Party may exercise these rights from time to time as it deems necessary
upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such
rights shall not be construed as an endorsement or confirmation of any element or condition of
the Attachment Facilities or the System Protection Facilities or other protective equipment or the
operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same.
Any information that a Party obtains through the exercise of any of its rights under this Article

6.4 shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT.

Article 7. Metering

7.1 General.

Developer and Connecting Transmission Owner shall each comply with applicable
requirements of NYISO and the New York Public Service Commission when exercising its

22

rights and fulfilling its responsibilities under this Article 7. Unless otherwise agreed by the

Connecting Transmission Owner and NYISO approved meter service provider and Developer, the Connecting Transmission Owner shall install Metering Equipment at the Point of
Interconnection prior to any operation of the Large Generating Facility and shall own, operate, test and maintain such Metering Equipment. Net power flows including MW and MVAR,
MWHR and loss profile data to and from the Large Generating Facility shall be measured at the Point of Interconnection. Connecting Transmission Owner shall provide metering quantities, in analog and/or digital form, as required, to Developer or NYISO upon request. Where the Point of Interconnection for the Large Generating Facility is other than the generator terminal, the
Developer shall also provide gross MW and MVAR quantities at the generator terminal.
Developer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Check Meters.

Developer, at its option and expense, may install and operate, on its premises and on its
side of the Point of Interconnection, one or more check meters to check Connecting
Transmission Owner’s meters. Such check meters shall be for check purposes only and shall not
be used for the measurement of power flows for purposes of this Agreement, except as provided
in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and
examination by Connecting Transmission Owner or its designee. The installation, operation and
maintenance thereof shall be performed entirely by Developer in accordance with Good Utility
Practice.

7.3 Standards.

Connecting Transmission Owner shall install, calibrate, and test revenue quality Metering Equipment including potential transformers and current transformers in accordance with
applicable ANSI and PSC standards as detailed in the NYISO Control Center Communications Manual and in the NYISO Revenue Metering Requirements Manual.

7.4 Testing of Metering Equipment.

Connecting Transmission Owner shall inspect and test all of its Metering Equipment

upon installation and at least once every two (2) years thereafter. If requested to do so by

NYISO or Developer, Connecting Transmission Owner shall, at Developer’s expense, inspect or
test Metering Equipment more frequently than every two (2) years. Connecting Transmission
Owner shall give reasonable notice of the time when any inspection or test shall take place, and
Developer and NYISO may have representatives present at the test or inspection. If at any time
Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or
replaced at Developer’s expense, in order to provide accurate metering, unless the inaccuracy or
defect is due to Connecting Transmission Owner’s failure to maintain, then Connecting
Transmission Owner shall pay. If Metering Equipment fails to register, or if the measurement
made by Metering Equipment during a test varies by more than two percent from the
measurement made by the standard meter used in the test, Connecting Transmission Owner shall
adjust the measurements by correcting all measurements for the period during which Metering
Equipment was in error by using Developer’s check meters, if installed. If no such check meters

23

are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the

period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment. The NYISO shall reserve the right to review all associated metering equipment installation on the Developer’s or Connecting
Transmission Owner’s property at any time.

7.5 Metering Data.

At Developer’s expense, the metered data shall be telemetered to one or more locations designated by Connecting Transmission Owner, Developer and NYISO. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

Article 8. Communications

8.1 Developer Obligations.

In accordance with applicable NYISO requirements, Developer shall maintain

satisfactory operating communications with Connecting Transmission Owner and NYISO.

Developer shall provide standard voice line, dedicated voice line and facsimile communications
at its Large Generating Facility control room or central dispatch facility through use of either the
public telephone system, or a voice communications system that does not rely on the public
telephone system. Developer shall also provide the dedicated data circuit(s) necessary to provide
Developer data to Connecting Transmission Owner and NYISO as set forth in Appendix D
hereto. The data circuit(s) shall extend from the Large Generating Facility to the location(s)
specified by Connecting Transmission Owner and NYISO. Any required maintenance of such
communications equipment shall be performed by Developer. Operational communications shall
be activated and maintained under, but not be limited to, the following events: system paralleling
or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and
daily load data.

8.2 Remote Terminal Unit.

A Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Developer, or by Connecting Transmission Owner at
Developer’s expense, to gather accumulated and instantaneous data to be telemetered to the
location(s) designated by Connecting Transmission Owner through use of a dedicated point-to-
point data circuit(s) as indicated in Article 8.1. The communication protocol for the data
circuit(s) shall be specified by Connecting Transmission Owner. Instantaneous bi-directional analog real power and reactive power flow information must be telemetered directly to the
location(s) specified by Connecting Transmission Owner.

Each Party will promptly advise the appropriate other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by that other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

24

8.3 No Annexation.

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or
attachment to real property, unless otherwise mutually agreed by the Party providing such
equipment and the Party receiving such equipment.

Article 9. OPERATIONS

9.1 General.

Each Party shall comply with Applicable Laws and Regulations and Applicable

Reliability Standards. Each Party shall provide to the other Parties all information that may

reasonably be required by the other Parties to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 Connecting Transmission Owner Obligations.

Connecting Transmission Owner, in coordination with the NYISO, shall cause the New York State Transmission System and the Connecting Transmission Owner’s Attachment
Facilities to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs. Connecting Transmission Owner and NYISO may provide operating instructions to Developer consistent with this Agreement, NYISO procedures and Connecting Transmission Owner’s operating protocols and procedures as they may change from time to time. Connecting Transmission Owner will consider changes to their respective operating protocols and procedures proposed by Developer.

9.3 Developer Obligations.

Developer shall at its own expense operate, maintain and control the Large Generating

Facility and the Developer Attachment Facilities in a safe and reliable manner and in accordance with this Agreement. Developer shall operate the Large Generating Facility and the Developer Attachment Facilities in accordance with NYISO and Connecting Transmission Owner
requirements, as such requirements are set forth or referenced in Appendix C hereto. Appendix C will be modified to reflect changes to the requirements as they may change from time to time. Any Party may request that the appropriate other Party or Parties provide copies of the
requirements set forth or referenced in Appendix C hereto.

9.4 Start-Up and Synchronization.

Consistent with the mutually acceptable procedures of the Developer and Connecting Transmission Owner, the Developer is responsible for the proper synchronization of the Large Generating Facility to the New York State Transmission System in accordance with NYISO and Connecting Transmission Owner procedures and requirements.

25

9.5 Real and Reactive Power Control.

9.5.1 Voltage Support

Developer shall provide voltage support to the Connecting Transmission Owner’s

transmission system at the Point of Interconnection, to be measured at the Connecting

Transmission Owner’s Goethals Substation, as shall be requested by the Connecting

Transmission Owner from time to time, to the extent of 0.90 lagging to 0.96 leading, and shall
use best efforts to provide such voltage support to the extent of 0.85 lagging to 0.95 leading,
which best efforts shall not require Developer to incur any additional expense or revenue loss.

9.5.2 Voltage Schedules.

Developer shall operate the Large Generating Facility to produce or absorb reactive

power within the design capability of the Large Generating Facility set forth in Article 9.5.1

(Voltage Support). Developer shall operate the Large Generating Facility to maintain the

specified output voltage or power factor at the Point of Interconnection within the design

capability of the Large Generating Facility set forth in Article 9.5.1 (Voltage Support) as directed by the Connecting Transmission Owner’s System Operator or the NYISO. If Developer is
unable to maintain the specified voltage or power factor, it shall promptly notify NYISO and the Connecting Transmission Owner.

9.5.3 Payment for Reactive Power.

Payments to Developer for reactive power or voltage support service that Developer

provides from the Large Generating Facility shall be in accordance with the provisions of Rate Schedule 2 of the NYISO Services Tariff.

9.5.4 Governors and Regulators.

Whenever the Large Generating Facility is operated in parallel with the New York State
Transmission System, the turbine speed governors and automatic voltage regulators shall be in
automatic operation at all times. If the Large Generating Facility’s speed governors or automatic
voltage regulators are not capable of such automatic operation, the Developer shall immediately
notify NYISO, or its designated representative, and ensure that such Large Generating Facility’s
real and reactive power are within the design capability of the Large Generating Facility’s

generating unit(s) and steady state stability limits and NYISO system operating (thermal, voltage and transient stability) limits. Developer shall not cause its Large Generating Facility to
disconnect automatically or instantaneously from the New York State Transmission System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the New York Control Area on a comparable basis.

26

9.6 Outages and Interruptions.

Outages.

9.6.1.1 Outage Authority and Coordination. Developer and Connecting

Transmission Owner may each, in accordance with NYISO procedures and Good Utility Practice and in coordination with the other Party, remove from service any of its respective Attachment Facilities or System Upgrade Facilities and System Deliverability Upgrades that may impact the other Party’s facilities as necessary to perform maintenance or testing or to install or replace
equipment. Absent an Emergency State, the Party scheduling a removal of such facility(ies)
from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to both the Developer and the Connecting Transmission Owner. In all circumstances either Party planning to remove such facility(ies) from service shall use Reasonable Efforts to
minimize the effect on the other Party of such removal.

9.6.1.2 Outage Schedules. The Connecting Transmission Owner shall post scheduled
outages of its transmission facilities on the NYISO OASIS. Developer shall submit its planned
maintenance schedules for the Large Generating Facility to Connecting Transmission Owner and
NYISO for a minimum of a rolling thirty-six month period. Developer shall update its planned
maintenance schedules as necessary. NYISO may direct, or the Connecting Transmission Owner
may request, Developer to reschedule its maintenance as necessary to maintain the reliability of
the New York State Transmission System. Compensation to Developer for any additional direct
costs that the Developer incurs as a result of rescheduling maintenance, including any additional
overtime, breaking of maintenance contracts or other costs above and beyond the cost the

Developer would have incurred absent the request to reschedule maintenance, shall be in

accordance with the NYISO OATT. Developer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Developer had modified its schedule of maintenance activities other than at the direction of the NYISO or
request of the Connecting Transmission Owner.

9.6.1.3 Outage Restoration. If an outage on the Attachment Facilities or System

Upgrade Facilities or System Deliverability Upgrades of the Connecting Transmission Owner or Developer adversely affects the other Party’s operations or facilities, the Party that owns the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns the facility that is out of service shall provide the other Party and NYISO, to the extent such
information is known, information on the nature of the Emergency State, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

Interruption of Service. If required by Good Utility Practice or Applicable

Reliability Standards to do so, the NYISO or Connecting Transmission Owner may require

Developer to interrupt or reduce production of electricity if such production of electricity could
adversely affect the ability of NYISO and Connecting Transmission Owner to perform such
activities as are necessary to safely and reliably operate and maintain the New York State

27

Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.6.2:

9.6.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.6.2.2 Any such interruption or reduction shall be made on an equitable, non-

discriminatory basis with respect to all generating facilities directly connected to the New York State Transmission System;

9.6.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, NYISO or Connecting Transmission Owner shall notify Developer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written
notification as soon as practicable;

9.6.2.4 Except during the existence of an Emergency State, when the interruption or

reduction can be scheduled without advance notice, NYISO or Connecting Transmission Owner shall notify Developer in advance regarding the timing of such scheduling and further notify Developer of the expected duration. NYISO or Connecting Transmission Owner shall
coordinate with each other and the Developer using Good Utility Practice to schedule the
interruption or reduction during periods of least impact to the Developer, the Connecting
Transmission Owner and the New York State Transmission System;

9.6.2.5 The Parties shall cooperate and coordinate with each other to the extent

necessary in order to restore the Large Generating Facility, Attachment Facilities, and the New York State Transmission System to their normal operating state, consistent with system
conditions and Good Utility Practice.

Under-Frequency and Over Frequency Conditions.

The New York State Transmission System is designed to automatically activate a load-
shed program as required by the NPCC in the event of an under-frequency system disturbance.
Developer shall implement under-frequency and over-frequency relay set points for the Large
Generating Facility as required by the NPCC to ensure “ride through” capability of the New
York State Transmission System. Large Generating Facility response to frequency deviations of
predetermined magnitudes, both under-frequency and over-frequency deviations, shall be studied
and coordinated with the NYISO and Connecting Transmission Owner in accordance with Good
Utility Practice. The term “ride through” as used herein shall mean the ability of a Generating
Facility to stay connected to and synchronized with the New York State Transmission System
during system disturbances within a range of under-frequency and over-frequency conditions, in
accordance with Good Utility Practice and with NPCC Regional Reliability Reference Directory
# 12.

28

System Protection and Other Control Requirements.

9.6.4.1 System Protection Facilities. Developer shall, at its expense, install, operate
and maintain System Protection Facilities as a part of the Large Generating Facility or Developer
Attachment Facilities. Connecting Transmission Owner shall install at Developer’s expense any
System Protection Facilities that may be required on the Connecting Transmission Owner
Attachment Facilities or the New York State Transmission System as a result of the
interconnection of the Large Generating Facility and Developer Attachment Facilities.

9.6.4.2 The protection facilities of both the Developer and Connecting Transmission Owner shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.

9.6.4.3 The Developer and Connecting Transmission Owner shall each be responsible for protection of its respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.

9.6.4.4 The protective relay design of the Developer and Connecting Transmission

Owner shall each incorporate the necessary test switches to perform the tests required in

Article 6 of this Agreement. The required test switches will be placed such that they allow

operation of lockout relays while preventing breaker failure schemes from operating and causing
unnecessary breaker operations and/or the tripping of the Developer’s Large Generating Facility.

9.6.4.5 The Developer and Connecting Transmission Owner will each test, operate and
maintain System Protection Facilities in accordance with Good Utility Practice and NPCC
criteria.

9.6.4.6 Prior to the In-Service Date, and again prior to the Commercial Operation Date, the Developer and Connecting Transmission Owner shall each perform, or their agents shall
perform, a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, the Developer and Connecting Transmission Owner shall each
perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

Requirements for Protection.

In compliance with NPCC requirements and Good Utility Practice, Developer shall
provide, install, own, and maintain relays, circuit breakers and all other devices necessary to
remove any fault contribution of the Large Generating Facility to any short circuit occurring on
the New York State Transmission System not otherwise isolated by Connecting Transmission
Owner’s equipment, such that the removal of the fault contribution shall be coordinated with the
protective requirements of the New York State Transmission System. Such protective
equipment shall include, without limitation, a disconnecting device or switch with load-
interrupting capability located between the Large Generating Facility and the New York State
Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld,

29

conditioned or delayed) of the Developer and Connecting Transmission Owner. Developer shall
be responsible for protection of the Large Generating Facility and Developer’s other equipment
from such conditions as negative sequence currents, over- or under-frequency, sudden load
rejection, over- or under-voltage, and generator loss-of-field. Developer shall be solely
responsible to disconnect the Large Generating Facility and Developer’s other equipment if
conditions on the New York State Transmission System could adversely affect the Large
Generating Facility.

Power Quality.

Neither the facilities of Developer nor the facilities of Connecting Transmission Owner
shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage
or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard
519, or any applicable superseding electric industry standard. In the event of a conflict between
ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI
Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

9.7 Switching and Tagging Rules.

The Developer and Connecting Transmission Owner shall each provide the other Party a copy of its switching and tagging rules that are applicable to the other Party’s activities. Such switching and tagging rules shall be developed on a nondiscriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.8 Use of Attachment Facilities by Third Parties.

Purpose of Attachment Facilities. Intentionally left blank.

Third Party Users.

If required by Applicable Laws and Regulations or if the Parties mutually agree, such
agreement not to be unreasonably withheld, to allow one or more third parties to use the
Connecting Transmission Owner’s Attachment Facilities, or any part thereof, Developer will be
entitled to compensation for the capital expenses it incurred in connection with the Attachment
Facilities based upon the pro rata use of the Attachment Facilities by Connecting Transmission
Owner, all third party users, and Developer, in accordance with Applicable Laws and
Regulations or upon some other mutually-agreed upon methodology. In addition, cost
responsibility for ongoing costs, including operation and maintenance costs associated with the
Attachment Facilities, will be allocated between Developer and any third party users based upon
the pro rata use of the Attachment Facilities by Connecting Transmission Owner, all third party
users, and Developer, in accordance with Applicable Laws and Regulations or upon some other
mutually agreed upon methodology. If the issue of such compensation or allocation cannot be
resolved through such negotiations, it shall be submitted to FERC for resolution.

30

9.9 Disturbance Analysis Data Exchange.

The Parties will cooperate with one another and the NYISO in the analysis of

disturbances to either the Large Generating Facility or the New York State Transmission System
by gathering and providing access to any information relating to any disturbance, including
information from disturbance recording equipment, protective relay targets, breaker operations
and sequence of events records, and any disturbance information required by Good Utility
Practice.

Article 10. Maintenance

10.1 Connecting Transmission Owner Obligations.

Connecting Transmission Owner shall maintain its transmission facilities and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement. Connecting
Transmission Owner shall be responsible for all operating and maintenance expenses for the New York State side of the Point of Interconnection.

10.2 Developer Obligations.

Developer shall maintain its Large Generating Facility and Attachment Facilities in a safe
and reliable manner and in accordance with this Agreement. Developer shall be responsible for
all operating and maintenance expenses for the New Jersey State side of the Point of
Interconnection.

10.3 Coordination.

The Developer and Connecting Transmission Owner shall confer regularly to coordinate
the planning, scheduling and performance of preventive and corrective maintenance on the Large
Generating Facility and the Attachment Facilities. The Developer and Connecting Transmission
Owner shall keep NYISO fully informed of the preventive and corrective maintenance that is
planned, and shall schedule all such maintenance in accordance with NYISO procedures.

10.4 Secondary Systems.

The Developer and Connecting Transmission Owner shall each cooperate with the other
in the inspection, maintenance, and testing of control or power circuits that operate below 600
volts, AC or DC, including, but not limited to, any hardware, control or protective devices,
cables, conductors, electric raceways, secondary equipment panels, transducers, batteries,
chargers, and voltage and current transformers that directly affect the operation of Developer or
Connecting Transmission Owner’s facilities and equipment which may reasonably be expected
to impact the other Party. The Developer and Connecting Transmission Owner shall each
provide advance notice to the other Party, and to NYISO, before undertaking any work on such
circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current
transformers, or potential transformers.

31

10.5 Operating and Maintenance Expenses.

Subject to the provisions herein addressing the use of facilities by others, and sections

10.1 and 10.2, and except for operations and maintenance expenses associated with

modifications made for providing interconnection or transmission service to a third party and
such third party pays for such expenses, Developer shall be responsible for all reasonable
expenses including overheads, associated with: (1) owning, operating, maintaining, repairing,
and replacing Developer Attachment Facilities; and (2) operation, maintenance, repair and
replacement of Connecting Transmission Owner’s Attachment Facilities. The Connecting
Transmission Owner shall be entitled to the recovery of incremental operating and maintenance
expenses that it incurs associated with System Upgrade Facilities and System Deliverability
Upgrades if and to the extent provided for under Attachment S to the NYISO OATT.

Article 11. Performance Obligation

11.1 Developer Attachment Facilities.

Intentionally left blank.

11.2 Connecting Transmission Owner’s Attachment Facilities.

Intentionally left blank.

11.3 System Upgrade Facilities and System Deliverability Upgrades.

Intentionally left blank.

11.4 Special Provisions for Affected Systems.

Intentionally left blank.

11.5 Provision of Security.

Intentionally left blank.

11.6 Developer Compensation for Emergency Services.

If, during an Emergency State, the Developer provides services at the request or direction

of the NYISO or Connecting Transmission Owner, the Developer will be compensated for such

services in accordance with the NYISO Services Tariff.

11.7 Line Outage Costs.

Intentionally left blank.

32

ARTICLE 12. INVOICE

12.1 General.

Intentionally left blank.

12.2 Final Invoice.

Intentionally left blank.

12.3 Payment.

Invoices shall be rendered to the paying Party at the address specified in Appendix F

hereto. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of
receipt. All payments shall be made in immediately available funds payable to the other Party,
or by wire transfer to a bank named and account designated by the invoicing Party. Payment of
invoices will not constitute a waiver of any rights or claims the paying Party may have under this
Agreement.

12.4 Disputes.

In the event of a billing dispute between Connecting Transmission Owner and Developer,
Connecting Transmission Owner shall continue to perform under this Agreement as long as
Developer: (i) continues to make all payments not in dispute; and (ii) pays to Connecting
Transmission Owner or into an independent escrow account the portion of the invoice in dispute,
pending resolution of such dispute. If Developer fails to meet these two requirements for
continuation of service, then Connecting Transmission Owner may provide notice to Developer
of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the
dispute, the Party that owes money to the other Party shall pay the amount due with interest
calculated in accord with the methodology set forth in FERC’s Regulations at 18 C.F.R. §

35.19a(a)(2)(iii).

ARTICLE 13. EMERGENCIES

13.1 Obligations.

Each Party shall comply with the Emergency State procedures of NYISO, the applicable Reliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed to by the NYISO Operating Committee.

13.2 Notice.

NYISO or, as applicable, Connecting Transmission Owner shall notify Developer

promptly when it becomes aware of an Emergency State that affects the Connecting

Transmission Owner’s Attachment Facilities or the New York State Transmission System that
may reasonably be expected to affect Developer’s operation of the Large Generating Facility or

33

the Developer’s Attachment Facilities. Developer shall notify NYISO and Connecting

Transmission Owner promptly when it becomes aware of an Emergency State that affects the
Large Generating Facility or the Developer Attachment Facilities that may reasonably be
expected to affect the New York State Transmission System or the Connecting Transmission
Owner’s Attachment Facilities. To the extent information is known, the notification shall
describe the Emergency State, the extent of the damage or deficiency, the expected effect on the operation of Developer’s or Connecting Transmission Owner’s facilities and operations, its
anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

13.3 Immediate Action.

Unless, in Developer’s reasonable judgment, immediate action is required, Developer

shall obtain the consent of Connecting Transmission Owner, such consent to not be unreasonably
withheld, prior to performing any manual switching operations at the Large Generating Facility
or the Developer Attachment Facilities in response to an Emergency State either declared by
NYISO, Connecting Transmission Owner or otherwise regarding New York State Transmission
System.

13.4 Connecting Transmission Owner Authority.

General.

Connecting Transmission Owner may take whatever actions with regard to the New York
State Transmission System or the Connecting Transmission Owner’s Attachment Facilities it
deems necessary during an Emergency State in order to (i) preserve public health and safety, (ii)
preserve the reliability of the New York State Transmission System or the Connecting
Transmission Owner’s Attachment Facilities, (iii) limit or prevent damage, and (iv) expedite
restoration of service.

Connecting Transmission Owner shall use Reasonable Efforts to minimize the effect of
such actions or inactions on the Large Generating Facility or the Developer Attachment
Facilities. Connecting Transmission Owner may, on the basis of technical considerations,
require the Large Generating Facility to mitigate an Emergency State by taking actions necessary
and limited in scope to remedy the Emergency State, including, but not limited to, directing
Developer to shut-down, start-up, increase or decrease the real or reactive power output of the
Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.4.2;
directing the Developer to assist with blackstart (if available) or restoration efforts; or altering
the outage schedules of the Large Generating Facility and the Developer Attachment Facilities.
Developer shall comply with all of the NYISO and Connecting Transmission Owner’s operating
instructions concerning Large Generating Facility real power and reactive power output within
the manufacturer’s design limitations of the Large Generating Facility’s equipment that is in
service and physically available for operation at the time, in compliance with Applicable Laws
and Regulations.

34

Reduction and Disconnection.

NYISO or Connecting Transmission Owner may reduce Capacity Resource

Interconnection Service and/or Energy Resource Interconnection Service or disconnect the Large
Generating Facility or the Developer Attachment Facilities, when such reduction or
disconnection is necessary under Good Utility Practice due to an Emergency State. These rights
are separate and distinct from any right of Curtailment of NYISO pursuant to the NYISO OATT.
When NYISO or Connecting Transmission Owner can schedule the reduction or disconnection
in advance, NYISO or Connecting Transmission Owner shall notify Developer of the reasons,
timing and expected duration of the reduction or disconnection. NYISO or Connecting
Transmission Owner shall coordinate with the Developer using Good Utility Practice to schedule
the reduction or disconnection during periods of least impact to the Developer and the New York
State Transmission System. Any reduction or disconnection shall continue only for so long as
reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to
restore the Large Generating Facility, the Attachment Facilities, and the New York State
Transmission System to their normal operating state as soon as practicable consistent with Good
Utility Practice.

13.5 Developer Authority.

Consistent with Good Utility Practice and this Agreement, the Developer may take

whatever actions or inactions with regard to the Large Generating Facility or the Developer

Attachment Facilities during an Emergency State in order to (i) preserve public health and safety,
(ii) preserve the reliability of the Large Generating Facility or the Developer Attachment
Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Developer shall
use Reasonable Efforts to minimize the effect of such actions or inactions on the New York State
Transmission System and the Connecting Transmission Owner’s Attachment Facilities.
Connecting Transmission Owner shall use Reasonable Efforts to assist Developer in such
actions.

13.6 Limited Liability.

Except as otherwise provided in Article 11.6 of this Agreement, no Party shall be liable
to another Party for any action it takes in responding to an Emergency State so long as such
action is made in good faith and is consistent with Good Utility Practice and the NYISO Tariffs.

Article 14. Regulatory Requirements And Governing Law

14.1 Regulatory Requirements.

Each Party’s obligations under this Agreement shall be subject to its receipt of any

required approval or certificate from one or more Governmental Authorities in the form and

substance satisfactory to the applying Party, or the Party making any required filings with, or

providing notice to, such Governmental Authorities, and the expiration of any time period

associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain
such other approvals. Nothing in this Agreement shall require Developer to take any action that
could result in its inability to obtain, or its loss of, status or exemption under the Federal Power

35

Act or the Public Utility Holding Company Act of 2005 or the Public Utility Regulatory Policies Act of 1978, as amended.

14.2 Governing Law.

The validity, interpretation and performance of this Agreement and each of its

provisions shall be governed by the laws of the state of New York, without regard to its conflicts of law principles.

This Agreement is subject to all Applicable Laws and Regulations.

Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

Article 15. NOTICES

15.1 General.

Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by a Party to the other Parties and any instrument required or permitted to be tendered or delivered by a Party in writing to the other Parties shall be effective when
delivered and may be so given, tendered or delivered, by recognized national courier, or by
depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the
address set out in Appendix F hereto.

A Party may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

15.2 Billings and Payments.

Billings and payments shall be sent to the addresses set out in Appendix F hereto.

15.3 Alternative Forms of Notice.

Any notice or request required or permitted to be given by a Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F hereto.

15.4 Operations and Maintenance Notice.

Developer and Connecting Transmission Owner shall each notify the other Party, and

NYISO, in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10 of this Agreement.

Article 16. Force Majeure

36

16.1 Force Majeure.

Economic hardship is not considered a Force Majeure event.

16.1.2 A Party shall not be responsible or liable, or deemed, in Default with respect to
any obligation hereunder, (including obligations under Article 4 of this Agreement) , other than
the obligation to pay money when due, to the extent the Party is prevented from fulfilling such
obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an
obligation to pay money when due) by reason of Force Majeure shall give notice and the full
particulars of such Force Majeure to the other Parties in writing or by telephone as soon as

reasonably possible after the occurrence of the cause relied upon. Telephone notices given

pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall

specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be
required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

Article 17. DEFAULT

17.1 Default.

General.

No Breach shall exist where such failure to discharge an obligation (other than the

payment of money) is the result of Force Majeure as defined in this Agreement or the result of an
act or omission of the other Parties. Upon a Breach, the non-Breaching Party shall give written
notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days
from receipt of the Breach notice within which to cure such Breach; provided however, if such
Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall
commence such cure within thirty (30) Calendar Days after notice and continuously and
diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach
notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

Right to Terminate.

If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of

being cured within the period provided for herein, the non-Breaching Party shall thereafter have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not the nonBreaching Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

37

Article 18. Indemnity, Consequential Damages And Insurance

18.1 Indemnity.

Each Party (the “Indemnifying Party”) shall at all times indemnify, defend, and save

harmless, as applicable, the other Party (the “Indemnified Party”) from, any and all damages,

losses, claims, including claims and actions relating to injury to or death of any person or

damage to property, the alleged violation of any Environmental Law, or the release or threatened release of any Hazardous Substance, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from (i) the Indemnified Party’s performance of its obligations under this Agreement on behalf of the Indemnifying Party, except in cases where the Indemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by the gross negligence or intentional wrongdoing of the Indemnified Party or (ii) the violation by the Indemnifying Party of any Environmental Law or the release by the Indemnifying Party of any Hazardous Substance.

Indemnified Party.

If a Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1.3, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

Indemnifying Party.

If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party

harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party’s actual Loss, net of any insurance or other recovery.

Indemnity Procedures.

Promptly after receipt by an Indemnified Party of any claim or notice of the

commencement of any action or administrative or legal proceeding or investigation as to which
the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the
Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a
Party’s indemnification obligation unless such failure or delay is materially prejudicial to the
Indemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defense
thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the
Indemnified Party. If the defendants in any such action include one or more Indemnified Parties
and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be
legal defenses available to it and/or other Indemnified Parties which are different from or
additional to those available to the Indemnifying Party, the Indemnified Party shall have the right
to select separate counsel to assert such legal defenses and to otherwise participate in the defense
of such action on its own behalf. In such instances, the Indemnifying Party shall only be

38

required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action,
suit or proceeding, the defense of which has been assumed by the Indemnifying Party.
Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and
control the defense of any such action, suit or proceedings if and to the extent that, in the opinion
of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential
imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of
interest between the Indemnified Party and the Indemnifying Party, in such event the
Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not
settle or consent to the entry of any judgment in any action, suit or proceeding without the
consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or
delayed.

18.2 No Consequential Damages.

Other than the Liquidated Damages heretofore described and the indemnity obligations
set forth in Article 18.1, in no event shall any Party be liable under any provision of this
Agreement for any losses, damages, costs or expenses for any special, indirect, incidental,
consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of
the use of equipment, cost of capital, cost of temporary equipment or services, whether based in
whole or in part in contract, in tort, including negligence, strict liability, or any other theory of
liability; provided, however, that damages for which a Party may be liable to another Party under
separate agreement will not be considered to be special, indirect, incidental, or consequential
damages hereunder.

18.3 Insurance.

Developer and Connecting Transmission Owner shall each, at its own expense, maintain
in force throughout the period of this Agreement, and until released by the other Party’s, the
following minimum insurance coverages, with insurers authorized to do business in the state of
New York:

Employers’ Liability and Workers’ Compensation Insurance providing statutory benefits in accordance with the laws and regulations of New York State.

Commercial General Liability Insurance including premises and operations,

personal injury, broad form property damage, broad form blanket contractual liability coverage
(including coverage for the contractual indemnification) products and completed operations
coverage, coverage for explosion, collapse and underground hazards, independent contractors
coverage, coverage for pollution to the extent normally available and punitive damages to the
extent normally available and a cross liability endorsement, with minimum limits of One Million
Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate combined
single limit for personal injury, bodily injury, including death and property damage.

39

Comprehensive Automobile Liability Insurance for coverage of owned and nonowned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, including death, and property damage.

Excess Public Liability Insurance over and above the Employers’ Liability

Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars ($20,000,000) per
occurrence/Twenty Million Dollars ($20,000,000) aggregate.

The Commercial General Liability Insurance, Comprehensive Automobile

Insurance and Excess Public Liability Insurance policies of Developer and Connecting

Transmission Owner shall name the other Party, its parent, associated and Affiliate companies
and their respective directors, officers, agents, servants and employees (“Other Party Group”) as
additional insured. All policies shall contain provisions whereby the insurers waive all rights of
subrogation in accordance with the provisions of this Agreement against the Other Party Group
and provide thirty (30) Calendar days advance written notice to the Other Party Group prior to
anniversary date of cancellation or any material change in coverage or condition.

The Commercial General Liability Insurance, Comprehensive Automobile

Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for
other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer’s liability shall not be increased
beyond the amount for which the insurer would have been liable had only one insured been
covered. Developer and Connecting Transmission Owner shall each be responsible for its
respective deductibles or retentions.

The Commercial General Liability Insurance, Comprehensive Automobile

Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First

Made Basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Developer and Connecting Transmission Owner.

The requirements contained herein as to the types and limits of all insurance to be maintained by the Developer and Connecting Transmission Owner are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.

Within ten (10) days following execution of this Agreement, and as soon as

practicable after the end of each fiscal year or at the renewal of the insurance policy and in any
event within ninety (90) days thereafter, Developer and Connecting Transmission Owner shall

40

provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

Notwithstanding the foregoing, Developer and Connecting Transmission

Owner may each self-insure to meet the minimum insurance requirements of Articles 18.3.2
through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party’s
senior debt is rated at investment grade, or better, by Standard & Poor’s and that its self-
insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8.
For any period of time that a Party’s senior debt is unrated by Standard & Poor’s or is rated at
less than investment grade by Standard & Poor’s, such Party shall comply with the insurance
requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is
permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Party that it
meets the requirements to self-insure and that its self-insurance program meets the minimum
insurance requirements in a manner consistent with that specified in Article 18.3.9.

Developer and Connecting Transmission Owner agree to report to each

other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

Article 19. Assignment

19.1 Assignment.

This Agreement may be assigned by a Party only with the written consent of the other

Parties; provided that a Party may assign this Agreement without the consent of the other Parties
to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal
authority and operational ability to satisfy the obligations of the assigning Party under this
Agreement; provided further that a Party may assign this Agreement without the consent of the
other Parties in connection with the sale, merger, restructuring, or transfer of a substantial
portion or all of its assets, including the Attachment Facilities it owns, so long as the assignee in
such a transaction directly assumes in writing all rights, duties and obligations arising under this
Agreement; and provided further that the Developer shall have the right to assign this
Agreement, without the consent of the Connecting Transmission Owner, for collateral security
purposes to aid in providing financing for the Large Generating Facility, provided that the
Developer will promptly notify the Connecting Transmission Owner of any such assignment.
Any financing arrangement entered into by the Developer pursuant to this Article will provide
that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’s assignment
rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the
Connecting Transmission Owner of the date and particulars of any such exercise of assignment
right(s) and will provide the Connecting Transmission Owner with proof that it meets the
requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is
void and ineffective. Any assignment under this Agreement shall not relieve a Party of its
obligations, nor shall a Party’s obligations be enlarged, in whole or in part, by reason thereof.
Where required, consent to assignment will not be unreasonably withheld, conditioned or
delayed.

41

Article 20. Severability

20.1 Severability.

If any provision in this Agreement is finally determined to be invalid, void or

unenforceable by any court or other Governmental Authority having jurisdiction, such

determination shall not invalidate, void or make unenforceable any other provision, agreement or
covenant of this Agreement; provided that if the Developer (or any third party, but only if such
third party is not acting at the direction of the Connecting Transmission Owner) seeks and
obtains such a final determination with respect to any provision of the Alternate Option (Article

5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the rights and obligations of Developer and Connecting
Transmission Owner shall be governed solely by the Standard Option (Article 5.1.1).

Article 21. Comparability

21.1 Comparability.

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

Article 22. Confidentiality

22.1 Confidentiality.

Certain information exchanged by the Parties during the term of this Agreement shall
constitute confidential information (“Confidential Information”) and shall be subject to this
Article 22.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

Term.

During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

42

Confidential Information.

The following shall constitute Confidential Information: (1) any non-public information that is treated as confidential by the disclosing Party and which the disclosing Party identifies as Confidential Information in writing at the time, or promptly after the time, of disclosure; or (2) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F to the NYISO OATT.

Scope.

Confidential Information shall not include information that the receiving Party can

demonstrate: (1) is generally available to the public other than as a result of a disclosure by the
receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential
basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party
without restriction by a third party, who, to the knowledge of the receiving Party after due
inquiry, was under no obligation to the disclosing Party to keep such information confidential;

(4) was independently developed by the receiving Party without reference to Confidential

Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act
or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance
with Article 22.1.8 of this Agreement, Order of Disclosure, to be disclosed by any Governmental
Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any
legal proceeding establishing rights and obligations under this Agreement. Information
designated as Confidential Information will no longer be deemed confidential if the Party that
designated the information as confidential notifies the other Party that it no longer is
confidential.

Release of Confidential Information.

No Party shall release or disclose Confidential Information to any other person, except to
its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees,
consultants, or to parties who may be considering providing financing to or equity participation
with Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis in
connection with this Agreement, unless such person has first been advised of the confidentiality
provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding
the foregoing, a Party providing Confidential Information to any person shall remain primarily
responsible for any release of Confidential Information in contravention of this Article 22.

Rights.

Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Parties of
Confidential Information shall not be deemed a waiver by any Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

43

No Warranties.

By providing Confidential Information, no Party makes any warranties or representations
as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party
obligates itself to provide any particular information or Confidential Information to the other
Party nor to enter into any further agreements or proceed with any other relationship or joint
venture.

Standard of Care.

Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements, including the NYISO OATT and NYISO Services Tariff.

Order of Disclosure.

If a court or a Government Authority or entity with the right, power, and apparent

authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories,

requests for production of documents, administrative order, or otherwise, to disclose Confidential
Information, that Party shall provide the other Party with prompt notice of such request(s) or
requirement(s) so that the other Party may seek an appropriate protective order or waive
compliance with the terms of this Agreement. Notwithstanding the absence of a protective order
or waiver, the Party may disclose such Confidential Information which, in the opinion of its
counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to
obtain reliable assurance that confidential treatment will be accorded any Confidential
Information so furnished.

Termination of Agreement.

Upon termination of this Agreement for any reason, each Party shall, within ten (10)
Calendar Days of receipt of a written request from the other Party, use Reasonable Efforts to
destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the
other Party) or return to the other Party, without retaining copies thereof, any and all written or
electronic Confidential Information received from the other Party pursuant to this Agreement.

Remedies.

The Parties agree that monetary damages would be inadequate to compensate a Party for
another Party’s Breach of its obligations under this Article 22. Each Party accordingly agrees
that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the
first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable
relief shall be granted without bond or proof of damages, and the receiving Party shall not plead
in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an
exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies

44

available at law or in equity. The Parties further acknowledge and agree that the covenants

contained herein are necessary for the protection of legitimate business interests and are

reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential
or punitive damages of any nature or kind resulting from or arising in connection with this
Article 22.

Disclosure to FERC, its Staff, or a State.

Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R.
section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests
information from one of the Parties that is otherwise required to be maintained in confidence
pursuant to this Agreement or the NYISO OATT, the Party shall provide the requested
information to FERC or its staff, within the time provided for in the request for information. In
providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section
388.112, request that the information be treated as confidential and non-public by FERC and its
staff and that the information be withheld from public disclosure. Parties are prohibited from
notifying the other Parties to this Agreement prior to the release of the Confidential Information
to the Commission or its staff. The Party shall notify the other Party to the Agreement when it is
notified by FERC or its staff that a request to release Confidential Information has been received
by FERC, at which time the Parties may respond before such information would be made public,
pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a
confidential investigation shall be treated in a similar manner if consistent with the applicable
state rules and regulations. A Party shall not be liable for any losses, consequential or otherwise,
resulting from that Party divulging Confidential Information pursuant to a FERC or state
regulatory body request under this paragraph.

Except as otherwise expressly provided herein, no Party shall disclose Confidential

Information to any person not employed or retained by the Party possessing the Confidential

Information, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the
disclosing Party to be required to be disclosed in connection with a dispute between or among
the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the
other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its
obligations under this Agreement, the NYISO OATT or the NYISO Services Tariff. Prior to any
disclosures of a Party’s Confidential Information under this subparagraph, or if any third party or
Governmental Authority makes any request or demand for any of the information described in
this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and
agrees to assert confidentiality and cooperate with the other Party in seeking to protect the
Confidential Information from public disclosure by confidentiality agreement, protective order or
other reasonable measures.

45

Article 23. Environmental Releases

23.1 Developer and Connecting Transmission Owner Notice.

Developer and Connecting Transmission Owner shall each notify the other Party, first

orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead

abatement activities, or any type of remediation activities related to the Large Generating Facility
or the Attachment Facilities, each of which may reasonably be expected to affect the other Party.
The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party
makes a good faith effort to provide the notice no later than twenty-four hours after such Party
becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any
publicly available reports filed with any Governmental Authorities addressing such events.

Article 24. Information Requirement

24.1 Information Acquisition.

Connecting Transmission Owner and Developer shall each submit specific information regarding the electrical characteristics of their respective facilities to the other, and to NYISO, as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission by Connecting Transmission Owner.

Intentionally left blank.

24.3 Updated Information Submission by Developer.

Intentionally left blank.

24.4 Information Supplementation.

The Developer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit “step voltage” test on the Large Generating Facility to verify proper operation of the Large Generating Facility’s automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility
at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a
five percent change in Large Generating Facility terminal voltage initiated by a change in the
voltage regulators reference voltage. Developer shall provide validated test recordings showing
the responses of Large Generating Facility terminal and field voltages. In the event that direct
recordings of these voltages is impractical, recordings of other voltages or currents that mirror
the response of the Large Generating Facility’s terminal or field voltage are acceptable if

information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to the Connecting Transmission Owner and NYISO for each individual
generating unit in a station.

46

Subsequent to the Commercial Operation Date, the Developer shall provide Connecting
Transmission Owner and NYISO any information changes due to equipment replacement, repair,
or adjustment. Connecting Transmission Owner shall provide the Developer and NYISO any
information changes due to equipment replacement, repair or adjustment in the directly
connected substation or any adjacent Connecting Transmission Owner substation that may affect
the Developer Attachment Facilities equipment ratings, protection or operating requirements.
The Developer and Connecting Transmission Owner shall provide such information no later than
thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

Article 25. Information Access and Audit Rights

25.1 Information Access.

Each Party (“Disclosing Party”) shall make available to another Party (“Requesting

Party”) information that is in the possession of the Disclosing Party and is necessary in order for
the Requesting Party to: (i) verify the costs incurred by the Disclosing Party for which the
Requesting Party is responsible under this Agreement; and (ii) carry out its obligations and
responsibilities under this Agreement. The Parties shall not use such information for purposes
other than those set forth in this Article 25.1 of this Agreement and to enforce their rights under
this Agreement.

25.2 Reporting of Non-Force Majeure Events.

Each Party (the “Notifying Party”) shall notify the other Parties when the Notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide
necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information
provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.

25.3 Audit Rights.

Subject to the requirements of confidentiality under Article 22 of this Agreement, each
Party shall have the right, during normal business hours, and upon prior reasonable notice to
another Party, to audit at its own expense the other Party’s accounts and records pertaining to the
other Party’s performance or satisfaction of its obligations under this Agreement. Such audit
rights shall include audits of the other Party’s costs, calculation of invoiced amounts, and each
Party’s actions in an Emergency State. Any audit authorized by this Article shall be performed
at the offices where such accounts and records are maintained and shall be limited to those
portions of such accounts and records that relate to the Party’s performance and satisfaction of
obligations under this Agreement. Each Party shall keep such accounts and records for a period
equivalent to the audit rights periods described in Article 25.4 of this Agreement.

47

25.4 Audit Rights Periods.

Audit Rights Period for Construction-Related Accounts and Records.

Accounts and records related to the design, engineering, procurement, and construction of Connecting Transmission Owner’s Attachment Facilities and System Upgrade Facilities and
System Deliverability Upgrades shall be subject to audit for a period of twenty-four months
following Connecting Transmission Owner’s issuance of a final invoice in accordance with
Article 12.2 of this Agreement.

Audit Rights Period for All Other Accounts and Records.

Accounts and records related to a Party’s performance or satisfaction of its obligations
under this Agreement other than those described in Article 25.4.1 of this Agreement shall be
subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights
period shall be twenty-four months after the auditing Party’s receipt of an invoice giving rise to
such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit
rights period shall be twenty-four months after the event for which the audit is sought.

25.5 Audit Results.

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with
those records from the audit which support such determination.

Article 26. Subcontractors

26.1 General.

Nothing in this Agreement shall prevent a Party from utilizing the services of any

subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

26.2 Responsibility of Principal.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the NYISO or Connecting Transmission Owner be liable for the actions or inactions of the Developer or its subcontractors with respect to
obligations of the Developer under Article 5 of this Agreement. Any applicable obligation
imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

48

26.3 No Limitation by Insurance.

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor’s insurance.

Article 27. Disputes

27.1 Submission.

In the event any Party has a dispute, or asserts a claim, that arises out of or in connection
with this Agreement or its performance (a “Dispute”), such Party shall provide the other Party
with written notice of the Dispute (“Notice of Dispute”). Such Dispute shall be referred to a
designated senior representative of each Party for resolution on an informal basis as promptly as
practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated
representatives are unable to resolve the Dispute through unassisted or assisted negotiations
within thirty (30) Calendar Days of the other Party’s receipt of the Notice of Dispute, such
Dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in
accordance with the arbitration procedures set forth below. In the event the Parties do not agree
to submit such Dispute to arbitration, each Party may exercise whatever rights and remedies it
may have in equity or at law consistent with the terms of this Agreement.

27.2 External Arbitration Procedures.

Any arbitration initiated under this Agreement shall be conducted before a single neutral
arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten

(10) Calendar Days of the submission of the Dispute to arbitration, each Party shall choose one
arbitrator who shall sit on a three-member arbitration panel. In each case, the arbitrator(s) shall
be knowledgeable in electric utility matters, including electric transmission and bulk power
issues, and shall not have any current or past substantial business or financial relationships with
any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the
Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the
arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration
Association (“Arbitration Rules”) and any applicable FERC regulations or RTO rules; provided,
however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27,
the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions.

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within

ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision
and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the
provisions of this Agreement and shall have no power to modify or change any provision of this
Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the
Parties, and judgment on the award may be entered in any court having jurisdiction. The
decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the
arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act
or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be

49

filed with FERC if it affects jurisdictional rates, terms and conditions of service, Attachment Facilities, or System Upgrade Facilities, System Deliverability Upgrades.

27.4 Costs.

Each Party shall be responsible for its own costs incurred during the arbitration process
and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit
on the three member panel; or (2) one-third the cost of the single arbitrator jointly chosen by the
Parties.

27.5 Termination.

Notwithstanding the provisions of this Article 27, any Party may terminate this

Agreement in accordance with its provisions or pursuant to an action at law or equity. The issue of whether such a termination is proper shall not be considered a Dispute hereunder.

Article 28. Representations, Warranties And Covenants

28.1 General.

Each Party makes the following representations, warranties and covenants:

Good Standing.

Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Attachment Facilities and System Upgrade Facilities and System Deliverability Upgrades owned by such Party, as
applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

Authority.

Such Party has the right, power and authority to enter into this Agreement, to become a
Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and
binding obligation of such Party, enforceable against such Party in accordance with its terms,
except as the enforceability thereof may be limited by applicable bankruptcy, insolvency,
reorganization or other similar laws affecting creditors’ rights generally and by general equitable
principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

No Conflict.

The execution, delivery and performance of this Agreement does not violate or conflict
with the organizational or formation documents, or bylaws or operating agreement, of such

50

Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

Consent and Approval.

Such Party has sought or obtained, or, in accordance with this Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental
Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

Article 29. Miscellaneous

29.1 Binding Effect.

This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

29.2 Conflicts.

If there is a discrepancy or conflict between or among the terms and conditions of this
cover agreement and the Appendices hereto, the terms and conditions of this cover agreement
shall be given precedence over the Appendices, except as otherwise expressly agreed to in
writing by the Parties. As permitted by the foregoing, the Parties expressly agree that the terms
and conditions of the Appendices shall take precedence over the provisions of this cover
agreement in case of a discrepancy or conflict between or among the terms and conditions of
same.

29.3 Rules of Interpretation.

This Agreement, unless a clear contrary intention appears, shall be construed and

interpreted as follows: (1) the singular number includes the plural number and vice versa; (2)

reference to any person includes such person’s successors and assigns but, in the case of a Party,
only if such successors and assigns are permitted by this Agreement, and reference to a person in
a particular capacity excludes such person in any other capacity or individually; (3) reference to
any agreement (including this Agreement), document, instrument or tariff means such
agreement, document, instrument, or tariff as amended or modified and in effect from time to
time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to
any Applicable Laws and Regulations means such Applicable Laws and Regulations as
amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time,
including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated
otherwise, reference to any Article, Section or Appendix means such Article of this Agreement
or such Appendix to this Agreement, or such Section to the Large Facility Interconnection
Procedures or such Appendix to the Large Facility Interconnection Procedures, as the case may
be; (6) “hereunder”, “hereof’, “herein”, “hereto” and words of similar import shall be deemed
references to this Agreement as a whole and not to any particular Article or other provision

51

hereof or thereof; (7) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, “from” means “from and including”, “to” means “to but excluding” and “through” means “through and including”.

29.4 Compliance.

Each Party shall perform its obligations under this Agreement in accordance with

Applicable Laws and Regulations, Applicable Reliability Standards, the NYISO OATT and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its compliance therewith. When any Party becomes aware of such a situation, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that is appropriate under the circumstances.

29.5 Joint and Several Obligations.

Except as otherwise stated herein, the obligations of Developer and Connecting Transmission Owner are several, and are neither joint nor joint and several.

29.6 Entire Agreement.

This Agreement, including all Appendices and Schedules attached hereto, constitutes the
entire agreement between the Parties with reference to the subject matter hereof, and supersedes
all prior and contemporaneous understandings or agreements, oral or written, between the Parties
with respect to the subject matter of this Agreement. There are no other agreements,
representations, warranties, or covenants which constitute any part of the consideration for, or
any condition to, either Party’s compliance with its obligations under this Agreement.

29.7 No Third Party Beneficiaries.

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and permitted their assigns.

29.8 Waiver.

The failure of a Party to this Agreement to insist, on any occasion, upon strict

performance of any provision of this Agreement will not be considered a waiver of any

obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either
Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by the Developer shall not constitute a waiver of the Developer’s legal rights to obtain Capacity Resource Interconnection Service and Energy Resource Interconnection Service from the NYISO and Connecting
Transmission Owner in accordance with the provisions of the NYISO OATT. Any waiver of this Agreement shall, if requested, be provided in writing.

52

29.9 Headings.

The descriptive headings of the various Articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

29.10 Multiple Counterparts.

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

29.11 Amendment.

The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all three of the Parties.

29.12 Modification by the Parties.

The Parties may by mutual agreement amend the Appendices to this Agreement, by a
written instrument duly executed by all three of the Parties. Such an amendment shall become
effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.

29.13 Reservation of Rights.

Connecting Transmission Owner shall have the right to make unilateral filings with

FERC to modify this Agreement with respect to any rates, terms and conditions, charges,

classifications of service, rule or regulation under section 205 or any other applicable provision
of the Federal Power Act and FERC’s rules and regulations thereunder, and Developer shall have
the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206
or any other applicable provision of the Federal Power Act and FERC’s rules and regulations
thereunder; provided that each Party shall have the right to protest any such filing by another
Party and to participate fully in any proceeding before FERC in which such modifications may
be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under
sections 205 or 206 of the Federal Power Act and FERC’s rules and regulations thereunder,
except to the extent that the Parties otherwise mutually agree as provided herein.

29.14 No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint

venture, agency relationship, or partnership among the Parties or to impose any partnership

obligation or partnership liability upon any Party. No Party shall have any right, power or

authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

29.15 Other Transmission Rights.

Notwithstanding any other provision of this Agreement, nothing herein shall be construed
as relinquishing or foreclosing any rights, including but not limited to firm transmission rights,

53

capacity rights, or transmission congestion rights that the Developer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the System Upgrade Facilities and System
Deliverability Upgrades.

54

IN WITNESS WHEREOF, the Parties have executed this LGIA in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

Cogen Technologies
Linden Ventures, L.P.

By:

Title: Executive Vice President,
 Commercial Operations,

Authorized signatory Date: 1 March 2018

Consolidated Edison

Company of New York, Inc.

By:

Walter Alvarado

Title: Vice President System and Transmission
 Operations

Date:

55

APPENDICES

Appendix A

Attachment Facilities and System Upgrade Facilities

Appendix B

Milestones

Appendix C

Interconnection Details

Appendix D

Security Arrangements Details

Appendix E

Commercial Operation Date

Appendix F

Addresses for Delivery of Notices and Billings

APPENDIX A

Attachment Facilities and System Upgrade Facilities

1. Attachment Facilities:

(a) Developer’s Attachment Facilities: None

(b) Connecting Transmission Owner’s Attachment Facilities: None

2. System Upgrade Facilities: None

3. System Deliverability Upgrades: None

A-1

APPENDIX B
Milestones

Not Applicable.

Large Generating Facility is in operation.

B-1

APPENDIX C

Interconnection Details

I. Description of Large Generating Facility

The Generating Facility is an existing gas-fired combustion turbines/combined cycle
facility located in the City of Linden, New Jersey on the property within Phillips 66’s Bayway
Refinery. The Generating Facility is composed of five gas turbine units (GE MS-7001 EA) and
associated waste heat recovery steam generators arranged in combined cycle with three
admission/extraction steam turbines. The maximum power production capacity is approximately
800 MWs.

Description of Point of Interconnection and Point of Ownership Change

The large Generating Facility is connected to a substation owned by the Developer and located in Linden, New Jersey. Two 345kV fluid filled pipe type transmission cables connect the Linden substation to the Goethals Substation, owned by the Connecting Transmission Owner and located in New York City. The 345kV transmission cables run from the New Jersey side of the Arthur Kill to the New York side of the Kill.

The Point of Interconnection (“POI”) of the Large Generating Facility is in the Arthur

Kill, at the legal boundary between the State of New Jersey and the State of New York. The POI is also the point of ownership change (“POC”) between the facilities owned by the Developer and facilities owned by the Connecting Transmission Owner.

II. Developer Operating Requirements

Developer must comply with all applicable NYISO tariffs and procedures, as amended from time to time.

Developer must comply with Connecting Transmission Owner’s operating instructions and requirements which are set forth below.

• This document describes the operating requirements between Con Edison’s System
 Operation Department and Linden Cogen Generation Plant (the “Plant”) connected
 to the Con Edison electrical system at Goethals 345KV Substation as illustrated on
 Goethals 60 cycles operating diagram 70.

• Operating one-line diagram 9C shows the operating jurisdictional boundaries of Con
 Edison’s System Operation Department.

• The Con Edison District Operator (“District Operator”) or Con Edison System
 Operator (“System Operator”) shall direct all operations on equipment within Con

C-1

Edison’s jurisdictional boundaries in accordance with System Operation’s
Department Procedures/Con Edison specifications and the Con Edison General
Instructions Governing Work on System Electrical Equipment (the “Rulebook”).

• Con Edison’s District Operator and System Operator each shall have a dedicated

direct line (two direct lines in total from the ECC) to the Control Room Operator
and if such direct line is not available for any reason, the Control Room Operator
can be reached via outside telephone line at 908-474-0805 or 908-523-4326 or such
other telephone line as the Plant shall provide. The Plant shall notify the District
Operator of any change in their control room outside telephone number.

• Additional System Operation procedures and policies govern the operating

relationship between Con Edison and Linden Cogen includes, but is not limited to Rulebook, and System Operation Department’s Procedures.

• In order to not exceed the nominal designed capacity of the Goethals Substation

equipment in the case of a trip out of Con Edison feeders exiting Goethals Substation, the Plant shall reduce its MW output upon notification from the Con Edison District Operator or Con Edison System Operator.

• Linden Cogen will operate the Plant and provide advance notification to the Con

Edison Chief District Operator in the event that the Plant changes ownership or will be operated by a different entity.

• The Plant shall respond to emergencies as directed by the Con Edison System

Operator, and/or Con Edison District Operator.

• The Plant shall provide to the Con Edison Chief System Operator, the generator’s

MVAR capability curves and the Generator Step Up transformer’s No Load Tap Changer ranges and settings after each update.

• The Plant shall maintain an updated list of personnel authorized by Linden Cogen

to perform switching within the Plant. Updated lists shall be transmitted to the Con
Edison Chief District Operator after each update, and as requested by Con Edison
System Operations, and will be utilized when issuing operating orders The Plant
shall ensure that a qualified control room operator will always be available at the
Plant control room.

C-2

• The Con Edison District Operator, when directed by the Con Edison System

Operator, shall issue all orders to an authorized Plant Operator who will prepare an operating order and dispatch qualified operators to carry out the order in accordance with Section 5 of the Rulebook.

• All changes in the operating status of equipment within the Con Edison jurisdictional

boundaries shall be under the sole authority of the Con Edison System Operator, as
stated in Section 2 of the Rulebook and in System Operation’s Department

procedures. The Plant Operators may operate to remove equipment from service within the Plant that is in imminent danger of failure and poses a direct hazard to people and/or equipment in the area as defined in the Rulebook for a Category 1 Emergency. If possible, the Plant Operator shall provide advance notification to the Con Edison System Operator, or Con Edison District Operator.

• If changes are proposed to the equipment or station bus configuration as depicted on

the 60 cycle operating diagram 9C the Plant’s outage coordinator shall submit two

(2) copies of “Before and After” sketches as part of the scheduling outage work package in accordance with Con Edison System Operation procedure SO9-14, “Updating Feeder Prints, Vault Prints and Operating Diagrams” to the Con Edison Scheduling District Operator. If such changes will result in alterations to the Interconnection or to the Plant’s output capability, the the proposed changed must be submitted to the NYISO and to Con Ed for their review and for the NYISO’s approval, consistent with the NYISO tariff.

• The Con Edison District Operator shall authorize the issuance of Work Permits for

any work that affects equipment within the Con Edison jurisdictional boundaries. All Work Permits shall be issued in accordance with Sections 5 and 10 of the Rulebook and appropriate System Operation procedures.

• The Con Edison District Operator, when directed by the Con Edison System

Operator, shall request a guarantee of protection from the Linden CoGen Control Room Operator. When making this request the Con Edison District Operator shall state the required protection. The Linden CoGen Control Room Operator shall then issue an operating order for the requested protection and dispatch qualified operating personnel to carry it out. When completed the Linden CoGen Control Room Operator will notify the Con Edison District Operator that protection has been provided as ordered. This protection shall not be changed until the Con Edison District Operator notifies the Linden CoGen Control Room Operator that the work is complete and protection may be removed.

C-3

• The Con Edison District Operator, when directed by the Con Edison System

Operator, shall issue a guarantee of protection to Linden CoGen Control Room Operator for work being performed by Linden CoGen Personnel. When making this request the Con Edison District Operator shall state the protection provided under Con Edison jurisdiction. This protection shall not be changed until the Linden CoGen Control Room Operator notifies the Con Edison District Operator that the work is complete and protection may be removed.

C-4

APPENDIX D

Security Arrangements Details

Infrastructure security of New York State Transmission System equipment and

operations and control hardware and software is essential to ensure day-to-day New York State Transmission System reliability and operational security. The Commission will expect the
NYISO, all Transmission Owners, all Developers and all other Market Participants to comply with the recommendations offered by the President’s Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational
security, including physical, operational, and cyber-security practices.

C-2

APPENDIX E

Commercial Operation Date

Developer commenced Commercial Operation of the Large Generating Facility on April 30, 1992, the Commercial Operation Date.

E-1

APPENDIX F

Addresses for Delivery of Notices and Billings

Notices:

Connecting Transmission Owner:

Consolidated Edison Company of New York, Inc.

4 Irving Place, Room 13NW

New York, NY 10003

Attn. Vice President System and Transmission Operations Phone: (212) 460-1210

Fax: (212) 353-8831

Consolidated Edison Company of New York, Inc.

4 Irving Place, Room 1810-S

New York, NY 10003

Attn: Senior Vice President and General Counsel Phone: (212) 460-2432

Fax: (212) 674-7329

Developer:

Star West Generation P.O. Box 9797

The Woodlands, TX 77387

Attn. Tina Lee, Executive Vice President, Commercial Operations Phone: (713) 496-9837

Fax: (713) 496-9838

Billings and Payments:

Connecting Transmission Owner:

F-1

Consolidated Edison Company of New York, Inc.

4 Irving Place, Room 13 NW

New York, NY 10003

Attn: Vice President, System and Transmission Operations Phone: (212) 460-1210

Fax: (212) 353-8831

Developer:

Star West Generation P.O. Box 9797

The Woodlands, TX 77387 Attn. David Stein

Phone: (713) 496-9839

Alternative Forms of Delivery of Notices (telephone, facsimile or email):

Connecting Transmission Owner:

Consolidated Edison Company of New York, Inc.

4 Irving Place, Room 13 NW

New York, NY 10003

Attn: Vice President, System and Transmission Operations Phone: (212) 460-1210

Developer:

Star West Generation P.O. Box 9797

The Woodlands, TX 77387

Attn. Eric Miller

Phone: (713) 457-0819

F-2