

April 19, 2011

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.,
Washington, DC 20426

**Re: *TC Ravenswood, LLC v. New York Independent System Operator, Inc.*, Docket
No. EL10-70-000**

Dear Secretary Bose:

Pursuant to Rule 602 of the Federal Energy Regulatory Commission's ("FERC" or the "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2010), TC Ravenswood, LLC, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., the New York Independent System Operator, Inc. ("NYISO"), New York Power Authority, Consolidated Edison Solutions, Inc., Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., Astoria Generating Company, L.P., a US Power Generating Company, Independent Power Producers of New York, Inc. and the New York State Public Service Commission (collectively, "Parties") hereby submit an Offer of Settlement in the above-captioned proceeding. The Parties are not aware of any opposition to this Offer of Settlement by interveners or other interested entities. As is noted below, the Parties are also requesting a shortened comment period and expedited Commission action so that the Offer of Settlement may become effective on May 1, 2011.

This Offer of Settlement is being submitted by the Parties and resolves all the issues raised or that could have been raised in Docket No. EL10-70-000 as well as all issues related to the compensation of TC Ravenswood for complying with the New York State Reliability Council Rule I-R3 or Minimum Oil Burn Rule ("MOB Rule") obligations for the period May 1, 2010 through April 30, 2011,¹ pursuant to Section 4.1.9 of the NYISO Market Administration and Control Area Services Tariff ("Services Tariff"). The Offer of Settlement also resolves related issues for the period May 1, 2011 through April 30, 2014 thereby avoiding future disputes. The Parties state that this filing contains copies of or references to all documents relevant to this Offer of Settlement. Enclosed with this letter are: (a) an Explanatory Statement, (b) the Offer of Settlement, (c) the TC Ravenswood Minimum Oil Burn Agreement, (d) clean NYISO Services Tariff Amendments, (e) black lined NYISO Services Tariff Amendments, and (f) a Certificate of Service.

¹ Payment, if any, for April 2011 minimum oil burn compliance will be made in accordance with the existing Section 4.1.9 of the NYISO Services Tariff and existing Westport Fuel Oil Delivery Agreement as described in the Offer of Settlement.

The Parties state that the proposed NYISO Services Tariff Amendments were voted on and approved unanimously, with abstentions, by the NYISO Management Committee on March 30, 2011 and subsequently approved by the NYISO Board of directors on April 19, 2011. As such, the proposed Services Tariff Amendments meet all of the requirements for a filing by the NYISO with the Commission pursuant to section 205 of the Federal Power Act.

A copy of this filing is being served on the Service List in the above-referenced proceeding. The filing will also be posted on the NYISO's website at www.nyiso.com and the NYISO will e-mail an electronic link to this filing to each of its customers and to each participant on its stakeholder committees. Copies are also being sent to Commission Staff that participated in the settlement proceeding as well as Administrative Law Judge H. Peter Young.

Pursuant to Rule 602(f)(2), 18 C.F.R. § 385.602(f)(2), the date for filing initial comments on the Offer of Settlement would be May 9, 2011 and the date for filing reply comments would be May 19, 2011. However, the Parties, with the concurrence of the Commission Staff, hereby request a shortened comment period with initial comments due by April 22, 2011, and reply comments due by April 26, 2011, provided that the Parties request waiver of reply comments if no initial comments are filed opposing or seeking to modify the Settlement. To the extent necessary, the Parties also request waiver of any answer period that might otherwise apply to these requests. Copies of this letter and all enclosures are being served on all persons required to be served by Rule 602(d), 18 C.F.R. § 385.602(d).

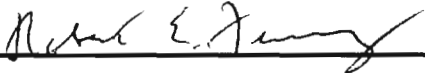
In addition, the Parties respectfully request an order approving the Offer of Settlement, TC Ravenswood Minimum Oil Burn Agreement, and NYISO Services Tariff Amendments be issued with an effective date of May 1, 2011. TC Ravenswood is moving forward with contracts to be ready to provide uninterrupted and reliable service pursuant to the MOB Rule in accordance with the Offer of Settlement and TC Ravenswood Minimum Oil Burn Agreement commencing May 1, 2011. Accordingly, an effective date of May 1, 2011 would align with the operational and financial commitments TC Ravenswood is making with its vendors to maintain uninterrupted and reliable service. The NYISO will make a compliance filing in the e-tariff system of the amendments to Section 4.1.9 of its Services Tariff on the day following the last date for filing an application for rehearing with the Commission in accordance with Section 6.1 of this Offer of Settlement.

The Parties request that the Commission approve the Offer of Settlement, TC Ravenswood Minimum Oil Burn Agreement, and NYISO Services Tariff Amendments without condition or modification, as fair, reasonable and in the public interest and grant other relief that the Commission determines is necessary to implement the Offer of Settlement, TC Ravenswood Minimum Oil Burn Agreement, and NYISO Services Tariff Amendments as described in this filing.

Respectfully submitted,

New York Independent System Operator,
Inc.

TC Ravenswood, LLC



Robert E. Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*

James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

Consolidated Edison Company of New
York, Inc. and Orange and Rockland
Utilities, Inc.

New York Power Authority

Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterkleen@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

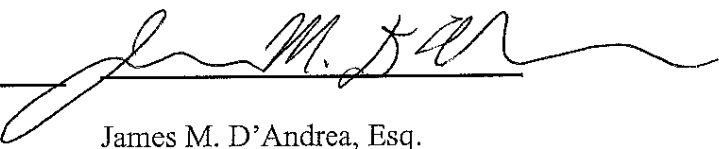
Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

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New York Independent System Operator,
Inc.

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Robert E Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*



James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

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Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterklee@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: mailto:Roni.Epstein@nypa.gov
Counsel to New York Power Authority

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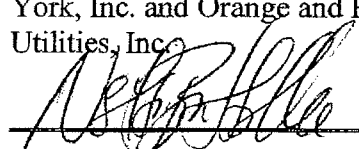
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General Counsel
NYISO
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Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
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Melville, NY 11747
Telephone : (631) 501-5240 x3102
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Consolidated Edison Co. of New York, Inc.
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New York, NY 10003
Telephone: (212) 460-1089
Email: butterkleen@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

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General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email:
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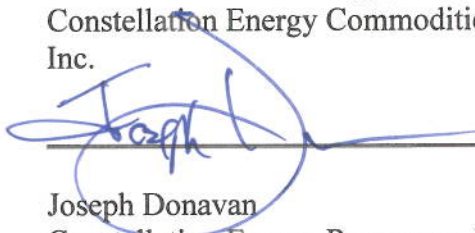
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Email:
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of New York, Inc. and Orange and Rockland
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Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.



Joseph Donovan
Constellation Energy Resources, LLC
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Astoria Generating Company, L.P

Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.

Jorge Lopez
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
Telephone:
Email:
*President, Consolidated Edison Solutions,
Inc.*

New York State Department of Public
Service

Alan Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Counsel to New York State Department of
Public Service*

Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.

Joseph Donovan
Constellation
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Astoria Generating Company, L.P



Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

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Jorge Lopez
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100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
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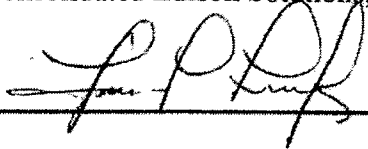
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Suite 500
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Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
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300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.



Jorge Lopez
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive
Valhalla, NY 10595
Telephone: 914-286-7779
Email: lopezjj@conedsolutions.com
*President, Consolidated Edison Solutions,
Inc.*

New York State Department of Public
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Alan Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
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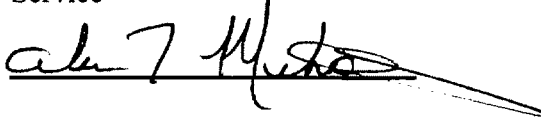
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100 Summit Lake Drive, Suite 410
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Email:
*President, Consolidated Edison Solutions,
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Alan T. Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Assistant Counsel to New York State
Department of Public Service*

Independent Power Producers of New York, Inc.

A handwritten signature in black ink, appearing to read "Chris LaRoe", written over a horizontal line.

Christopher LaRoe
Managing Director - Marketing Policy and
Regulatory Affairs
19 Dove St. Suite 302
Albany, N.Y. 12210

On behalf of Independent Power Producers of New York, Inc.

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

TC Ravenswood, LLC)	
)	
v.)	
)	Docket No. EL10-70-000
New York Independent System)	
Operator, Inc.)	

EXPLANATORY STATEMENT

Pursuant to Rule 602(c) of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 CFR § 385.602(c), TC Ravenswood, LLC (“TCR”), Consolidated Edison Company of New York, Inc. (“Con Edison”), Orange and Rockland Utilities, Inc., the New York Independent System Operator, Inc. (“NYISO”), New York Power Authority (“NYPA”), Consolidated Edison Solutions, Inc. (“Solutions”), Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (together “Constellation”), Astoria Generating Company, L.P., a US Power Generating Company (“USPG”), Independent Power Producers of New York, Inc., and the New York Public Service Commission (“NYPSC”) (individually a “Party” and collectively “Parties”) hereby submit this Explanatory Statement in support of the Offer of Settlement in the captioned docket. This Explanatory Statement is not intended to, and does not alter any of the provisions in the Offer of Settlement. The City of New York actively participated in all phases of this docket but does not join in the Offer of Settlement, offers no opinion on it, and will not contest or oppose it.

The Offer of Settlement resolves all issues related to the compensation of TCR for complying with the New York State Reliability Council's ("NYSRC") Local Reliability Rule I-R3 (Loss of Generator Gas Supply - New York City) ("Rule I-R3" or so called "MOB Rule") for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000. In addition, the Offer of Settlement resolves all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011, which could have been raised. Finally, the Offer of Settlement includes an amendment to the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") and a three year (May 1, 2011 through April 30, 2014) agreement which specifies how TCR will be compensated for complying with the MOB Rule during that time period. The Services Tariff Amendments provide for agreements with other suppliers as well as renewals upon agreement expiration. Specifically, the Offer of Settlement provides for: (a) a total payment of \$7,000,000 to TCR for the period from May 1, 2009 through March 31, 2011; (b) agreement to the way in which TCR will comply with the MOB Rule and be compensated for such compliance for the period May 1, 2011 through April 30, 2014 ("TCR Minimum Oil Burn Agreement"); (c) certain modifications to Section 4.1.9 of the NYISO's Services Tariff to accommodate "Minimum Oil Burn Agreements"; and (d) payment, if any, to TCR for April 2011 MOB Rule compliance in accordance with the existing Section 4.1.9 of the NYISO Services Tariff and the existing Westport Fuel Oil Delivery Agreement. All Parties and non-Party intervenors have either signed the Offer of Settlement or have indicated that they will not oppose it.

BACKGROUND

The MOB Rule requires that certain In-City generators, including TCR, be directed to switch from burning natural gas in their boilers to burning a mix of natural gas and a specified minimum level of fuel oil once the projected loads in New York City reach a certain level. The MOB Rule protects the reliability of the electric power system that could result from rapid pressure loss following a natural gas pipeline break. The MOB Rule only applies to generators in areas that would not be able to reliably switch fuels quickly enough should such a break happen, and is specific to physical system limitations, including proximity of generators to specific gas pipelines.

Section 4.1.9 of the NYISO's Services Tariff provides that generators subject to Rule I-R3 will be reimbursed for the incremental costs of fuel oil commodity, taxes and emission fees.. These payments were not at issue in this proceeding.¹ At issue, however, was the portion of Section 4.1.9 of the Services Tariff, which provides that generators subject to Rule I-R3 can be paid for their "but for" variable MOB Rule costs. Specifically, at issue in this proceeding was whether certain delivery, handling, storage and maintenance costs of TCR were variable "but for" costs reimbursable pursuant to Section 4.1.9.

On May 27, 2010, TCR filed a complaint under Section 206 of the Federal Power Act ("FPA") against the NYISO asserting that the NYISO did not properly compensate TCR for certain costs TCR incurred in complying with the MOB Rule during the period June through September 2009. Specifically, TCR's complaint requested that it be paid \$2,437,121.48 plus interest, for certain variable "but for" MOB costs that TCR incurred

¹ The terms of Section 4.1.9 of the Services Tariff also cover compensation for generators subject to a parallel rule. NYSRC's Local Reliability Rule I-R5 (Loss of Generator Gas Supply – Long Island). Compensation pursuant to I-R5 was not at issue in this proceeding.

during the June through September 2009 time period. Several parties, including the NYISO, Con Edison, NYPSC, NYC, Solutions, and NYPA opposed the TCR complaint asserting that the costs did not fit within the Services Tariff's definition of variable "but for" MOB costs.

On December 7, 2010, the Commission issued an order in this docket² ("December Order"), setting TCR's complaint against the NYISO for hearing, suspending the hearing and establishing settlement judge procedures. By order dated December 13, 2010, Administrative Law Judge ("ALJ") H. Peter Young was appointed as settlement judge. The first settlement conference was held on January 11, 2011. The Parties, ALJ Young and the Commission's Trial Staff met several times throughout January and February 2011 before the Parties reached an agreement in principle on February 24, 2011.

Although only the costs associated with the period of June through September 2009 were officially at issue in Docket No. EL10-70-000, the Parties realized that if a settlement were to be reached it would have to be comprehensive and also address TCR's MOB costs for the May 1, 2010 through April 30, 2011 period in addition to how TCR would meet and be compensated for complying with the MOB Rule on a going-forward basis. The Parties also realized that revisions would have to be made to the NYISO's Services Tariff to address compensation for the period commencing May 1, 2011. The Parties were able to reach a comprehensive settlement that resolves all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2009 through April 30, 2011, the manner in which TCR will comply with, and be compensated

² *TC Ravenswood v. NYISO*, 133 FERC ¶ 61,205 (2010).

for complying with, the MOB Rule for the period May 1, 2011 through April 30, 2014, and associated amendments to Section 4.1.9 of the Services Tariff.

As this Offer of Settlement is fair, reasonable, in the public interest, and, to the best knowledge of the Parties, unopposed by any non-Party or other interested entity, the Parties urge prompt approval by the Commission without condition or modification.

THE OFFER OF SETTLEMENT

In Section One of the Offer of Settlement, TCR accepts (1) a one-time payment of \$7,000,000 in full satisfaction of all claims related to its compensation for complying with the MOB Rule for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000; and (2) payment, if any, for April 2011 MOB Rule compliance in accordance with the existing Section 4.1.9 of the NYISO Services Tariff and existing Westport Fuel Oil Delivery Agreement. The \$7,000,000 payment and agreed upon April 2011 compensation, if any, is in full satisfaction for all claims, which could have been raised related to TCR's compensation for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011. This \$7,000,000 payment represents approximately 70% of the claimed costs (excluding interest) for the two year period. Section One also provides that in return for such payment, TCR will: (a) maintain certain facilities at Predetermined Costs as specified in the Offer of Settlement, TCR Minimum Oil Burn Agreement and NYISO Services Tariff Amendments for the period May 1, 2011 through April 30, 2014; (b) withdraw its complaint in Docket No. EL10-70-000, with prejudice; and (c) waive any claims it may have with respect to compensation for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011. The NYISO will close out pending customer Service Requests (e.g., SD#167457 – June and July and SD#181901 August and September)

related to June, July, August and September 2011 variable “but for” MOB Rule compensation without any further billing adjustments.

In Section Two, the Parties agree that TCR will be paid the \$7,000,000 in the first NYISO billing cycle following the issuance of a Commission Final Order (as defined in Section Six of the Offer of Settlement below) accepting the Offer of Settlement without condition or modification. The Parties also agree that the \$7,000,000 payment will be allocated by the NYISO to all load withdrawals in the Con Edison Transmission District based on a load ratio share for each Load Serving Entity (“LSE”) calculated from each LSE’s load ratio share for the months of May through September of 2010.

In Section Three, the Parties agree that TCR will enter into the TCR Minimum Oil Burn Agreement with the NYISO that describes the facilities and costs associated with how TCR will comply with the MOB Rule for the period May 1, 2011 through April 30, 2014. TCR will not seek compensation for costs associated with MOB Rule compliance during this period outside of the TCR Minimum Oil Burn Agreement and Section 4.1.9 of the Services Tariff. The Parties also agree that in order to efficiently comply with the MOB Rule during the period May 1, 2011 through April 30, 2014, TCR will use a portion of the following oil storage and delivery facilities: one and one-half (1½) offsite storage tanks (which equates to approximately 240,000 barrels of storage); one (1) large (approximately 50,000 barrel) time charter barge; the Lemon Creek barge or an equivalent amount; and TCR’s existing onsite storage at its Ravenswood facility. In addition, TCR will provide certain associated acquisition and transport administrative services. Section Three also provides that in addition to the payment for commodity costs, associated taxes and emission fees available under Section 4.1.9 of the NYISO

Services Tariff, for the period May 1, 2011 through April 30, 2012, TCR will be paid the sum of \$3,335,980 plus a \$0.400 per barrel Operations and Maintenance (“O&M”) charge as compensation for complying with the MOB Rule; for the period May 1, 2012 through April 30, 2013, TCR will be paid the sum of \$3,408,840 plus a \$0.412 per barrel O&M charge as compensation for complying with the MOB Rule; and for the period May 1, 2013 through April 30, 2014, TCR will be paid the sum of \$3,483,886 plus a \$0.424 per barrel O&M charge as compensation for complying with the MOB Rule. In addition, the Parties also agreed that to the extent TCR needs to contract with a spot barge to meet any of its dual fuel obligations from May 1, 2011 through April 30, 2014, it will be paid one-third (1/3) of the cost of such spot barge. Such partial use will be attributed to TCR’s MOB Rule compliance requirements and TCR will recover such costs as part of its compensation for complying with the MOB Rule in the next NYISO billing cycle after TCR submits the appropriate invoice. A copy of the executed TCR Minimum Oil Burn Agreement for the period May 1, 2011 through April 30, 2014 is attached to the Offer of Settlement.³

The rates, terms, and conditions of the TCR Minimum Oil Burn Agreement were developed through extensive negotiations among the Parties. Con Edison, the former owner of the Ravenswood facility and the entity that will bear the largest share of the costs under the TCR Minimum Oil Burn Agreement, was directly involved in discussions regarding the equipment to be used and the amounts that would be paid. The NYPSC and the NYISO also played significant roles in the discussion of these issues. The TCR

³ TCR is entering into contractual commitments with vendors in order to meet the commitments noted herein and as such approval of the MOB Agreement and Services Tariff amendments effective as of May 1, 2011 is important to ensure alignment of these financial commitments to ensure reliability and cost based rate recovery.

Minimum Oil Burn Agreement is therefore the product of arms-length bargaining among sophisticated entities and should be accepted as just and reasonable by the Commission.

In Section Four, the Parties agree that the Offer of Settlement is conditioned upon TCR withdrawing its complaint, with prejudice, in Docket No. EL10-70-000. TCR also agrees to be compensated for MOB Rule compliance during the specified periods in accordance with the TCR Minimum Oil Burn Agreement and Section 4.1.9 of the Services Tariff, as amended. To the extent there are revisions to the Services Tariff, the TCR Minimum Oil Burn Agreement will nonetheless be binding on the Parties until it expires in accordance with its terms. TCR will file a motion withdrawing the complaint within 10 business days of a Final Order by the Commission accepting the Offer of Settlement without condition or modification unless such condition or modification is otherwise accepted pursuant to Section 6.2 of the Offer of Settlement. Section Four also provides that irrespective of the outcome of Docket No. ER10-1359, TCR will: (a) comply with the terms of the Offer of Settlement; (b) comply with the terms of the TCR Minimum Oil Burn Agreement covering the period May 1, 2011 through April 30, 2014; and (c) negotiate in good faith all future Minimum Oil Burn Agreements.

In Section Five, the Parties provide for an amendment to the Section 4.1.9 of the Services Tariff to allow MOB providers the option to enter into agreements with the NYISO if they have and want to recover MOB related costs other than fuel oil commodity, taxes, and emission allowance fees. Section Five also provides that the Parties agreed to support this Services Tariff Amendment in the NYISO stakeholder process. The proposed Services Tariff Amendment is attached to the Offer of Settlement and was approved unanimously by the NYISO Management Committee and the NYISO

Board; as such, the Services Tariff Amendment satisfies all of the requirements under the Commission-approved NYISO Tariffs and other agreements for a filing with the Commission under Section 205 of the Federal Power Act.

In Section Six, the Parties provide for the resolution of miscellaneous issues including the effective date of the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendment, which shall be May 1, 2011. Section Six also addresses the status of the Offer of Settlement, TCR Minimum Oil Burn Agreement, and Services Tariff Amendments in the event the Commission conditions or modifies its approval. The Parties agree that the Settlement shall not limit or restrict the arguments that the Parties may put forth or the positions that the Parties may take in any future proceeding before FERC, except as to the matters explicitly described herein and that Parties retain their rights under Sections 205 and 206 of the FPA.

In Section Seven, the Parties agree that this Offer of Settlement fully resolves all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000, all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011, and the manner in which TCR will be compensated for complying with the MOB Rule for the period May 1, 2011 through April 30, 2014.

INFORMATION REQUIRED BY THE COMMISSION

Issues Underlying The Settlement And The Major Implications

The procedural history of this proceeding and the issues in dispute in this case are described above. This Offer of Settlement resolves all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2009 through April 30,

2010, which were raised or could have been raised in Docket No. EL10-70-000, as well as all issues related to the compensation of TCR under Section 4.1.9 of the Services Tariff for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011, which could have been raised by any person or party. The Offer of Settlement also provides for Services Tariff Amendments that permit suppliers to enter into agreements related to MOB Rule compliance and includes a specific agreement with TCR pursuant to the amended Services Tariff (*i.e.*, the TCR Minimum Oil Burn Agreement).

Policy Implications

The Settlement does not raise policy implications.

Whether Other Pending Cases May Be Affected

As described above, the Offer of Settlement resolves all issues raised by the Parties in Docket No. EL10-70-000. This Offer of Settlement also addresses the manner in which TCR will provide and be compensated for Minimum Oil Burn Compliance during 2010 as well as the period May 1, 2011 through April 30, 2014. TCR's compensation for providing Minimum Oil Burn Service in 2010 was one of the matters at issue in Docket No. ER10-1359. Accordingly, the Offer of Settlement resolves Docket No. ER10-1359 to that limited extent. However, the Offer of Settlement does not address TCR's legal authority as a utility to file its own rate schedules under FPA Section 205 to provide services at cost-based rates. That is a matter that remains unresolved and which is at issue in Docket No. ER10-1359. This Offer of Settlement does not require TCR to take any action with respect to its pending request for rehearing in Docket No. ER10-1359. It is the Parties' intent that litigation of Docket No. ER10-1359 shall continue on its own separate track. Nevertheless, irrespective of the outcome of Docket No. ER10-

1359, TCR will: (a) comply with the terms of the Offer of Settlement; (b) comply with the terms of the TCR Minimum Oil Burn Agreement covering the period May 1, 2011 through April 30, 2014; and (c) negotiate in good faith a future Minimum Oil Burn [Agreement](#) to commence on May 1, 2014

Whether The Settlement Involves Issues Of First Impression

The Settlement does not involve any issues of first impression.

Whether There Are Any Previous Reversals On The Issues Involved

There are no previous reversals on the issues addressed in the Settlement.

The Standard of Review

The Offer of Settlement and the TCR Minimum Oil Burn Agreement are subject to the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*⁴ and *Federal Power Commission v. Sierra Pacific Power Co.*⁵ (“Mobile Sierra doctrine”) to the full extent legally permissible.⁶ The proposed Services Tariff Amendment is subject to the just and reasonable standard of Section 205 of the Federal Power Act and not the “public interest” standard of review.

⁴ 350 U.S. 332 (1956).

⁵ 350 U.S. 348 (1956).

⁶ *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1*, 128 S. Ct. 2733 (2008); *NRG Power Marketing LLC v. Maine Public Utilities Commission*, 130 S. Ct. 693 (2010); *Dominion Transmission Inc. v. FERC*, 533 F.3d 845 (2008).

CONCLUSION

The Parties believe that the Offer of Settlement represents a fair and reasonable resolution of the issues in this proceeding and urge the Commission to approve it without condition or modification to be effective as of May 1, 2011 to ensure reliability is maintained in accordance with the agreements contained herein. Approval will also eliminate potential future disputes.

Dated: April 19, 2011

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

TC Ravenswood, LLC)	
)	
v.)	
)	Docket No. EL10-70-000
New York Independent System)	
Operator, Inc.)	

OFFER OF SETTLEMENT

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.602 (2010), TC Ravenswood, LLC (“TCR”), Consolidated Edison Company of New York, Inc. (“Con Edison”), Orange and Rockland Utilities, Inc., the New York Independent System Operator, Inc. (“NYISO”), New York Power Authority (“NYPA”), Consolidated Edison Solutions, Inc. (“Solutions”), Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., (together “Constellation”), Astoria Generating Company, L.P., a US Power Generating Company (“USPG”), Independent Power Producers of New York, Inc., and the New York State Public Service Commission (“NYPSC”) (individually “Party” and collectively “Parties”) hereby submit this Offer of Settlement fully resolving all disputed issues in Docket No. EL10-70-000 as well as certain related issues described herein. The Parties are not aware of any opposition to this Offer of Settlement. The City of New York (“NYC”) actively participated in all phases of this docket but does not join in the Offer of Settlement, offers no opinion on it, and will not contest or oppose it.

Specifically, as fully described herein, this Offer of Settlement resolves all issues related to the compensation of TCR for complying with the Minimum Oil Burn Rule (*i.e.*, New York State Reliability Council Rule I-R3) (“MOB Rule”) for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000. In addition, the Offer of Settlement resolves all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011, which could have been raised. Finally, the Offer of Settlement includes an amendment to the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) and a three year (May 1, 2011 through April 30, 2014) agreement which specifies how TCR will be compensated for complying with the MOB Rule during this time period. The Services Tariff Amendments provide for agreements with other suppliers as well as renewals upon agreement expiration. Specifically, the Offer of Settlement provides for: (a) a total payment of \$7,000,000 to TCR for the period May 1, 2009 through March 31, 2011; (b) agreement to the way in which TCR will comply with the MOB Rule and be compensated for such compliance for the period May 1, 2011 through April 30, 2014, which are described herein and specified in the TCR Minimum Oil Burn Agreement contained in Attachment A; (c) certain modifications to Section 4.1.9 of the NYISO’s Control Area Services and Market Administration Tariff (“Services Tariff”) to accommodate Minimum Oil Burn Agreements; and (d) payment, if any, to TCR for April 2011 MOB Rule compliance in accordance with Section 4.1.9 of the Services Tariff in effect on this date and the existing Westport Fuel Oil Delivery Agreement. Clean and black-lined copies of Section 4.1.9 of the Services Tariff Amendments are contained in Attachment B. As this Offer of Settlement is fair and reasonable, is in the public interest and, to the best knowledge of the Parties, is unopposed, the Parties urge prompt approval by the Commission without condition or modification to be

effective as of May 1, 2011 to ensure reliability is maintained in accordance with the agreements contained herein. Approval will also eliminate potential future disputes.

SECTION ONE

PAYMENT FOR THE PERIOD MAY 1, 2009 THROUGH APRIL 30, 2011

- 1.1 TCR accepts, for purposes of settlement, a one-time payment of \$7,000,000, in full satisfaction of all claims related to its compensation for complying with the MOB Rule for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000, as well as in full satisfaction for all claims, which could have been raised, related to its compensation for complying with the MOB Rule for the period May 1, 2010 through March 31, 2011. In addition to the \$7,000,000 noted herein, payment, if any, for April 2011 MOB Rule compliance will be made to TCR in accordance with the existing Section 4.1.9 of the Services Tariff and existing Westport Fuel Oil Delivery Agreement.
- 1.2 In return for such payments, TCR will: (a) meet its ongoing MOB Rule obligations as specified in Section 3; (b) withdraw its complaint in Docket No. EL10-70-000, with prejudice, as specified in Section 4; and (c) waive any claims it may have with respect to compensation for MOB Rule compliance for the period May 1, 2010 through April 30, 2011. The NYISO will close out pending customer Service Requests (e.g., SD#167457 – June and July and SD#181901 August and September) related to June, July, August and September 2010 variable “but for” MOB Rule cost compensation without any further billing adjustments.

SECTION TWO

ALLOCATION OF THE PAYMENT RESPONSIBILITY FOR THE PERIOD MAY 1, 2009 THROUGH March 31, 2011

- 2.1 The NYISO shall pay TCR \$7,000,000 in the first NYISO billing cycle after the Commission's Final Order (as defined in Section Six below) approving this Offer of Settlement without condition or modification and shall recover \$7,000,000 from the Loads in Load Zones H, I and J, pursuant to the NYISO Open Access Transmission Tariff ("OATT") Rate Schedule 1. The NYISO shall develop and use a load ratio share, calculated from the actual load ratio shares for the May through September 2010 service months, to invoice the recovery of \$7,000,000 from Loads in Load Zones H, I and J.
- 2.2 The \$7,000,000 payment will be allocated by the NYISO to all load withdrawals, other than withdrawals to support third party station power, in the Con Edison Transmission District (Load Zones H, I and J) based on a load ratio share calculated from the load ratio shares for each Load Serving Entity ("LSE") for the months of May through September of 2010. The NYISO will process the payment of the settlement amount to TCR and allocate the cost to the appropriate loads using bill adjustments to invoices during the billing cycle in which payment is made.
- 2.3 Except for payments specified in Section 3 for TCR complying with the MOB Rule prospectively, and payments for April 2011, if any, the Parties agree that the \$7,000,000 payment will be the only payment made under this Offer of Settlement. TCR will not be entitled to any other additional payment of any kind and no Party or other person will be required to make any other payment. Parties will likewise be barred from challenging past MOB Rule compensation payments to TCR and waive any rights related to past MOB Rule compensation to TCR.

SECTION THREE

TCR'S ONGOING MOB RULE OBLIGATIONS

- 3.1. As part of this Offer of Settlement, TCR executed the TCR Minimum Oil Burn Agreement with the NYISO that addresses the manner in which TCR will be compensated and procure, handle, store and deliver fuel oil in compliance with the MOB Rule for the period May 1, 2011 through April 30, 2014. A copy of the TCR Minimum Oil Burn Agreement is contained in Attachment A.
- 3.2 In order to efficiently comply with the MOB Rule and satisfy its fuel oil procurement, storage, handling, and delivery obligations for all fuel oil use at the Ravenswood site during the period of May 1, 2011 through April 30, 2014, TCR will co-mingle the use of its fuel oil storage and delivery facilities as well as Operation and Maintenance ("O&M") activities and administrative services with the use of other fuel oil customers served from the Ravenswood site. Accordingly, during the period May 1, 2011 through April 30, 2014, TCR will comply with the MOB Rule using a portion of the following oil storage and delivery facilities: one and one-half (1½) offsite storage tanks (which equates to approximately 240,000 barrels of working storage); one (1) large (approximately 50,000 barrel) annual time chartered barge; the Lemon Creek barge; and TCR's existing onsite storage at its Ravenswood facility. In addition, TCR will provide certain associated acquisition and transport administrative services.
- 3.3 TCR will be paid the amounts set forth below, in addition to the costs it is already paid under Section 4.1.9 of the Services Tariff, for compliance with the MOB Rule. For the period May 1, 2011 through April 30, 2012, TCR will be paid the sum of \$3,335,980 plus

a \$0.400 per barrel O&M charge. For the period May 1, 2012 through April 30, 2013, TCR will be paid the sum of \$3,408,840 plus a \$0.412 per barrel O&M charge. For the period May 1, 2013 through April 30, 2014, TCR will be paid the sum of \$3,483,886 plus a \$0.424 per barrel O&M charge. In addition, to the extent TCR needs to contract with a spot barge to meet any of its fuel oil obligations, it will allocate one-third (1/3) of the cost of such spot barge to its costs for complying with the MOB Rule and recover such costs under Section 4.1.9 of the Services Tariff, as amended, and the TCR Minimum Oil Burn Agreement.

- 3.4 TCR will be paid the fixed cost portions associated with the TCR Minimum Oil Burn Agreement (*e.g.*, \$3,335,980) *pro rata* in the normal course of the NYISO billing cycles during the months of May through September for the time periods covered by this Offer of Settlement and the TCR Minimum Oil Burn Agreement. The variable O&M portion of TCR's MOB Rule-related payments (*e.g.*, \$0.40per barrel) will be made by the NYISO in the billing cycle immediately after the cycle in which such costs were incurred and billed to the NYISO. The NYISO will allocate TCR's MOB Rule-related charges amongst all load withdrawals in the Con Edison Transmission District (Load Zones H, I and J) based on each LSE's load ratio share during those billing cycles pursuant to Rate Schedule 1, of the NYISO OATT.

SECTION FOUR

WITHDRAWAL OF COMPLAINT

- 4.1. TCR will withdraw its complaint in Docket No. EL10-70-000, with prejudice, within 10 business days of a Commission Final Order (as defined in Section Six below) accepting the Offer of Settlement without condition or modification.

- 4.2 The Parties agree that irrespective of the outcome of Docket No. ER10-1359, TCR will:
- (a) comply with the terms of the Offer of Settlement; (b) comply with the terms of the Minimum Oil Burn Agreement covering the period May 1, 2011 through April 30, 2014; and (c) negotiate in good faith all future Minimum Oil Burn Agreements..

SECTION FIVE

NYISO TARIFF MODIFICATIONS

- 5.1. The Parties agree to support the presentation of amendments to Section 4.1.9 of the NYISO Services Tariff to provide, among other changes, that generators subject to the MOB Rule (“MOB Generators”) or to New York State Reliability Council Rule I-R5 (together the “MOB Rules”) will be allowed to enter into Minimum Oil Burn Agreements with the NYISO to recover costs in addition to the commodity costs of burning the required alternate fuel, including taxes and emission allowance fees, incurred in connection with its compliance with MOB Rules. Such Minimum Oil Burn Agreements will list the specific terms, conditions, and facilities that each MOB Generator will use to comply with the MOB Rule along with the specific costs and portions of such facilities (along with support for such allocations) that are to be allocated to comply with the MOB Rule. Such Minimum Oil Burn Agreements will also provide that the MOB **Generator** and the NYISO will consult with the local transmission owner and the staff of the New York State Department of Public Service in determining which facilities are necessary and appropriate for the MOB Generator to comply with the MOB Rule as well as the costs of such facilities and the portions of such facilities that it proposes to be allocated for payment in accordance with Section 4.1.9 of the Services Tariff and Minimum Oil Burn Agreement. Attachment B contains a clean and redline version of the revised

Section 4.1.9 of the Services Tariff. The Parties agreed to support the amendment to Section 4.1.9 of the Services Tariff in the stakeholder process and it was unanimously approved, with abstentions, at the March 30, 2011 Management Committee meeting and approved by the NYISO Board of Directors on April 19, 2011.

SECTION SIX

GENERAL RESERVATIONS

- 6.1 This Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments shall become effective May 1, 2011. Upon issuance by the Commission of a Final Order approving this Offer of Settlement, without modifications or condition or, if modified or conditioned, upon the acceptance of such modifications by all of the Parties, actions related to the \$7,000,000 payment will be triggered. If the Commission accepts the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments without modification, no Party will request rehearing or otherwise appeal or support rehearing requests or appeals. For purposes of this Offer of Settlement, a Commission order shall be deemed a Final Order when the last date for filing an application for rehearing with the Commission has expired and no rehearing application or petition for review is filed by that date.
- 6.2 This Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments is an integrated whole and is expressly conditioned on the Commission's acceptance of all provisions herein without change or condition. Notwithstanding the foregoing, if the Commission's approval of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments is conditioned on the modification of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff

Amendments or on any other condition, such modification or condition shall be considered to be accepted unless any Party objecting to such condition or modification files written notice of objection to the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments, as modified or conditioned, with the Commission, and serves such notice on the other Parties within a period of ten days from the date of such Final Order. Should Commission acceptance be subject to condition or modification of the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments, and should a Party object to the conditioning or modification of the Offer of Settlement causing the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff amendments to be withdrawn, the Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments shall not constitute any part of the record in this docket and shall not be used for any other purpose.

- 6.3 For the sole purpose of settling the matters described herein, this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments represents a fair and reasonable negotiated settlement that is in the public interest. The term of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments shall not limit or restrict the arguments that the Parties may put forth or the positions that the Parties may take in any future proceeding before the Commission, except as to the matters explicitly described herein. Nor shall the Parties be deemed to have approved, accepted, agreed, or consented to any concept, theory or principle underlying or supposed to underlie any of the matters provided for herein or to be prejudiced thereby in any

future proceeding except as to the extent relied upon to settle the matters explicitly described herein.

- 6.4 This Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments is made upon the express understanding that it constitutes a negotiated settlement and, except as otherwise expressly provided for herein, no settling Party shall be deemed to have approved, accepted, agreed to, or consented to any principle or policy relating to rate design, rate calculation, or any other matter affecting or relating to any of the rates, charges, classifications, terms, conditions, principles, issues or tariff sheets associated with this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments. This Offer of Settlement shall not be deemed to be a “settled practice” as that term was interpreted and applied in *Public Service Commission of New York v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980), and shall not be the basis for any decision with regard to the burden of proof in any future litigation. This Offer of Settlement shall not be cited as precedent, nor shall it be deemed to bind any settling Party (except as otherwise expressly provided for herein) in any future proceeding including, but not limited to, any Commission proceeding, except in any proceeding to enforce this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments or in Docket No. EL10-70-000.
- 6.5 The discussions among the Parties that have produced this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments have been conducted on the explicit understanding, pursuant to Rules 602(e) and 606 of the Commission’s Rules of Practice and Procedures, that all offers of settlement and any comments on these offers are privileged and not admissible as evidence against any participant who objects to their

admission and that any discussions of the Parties with respect to offers of settlement is not subject to discovery or admissible in evidence.

- 6.6 Commission acceptance of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments shall constitute the requisite waiver of any and all otherwise applicable Commission regulations, to the extent necessary, to permit implementation of the provisions of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments. This Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments constitutes the full and complete agreement of the Parties with respect to the subject matter addressed herein and supersedes all prior negotiations, understandings, and agreements, whether written or oral, between the Parties with respect to the subject matter described herein.

Notwithstanding any other agreement or rate schedule, the Parties hereby reserve all rights to which they are entitled under Sections 205 and 206 of the FPA.

- 6.7 The Offer of Settlement and TCR Minimum Oil Burn Agreement are subject to the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*⁷ and *Federal Power Commission v. Sierra Pacific Power Co.*⁸ (“Mobile Sierra doctrine”) to the full extent legally permissible.⁹ The Services Tariff Amendment is subject to the just and reasonable standard of review under Section 205 of the Federal Power Act and not the public interest standard.

⁷ 350 U.S. 332 (1956).

⁸ 350 U.S. 348 (1956).

⁹ *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1*, 128 S. Ct. 2733 (2008); *NRG Power Marketing LLC v. Maine Public Utilities Commission*, 130 S. Ct. 693 (2010); *Dominion Transmission Inc. v. FERC*, 533 F.3d 845 (2008).

- 6.8 Headings in this Offer of Settlement are included for convenience only and are not intended to have any significance in interpretation of this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments
- 6.9 Signatures may occur by counterparts. Such signatures shall have the same effect as if all signatures were on the same document.

SECTION SEVEN

SUPPORT OF FULL SETTLEMENT

- 7.1 The Parties agree that this Offer of Settlement, TCR Minimum Oil Burn Agreement and Services Tariff Amendments resolve all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2009 through April 30, 2010, which were raised or could have been raised in Docket No. EL10-70-000, as well as all issues related to the compensation of TCR for complying with the MOB Rule for the period May 1, 2010 through April 30, 2011 and the manner in which TCR will be compensated for compliance with the MOB Rule for the period May 1, 2011 through April 30, 2014.

Respectfully submitted,

New York Independent System Operator,
Inc.



Robert E. Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*

TC Ravenswood, LLC

James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

Consolidated Edison Company of New
York, Inc. and Orange and Rockland
Utilities, Inc.

New York Power Authority

Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterkleen@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

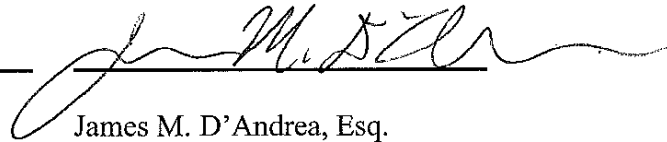
Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

Respectfully submitted,

New York Independent System Operator,
Inc.

TC Ravenswood, LLC

Robert E Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*



James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

Consolidated Edison Company of New
York, Inc. and Orange and Rockland
Utilities, Inc.

New York Power Authority

Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterklee@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: mailto:Roni.Epstein@nypa.gov
Counsel to New York Power Authority

Respectfully submitted,

New York Independent System Operator,
Inc.


TC Ravenswood, LLC

Robert E Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*

James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

Consolidated Edison Company of New
York, Inc. and Orange and Rockland
Utilities, Inc.

New York Power Authority



Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterklee@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*

Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

Respectfully submitted,

New York Independent System Operator,
Inc.

TC Ravenswood, LLC

Robert E Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com
*Counsel to New York Independent System
Operator, Inc.*

James M. D'Andrea, Esq.
TC Ravenswood, LLC
532 Broadhollow Road, Suite 139
Melville, NY 11747
Telephone : (631) 501-5240 x3102
Email: jim_dandrea@transcanada.com
Counsel to TC Ravenswood, LLC

Consolidated Edison Company of New
York, Inc. and Orange and Rockland
Utilities, Inc.

New York Power Authority

Neil H. Butterklee, Esq.
Consolidated Edison Co. of New York, Inc.
4 Irving Place, Room 1815-s
New York, NY 10003
Telephone: (212) 460-1089
Email: butterklee@coned.com
*Counsel to Consolidated Edison Company
of New York, Inc. and Orange and Rockland
Utilities, Inc.*



Roni Epstein, Esq.
New York Power Authority
123 Main Street
White Plains, NY 10601-3170
Telephone:
Email: Roni.Epstein@nypa.gov
Counsel to New York Power Authority

Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.



Joseph Donovan
Constellation
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Astoria Generating Company, L.P.

Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.

Jorge Lopez
Consolidated Edison Solutions, Inc.
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
Telephone:
Email:
*President, Consolidated Edison Solutions,
Inc.*

New York State Department of Public
Service

Alan Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Counsel to New York State Department of
Public Service*

Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.

Joseph Donovan
Constellation
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Astoria Generating Company, L.P.



Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.

Jorge Lopez
Consolidated Edison Solutions, Inc.
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
Telephone:
Email:
*President, Consolidated Edison Solutions,
Inc.*

New York State Department of Public
Service

Alan Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Counsel to New York State Department of
Public Service*

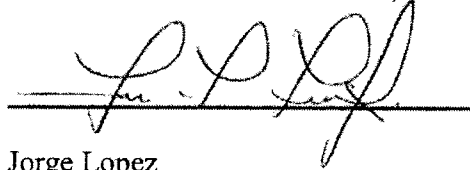
Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.

Astoria Generating Company, L.P.

Joseph Donovan
Constellation
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.



Jorge Lopez
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive
Valhalla, NY 10604
Telephone: 914-286-7779
Email: lopezjj@conedsolutions.com
*President, Consolidated Edison Solutions,
Inc.*

New York State Department of Public
Service

Alan Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Counsel to New York State Department of
Public Service*

Constellation New Energy, Inc. and
Constellation Energy Commodities Group,
Inc.

Astoria Generating Company, L.P


Joseph Donovan
Constellation
100 Constellation Way
Suite 500
Baltimore, MD 21202
Telephone: (410) 470-3582
Email: joseph.Donovan@Constellation.com
Senior Counsel

Liam Baker
Astoria Generating Company, L.P.
300 Atlantic Street, 5th Floor
Stamford, CT 06901
Telephone: (212) 792-0816
Email: lbaker@uspowergen.com
Vice President Regulatory Affairs

Consolidated Edison Solutions, Inc.

New York State Department of Public
Service

Jorge Lopez
Consolidated Edison Solutions, Inc.
Consolidated Edison Solutions, Inc.
100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
Telephone:
Email:
*President, Consolidated Edison Solutions,
Inc.*



Alan T. Michaels, Esq.
Department of Public Service
3 Empire State Plaza, 19th Floor
Albany, New York 12223-1350
Telephone: (518) 474-1585
Email: alan_michaels@dps.state.ny.us
*Assistant Counsel to New York State
Department of Public Service*

Independent Power Producers of New York, Inc.

A handwritten signature in cursive script, appearing to read "Christopher LaRoe", positioned above a horizontal line.

Christopher LaRoe
Managing Director - Marketing Policy and
Regulatory Affairs
19 Dove St. Suite 302
Albany, N.Y. 12210

On behalf of Independent Power Producers of New York, Inc.

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

_____, 2011

In Reply Refer to:
Docket No. EL10-70

Attn: _____
On behalf of _____

Dear _____:

On April 19, 2011, you filed an Offer of Settlement in the above-captioned proceeding amongst TC Ravenswood, LLC., Consolidated Edison Company of New York, Inc., the New York Independent System Operator, Inc., New York Power Authority, Consolidated Edison Solutions, Inc., Constellation Energy, Inc., US Power Gen, and the New York State Department of Public Service (collectively, "Parties") The settlement resolves all issues in the above-referenced proceeding.

Comments on the Offer of Settlement were due on April 22, 2011, and reply comments were due on April 26, 2011. On _____, 2011, Staff and _____ submitted comments in support of the settlement. No other comments were received.

The Parties state that the settlement is intended to resolve all issues that were raised or could have been raised by all parties in Docket No. EL10-70 as well as other related issues.

The subject settlement is in the public interest and is hereby approved without modification. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Secretary

cc: All parties

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 19th day of April, 2011.

/s/ Joy Zimmerlin

Joy Zimmerlin
New York Independent System Operator, Inc
10 Krey Blvd
Rensselaer, NY 12114
(518) 356-6207

TCR MINIMUM OIL BURN AGREEMENT

PURSUANT TO NYISO MARKET ADMINISTRATION AND CONTROL AREA SERVICES TARIFF

THIS AGREEMENT ("TCR Minimum Oil Burn Agreement") is made and entered into this 19th day of April, 2011, by and between TC Ravenswood, LLC ("TC Ravenswood" or "TCR"), and New York Independent System Operator, Inc. ("NYISO" each individually a "Party" and collectively, "Parties"), pursuant to the following recitals and representations:

RECITALS

WHEREAS, NYISO operates the New York State's high voltage transmission grid and administers New York State's organized wholesale electricity markets; and

WHEREAS, TCR is obligated by New York State Reliability Council ("NYSRC") Local Reliability Rule I-R3 to burn an alternate fuel pursuant to procedures established by Consolidated Edison Company of New York, Inc. ("Con Edison"); and

WHEREAS, the Parties have agreed to enter into this TCR Minimum Oil Burn Agreement pursuant to the provisions of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff"); and

WHEREAS, the Parties have agreed to enter into this TCR Minimum Oil Burn Agreement for the purpose of memorializing the facilities to be used by and compensation to be paid to TCR to be ready to burn and for burning an alternate fuel pursuant to NYSRC Rule I-R3 for the term specified herein;

NOW, THEREFORE, in consideration of, and subject to FERC acceptance and the mutual covenants contained herein, it is agreed:

Section 1. Scope of Agreement. This TCR Minimum Oil Burn Agreement is entered into pursuant to the authority granted by the Federal Energy Regulatory Commission ("Commission" or "FERC") in Section 4.1.9 of the NYISO's Market Administration and Control Area Services Tariff ("Services Tariff") for the purpose of memorializing the facilities to be used by and compensation to be paid to TC Ravenswood for being ready to burn, and for burning, an alternate fuel pursuant to NYSRC Local Reliability Rule I-R3 and Con Edison's procedures for operating its system in accordance with Rule I-R3 as required by the NYSRC ("Minimum Oil Compliance") for the term specified herein. Pursuant to NYSRC Rule I-R3, Minimum Oil Compliance shall be provided by TC Ravenswood when Zone J loads reach certain predetermined levels. The NYISO shall pay TC Ravenswood certain costs incurred by TC Ravenswood that are associated with its procurement, delivery and storage of fuel oil for Minimum Oil Compliance, as set forth in Sections 3 and 4 hereof. The NYISO shall

recover those costs from the Loads in Load Zones H, I and J (the “Con Edison Transmission District”) in accordance with Section 5.

Section 2. Effective Date/Term of Agreement. This TCR Minimum Oil Burn Agreement shall become effective on May 1, 2011, shall remain effective for three years through April 30, 2014, and shall be applicable to three separate service periods (“Capability Years”) as follows:

Initial Capability Year	May 1, 2011 through April 30, 2012
Second Capability Year	May 1, 2012 through April 30, 2013
Third Capability Year	May 1, 2013 through April 30, 2014

Section 3. Costs Per Capability Year.

A. Predetermined Costs. The NYISO shall pay to TC Ravenswood the amounts indicated below (“Predetermined Costs”) in five monthly installments for the relevant Capability Year, which reflect: (i) a portion of the costs to lease one and one half (1½) off-site storage tanks which the Parties understand will provide approximately 240,000 barrels of working capacity of 0.30 percent Sulfur No. 6 fuel oil (“Fuel Oil”) storage; (ii) a portion of the costs TC Ravenswood incurs to lease one large time-chartered barge, which the Parties understand will provide approximately 50,000 barrels of working capacity of Fuel Oil transportation, and the Lemon Creek dockside storage barge or an equivalent replacement of approximately 50,000 barrels of working capacity; (iii) a charge for the use of on-site storage tanks at the Ravenswood Facility; and (iv) certain ancillary fuel oil fees (*e.g.*, labor, barge heating, tank heating, booming, testing, taxes, and carrying charges). The NYISO shall pay TC Ravenswood for Predetermined Costs irrespective of the costs actually incurred by TC Ravenswood or the amount of Fuel Oil burned in each Capability Year:

Initial Capability Year	\$3,335,980
Second Capability Year	\$3,408,840
Third Capability Year	\$3,483,886

TC Ravenswood shall have no claim for additional payments and neither the NYISO nor its customers shall have a claim for a refund or abatement if TC Ravenswood’s actual costs associated with any of the items identified in this Section 3.A are more or less, respectively, than the Predetermined Costs set forth herein.

B. Costs Per Barrel. In addition to the payment of predetermined costs established in Section 3.A, the NYISO shall pay to TC Ravenswood: (i) the commodity costs of Fuel Oil burned in compliance with I-R3 to the extent they exceed the commodity costs of burning natural gas as provided in Section 4.1.9 of the NYISO Services Tariff including applicable taxes and emission allowance fees not included in TCR’s reference bid; and (ii) operations and maintenance (“O&M”) expenses, which shall be calculated by multiplying a fixed rate defined for each Capability Year times the number of barrels of Fuel Oil burned in each month to provide Minimum Oil Service. The rates for O&M expenses under this TCR Minimum Oil Burn Agreement are as follows:

Initial Capability Year	\$0.40/bbl
Second Capability Year	\$0.412/bbl
Third Capability Year	\$0.424/bbl

Section 4. Additional Spot Barge Costs. In the event that TC Ravenswood determines during the term of this TCR Minimum Oil Burn Agreement that additional Fuel Oil must be obtained *via* a spot barge for any fuel oil usage at the Ravenswood site, TC Ravenswood will provide the NYISO and Con Edison with as much notice as possible and the NYISO shall pay to TC Ravenswood one-third of the costs of such barge in the billing cycle following TC Ravenswood's submittal of an appropriate invoice.

Section 5. Billing Arrangements. The NYISO shall pay to TC Ravenswood, through the billing procedures set forth in the NYISO's Services Tariff, the appropriate monthly share of the Predetermined Costs for the months May through September for the relevant Capability Year commencing with May 2011 and shall allocate such payment through the billing procedures set forth in the NYISO's Services Tariff to all load withdrawals, other than withdrawals to support third party station power, in the Con Edison Transmission District (Load Zones H, I and J) based on load ratio shares for each Load Serving Entity ("LSE") for the month for which the payment is made. All other costs to be paid pursuant to this TCR Minimum Oil Burn Agreement shall be billed to the NYISO by TC Ravenswood as soon as reasonably practicable after they are incurred, paid by the NYISO in accordance with the billing procedures set forth in the NYISO Services Tariff and allocated to all load withdrawals, other than withdrawals to support third party station power, in the Con Edison Transmission District based on load ratio shares for each LSE for the month for which the payment is made.

Section 6. Termination/Amendment. This TCR Minimum Oil Burn Agreement shall terminate on April 30, 2014. The NYISO and TC Ravenswood will use reasonable commercial efforts to enter into another agreement and file it with the Commission at least six months prior to the termination date. As part of this effort, TC Ravenswood and the NYISO shall work together to negotiate an amendment or replacement agreement which shall define the terms and conditions applicable to the subsequent Capability Year(s) using the Commission's Dispute Resolution Service as necessary, pursuant to Section 4.1.9 of the NYISO Services Tariff. To the extent confidential materials are adequately protected, Con Edison and the NYPSC will be included in the discussions. Upon filing of such an amendment or replacement agreement, the Parties shall request an effective date for the amendment or agreement of May 1, 2014.

In the event the Parties are unable to reach agreement at least four months prior to April 30, 2014, the Parties may file an unexecuted agreement for the Commission's review, resolution of open issues and acceptance of one binding agreement pursuant to Section 4.1.9 of the NYISO Services Tariff. The Parties shall retain all rights under the Federal Power Act, as applicable, under Section 4.1.9 of the NYISO Services Tariff, and under all other provisions in the NYISO Services Tariff to the extent applicable.

Section 7. Primary Jurisdiction. This TCR Minimum Oil Burn Agreement is entered into pursuant to Section 4.1.9 of the NYISO Services Tariff and all terms and conditions of this TCR Minimum Oil Burn Agreement are entered into pursuant to the rates, terms, and conditions of the NYISO Services Tariff on file with the Commission, including the limitation of liability and indemnification provisions of the NYISO Services Tariff, except that, to the extent Section 4.1.9 of the NYISO Services Tariff may be modified prior to the Termination Date of this TCR Minimum Oil Burn Agreement, as such date may be extended by subsequent amendment or replacement, this TCR Minimum Oil Burn Agreement shall remain in full force and effect. The Parties agree that the Commission shall have primary jurisdiction over any dispute arising under this TCR Minimum Oil Burn Agreement and that they will not institute any civil action related to this TCR Minimum Oil Burn Agreement without first seeking Commission relief. The NYISO shall have no liability in excess of any amount found due and owing in a final Commission order after judicial review. Pursuant to the provisions of Section 4.1.9 of the NYISO Services Tariff, the NYISO shall file subsequent agreements, including amendments and modifications to currently effective TCR Minimum Oil Burn Agreement, with the Commission and seek Commission approval of the agreement. The TCR Minimum Oil Burn Agreement and any subsequent amendment, extension or new agreement pursuant to Section 4.1.9 shall be subject to the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*¹ and *Federal Power Commission v. Sierra Pacific Power Co.*² (“Mobile Sierra doctrine”) to the full extent legally permissible.³

Section 8. Limitation on Liability and Indemnification. The provisions of Services Tariff Section 12.3, Limitation on Liability, and Section 12.4, Indemnification are expressly incorporated by reference into this TCR Minimum Oil Burn Agreement.

Section 9. Law of Agreement. The interpretation and performance of this TCR Minimum Oil Burn Agreement shall be in accordance with and controlled by the laws of the State of New York and without regard to doctrines governing choice of law.

Section 10. Regulation. This TCR Minimum Oil Burn Agreement shall be subject to all applicable and lawful governmental statutes, orders, rules and regulations and is contingent upon the receipt and continuation of all necessary approvals or authorizations from the Commission upon terms acceptable to TC Ravenswood and the NYISO. This TCR Minimum Oil Burn Agreement shall be void and of no force and effect if such Commission approval is not so obtained or continued. The Parties hereto shall cooperate to obtain or continue all necessary approvals or authorizations, but no Party shall be liable to any other party for failure to obtain or continue such approvals or authorizations.

¹ 350 U.S. 332 (1956).

² 350 U.S. 348 (1956).

³ *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1*, 128 S. Ct. 2733 (2008); *NRG Power Marketing LLC v. Maine Public Utilities Commission*, 130 S. Ct. 693 (2010); *Dominion Transmission Inc. v. FERC*, 533 F.3d 845 (2008).

Section 11. Authority. Each Party represents that it has full power and authority to enter into and perform this TCR Minimum Oil Burn Agreement and the person signing this TCR Minimum Oil Burn Agreement on behalf of each party has been properly authorized and empowered to sign this TCR Minimum Oil Burn Agreement.

Section 12. Binding Effect. This TCR Minimum Oil Burn Agreement shall be binding upon the Parties hereto, their administrators, successors and assigns.

Section 13. Headings. The headings used in this TCR Minimum Oil Burn Agreement are for convenience only and shall not be construed as a part of the TCR Minimum Oil Burn Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

Section 14. Notices. Any notice or request made to or by either Party regarding this TCR Minimum Oil Burn Agreement to the representatives of the other as indicated below:

TC Ravenswood

Kristine Delkus
TransCanada Corporation
450 1st Street SW
Canada, T2P 5H1
Tel: (403) 920-2161
Fax: (403) 920-2392
Email:
us_regulatory_law@transcanada.com

James M. D'Andrea
TransCanada Services USA Inc.
532 Broadhollow Road, Suite 139
Melville, NY 11747
Tel: (508) 667-3282
Fax: (631) 501-5250
Email: jim_dandrea@transcanada.com

Kenneth L. Wiseman
Mark F. Sundback
Jennifer L. Spina
Lisa M. Purdy
Andrews Kurth LLP
1350 I Street, NW
Suite 1100
Washington, DC 20005
Tel: (202) 662-2700
Fax: (202) 662-2739
Email: kwiseman@andrewskurth.com
Email: msundback@andrewskurth.com
Email: jspina@andrewskurth.com
Email: lpurdy@andrewskurth.com

The NYISO

New York Independent System Operator, Inc.
Mollie Lampi
NYISO Assistant General Counsel
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-7530
Fax: (518) 356- 7678
Email: mlampi@nyiso.com

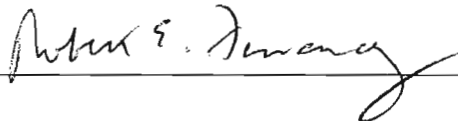
Section 15. Force Majeure and New Regulations. In the event there is an occurrence resulting from an Act of God, act of war, act of public enemies, rulers or people, or stoppage or restraint of labor or trade from whatsoever cause, or riot or civil commotion that prevent either Party from performing in accordance with the TCR Minimum Oil Burn Agreement, or there is a material non-FERC jurisdictional regulatory change that materially alters the ability of TCR to provide Minimum Oil Service, Minimum Oil Service ceases to be required pursuant to NYSRC Local Reliability Rule I-R3 or Con Edison's procedures for operating its system in accordance with Rule I-R3, the Ravenswood Facility is out of service or is facing an outage, or there is any other event that materially reduces TCR's ability to provide Minimum Oil Service, or the need for such service, TCR will exercise commercially reasonable efforts to reduce the Predetermined Costs and other costs payable under this TCR Minimum Oil Burn Agreement including, to the extent practicable, to attempt to renegotiate the terms and conditions of the storage and transportation agreements with TCR's suppliers, to reflect the then current needs of the Parties. Amounts payable hereunder will be reduced by the amount of any such avoidable costs with the intent of keeping TCR in a comparable economic position.

Section 16. Signatures. Signatures may occur by counterparts. Such signatures shall have the same effect as if all signatures were on the same document.

IN WITNESS WHEREOF, the Parties hereto have caused this TCR Minimum Oil Burn Agreement to be executed by their duly authorized officers, and copies delivered to each Party, to become effective as of the Effective Date identified herein.

**New York Independent System Operator,
Inc.**

TC Ravenswood, LLC



Robert E. Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com

*Counsel to New York Independent System
Operator, Inc.*

William C. Taylor
Vice President
Mike Hachey
Director
TC Ravenswood Services, Corp.
110 Turnpike Road, Suite 203
Westborough, MA 01581
Telephone: (508) 871-1855
Telephone: (508) 871-1852
Email: bill_taylor@transcanada.com
mike_hachey@transcanada.com

Vice President TC Ravenswood Services, Corp

Section 15. Force Majeure and New Regulations. In the event there is an occurrence resulting from an Act of God, act of war, act of public enemies, rulers or people, or stoppage or restraint of labor or trade from whatsoever cause, or riot or civil commotion that prevent either Party from performing in accordance with the TCR Minimum Oil Burn Agreement, or there is a material non-FERC jurisdictional regulatory change that materially alters the ability of TCR to provide Minimum Oil Service, Minimum Oil Service ceases to be required pursuant to NYSRC Local Reliability Rule I-R3 or Con Edison's procedures for operating its system in accordance with Rule I-R3, the Ravenswood Facility is out of service or is facing an outage, or there is any other event that materially reduces TCR's ability to provide Minimum Oil Service, or the need for such service, TCR will exercise commercially reasonable efforts to reduce the Predetermined Costs and other costs payable under this TCR Minimum Oil Burn Agreement including, to the extent practicable, to attempt to renegotiate the terms and conditions of the storage and transportation agreements with TCR's suppliers, to reflect the then current needs of the Parties. Amounts payable hereunder will be reduced by the amount of any such avoidable costs with the intent of keeping TCR in a comparable economic position.

Section 16. Signatures. Signatures may occur by counterparts. Such signatures shall have the same effect as if all signatures were on the same document.


IN WITNESS WHEREOF, the Parties hereto have caused this TCR Minimum Oil Burn Agreement to be executed by their duly authorized officers, and copies delivered to each Party, to become effective as of the Effective Date identified herein.

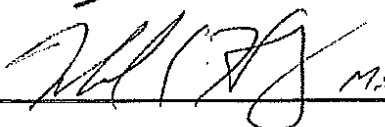
New York Independent System Operator,
Inc.

Robert E Fernandez, Esq.
General Counsel
NYISO
10 Krey Boulevard
Rensselaer, NY 12144
Telephone: (518) 356-6220
Email: rfernandez@nyiso.com

*Counsel to New York Independent System
Operator, Inc.*

TC Ravenswood, LLC


WILLIAM C. TAYLOR


Michael E Hachey

William C. Taylor
Vice President
Mike Hachey
Director
TC Ravenswood Services, Corp.
110 Turnpike Road, Suite 203
Westborough, MA 01581
Telephone: (508) 871-1855
Telephone: (508) 871-1852
Email: bill_taylor@transcanada.com
mike_hachey@transcanada.com

Vice President TC Ravenswood Services, Corp

4.1.9 Cost Recovery for Units Responding to Local Reliability Rule I-R3 or I-R5

4.1.9.1 Eligibility for Cost Recovery

Generating units designated pursuant to the New York State Reliability Council's Local Reliability Rule I-R3 -- Loss of Generator Gas Supply (New York City) or I-R5 -- Loss of Generator Gas Supply (Long Island) as being required to burn an alternate fuel at designated minimum levels based on forecast Load levels in Load Zones J and K (for purposes of this Section 4.1.9, "Eligible Units"), shall be eligible to recover costs associated with burning the required alternate fuel pursuant to the provisions of this Section 4.1.9. For purposes of this Section 4.1.9, the periods of time for which Local Reliability Rule I-R3 or I-R5 is invoked and in which the Eligible Unit burns its required alternate fuel, including that period of time required to move into and out of Rule I-R3 or I-R5 compliance, shall be referred to as the "Eligibility Period."

4.1.9.2 Variable Operating Cost Recovery

For Eligibility Periods, the-Eligible Unit shall recover costs that vary with the amount of alternate fuel burned because Local Reliability Rule I-R3 or I-R5 was invoked ("variable operating costs") if: (i) such costs are not reflected in the reference level for that Eligible Unit for the hours included in the Eligibility Period, pursuant to ISO Procedures, and (ii) the hour is one for which the commodity cost of the alternate fuel including taxes and emission allowance costs is greater than the commodity cost for natural gas, including taxes and emission allowance costs, as determined by the ISO. These relative commodity cost determinations shall use the same indices used by the ISO to establish daily Reference Levels. Variable operating costs shall include the commodity cost, associated taxes and emission allowance costs, of the required alternate fuel burned during an Eligibility Period pursuant to Rule I-R3 or I-R5.

4.1.9.3 Additional Cost Recovery

An eligible unit that seeks to recover costs incurred in connection with its compliance with Rule I-R3 or I-R5, in addition to the commodity cost, associated taxes and emission allowance cost recovery specified in Section 4.1.9.2, shall negotiate an Implementation Agreement with the ISO. The eligible unit and the ISO shall consult with and consider the input of the New York State Public Service Commission, and the Transmission Owner designated by Rule I-R3 or I-R5. Such Implementation Agreements shall specify, among other terms and conditions, the facilities (or portions of facilities) used to meet obligations under Rule I-R3 or I-R5. The Implementation Agreement shall indicate the rate to be charged during the period of the Implementation Agreement to recover such additional costs.

The Implementation Agreement may also include costs in addition to commodity cost, associated taxes and emission allowance costs of the alternate fuel incurred in connection with compliance with Rule I-R3 or I-R5 that vary with the amount of alternate fuel burned because I-R3 or I-R5 was invoked. These variable costs shall be paid pursuant to Section 4.1.9.2 as variable operating costs so as to not duplicate payments.

Each such Implementation Agreement shall have a duration of one or more Capability Periods and shall commence at the beginning of a Capability Period unless another date is approved by the Commission. If the Eligible Unit and the ISO reach agreement on the terms and conditions of the Implementation Agreement, the ISO shall file it with the Commission for its review and acceptance.

In the event that the Eligible Unit and the ISO have not come to an agreement six months prior to the beginning of the Capability Period that the Implementation Agreement is intended to govern, then either one of them may request the assistance of the Commission's Dispute

Resolution Service. If the Dispute Resolution Service agrees to provide its assistance the Eligible Unit and the ISO shall participate in whatever dispute resolution process the Dispute Resolution Service may recommend. The Commission's Dispute Resolution Service may include other stakeholders to the extent confidentiality protections are in place. If, however, there is no agreement four months prior to the beginning of the relevant Capability Period then the Eligible Unit and the ISO may each file an unexecuted Implementation Agreement for the Commission's review and acceptance.

In the event that any provisions of this Section 4.1.9 are modified prior to the termination date of any Commission-accepted Implementation Agreement, such Implementation Agreement will remain in full force and effect until it expires in accordance with its contractual terms and conditions.

Rules for establishing Eligibility Periods shall be specified in ISO Procedures.

4.1.9.4 Billing

Payments made by the ISO to the Eligible Unit to pay variable operating costs and to pay the rate established by the Implementation Agreement pursuant to this Section 4.1.9 shall be in addition to any LBMP, Ancillary Service or other revenues received as a result of the Eligible Unit's Day-Ahead or Real-Time dispatch for that day. Payment by the ISO of variable operating costs pursuant to Section 4.1.9.2 shall be based on the Eligibility Period, quantity of alternate fuel burned, and relative costs of alternate fuel compared to natural gas.

Payment by the ISO of the rate established in the Implementation Agreement for costs incurred other than variable operating costs shall be made as part of the ISO billing cycle regardless of whether an alternate fuel is burned pursuant to I-R3 or I-R5 and regardless of the relative cost of the alternate fuel compared to natural gas reflected in reference levels.

4.1.9.5 Other Provisions

The ISO shall make available for the Transmission Owner in whose subzone the Generator is located: (i) the identity of Generators determined by the ISO to be eligible to recover the costs associated with burning the required alternate fuel pursuant to the provisions of this Section 4.1.9; (ii) the start and stop hours for each claimed Eligibility Period; and (iii) the amount of alternate fuel for which the Generator has sought to recover variable operating costs.

4.1.9 Incremental Cost Recovery for Units Responding to Local Reliability Rule I-R3 or I-R5

4.1.9.1 Eligibility for Cost Recovery

Generating units designated pursuant to the New York State Reliability Council's Local Reliability Rule I-R3 -- Loss of Generator Gas Supply (New York City) or I-R5 -- Loss of Generator Gas Supply (Long Island) as being required to burn an alternate fuel at designated minimum levels based on forecast Load levels in Load Zones J and K (for purposes of this ~~s~~Section 4.1.9, "eEligible uUnits"), shall be eligible to recover ~~the variable operating costs~~ associated with burning the required alternate fuel pursuant to the provisions of this ~~s~~Section 4.1.9. For purposes of this ~~s~~Section 4.1.9, the periods of time for which ~~Consolidated Edison invokes~~ Local Reliability Rule I-R3 or ~~LIPA invokes~~ Local Reliability Rule I-R5 is invoked and in which the eEligible uUnit burns its required alternate fuel, including that period of time required to move into and out of Rule I-R3 or I-R5 compliance, shall be referred to as the "Eligibility Period."

4.1.9.2 Variable Operating Cost Recovery

For Eligibility Periods, the eEligible uUnit shall recover ~~its variable operating costs~~ associated ~~that vary~~ with ~~burning the required~~ the amount of alternate fuel if and to the extent ~~that such~~ burned because Local Reliability Rule I-R3 or I-R5 was invoked ("variable operating costs") if: (i) such costs are not reflected in the reference level for that Eligible uUnit for the hours included in the Eligibility Period, pursuant to ISO procedures. ~~To be recoverable, variable operating costs associated with burning the required alternate fuel must be incurred during an Eligibility Period and must be incurred only because Local Reliability Rule I-R3 or I-R5 was invoked.~~

~~Rules for determining: (i) variable operating costs associated with burning the required~~

~~alternate fuel that would not have been incurred but for the requirement to burn the required~~
~~alternate fuel as established by Local Reliability Rules I-R3 and I-R5; and (ii) Procedures, and~~
(ii) the hour is one for which the commodity cost of the alternate fuel including taxes and
emission allowance costs is greater than the commodity cost for natural gas, including taxes and
emission allowance costs, as determined by the ISO. These relative commodity cost
determinations shall use the same indices used by the ISO to establish daily Reference Levels.
Variable operating costs shall include the commodity cost, associated taxes and emission
allowance costs, of the required alternate fuel burned during an Eligibility Period pursuant to
Rule I-R3 or I-R5.

4.1.9.3 Additional Cost Recovery

An eligible unit that seeks to recover costs incurred in connection with its compliance
with Rule I-R3 or I-R5, in addition to the commodity cost, associated taxes and emission
allowance cost recovery specified in Section 4.1.9.2, shall negotiate an Implementation
Agreement with the ISO. The eligible unit and the ISO shall consult with and consider the input
of the New York State Public Service Commission, and the Transmission Owner designated by
Rule I-R3 or I-R5. Such Implementation Agreements shall specify, among other terms and
conditions, the facilities (or portions of facilities) used to meet obligations under Rule I-R3 or I-
R5. The Implementation Agreement shall indicate the rate to be charged during the period of the
Implementation Agreement to recover such additional costs.

The Implementation Agreement may also include costs in addition to commodity cost,
associated taxes and emission allowance costs of the alternate fuel incurred in connection with
compliance with Rule I-R3 or I-R5 that vary with the amount of alternate fuel burned because I-
R3 or I-R5 was invoked. These variable costs shall be paid pursuant to Section 4.1.9.2 as

variable operating costs so as to not duplicate payments.

Each such Implementation Agreement shall have a duration of one or more Capability Periods and shall commence at the beginning of a Capability Period unless another date is approved by the Commission. If the Eligible Unit and the ISO reach agreement on the terms and conditions of the Implementation Agreement, the ISO shall file it with the Commission for its review and acceptance.

In the event that the Eligible Unit and the ISO have not come to an agreement six months prior to the beginning of the Capability Period that the Implementation Agreement is intended to govern, then either one of them may request the assistance of the Commission's Dispute Resolution Service. If the Dispute Resolution Service agrees to provide its assistance the Eligible Unit and the ISO shall participate in whatever dispute resolution process the Dispute Resolution Service may recommend. The Commission's Dispute Resolution Service may include other stakeholders to the extent confidentiality protections are in place. If, however, there is no agreement four months prior to the beginning of the relevant Capability Period then the Eligible Unit and the ISO may each file an unexecuted Implementation Agreement for the Commission's review and acceptance.

In the event that any provisions of this Section 4.1.9 are modified prior to the termination date of any Commission-accepted Implementation Agreement, such Implementation Agreement will remain in full force and effect until it expires in accordance with its contractual terms and conditions.

Rules for establishing Eligibility Periods shall be specified in ISO Procedures.

4.1.9.4 Billing

Payments made by the ISO to the ~~e~~Eligible ~~u~~Unit to ~~reimburse the pay~~ variable operating costs ~~paid~~ and to pay the rate established by the Implementation Agreement pursuant to this ~~s~~Section 4.1.9 shall be in addition to any LBMP, Ancillary Service or other revenues received as a result of the ~~e~~Eligible ~~u~~Unit's Day-Ahead or Real-Time dispatch for that day. Payment by the ISO of variable operating costs pursuant to Section 4.1.9.2 shall be based on the Eligibility Period, quantity of alternate fuel burned, and relative costs of alternate fuel compared to natural gas.

~~There shall be no recovery of costs pursuant to this section 4.1.9 for any hour for which the variable operating costs of the required alternate fuel that is being burned pursuant to Rule I-R3 or I-R5 is less than the variable operating costs for natural gas, as determined by the ISO.~~

Payment by the ISO of the rate established in the Implementation Agreement for costs incurred other than variable operating costs shall be made as part of the ISO billing cycle regardless of whether an alternate fuel is burned pursuant to I-R3 or I-R5 and regardless of the relative cost of the alternate fuel compared to natural gas reflected in reference levels.

4.1.9.5 Other Provisions

The ISO shall make available for the Transmission Owner in whose subzone the Generator is located: (i) the identity of Generators determined by the ISO to be eligible to recover the ~~variable operating~~ costs associated with burning the required alternate fuel pursuant to the provisions of this ~~s~~Section 4.1.9; (ii) the start and stop hours for each claimed Eligibility Period; and (iii) the amount of ~~alternative~~ alternate fuel for which the Generator has sought to recover variable operating costs.