

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Astoria Generating Company, L.P. and)	
TC Ravenswood, LLC)	
)	
Complainants)	
)	
v.)	Docket No. EL11-50-000
)	
New York Independent System Operator, Inc.)	
)	
Respondent)	

**CORRECTION TO CONFIDENTIAL SUPPLEMENTAL ANSWER OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

The NYISO respectfully submits this correction to the *Confidential Supplemental Answer* that it submitted in this proceeding on September 8, 2011. Because this correction is narrow in scope, and because the parties were promptly notified of it, the NYISO respectfully submits that the filing of this correction should not trigger an extension of the deadline for filing answers in this proceeding.

I. CORRECTION TO CONFIDENTIAL SUPPLEMENTAL ANSWER

On September 9, 2011 it came to the NYISO's attention that there was an error in the *Affidavit of Christopher D. Ungate Regarding Astoria Energy II* ("Affidavit") that was filed as Appendix IV to the NYISO's September 8, 2011 *Confidential Supplemental Answer* in this proceeding. Specifically, Paragraph 11 of the Affidavit correctly stated that the cost estimate breakdowns, along with explanatory notes, for the Astoria Energy II project ("AEII") were presented in Exhibit CDU-2 to the Affidavit. However, Paragraph 11 also stated that AEII had

assembled that information from certain named sources. Paragraph 11's original wording could be read to imply, inaccurately, that the NYISO and its consultants had relied on those named sources.

Promptly upon discovering this issue, and before the close of business that day – one day after filing – the NYISO e-mailed a “Notice Re: Correction to Affidavit” to all of the parties in this proceeding. The e-mail (the “September 9 Notice”) is appended hereto as Appendix I. It stated that:

The NYISO and its consultants, Sargent & Lundy LLC and NERA Economic Consulting, did not use the documents identified in Paragraph 11 of that affidavit, or any of their contents, for any purpose. The NYISO and its consultants never possessed or reviewed the documents identified in Paragraph 11(a) and (b). To the NYISO's and Sargent & Lundy's knowledge, information, and belief, the cost and performance data and information provided by AEII were AEII's own actual or estimated data and information.

Subsequent to sending the September 9 Notice, the NYISO has confirmed that NERA Economic Consulting never received, possessed, or reviewed any of the sources specified in Paragraph 11.

The September 9 Notice also stated that the NYISO would file a corrected version of the Affidavit today.¹ Consistent with the September 9 Notice, and as described in Mr. Ungate's *Supplemental Affidavit* (appended hereto as Appendix II), Mr. Ungate's revised Paragraph 11 reads as follows:

“11. The AEII cost estimate breakdown, along with explanatory notes, is presented in Exhibit CDU-2. ~~Astoria Energy assembled the cost data from various sources including the~~ following:

¹ Attachment 1 to the Supplemental Affidavit contains a blacklined version of the corrected page 9 to the Affidavit. Since there is no confidential information on page 9 to the Affidavit, the NYISO is not filing a confidential version of that page.

- a. ~~CH2M Hill's engineering study of the proposed costs.~~
- b. ~~Levitan & Associates, Inc.'s economic evaluation of bids received by the New York Power Authority including the winning AEII bid.~~
- c. ~~Black & Veatch's independent analysis of capital and O&M costs."~~

Making this correction does not necessitate any other changes to the Affidavit or to other components of the *Confidential Supplemental Answer*. The Affidavit² and the *Affidavit of Joshua A. Boles Regarding Astoria Energy II*³ consistently refer to Mr. Ungate's and Mr. Bole's review of, and use of, of data provided by AEII. Like Sargent & Lundy,⁴ the NYISO never received, possessed or reviewed items (a) and (b), and although the NYISO possessed item (c), the NYISO did not consider or use it or any of its contents for any purpose.

The NYISO sent the September 9 Notice so that all parties would "have the corrected information as soon as possible." Given the early notice of the correction, and its limited scope, the NYISO respectfully submits that its submission of this filing should not result in an extension of the deadline for filing answers in this proceeding. Pursuant to the August 31 Order, that deadline is currently September 23, 2011 or fifteen days from the date that the NYISO filed the *Confidential Answer*.⁵

² See, e.g., *Confidential Supplemental Answer of the New York Independent System Operator, Inc.*, Appendix I - Confidential Affidavit of Joshua A. Boles Regarding Astoria Energy II at P 21, Docket No. EL11-50-000 (filed September 8, 2011).

³ See, e.g., *Confidential Supplemental Answer of the New York Independent System Operator, Inc.*, Appendix IV - Affidavit of Christopher D. Ungate Regarding Astoria Energy II at PP 8-10, 12, 14, 16, 23, 24, 26, 32, Docket No. EL11-50-000 (filed September 8, 2011).

⁴ See Appendix II, Supplemental Affidavit of Christopher D. Ungate at P 6.

⁵ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,155 at P 25 (2011).

II. CONCLUSION

For the reasons specified above, the NYISO respectfully requests that the Commission accept its proposed revision to Paragraph 11 of the *Affidavit* without modifying the answer period in this proceeding.

Respectfully submitted,

/s/ Ted J. Murphy

Ted J. Murphy
Counsel to the
New York Independent System Operator, Inc.

September 12, 2011

APPENDIX I

Colón, Vanessa A.

From: Murphy, Ted

Sent: Friday, September 09, 2011 4:26 PM

To: 'abe.silverman@nrgenergy.com'; 'andrew.neuman@nypa.gov'; 'aw@dwgpc.com'; 'bassa@calpine.com'; 'Brad.Kranz@NRGenergy.com'; 'butterkleen@coned.com'; 'chris.ohara@nrgenergy.com'; 'christopher.jones@troutmansanders.com'; 'christopher@ippny.org'; 'cmccall@astoriaenergy.com'; 'david.reich@genon.com'; 'david_drexler@dps.state.ny.us'; 'dbj@readlaniado.com'; 'dean.ellis@dynegy.com'; 'dpatton@potomaceconomics.com'; 'dtewksbury@kslaw.com'; 'ecaplan@publicpower.org'; 'gesmith@ecsny.com'; 'gkavanah@nyiso.com'; 'glen.mccartney@constellation.com'; 'Howard.Fromer@PSEG.com'; 'jadillon@pplweb.com'; 'jauss.fred@dorsey.com'; 'jbn@vnf.com'; 'jdurand@gibsondunn.com'; 'jessica.lynch@snrdenton.com'; 'jflumerfelt@calpine.com'; 'jhardy@lipower.org'; 'jim_dandrea@transcanada.com'; 'jmostel@stroock.com'; 'Joseph.Donovan@Constellation.com'; 'joseph.williams@cwt.com'; 'karen.hill@exeloncorp.com'; 'kenneth.carretta@pseg.com'; 'klang@couchwhite.com'; 'kwiseman@andrewskurth.com'; 'lbaker@reliant.com'; 'lsinger@couchwhite.com'; 'mahn@conedcss.com'; 'marcia.stanford@leonard.com'; 'mariep@ecsgird.com'; 'mblasik@edisonmission.com'; 'michelle.d.grant@dynegy.com'; 'mkramek@edisonmission.com'; 'mpotkin@entergy.com'; 'nachmiass@coned.com'; 'NancyB@epsa.org'; 'niforak@coned.com'; 'Philip_Pauls@cargill.com'; 'pijallas@rvcny.us'; 'rmackow@entergy.com'; 'robert_walker@cargill.com'; 'saiad@gtlaw.com'; 'sandra.rizzo@bgllp.com'; 'shaun.logue@brookfieldpower.com'; 'skelly@publicpower.org'; 'slync@ecsny.com'; 'snovosel@calpine.com'; 'sslim@kslaw.com'; 'steven.schleimer@calpine.com'; 'stuart.caplan@snrdenton.com'; 'Tamara.Linde@PSEG.com'; 'tlr@dwgpc.com'; Murphy, Ted; 'tthackston@hess.com'; Colón, Vanessa A.; 'vicki.lynch@genon.com'; 'wchen@ecsgird.com'; 'wemples@conedcss.com'; 'WHollaway@gibsondunn.com'

Subject: Docket No. EL11-50 -- Notice Re: Correction to Affidavit

An error in Paragraph 11 of Mr. Christopher D. Ungate's *Affidavit Regarding Astoria Energy II* has come to the NYISO's attention.

The NYISO and its consultants, Sargent & Lundy LLC and NERA Economic Consulting, did not use the documents identified in Paragraph 11 of that affidavit, or any of their contents, for any purpose. The NYISO and its consultants never possessed or reviewed the documents identified in Paragraph 11(a) and (b). To the NYISO's and Sargent & Lundy's knowledge, information, and belief, the cost and performance data and information provided by AEII were AEII's own actual or estimated data and information. Accordingly, the NYISO intends to revise Paragraph 11 of Mr. Ungate's affidavit as follows:

"11. The AEII cost estimate breakdown, along with explanatory notes, is presented in Exhibit

~~CDU-2. Astoria Energy assembled the cost data from various sources including the following:~~

~~a. CH2M Hill's engineering study of the proposed costs.~~

~~b. Levitan & Associates, Inc.'s economic evaluation of bids received by the New York Power Authority including the winning AEII bid.~~

~~c. Black & Veatch's independent analysis of capital and O&M costs.~~

The NYISO will file a corrected version of Mr. Ungate's Affidavit Regarding Astoria Energy II making this correction on Monday, September 12, 2011. It is sending this notice to all parties now so that they will have the corrected information as soon as possible.

APPENDIX II

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

**Astoria Generating Company, L.P
and TC Ravenswood, LLC**

vs.

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

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)
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Docket No. EL11-50-000

**SUPPLEMENTAL AFFIDAVIT OF
CHRISTOPHER D. UNGATE
REGARDING ASTORIA ENERGY II**

Mr. Christopher D. Ungate declares:

1. I have personal knowledge of the facts and opinions herein and if called to testify could and would testify competently hereto.

I. Purpose of this Affidavit

2. The purpose of this Supplemental Affidavit is to correct Paragraph 11 of the *Affidavit of Christopher D. Ungate Regarding Astoria Energy II* ("Affidavit") that I prepared and submitted. The Affidavit was filed as Appendix IV to the New York Independent System Operator, Inc.'s ("NYISO") September 8, 2011 *Confidential Supplemental Answer* in this proceeding.

II. Qualifications

3. I am a Senior Principal Management Consultant with Sargent & Lundy LLC ("Sargent & Lundy" or "S&L"). My qualifications are as described in my September 7 Affidavit in this proceeding.

III. Correction to Paragraph 11

4. Paragraph 11 of my *Affidavit* stated that

“11. The AEII cost estimate breakdown, along with explanatory notes, is presented in Exhibit CDU-2. Astoria Energy assembled the cost data from various sources including the following:

- a. CH2M Hill’s engineering study of the proposed costs.
- b. Levitan & Associates, Inc.’s economic evaluation of bids received by the New York Power Authority including the winning AEII bid.
- c. Black & Veatch’s independent analysis of capital and O&M costs.”

5. The second sentence of that paragraph, including items “(a)” through “(c)” could be read as implying that the AEII did not use its own data, or that AEII did not submit its own data to me or to the NYISO. This implication was not intended and no such inference should be drawn. To my knowledge, information, and belief, the cost and performance data and information provided by AEII were AEII’s own actual or estimated data and information.

6. Neither I nor anyone at Sargent & Lundy that had any involvement in relation to any work for the NYISO ever possessed or reviewed the documents identified in Paragraph 11(a) and (b). Although Sargent & Lundy possessed item (c) of that, neither item (c) nor any of its contents were considered or used by me or anyone at Sargent & Lundy for any purpose.

7. Accordingly, I wish to correct Paragraph 11 of my *Affidavit* so that it reads as follows:

“11. The AEII cost estimate breakdown, along with explanatory notes, is presented in Exhibit CDU-2. ~~Astoria Energy assembled the cost data from various sources including the following:~~

- ~~a. CH2M Hill’s engineering study of the proposed costs.~~
- ~~b. Levitan & Associates, Inc.’s economic evaluation of bids received by the New York Power Authority including the winning AEII bid.~~
- ~~c. Black & Veatch’s independent analysis of capital and O&M costs.”~~

8. Attachment 1 to this Supplemental Affidavit is a revised Page 9 to my Affidavit. The only change to that page is the revision set for the immediately above.

This concludes my Affidavit.

ATTESTATION

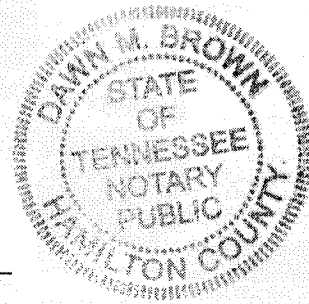
I am the witness identified in the foregoing affidavit. I have read the affidavit and am familiar with its contents. The facts set forth therein are true to the best of my knowledge, information, and belief.

Christopher D. Ungate
Christopher D. Ungate

Subscribed and sworn to before me
this 12th day of September 2011

Dawn M. Brown
Notary Public

My commission expires: Oct 16, 2012



ATTACHMENT 1

**PUBLIC VERSION -- HIGHLY SENSITIVE PROTECTED MATERIALS HAVE BEEN
REDACTED PURSUANT TO PROTECTIVE ORDER IN
FERC DOCKET NO. EL11-50-000 AND CONFIDENTIAL INFORMATION
PURSUANT TO 18 C.F.R. SECTION 388.112**

11. The AEII cost estimate breakdown, along with explanatory notes, is presented in Exhibit CDU-2. ~~Astoria Energy assembled the cost data from various sources including the following:~~

- ~~a. CH2M Hill's engineering study of the proposed costs.~~
- ~~b. Levitan & Associates, Inc.'s economic evaluation of bids received by the New York Power Authority including the winning AEII bid.~~
- ~~c. Black & Veatch's independent analysis of capital and O&M costs.~~

12. S&L reviewed the reasonableness of the AEII cost breakdown on the basis of discussions with representatives from Astoria Energy and on the basis of similar projects. The AEII information was also compared with the values derived for a hypothetical 2 x 2 x 1 combined-cycle plant for the NERA/S&L Demand Curve Report, which also used GE 7FA combustion turbines and was located in New York City. The estimated values reflect plant features typically found in modern combined-cycle facilities and are intended to reflect representative costs for new plants of their type. The estimates are conceptual and were not based on preliminary engineering activities for any specific site. The estimates were converted to 2011 price levels to match the in-service year of the AEII project and are included in Exhibits CDU-2 and CDU-3.

13. The recommended CONE input values for AEII capital investment costs are discussed below.

- a. The EPC costs for AEII are based on actual fixed price contracts. The EPC estimates for the hypothetical 2 x 2 x 1 combined-cycle plant are based on

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 12th day of September, 2011.

/s/ Vanessa A. Colón
Vanessa A. Colón
Hunton & Williams LLP
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Washington, DC 20037
(202) 955-1500