

ATTACHMENT B

RESTATED FIRST AMENDMENT

**REVISED FIRST AMENDMENT TO AGREEMENT BETWEEN
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
AND
THE NEW YORK POWER AUTHORITY
FOR THE OPERATION AND MAINTENANCE
OF THE FACILITIES ASSOCIATED WITH
ASTORIA ANNEX SUBSTATION
345 KV GAS-INSULATED SUBSTATION**

This Revised First Amendment (this "Revised First Amendment") to the Amended and Composite Agreement ("Composite Agreement") dated December 2012, between Consolidated Edison Company of New York, Inc. and the New York Power Authority for the Operation and Maintenance of the Facilities Associated with Astoria Annex Substation 345 kV Gas- Insulated Substation made on even date by and between Consolidated Edison Company of New York, Inc. ("Con Edison"), a corporation organized and existing under the law of the State of New York and having its principal place of business at 4 Irving Place in the City of New York, New York, and the New York Power Authority ("the Power Authority"), a corporate municipal instrumentality and political subdivision of the State of New York having an office at 123 Main Street in the City of White Plains, New York. Con Edison and the Power Authority are sometimes collectively referred to herein as the "Parties" and, individually, as a "Party".

WHEREAS, Con Edison and the Power Authority entered into that certain O&M Agreement between Con Edison and the Power Authority dated February 1st, 2011 ("Original Agreement"), which Original Agreement was subsequently amended by a First Amendment made as of June 23, 2011 ("First Amendment") and by a Second Amendment dated April 25, 2012 ("Second Amendment"), all as more particularly described in the Original Agreement, First Amendment and Second Amendment;

WHEREAS, Con Edison desires to file the amended agreement with the Federal Energy Regulatory Commission ("Commission") pursuant to Section 205 of the Federal Power Act and 18 C.F.R. Section 35.12; and to facilitate that filing the Parties desire to integrate the Original Agreement, First Amendment and Second Amendment in accordance with the Commission's Order No. 614;

WHEREAS, Sections 5 and 8 of the First Amendment have been integrated into the Composite Agreement;

WHEREAS, due to the substantive nature of the remaining terms of the First Amendment, the Parties are unable to integrate them into the Composite Agreement and desire to re-execute them in this Revised First Amendment; and

WHEREAS, the Parties have no intention to amend the substance of any of the First Amendment, but merely seek to comply with the FERC's integration requirement;

NOW THEREFORE, in consideration of the premises, mutual obligations and undertakings set forth herein, the Parties hereto agree as follows:

1. A) Effective Date of the Revised First Amendment.

The effective date, term, and effect of this Revised First Amendment shall be identical to the effective date, term, and effect of the Composite Agreement, as stated in Section 2.1 of that Composite Agreement.

B) Intentionally Omitted.

2. Section 4.1. Conditions Precedent to the Scope of Work.

(a) Power Authority has requested that Con Edison commence its obligation to perform the Scope of Work as of June 24, 2011, notwithstanding that the Power Authority was obligated to fully meet the Conditions Precedent to Con Edison's good faith satisfaction prior to Con Edison's commencement of the Scope of Work. The Parties agree that there are certain operational, environmental and commercial risks to the Parties, Astoria Energy II LLC and other third parties inherent in commencing Con Edison's obligations to perform the Scope of Work, and starting the O&M Commencement Date, prior to the Power Authority fully meeting the Conditions Precedent to Con Edison's good faith satisfaction (collectively referred to herein as the "Risks"), which Risks relate to and include, but are not limited to,

(i) accepting the Facility in accordance with Section 4.1.2;

(ii) accepting the Shunt Reactors, which is precluded by, but is not limited to, the leaking nitrogen and oil condition of Shunt Reactor 2, incomplete maintenance records for the Shunt Reactors, an outstanding joint review of the maintenance records, and the lack of a design and installation of nitrogen alarms on the Shunt Reactors, ("Nitrogen Alarms");

(iii) all proposed operators are not fully Trained, which could affect response time,

(iv) Power Authority's continuing and outstanding obligation to fully comply with Section 4.1.7 of the Composite Agreement "Con Edison's Knowledge of the Facility", by providing the information required therein in a useable format and/or in the required format; the documents received at the Astoria Annex Substation, and signed for turnover on June 16, 2011 are interim documents that will be used to facilitate Con Edison's performance of the O&M Services; these documents, however, do not fully satisfy Section 4.1.7.

- (b) Accordingly, notwithstanding any provision to the contrary contained in the Composite Agreement or this Revised First Amendment, including Con Edison's commencement of O&M Services prior to Power Authority's satisfaction of the Conditions Precedent to Con Edison's good faith satisfaction, Power Authority hereby specifically acknowledges and assumes all risk arising from, relating to and/or connected with the Risks.
- (c) Section 4.1.2.5 of the Composite Agreement is hereby amended by inserting after the last sentence and after the words "in accordance herein" the following:

Con Edison agreed to commence O&M Services notwithstanding that the Facility has not been accepted in accordance with the requirements of Sections 4.1.2.1 – Sections 4.1.2.5 of the Composite Agreement."

- (d) The Power Authority shall continue to adhere to the Conditions Precedent, as appropriate, throughout the Term of this Composite Agreement, except as amended by this Revised First Amendment. Power Authority shall provide to Con Edison (i) working and fully operational Nitrogen Alarms by August 1, 2011, and (ii) full compliance, in a useable format and/or in the required format, of Section 4.1.7 by September 21, 2011.

3. Section 4.2.5. Scope of Work.

Because Power Authority did not fully meet the Conditions Precedent to Con Edison's good faith satisfaction prior to the O&M Commencement Date, additional work and services for the Facility arising therefrom that were not contemplated by the Composite Agreement shall be required for the Facility, namely, the close out of minor punch list items and the repair of the Shunt Reactors (except for the fire loop replacement on Shunt Reactor 2) ("Additional Work"). Accordingly, notwithstanding the provisions of Section 4.3.7, but in accordance with Sections 4.3.1- Sections 4.3.6, Con Edison shall perform the Additional Work as if the Additional Work was part of the original O&M Services, and in accordance with all the terms and conditions of the O&M Agreement, as amended by this Revised First Amendment. The Additional Work shall hereinafter be deemed to be part of the O&M Services. The Power Authority shall be solely responsible to pay for the Additional Work in accordance with all the terms and conditions of the Composite Agreement, as amended by this Revised First Amendment.

4. Section 4.3 Excluded Services/ Limited Services.

Because Con Edison anticipated accepting a fully constructed, operational, fully tested and working Facility, the Parties specifically acknowledge and agree that for

any work relating to the Facility (except for the Additional Work) that is currently in progress by a contractor (of any tier) hired by or on behalf of Power Authority, Astoria Energy II LLC, SNC Lavalin, (the "Construction and Commissioning Work"), at Power Authority's sole cost, expense, and risk, Power Authority shall continue to have the Construction and Commissioning Work performed until any and all such Construction and Commissioning Work contracted for has been fully performed pursuant to the terms of any applicable contract. In addition, Power Authority shall be solely responsible and liable for any ensuing issues arising from or relating to the Construction and Commissioning Work and all such Construction and Commissioning Work and ensuing issues shall be deemed to be Excluded Services under the Composite Agreement as amended by this Revised First Amendment.

5. Intentionally deleted. ."
6. For the avoidance of doubt, and without limiting the generality of the provisions of Section 11 of this Revised First Amendment, Con Edison and Power Authority specifically acknowledge and agree that (i) the Environmental Provisions of Article XII, including the Environmental Indemnity provisions of Section 12.5, (ii) the Indemnification Provisions of Article XIX, and (iii) the Insurance Provisions of Article XVIII apply to the Additional Work and to the Risks.
7. Article XIX. Indemnification, No Consequential Damages, Outages.

For the avoidance of doubt, and without limiting the generality of the provisions of Sections 6 and 11 of this Revised First Amendment, Section 19.1 is hereby amended by inserting on the tenth line after "(iii)" and before "(iv) Compliance Modifications and Upgrades", the following: "the Risks, as defined by the Revised First Amendment".

8. Intentionally deleted. .
9. Except as provided in this Revised First Amendment, all terms used in this Revised First Amendment that are not otherwise defined shall have the respective meanings ascribed to such terms in the Composite Agreement.
10. This Revised First Amendment embodies the entire agreement between Con Edison and the Power Authority with respect to the amendment of the Composite Agreement. In the event of any conflict or inconsistency between the provisions of the Composite Agreement and this Revised First Amendment, the provisions of this Revised First Amendment shall control and govern.
11. Except as specifically modified and amended herein, all of the terms, provisions, requirements and specifications contained in the Composite Agreement remain in full force and effect. Except as otherwise expressly provided herein, the parties do

not intend to, and the execution of this Revised First Amendment shall not, in any manner impair the Composite Agreement, the purpose of this Revised First Amendment being simply to amend and ratify the Composite Agreement, as hereby amended and ratified, and to confirm and carry forward the Composite Agreement, as hereby amended, in full force and effect.

12. THIS REVISED FIRST AMENDMENT SHALL BE CONSTRUED AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

13. This Revised First Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument, it being understood that Con Edison and Power Authority need not sign the same counterpart. This Revised First Amendment and any counterpart thereof may be delivered by fax or email and, if this Revised First Amendment or any counterpart thereof is delivered by fax or email, they shall, together with the signatures(s) or copies of the signature(s) thereon, be treated for all purposes as originals that have been delivered.

IN WITNESS WHEREOF, Con Edison and the Power Authority have executed and delivered this Revised First Amendment of the Composite Agreement effective as of the Commission Effective Date (as defined in that Composite Agreement).

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

NEW YORK POWER AUTHORITY

By: _____

By: _____

Name: Aubrey Braz
Title: Vice President –
Substations Operations

Name:
Title:

Date:

Date:

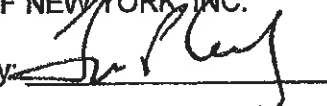
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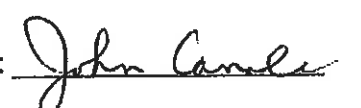
CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

By: 

Name: Timothy Cawley
Title: Senior Vice President –

Date: March 1, 2013

NEW YORK POWER AUTHORITY

By:  *ad free*

Name: John Canale
Title: Vice President Project Management

Date: