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September 10, 2012

SENT VIA ELECTRONIC FILING

Hon. Bobbie J. McCartney
Deputy Chief Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11F-21
Washington, D.C. 20426

Re: Docket No. IN12-7-000
Constellation Energy Commodities Group, Inc.

Dear Deputy Chief Judge McCartney:

Attached please find the Motion to Approve
Allocation of Constellation Funds of the New York Public
Service Commission in the above-entitled proceeding.

Should you have any questions, please contact me
at (518) 474-1585.

Very truly yours,

Alan T. Michaels
Assistant Counsel

Attachment

³ Constellation Energy Commodities Group, Inc., IN12-7-000 (June 7, 2012) Order Granting Unopposed Motions for Determination of Eligibility.

requests approval of this proposal for the allocation and distribution of the NYISO Constellation Fund.

BACKGROUND

On March 9, 2012, the Commission issued an Order approving the Stipulation and Consent Agreement reached between FERC Enforcement Staff and Constellation to resolve an investigation of potential violations of the Commission's Anti-Manipulation Rule, 18 C.F.R. § 1c.2, and of the Commission's regulation prohibiting the submission of inaccurate information, 18 C.F.R. § 35.41(b).⁴ Within the Stipulation and Consent Agreement, Constellation agreed to disgorge unjust profits of \$110 million including interest. The disgorged monies would be divided among the three Independent System Operator ("ISO") markets affected by Constellation's actions.⁵ Specifically, the New York ISO ("NYISO"), ISO-New England ("ISO-NE") and PJM Interconnection ("PJM ISO") were each provided a specific amount of the disgorged monies to be used by the affected states in the ISOs for the benefit of electric energy consumers.

The Order further states that the distribution of disgorged monies among the ISOs was based on FERC Staff's "assessment of relative harm imposed on each organized market as a result of CCG's trading." The Commission explained that the distribution among the

⁴ See, Constellation Energy Commodities Group, Inc., 138 FERC ¶61,168 (March 9, 2012), attached Stipulation and Consent Agreement (March 8, 2012) at ¶ 1 [hereinafter the "Order" or the "Order and attached stipulation", as appropriate].

⁵ Order at 5, ¶22.

ISOs "was based on the megawatts associated with DA [day ahead] schedules flowing between the ISOs and virtual transactions within NYISO that were part of what [S]taff determined to be CCG's manipulative scheme."⁶ The NYISO Constellation Fund was established at \$78 million.

FERC ordered that any requests for apportionment from the Constellation Fund may only be made by the appropriate state agency or agencies of the impacted states, for the benefit of electric energy consumers.⁷ Deputy Chief Judge McCartney granted the Motion for Determination of Eligibility of NYPSC, the New York Attorney General ("NYAG") and the New York Department of State's Utility Intervention Unit ("NYDOS") (collectively, the "New York Agencies"). Hence, the NYPSC, as one of the named appropriate state agencies, is an authorized participant in the allocation and distribution of the NYISO Constellation Fund. NYAG and NYDOS have worked with NYPSC in the development of this proposal.

DISCUSSION

The plan of the NYPSC for the use of the NYISO Constellation Fund has three elements. With this proposal, NYPSC respectfully requests an allocation of the \$78 million for the following uses: (a) a refund totaling \$48 Million to all customer load within the NYISO, including all customers of the New York Power Authority ("NYPA"),

⁶ *Id.* at 5, ¶22.

⁷ *See*, Settlement Order at 8-9, ¶37.c.

many of whom have participated in this matter; (b) the establishment of a \$10 Million fund to support consumer advocacy in the NYISO wholesale electric markets; and, (c) the use of \$20 Million to fund a program to promote advanced technologies to optimize transmission system performance. Each of these proposals is described more fully below, and each will provide benefits to the electric energy consumers served by the NYISO.

A. \$48 Million Direct Refund to Customers

The first element of the proposal is a refund of \$48 Million to NYISO consumers. Under the proposal, this amount would be distributed on a volumetric (kWh) usage basis to each of the six investor owned utilities serving NYISO customers, to NYPA and to the Long Island Power Authority ("LIPA"). The funds provided to the investor-owned utilities and LIPA would be passed back to their customers, and a similar distribution would be provided by NYPA to the municipal electric and other customers it serves. A detailed implementation process, including a description of the process that NYPA would use to distribute funds to its customers, is described in Attachment 1. The NYPA distribution will provide an allocation from these funds for all NYPA customers on the same per kilowatt hour basis.

The proposed refunds on their face satisfy the directive in the Order to use the disgorged monies "for the benefit of electric energy consumers". Passing these funds back to customers is a direct

benefit for individual end-users. By distributing these funds on a per kilowatt-hour basis, this proposal assures that these benefits will be widely distributed, and, through the distribution to NYPA, the proposal will assure that all customers of the NYISO-administered markets that were harmed by the Constellation scheme will participate in and benefit from the distribution of these benefits.

B. Consumer Advocacy Funding

The second element of the allocation proposal is to establish a long term funding mechanism (at approximately \$1 Million per year for 10 years) to support enhanced and more comprehensive advocacy for end-user interests at the NYISO and at FERC. The current NYISO and FERC structures offer numerous opportunities for advocacy on behalf of customers, and in particular on behalf of residential and small commercial customers. These opportunities, however, are often underutilized and consumer interests are frequently not explored in sufficient depth, most notably in working group meetings, to develop a full understanding of a proposal's impact on prices.

The purpose of this initiative is to significantly strengthen consumer advocacy at the NYISO and the FERC for consumers generally, and in particular, for historically underrepresented residential and small commercial customers. The level and pace of funding would reflect the intention to provide sustained, long term advocacy at a proficiency that matches the sophistication and depth of analysis available to other participants at the NYISO and FERC. A \$10 million

fund will be sufficient to provide not only a voice for consumers, but will also provide ability to acquire competent technical expertise for the benefit of consumers.

This advocacy initiative would be implemented through an Electric Consumer Advocacy Project (the "Project"), which will be organized and managed by UIU. The scope of this Project and its implementation by UIU will be defined by a Memorandum of Understanding (MOU). A draft for this MOU is provided in Attachment 2 to this motion. It is anticipated that the final MOU in substantially this form will be executed when the allocation of the Fund is made.

Strengthening the voice for consumers at the NYISO and FERC will be beneficial to all consumers. The funding of consumer advocacy will greatly enhance the representation of consumers at the NYISO and FERC. Effective consumer advocacy will express consumer interests more clearly and more consistently in the decision-making processes of these forums. Further, these monies will allow the UIU to enhance the positive outcomes for consumers during such decision-making processes. As such, the use of a portion of the NYISO Constellation Fund in this way is fully consistent with the Order's direction to make this money available "for the benefit of electric energy consumers".

C. Program Funding to Promote Advanced Technologies to Optimize Transmission System Performance

The third element of the proposal is funding to advance cutting-edge technologies that would increase bulk transmission system reliability and efficiency. Consumers experience high electric costs, in part, because the NYISO bulk power transmission grid is, at times, congested.

Reducing grid congestion using current technologies most often involves the creation of new transmission resources or the siting of new generation resources on the underserved side of the transmission congestion. These alternatives are themselves expensive and may result in even higher costs for consumers than the costs associated with the congestion relieved. The development of new strategies to address transmission congestion, and thus, reduce costs to consumers, may lie in the development of new technologies rather than the construction of new transmission or generation.

This third element of the proposal will fund a \$20 million program focusing on new technologies to address bulk transmission efficiency and reliability. The funding under this proposal may address the development of the technologies themselves or the piloting of already identified technologies to address and overcome barriers to their commercial implementation. The \$20 million will provide sufficient funding to not only identify projects, but also implement technologies that may improve reliability for the benefit of NYISO consumers.

Experience with transmission technologies already developed and in use has shown that improvements to transmission system efficiency can create hundreds of megawatts of additional transmission capacity. It is anticipated that the funding will make possible the identification of new bulk transmission technologies that will bring cost-effective technologies implementation more quickly than would otherwise be possible. The accelerated introduction of these transmission improvements can be expected to reduce congestion charges consumers now face, or to avoid construction costs for new transmission or generation projects otherwise needed to relieve this congestion. Since reducing congestion costs will benefit NYISO electricity consumers, this element of the proposal is also consistent with the Order's directives.

It is anticipated that the transmission improvement program would be managed by the New York State Energy Research and Development Authority ("NYSERDA").⁸ To implement the program NYSERDA would publish a Program Opportunity Notice (PON) and then would choose, from the responses, projects to fund based upon the criteria set forth in the PON. Further details of the proposal and its management are set forth in Attachment 3.

⁸ NYSERDA describes itself as "a public benefit corporation created in 1975 under Article 8, Title 9 and Title 9A of the New York State Public Authorities Law through the reconstitution of the New York State Atomic and Space Development Authority. NYSERDA's earliest efforts focused solely on research and development with the goal of reducing the State's petroleum consumption. Today, NYSERDA's aim is to help New York meet its energy goals: reducing energy consumption, promoting the use of renewable energy sources, and protecting the environment." See, About NYSERDA, available at <http://www.nyserda.ny.gov/en/About.aspx>.

NYSERDA has established a rigorous technical review process which ensures that the highest quality and most competitive projects will be identified and receive funding. It is anticipated that funding will be focused on a relatively small number of projects and that innovative projects that include partnerships with private businesses will be strongly encouraged.

CONCLUSION

Based on the foregoing, NYPSC requests that the monies in the NYISO Constellation Fund (totaling \$78 million) be allocated and disbursed as stated above for the benefit of all electric energy consumers. NYPSC respectfully requests:

A. A total of \$48 million for the purpose of distributing funds to investor-owned utilities, LIPA, and NYPA on a volumetric usage basis using 2011 NYISO data, as set forth in attachment 1, 8 disbursements to be made as follows:

\$1,608,000 to Central Hudson Gas and Electric Corp. ("Central Hudson"), representing a 3.35% allocation,

\$15,134,400 to Consolidated Edison Company of New York, Inc. ("Con Edison"), representing a 31.53% allocation,

\$4,828,800 to New York State Electric and Gas Corp. ("NYSEG"), representing a 10.06% allocation,

\$10,420,800 to Niagara Mohawk Power Corporation ("Niagara Mohawk"), representing a 21.71% allocation,

\$1,358,400 to Orange & Rockland Utilities, Inc. ("Orange & Rockland"), representing a 2.83% allocation,

\$2,304,000 to Rochester Gas & Electric Corp. ("Rochester Gas & Electric"), representing a 4.80% allocation,

\$6,417,600 to the Long Island Power Authority ("LIPA"), representing a 13.37% allocation, and

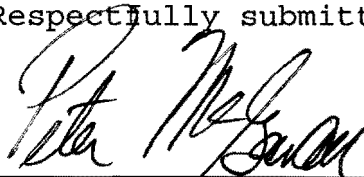
\$5,928,000 to the New York Power Authority ("NYPA"), representing a 12.35% allocation.

B. A disbursement in the amount of \$10 Million to UIU to be held by a trustee for the funding of the Electric Consumer Advocacy Project.

C. A disbursement in the amount of \$20 Million to be distributed to NYSERDA for the funding of a program to promote the development or implementation of advanced technologies to increase reliability and efficiency of the bulk electric system.

Based on the foregoing, the NYPSC urges that action on this allocation request proceed as promptly as possible. Each element of this request will provide benefits to electric energy consumers which have received electricity through the NYISO and a prompt allocation of these monies will make these benefits available to consumers as quickly as possible. Accordingly, the NYPSC respectfully requests that this proposal be approved and the Motion granted.

Respectfully submitted,



Peter McGowan
General Counsel
Public Service Commission
of the State of New York
3 Empire State Plaza
Albany, NY 12223-1305
(518) 474-1585

Dated: September 10, 2012
Albany, New York

CERTIFICATE OF SERVICE

I, Alan T. Michaels, do hereby certify that I will serve on September 10, 2012, the foregoing Motion to Approve Allocation of Constellation Funds of the New York Public Service Commission upon each of the parties of record indicated on the official service list compiled by the Secretary in this proceeding.

Dated: September 10, 2012
Albany, New York


Alan T. Michaels

Attachment 1

Proposed implementation process to refund monies via the investor-owned utilities, Long Island Power Authority ("LIPA") and New York Power Authority ("NYPA")

- Constellation would issue 8 checks to the following entities:
 - Central Hudson Gas & Electric Corporation,
 - Consolidated Edison Company of New York, Inc. ("Con Edison"),
 - New York State Electric & Gas Corporation,
 - Niagara Mohawk Power Corporation,
 - Orange & Rockland Utilities, Inc.,
 - Rochester Gas & Electric Corporation,
 - LIPA, and
 - NYPA
- The amount of each check would be in proportion to each entity's assigned NYISO energy purchases during the 12-month period ending December 31, 2011.
 - The energy share assigned to each of the six investor owned utilities includes:
 - the energy served directly by the utility,
 - the energy served by Energy Service Companies ("ESCOs") for which the utility provides retail delivery service,
 - NYPA energy for which the utility provides retail delivery service; for example: Replacement Power, Expansion Power, High Load Factor, Economic Development Power ("EDP"), Power for Jobs ("PFJ") (but excludes Con Edison tariffs P.S.C. nos. 11 [formerly E.D.D.S.] & 12 [formerly PASNY No. 4]).
 - The energy share of LIPA includes:
 - the energy served directly by LIPA,
 - the energy served by ESCOs for which LIPA provides retail delivery service (but excludes deliveries to Long Island Municipal Distribution Agency power program ("MDA") customers and EDP customers including Brookhaven National Laboratory ("BNL")),
 - NYPA energy for which LIPA provides retail delivery service (excludes BNL).
 - The energy share of NYPA includes:
 - NYPA energy delivered by Con Edison under its tariffs P.S.C. nos. 11 & 12,
 - NYPA energy served directly to non-municipal customers by NYPA's transmission district (primarily Alcoa),
 - NYPA energy delivered by LIPA to LI MDAs/EDPs, including BNL,

- NYPA energy (hydro) for Neighboring States⁹ entities,
 - NYPA energy provided to municipal electric systems regulated either by NYPA or the NYPSC,
 - Supplemental energy in excess of NYPA hydropower purchased by municipalities regulated either by NYPA or the NYPSC (excludes municipal-owned generation),
 - NYPA energy provided to the four rural electric cooperatives.
- The six above-named investor owned utilities and LIPA would each calculate a uniform per kWh credit to their respective delivery rates to be applied in a single month
 - NYPA would calculate individual customer credits and issue such credits in the form of bill credits or checks to each of the customers¹⁰

⁹ “Neighboring States” refers to certain NYPA hydroelectric customers, namely the bargaining agents as listed in paragraphs 15 – 17 of Deputy Chief Administrative Law Judge McCartney’s *Order Denying Opposed Motions for Eligibility Determination and Directing Eligible Parties to File Joint Stipulations*, Constellation Energy Commodities Group, Inc., IN12-7-000, dated July 11, 2012.

¹⁰ For each of the 7 bullets identified above for NYPA, the energy sales as a percentage of the NYISO sales for the 2011 calendar year would be calculated. The resulting ratios would then be multiplied by the total \$48 million to be refunded to consumers. The next step would be to allocate the funds within each NYPA market segment to each customer within the segment. The credits will be issued in a single billing period. For those customers (governmental) with an Energy Cost Adjustment (ECA), the refund would be applied as a credit to the billing period month’s balance. For other customers (including Neighboring States entities), their refund will be issued as a credit to their bill, or in cases where the NYPA power programs included in the NYPA energy share listed above are expiring in 2012 (*i.e.*, for EDP), refund checks will be issued.

Attachment 2

(Draft) MEMORANDUM OF UNDERSTANDING

BETWEEN

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

AND

NEW YORK STATE DEPARTMENT OF STATE UTILITY INTERVENTION UNIT

I. PURPOSE

This Memorandum of Understanding (MOU) is entered into by the New York State Department of Public Service (DPS) and the New York State Department of State's Utility Intervention Unit (UIU). The purpose of this MOU is to provide for the coordinated administration an Electric Consumer Advocacy Project (ECAP), which will be administered by UIU and supported from an allocation of funds by the Federal Energy Regulatory Commission (FERC) in its Order Approving Settlement in Docket No. IN12-7-000 – Constellation Energy Commodities Group, Inc. (the Constellation Funds). The Constellation Funds have been or will be allocated to New York pursuant to a further FERC order in the above-cited docket and will be used for the benefit of New York State electric customers. This MOU governs the obligations of UIU in developing, administering and overseeing this statewide ECAP and of DPS in its role in this matter noted below.

WHEREAS, UIU has been established under Executive Law § 94-a to “represent the interests of consumers of the state before federal ... administrative and regulatory agencies engaged in the regulation of energy services.” In addition, UIU has been designated by resolution of the Board of Directors of the New York Independent System Operator (NYISO) as the State-Wide Consumer Advocate when participating in matters before the NYISO. As the State-Wide Consumer Advocate, UIU participates in NYISO governance as a member of the End-Use Consumer Sector through which issues are discussed and positions are developed among Sector members to advance the interests of electricity consumers on NYISO issues. In addition, as the State-Wide Consumer Advocate, UIU is assigned and exercises a fixed bloc of the votes (2.7% of the total), which can be cast on resolutions before the NYISO's three standing committees, *i.e.*, its Management Committee, its Operating Committee, and its Business Issues Committee;

WHEREAS, DPS and UIU have been assigned an allocation by FERC of the Constellation Funds to be used to meet the costs and expenses associated with the technical and expert resources determined by UIU, in consultation with DPS, to be needed to support the ECAP.

WHEREAS, upon receipt of such allocation, the Constellation Funds to be used to support the ECAP will be deposited in a Constellation Funds Trust pursuant to a Constellation Funds Trust Agreement established for such purpose. The proceeds in this Constellation Funds Trust will be disbursed, in accordance with this MOU and the Constellation Funds Trust Agreement, for the benefit of New York State electric customers to provide the technical and expert resources needed by UIU to implement the ECAP.

II. DEFINITION OF TERMS

The following terms, when used in this MOU, shall have the meanings indicated below:

- A. “DPS” shall mean the Department of Public Service of the State of New York.
- B. “Trust” shall mean the Constellation Funds Trust established between NYSERDA and a trustee, with DPS and UIU as parties in interest, which will hold and disburse, pursuant to the Constellation Funds Trust Agreement, the Constellation Funds and the interest thereon, which will be disbursed pursuant to the Trust Agreement and this MOU to pay costs and expenses associated with the technical and expert resources expended to support the ECAP.
- C. “UIU” shall mean the Utility Intervention Unit of the New York Department of State.
- D. “Electric Consumer Advocacy Project (ECAP)” shall mean the advocacy project undertaken by UIU to implement its responsibilities as the NYISO-designated Statewide Consumer Advocate. The focus of the ECAP is defined by the interests of residential and small commercial electricity customers on issues that are being addressed by the decision making structure of the NYISO, as well as by the Federal Energy Regulatory Commission (FERC) and the New York State Reliability Council (Reliability Council) when issues affecting New York’s wholesale electricity markets are before them.
- E. The term “ECAP Work Plan” or “Work Plan” shall mean the annual planning document prepared by UIU which, after review by DPS, is adopted jointly by UIU and DPS and which describes the initiatives, projects and work that are expected to be conducted to implement the ECAP in the subsequent 12-month period. Such Work Plan shall include, but not be limited to (a) a list or description of expected meetings, technical conferences or proceedings in which UIU, to implement the ECAP and using the resources made available from the Constellation Funds Trust, is expected to participate orally and in writing; (b) UIU’s plan, based on those expectations, with respect to using Constellation Funds Trust resources in the forthcoming 12-month period, including the hiring of experts and consultants, and the acquisition of other support resources; (c) the credentials of technical experts or consultants who are or will be under contract with UIU who have the appropriate expertise necessary to participate in NYISO, Reliability Council and FERC task force, working group and committee meetings and proceedings and to provide testimony, reports or other written or oral materials; and (d) an estimate of the specific amounts of funds that UIU anticipates to be disbursed from the Constellation Funds Trust to secure the support services needed to implement the ECAP during such 12-month period.

III. RESPONSIBILITIES

UIU:

UIU accepts full responsibility for the creation of and the directing, evaluating, and monitoring of the ECAP, for developing its operating Work Plan and individual initiatives, and for the review and monitoring of any technical reports or data, position papers, testimony or reports that are created for or used by the ECAP. In that role, UIU shall:

- A. Prepare, in consultation with DPS, and implement an ECAP Work Plan for the applicable time period in which funds for the support of the ECAP are provided from the Trust, with (i) the first

such Work Plan to be prepared by October 1, 2012 and applicable until January 14, 2013, and (ii) each such Work Plan thereafter prepared on or before January 15 of each year and applicable for a one-year duration thereafter.

- B. When necessary, modify such Work Plan in consultation with DPS.
- C. Bi-annually prepare a report (in February and August of each year) of the work undertaken by UIU pursuant to each applicable Work Plan, with the first bi-annual reporting due on February 1, 2013. UIU shall provide such a report to DPS upon request.
- D. When necessary, issue one or more Requests for Proposals, in consultation with DPS, to recruit, identify, and engage qualified technical experts or consultants or to acquire other resources needed to fulfill the ECAP work plan.
- E. Enter into the contracts with technical experts or consultants who will be paid from the Trust and who, under UIU's direction, will implement the ECAP Work Plan.
- F. Provide for accountability of the ECAP administration by committing the resources necessary to provide oversight, management and direction of the ECAP as outlined in this MOU.
- G. Submit invoices to the Trustee, with copies to DPS, of the amounts that UIU determines should be released from the Trust and paid to the technical experts and consultants or paid for other resources pursuant to this MOU for the support of the ECAP.
- H. Interact with and, consistent with the scope of the ECAP Work Plan, provide resources to support the efforts of other entities seeking to protect or advance the interests of residential and small business customers on wholesale electric supply issues within the decision-making structure of the NYISO, at FERC or the Reliability Council.
- I. To the extent it deems necessary, appear, intervene, or otherwise participate in any proceedings, technical conferences, or meetings at the NYISO, as well as proceedings, technical conferences or meetings before the FERC or the Reliability Council that address matters affecting New York's wholesale electric markets, or any civil litigation arising out of any such administrative litigation or proceedings, which are determined to be of importance to the interests of residential and small commercial electric customers in New York State.
- J. Direct the maintenance of books and records to effectively allow oversight of the resources from the Trust used to implement the ECAP Work Plan and its evaluation and financial audit.
- K. Be authorized to cite data or analysis collected by the ECAP in its role as consumer advocate before the NYISO, FERC or the Reliability Council for the purpose of appearing before the New York Public Service Commission or in other administrative or legal proceedings that affect residential and small commercial consumers in wholesale electric markets.
- L. Within 30 days of receipt of an ECAP invoice for payment, upon determining that such payment is for services or resources that have been provided pursuant to an agreement for such services or resources and that have been billed in accordance with such agreement, UIU shall authorize the

Trustee to release, pursuant to the Trust Agreement, funds from the Trust to pay for the resources described by UIU and needed to implement UIU's Work Plan pursuant to this MOU.

DPS:

Shall have vested rights under the terms of the Trust, which shall be the financial instrument created for the purpose of funding the ECAP. In that role, DPS shall:

- A. Review and comment upon each ECAP Work Plan developed by or on behalf of UIU pursuant to this MOU.
- B. Review and comment upon budgets developed and submitted by or on behalf of the UIU for the resources needed to implement the ECAP Work Plan pursuant to this MOU.
- C. To the extent practicable, review and comment upon agreements between UIU and the providers of technical services UIU has procured to support the ECAP when such services and support are necessary for the effective implementation of the ECAP Work Plan and when such support is to be paid from funds of the Trust.
- D. Provide any additional requested technical assistance and support to the UIU not mentioned in this MOU in the fulfillment of UIU's responsibilities pursuant to this MOU for the administration, implementation, oversight, and review of the ECAP.

No actions taken by DPS for the implementation of its responsibilities under this MOU, and no actions by DPS to release Funds pursuant to the Trust Agreement or this MOU shall be an endorsement of all or any portion of the ECAP, or of any action taken by UIU to implement the ECAP.

IV. EFFECTIVE DATE

This MOU shall become effective upon the signature of all approving parties.

V. TERMINATION

This MOU shall remain in effect until terminated by (1) mutual agreement; (2) upon at least thirty (30) days advance written notice, by either of the parties; or (3) upon final disbursement from or closure of the Trust. In the event of termination of this MOU prior to final disbursement of the funds of the Trust, UIU shall ensure, in cooperation with DPS, that all costs and expenses incurred for UIU-approved work in support of the ECAP shall be paid prior to the closing of the Trust.

VI. MODIFICATION

This MOU may be amended, extended, or modified at any time by written agreement of the parties.

VII. DISPUTES AND CONFLICT RESOLUTION

During the course of implementing this MOU, disputes between the parties will be resolved by telephone, with follow-up written documentation as appropriate. If a dispute cannot be resolved in such a fashion, the signatories hereto shall each designate representatives to meet to resolve the issue.

VIII. SIGNATORIES

NEW YORK STATE DEPARTMENT OF PUBLIC SERVICE

By: _____

Name: _____
Garry Brown

Title: _____
Chairman

Date: _____

NEW YORK STATE DEPARTMENT OF STATE - UTILITY INTERVENTION UNIT

By: _____

Name: _____

Title: _____

Date: _____

Attachment 3

NYSERDA Grant Program for Transmission-Level Efficiency and Performance Projects

(\$20 million)

Background: Through a broadly written solicitation, the New York Energy Research and Development Authority (“NYSERDA”) will seek to provide incentives and support for a variety of projects focused on transmission-level efficiency and performance enhancements. The projects supported by this program would bring significant benefits to the NYS bulk power system and, ultimately, to NYS electric customers who must rely on the performance of the bulk power system to supply economical and efficient electric supply. Some of these benefits could be described by the following:

- *Increased system reliability to assist system operator’s in preventing system blackouts and avoiding cascading outages.*
 - The financial impact of transmission-level interruptions in electricity service to consumers and businesses can be extremely significant. For example, a Lawrence Berkeley National Laboratory study estimates the economic losses due to unreliable electricity to be approximately \$80 billion per year nationally.¹¹ As projects are developed through this program which reduce the frequency or duration of system blackouts or outages, consumers are the direct beneficiaries of the more reliable bulk power system and of the reduced costs associated with system unreliability.
- *Enabling the integration of higher levels of renewable generation into the power grid as well as facilitate transmission of power from renewable sources to load centers in support of NYS clean energy goals.*
 - When the opportunities to integrate higher levels of renewable generation are created, it assists in the achievement of New York State’s goal of having 30 percent of the state’s electricity supplied by renewable resources by 2015. In addition, as the operation of zero-cost fuel renewable resources increases, NYISO energy market clearing prices drop, and this benefits all electric consumers who must rely on this market to set the price for the electricity they use. Finally, increased generation from renewable resources also brings with it significant environmental benefits. Since adoption of the New York Renewable Portfolio Standard, renewable resources currently in operation in New York have been responsible for a reduction in carbon dioxide emissions in excess of 3 million tons.
- *Maximize utilization of existing assets to enable more economical dispatch of power sources, and this results in lower costs to the consumers.*
 - Smart grid technologies can improve and optimize transmission utilization through the expanded use of sensors, controls and optimization software. Transmission system operators can make more informed decisions due to their enhanced situational awareness. Ultimately automation of some control actions especially during fast system emergencies minimizes reliance on assumptions and off-line studies and allows the power system to be operated in a more secure and optimized manner and closest to its true capability. This provides tremendous economic advantages due to congestion relief and system optimization, large scale system blackout avoidance, and avoided generation and delivery

¹¹ Kristina Hamachi LaCommare and Joseph H. Eto, *Understanding the Cost of Power Interruptions to U.S. Electricity Consumers*, Ernest Orlando Lawrence Berkeley National Laboratory, LBNL-55718 (Sept. 2004), available at <http://certs.lbl.gov/pdf/55718.pdf>.

capacity costs. Each of these results in lower transmission costs and/or greater transmission system reliability, and these, in turn, greatly enhance consumer benefit. These benefits are compounded when through efficient asset utilization, the most expensive system enhancements such as new large scale transmission lines and substation construction may be deferred.

- *Reduced transmission line losses will reduce the overall costs of energy to the consumers.*
 - In the United States, the average electric power delivery system energy loss from a central power plant to an end use consumer is approximately 7%.¹² Approximately 2% of those losses are directly attributable to bulk transmission losses.¹³ In New York State that translates to 8,459,000 MWhrs in 2010 (EIA) for the overall delivery system and 2,417,000MWhrs for the transmission system alone or approximately \$100 million in potential consumer savings annually assuming current average power prices in New York.¹⁴
- *Increased operational flexibility and improved capability for rapid system restoration following emergencies (storm restoration).*
 - Utilities can eliminate waste and inefficiencies in locating and responding to electric outages. Quicker response and restoration of power will further minimize the significant losses to business productivity and to consumers from electric power outages.

Constellation Settlement Fund Recommendation: In a recent Order, the Federal Energy Regulatory Commission established a fund for the benefit of electric energy consumers in New York State. Pursuant to that Order, New York State may seek an apportionment from that fund. This recommendation proposes to use \$20 million from this fund to stimulate and support transmission-level efficiency and performance enhancements to improve the performance of the bulk electric power delivery system.

Process: NYSERDA would select projects - through a competitive solicitation - that assist in promoting the efficiency and reliability of the electric power delivery system. Multiple projects could be supported depending on the quality of the proposals received and the extent to which broad public benefits are realized. Innovative projects that include partnerships with New York businesses and are long-term in nature would be strongly encouraged.

Project Selection Process

Proposed projects would be evaluated through the NYSERDA procurement process. All of NYSERDA's competitive solicitations involve the use of a Technical Evaluation Panel (TEP) consisting of individuals with relevant expertise, including a member of DPS Staff, to review and score each proposal. The TEP members are provided with copies of each bid proposal, a copy of the solicitation, a score sheet, and a memorandum outlining the entire review and selection process. TEP members are

¹² U.S. Energy Information Administration, U.S. Department of Energy. Energy Outlook 2010, at 10 (April 2010), available at [http://www.eia.gov/oiaf/aeo/pdf/0383\(2010\).pdf](http://www.eia.gov/oiaf/aeo/pdf/0383(2010).pdf).

¹³ New York Independent System Operator, Benefits of Reducing Electric System Losses, at 7, (April 9, 2009), available at http://www.nyiso.com/public/webdocs/services/planning/special_studies/NYISO_T_D_Losses_Study_04092009_final.pdf.

¹⁴ Using the information from the Energy Information Administration and NYISO, and calculating by using a conservative New York State wholesale electric commodity charge of .04 \$/kWh.

required to sign a confidentiality agreement, designating all documents as confidential and prohibiting the dissemination of any information contained in the documents or shared through the TEP process.

TEP members are selected for their relevant professional experience and expertise, and to avoid conflicts of interest, for their independence from the proposal community. Prior to a formal TEP meeting at which the members meet in person to discuss each proposal, each TEP member independently reviews and scores proposals based on specific evaluation criteria contained in the solicitation documents that proposers have been invited to respond to.

The TEP process, results and final rankings are documented and extensively reviewed by an internal NYSERDA team consisting of program, legal and contracts staff. This team reviews the final proposal rankings and develops formal recommendations to management as to which projects should be funded. These team recommendations are then presented before NYSERDA senior management at a Project Development Management Committee meeting where program staff present the results of the solicitation process and receives formal approval to fund projects.