

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

At a session of the New York State
Board on Electric Generation Siting
and the Environment held in the City
of Albany on April 18, 2002

BOARD MEMBERS PRESENT:

Neal N. Galvin, Alternate for
Maureen O. Helmer, Chairman
New York State Public Service Commission

G. Anders Carlson, Alternate for
Antonia C. Novello, M.D., M.P.H., Commissioner
New York State Department of Health

Michael Santarcangelo, Alternate for
Charles A. Gargano, Commissioner
Empire State Development

Jo Anne W. Di Stefano, Alternate for
Erin M. Crotty, Commissioner
New York State Department of Environmental Conservation

Peter R. Smith, Alternate for
Vincent A. DeIorio, Chairman
New York State Energy Research and Development Authority

Andrew Reicher, Ad Hoc Member

James White, Ad Hoc Member

CASE 99-F-1314 - Application of Consolidated Edison Company of
New York, Inc. for a Certificate of
Environmental Compatibility and Public Need to
Repower its East River Generating Station
located in the Borough of Manhattan, New York
City.

ORDER ON REHEARING

(Issued and Effective April 18, 2002)

BY THE BOARD:

PROCEDURAL HISTORY

On June 1, 2000, Consolidated Edison Company of New York, Inc. (Con Edison or the Applicant) filed an application for a Certificate of Environmental Compatibility and Public Need (Certificate) pursuant to Public Service Law (PSL) Article X with the New York State Board on Electric Generation Siting and the Environment (Siting Board) to install and operate two combustion turbine generators and two heat-recovery steam generators with duct burners at the Applicant's East River Generating Station (the Project). The purpose of the Project is to generate 360 megawatts of electricity and three thousand pounds per hour of steam. Con Edison intends to use the Project to replace the aging Waterside Generating Station. The East River Generating Station is part of the East River Complex, which is located between 13th and 15th Streets and between Avenue C and the FDR Drive in Manhattan.

With its PSL Article X application for a Certificate, Con Edison also filed applications with the New York State Department of Environmental Conservation (DEC) for: (1) a State Pollutant Discharge Elimination System (SPDES) permit pursuant to Environmental Conservation Law (ECL) Article 17, (2) a pre-construction Air State Facility permit pursuant to ECL Article 19, and (3) a Prevention of Significant Deterioration (PSD) permit pursuant to the federal Clean Air Act and Title 40 of the US Code of Federal Regulations (40 CFR §52.21).

By letter dated July 31, 2000, Chairman Helmer issued a determination stating that the application complied with the filing requirements of PSL §164. Subsequently, several public statement hearings, an issues conference, and evidentiary hearings were held jointly to consider the Article X and DEC

applications. The evidentiary hearings were held in April 2001 at the offices of the Public Service Commission (PSC) in the City of New York. The examiners issued a Recommended Decision on June 28, 2001 supporting the issuance of the Certificate and the environmental permits. In a decision dated August 16, 2001, the DEC Commissioner granted the requested environmental permits. After duly considering exceptions from the Recommended Decision, the Siting Board issued, on August 30, 2001, an Opinion and Order Granting Certificate of Environmental Compatibility and Public Need.

PETITIONS FOR REHEARING

By petitions for rehearing dated October 26 and 29, 2001, the East River Environmental Coalition (EREC), Manhattan Community Board No. 3 (CB3), Honorable Steven Sanders, Member of the Assembly, and the New York Public Interest Research Group (NYPIRG) (collectively the Rehearing Petitioners) requested reconsideration of the Siting Board's August 30, 2001 decision to grant a Certificate to the Project. Among other things, the Rehearing Petitioners sought an evidentiary hearing to examine alleged air quality impacts from the Project's emissions of fine particulate matter with an aerodynamic diameter of 2.5 microns or less ($PM_{2.5}$). The requests for rehearing were opposed by Con Edison, DEC Staff, and the Department of Public Service (DPS) Staff. On December 13, 2001, various elected officials filed a statement supporting the petitions for rehearing.

The Siting Board issued an Order Granting Rehearing in Part on January 24, 2002. The Siting Board's Order directed that a hearing be held at which the parties would address the following questions:

1. What is known about the sources of PM_{2.5}, the nature of PM_{2.5} emissions, and the chemical composition of PM_{2.5}? Also, is there a significant regional transport component to PM_{2.5}?
2. What is the state of the science regarding PM_{2.5} and its health effects, and what is known about the general health impacts and health risks associated with PM_{2.5}?
3. What are the normal and expected concentrations for PM_{2.5} in the areas surrounding the proposed facility, and how will the contribution of one source likely affect those concentrations?
4. If the increment in PM_{2.5} concentrations related to the proposed facility is found to be significant, what are the available and practicable mitigation strategies and control technologies?

In addition, the Siting Board directed DEC Staff to present information on the legal/regulatory history of the federal PM_{2.5} National Ambient Air Quality Standard (NAAQS) and on the PM_{2.5} data the DEC has collected in connection with the promulgation of a PM_{2.5} standard. In its Order, the Siting Board extended the deadline for decision on the petitions for rehearing until April 25, 2002. Administrative Law Judge Robert R. Garlin from the DPS Office of Hearings and Alternative Dispute Resolution was assigned as the Presiding Examiner. Administrative Law Judge Daniel P. O'Connell from the DEC Office of Hearings and Mediation Services continued as the Associate Examiner.

The examiners convened a prehearing conference on January 31, 2002 at the PSC's offices in the City of New York. The purpose of the prehearing conference was to identify the parties who would sponsor testimony at the hearing and to discuss scheduling and any other related matters. During the

prehearing conference, the parties agreed to submit descriptions of the new and supplemental materials they would propose to include in the record on rehearing in order to respond to the questions outlined in the Siting Board's January 24, 2002 Order. In addition, Environmental Defense submitted a written motion for leave to intervene in this proceeding. Environmental Defense proposed to consolidate its participation with the Rehearing Petitioners. The Applicant and DPS Staff opposed the motion.

In a Procedural Ruling dated February 15, 2002, the examiners established a schedule for filing prepared direct and rebuttal testimony, and set March 11, 2002 as the date to begin the rehearing. In addition, the examiners identified those portions of the parties' submissions related to the new and supplemental materials that would be included in the record on rehearing. The examiners also granted Environmental Defense's motion, and consolidated Environmental Defense with the Rehearing Petitioners (collectively, the Intervenors).¹

As scheduled, the hearing convened on March 11, 2002 at the PSC's New York City offices. At the outset, the parties explained that they had agreed to enter into settlement discussions in an attempt to resolve the issues raised in the October 2001 petitions for rehearing, and they asked the examiners to call a recess in the hearing. The examiners

¹ The Intervenors filed an interlocutory appeal from certain aspects of the examiners' February 15, 2002 Procedural Ruling. The Siting Board did not rule on this appeal before the hearings began on March 11, 2002. As discussed in this Order, the appeal is no longer being pursued since the parties signed a Supplemental Joint Stipulation. Prior to the hearing, some parties moved to preclude various portions of other parties' prepared direct and rebuttal testimony. The examiners did not rule on the motions to preclude before the hearing began on March 11, 2002.

granted the request. While periodically providing updates to the examiners, the parties negotiated from March 11, 2002 until March 13, 2002. On March 13, a "Supplemental Joint Stipulation" was signed by Con Edison, the Intervenors, the City of New York, Manhattan Community Board 6, Boilermakers Local 5, DEC Staff, DPS Staff, and Department of Health (DOH) Staff. The examiners received the signed Supplemental Joint Stipulation on March 13, 2002, and provided the parties an opportunity to file statements in support of the Supplemental Joint Stipulation by April 1, 2002.

SUPPLEMENTAL JOINT STIPULATION

Pursuant to the terms of the Supplemental Joint Stipulation (Stipulation),² Con Edison has agreed to establish three accounts. The first is the "Fuel-Switching Account," to which Con Edison would contribute \$2,750,000. The purpose of this account is to provide funds for the purchase of natural gas, instead of residual fuel oil, as fuel for Unit Nos. 6 and 7 at the East River Complex from November 15 to March 31 of each year (defined in the Stipulation as the "winter period"). The goal of the fuel-switching program is to limit residual fuel oil's share of winter period fuel consumption at Unit Nos. 6 and 7 to not more than 45%.

The second account is the "Steam Conversion Account," to which Con Edison would contribute \$480,000. The purpose of this account is to provide funds to remove apartment building or community facility boilers in the geographic area of Manhattan

² This summary is provided only for the reader's convenience. Binding legal significance, of course, attaches neither to the Supplemental Joint Stipulation itself nor to this summary per se, but only to our order.

Community Board No. 3, and connect the heating systems to the steam service provided by the Applicant.

The third account is the "Stack 3 Nozzle Account," to which Con Edison would contribute \$500,000. The purpose of this account is to determine the feasibility of installing a nozzle in Stack 3 at the East River Complex. The purpose of the nozzle would be to increase the exit velocity of air emissions, and thereby increase their dispersion.

The terms of the Stipulation provide flexibility in the distribution of funds from one account to another. After the signatories consult, they may agree to place any excess funds into another account or fund alternative air quality improvement projects. As explained in the supporting statements, the signatories view this flexibility as a significant benefit of the Stipulation. The signatories have also agreed to work together to seek additional funding for the three accounts discussed above.

The Stipulation provides further that the Intervenor agree that the Stipulation resolves all issues they have raised, or could have raised, in this proceeding. The Intervenor have agreed to withdraw all objections to the Certificate and the Siting Board's findings made pursuant to PSL §168. All signatories propose, jointly, that the Siting Board waive its directive to hold a hearing to answer the questions set forth in the January 24, 2002 Order Granting Rehearing in Part.

The Stipulation includes a release by the Intervenor from claims related to the DEC environmental permits (including the Clean Air Act Title V operating permit for the East River Station) and the DEC Commissioner's August 16, 2001 Decision in this matter, as well as the related PSL Article X proceeding. The Intervenor, however, may participate in matters related to

the modification and enforcement of the terms and conditions of the East River Complex's air permits subsequent to the date of the Stipulation.

Should a dispute develop between Con Edison and the Intervenor concerning the administration of the three accounts established pursuant to the Stipulation, the signatories have agreed to attempt to resolve the dispute through negotiations. Should negotiations fail, the signatories have agreed to submit the dispute for binding arbitration before Administrative Law Judges from DPS and DEC. The signatories have agreed that the Administrative Law Judges' decision will be final, binding, and not subject to appeal or any further administrative or judicial review.

Implementation of the Stipulation would require modifications to several provisions of the Certificate approved by the Siting Board in its August 30, 2001 Opinion and Order. The modified provisions are set forth in Appendix A to this Order, and the terms of the Stipulation are set forth in Appendix B.

STATEMENTS SUPPORTING THE STIPULATION

The Parties' Positions

Statements in support of the Supplemental Joint Stipulation were received from Con Edison, the Intervenor, DEC Staff, DPS Staff, and DOH Staff. All parties support the Stipulation and propose that the Siting Board accept it in lieu of a hearing record on the four issues set forth in the January 24, 2002 Order Granting Rehearing in Part. The parties also request that the Siting Board amend certain conditions in the Certificate awarded on August 30, 2001 to implement it. The following is a summary of the parties' statements in support of

the Stipulation.

Con Edison filed its statement with three attachments containing the proposed modified Certificate conditions and affidavits from two witnesses who had submitted prepared testimony in response to the January 24 Order. In its statement, the Applicant explains that the Certificate requires Con Edison to provide funding in the amount of \$2.5 million to the New York City Economic Development Corporation for projects that would benefit the communities surrounding the East River Complex. The Stipulation would increase Con Edison's contribution by \$1.25 million and direct those payments to certain accounts to be used for specific purposes.³ The accounts and amounts are described in the Stipulation and the proposed draft Certificate conditions.

Citing §II.1 of the Stipulation, Con Edison states that the Intervenor's agree to waive all previously-raised objections to the Siting Board's August 30, 2001 Certificate, and to withdraw any objections to the Siting Board's findings made pursuant to PSL §168.2(c)(ii) concerning public health. Con Edison argues that the Stipulation is in the public interest because it resolves the Intervenor's concerns, eliminates the uncertainties associated with continued litigation, and avoids additional litigation costs. In addition, the terms of the Stipulation are reasonable, Con Edison concludes, because the local community will benefit from its terms. Referring to the terms of the Stipulation, as well as testimony and exhibits

³ The Stipulation leaves unchanged two funding commitments by Con Edison: \$500,000 for the East River Esplanade (Certificate Condition VI.E.1), and \$20,000 for scoreboards for the ballfields located immediately north of the East River Station (proposed revised Certificate Condition VI.E.2).

previously received into evidence at the earlier hearings, the Applicant contends that the Project would involve environmental benefits.

The Intervenors submitted a statement dated April 1, 2002. The Intervenors state that the Stipulation resolves all issues the Intervenors raised in this proceeding. The Intervenors find the terms of the proposed Certificate conditions acceptable.

Of special interest to the Intervenors are the proposed conditions that would limit the amount of fuel oil burned at Unit Nos. 6 and 7. As discussed earlier, the proposed conditions would extend the "winter period," establish a "Fuel-Switching Account," and, as conditioned in the Stipulation, obligate Con Edison to pursue a target of burning natural gas at Unit Nos. 6 and 7 for 55% of the time during the winter period. The Intervenors request that the Siting Board accept the Stipulation and approve the proposed modifications and additions to the August 30, 2001 Certificate conditions.

In a statement in support dated March 29, 2002, DPS Staff states that all parties received reasonable and sufficient notice of the settlement negotiations, as required by 16 NYCRR §3.9(a). As a result, DPS Staff continues, all interested parties had an opportunity to participate in the settlement negotiations. DPS Staff concludes that the settlement negotiations complied with the PSC's settlement regulations and guidelines.

DPS Staff contends, second, that the Supplemental Joint Stipulation is a reasonable and appropriate resolution to the Intervenors' objections about the Project. Although Con Edison's ratepayers would bear the costs of the Project and the programs funded by the three accounts described in the

Stipulation, DPS Staff emphasizes that ratepayers would also benefit from the Project and the related air quality improvement programs.

DPS Staff argues, finally, that the Siting Board may rely upon the Stipulation in making the findings required by PSL §168. DPS Staff, therefore, urges the Siting Board to affirm its August 30, 2001 Opinion and Order that granted the Certificate for the Project.

In a statement in support dated April 2, 2002, DEC Staff states that the Supplemental Joint Stipulation complements, and is consistent with, the initial Joint Stipulation, dated May 14, 2001, among the Applicant and the Staffs from involved state agencies, among others. DEC Staff argues that the terms of the Supplemental Joint Stipulation reflect the Intervenor's goals as well as Con Edison's interest in accommodating and partnering with the neighboring community. In addition, DEC Staff continues, the Supplemental Joint Stipulation shows that state and local governments are committed to establishing a process to address community concerns adequately.

According to DEC Staff, the projects that Con Edison must undertake according to the terms of the Stipulation will further improve air quality in the community surrounding the East River Complex. For example, the fuel-switching account would provide greater reliance on cleaner-burning natural gas. Additional conversions to the Applicant's steam system would remove older, more polluting, less efficient oil-burning boilers. Moreover, the feasibility study for the Stack 3 nozzle could improve the dispersion of air emissions from the East River Complex. DEC Staff's support for the Stipulation is based as well on the fact that the Project already complies with all

applicable permitting standards and criteria, and that the Applicant has demonstrated, pursuant to 6 NYCRR Subpart 231-2, that a net air quality benefit would result from the construction of the Project and the decommissioning of the Waterside plant. Finally, DEC Staff supports the Stipulation's proposed waiver of the directive to the parties to address the questions presented in the Board's January 24, 2002 Order Granting Rehearing in Part.

DOH Staff points out, in a statement dated March 27, 2002, that it joined other parties in executing the Joint Stipulation that was filed with the Siting Board on May 17, 2001, having concluded that approval of the Project in accordance with the application and the terms of the Joint Stipulation would be compatible with public health and safety. Following the Siting Board's January 24, 2002 Order Granting Rehearing in Part, DOH Staff undertook a further review of the state of the science on PM_{2.5} health effects. DOH Staff argues, in light of (i) the state of the science on PM_{2.5} health effects, (ii) the fact that the estimated impacts of PM_{2.5} associated with the operation of the Project are low (and, in fact, often decrease), and (iii) the projected decrease in SO₂ and NO₂ emissions, that the Project is not likely to create significantly increased risks to public health, and that approval of the Project could be determined to be compatible with public health and safety. DOH Staff goes on to state that it holds that opinion even more strongly with regard to the Project's approval consistent with the terms of the Supplemental Joint Stipulation. Accordingly, DOH Staff supports the Stipulation and urges its acceptance by the Siting Board.

Attachments to Statements

The Intervenors' April 1, 2002 statement in support of the Supplemental Joint Stipulation was accompanied by the prepared direct and rebuttal testimonies of their two expert witnesses submitted in the rehearing stage of this proceeding. Although the Intervenors support the Stipulation as the resolution of all issues they raised in this proceeding regarding the Project, they argue that "contention" among the parties remains about certain arguments in the witnesses' prepared testimonies submitted in response to the questions posed by the Siting Board in the January 24, 2002 Order Granting Rehearing in Part. The next day, Con Edison submitted copies of its expert witnesses' rehearing stage prepared direct and rebuttal testimony. In a letter submitted three days later, the Applicant stated that "it was compelled to so do upon the Intervenors' submission of their prefiled testimony," so that the Siting Board would not have "an incomplete view of the prefiled testimony on PM_{2.5}."

The submission by Con Edison and the Intervenors of their rehearing stage prepared testimonies is opposed by DEC Staff and, jointly, DPS Staff and DOH Staff. DEC Staff is concerned that the supplemental materials might unnecessarily complicate a record that the parties have already agreed is sufficient to support the Siting Board's previous findings made pursuant to PSL §168. DPS and DOH Staff point out that the prefiled materials were not moved or admitted into evidence, and that there has been no opportunity to cross-examine the information contained therein. DPS and DOH Staff argue further that the information does not reflect a consensus view of, or an agreement on, the issues in dispute, while, on the other hand, the terms of the Supplemental Joint Stipulation do reflect a

consensus view and explicitly seek a waiver from the Siting Board's directive to develop a record about the questions listed in the Board's Order Granting Rehearing in Part. The DEC, DPS, and DOH Staffs recommend that the Siting Board exclude the conflicting documentation from the record and not rely on it.

CONCLUSION

In our August 30, 2001 Opinion and Order Granting Certificate of Environmental Compatibility and Public Need, we found and determined that the examiners' Recommended Decision properly described, in pertinent part, the nature of the probable environmental impacts of the Project, including predictable adverse and beneficial impacts, on the normal environment and ecology, public health, and air quality.⁴ The Supplemental Joint Stipulation provides a sufficient description of those impacts, were the Project to operate in accordance with the amended Certificate conditions proposed in the Stipulation, and we adopt that description.

In our August 30, 2001 Opinion and Order Granting Certificate of Environmental Compatibility and Public Need, we found and determined, in pertinent part, that the Project, if constructed and operated in accordance with all the Certificate conditions appended to the Opinion and Order, would:

1. Minimize adverse environmental impacts, considering the state of available technology.⁵

⁴ PSL §168(2)(b).

⁵ PSL §168(2)(c)(i).

2. Be compatible with public health and safety.⁶
3. Not emit any air pollutants in contravention of applicable air emission control requirements or air quality standards.⁷

We conclude that the same findings and determinations would be applicable to the Project, were the Project to operate in accordance with the amended Certificate conditions proposed in the Stipulation. Accordingly, we accept the Stipulation's proposal that the amended Certificate conditions be adopted.

In reaching these conclusions, we have not considered the prepared testimonies submitted by Con Edison and the Intervenor in the rehearing stage of this proceeding. Our inquiry is whether all interested parties were provided a reasonable opportunity to participate in the negotiations leading to the Stipulation, and whether the proposed amended Certificate conditions support the findings and determinations we must reach under PSL §168. We conclude that the Stipulation is the product of fair and inclusive negotiations, and that the amended Certificate conditions support the findings and determinations required from the Siting Board by PSL §168.

The New York State Board on
Electric Generation Siting and the
Environment for Case 99-F-1314 orders:

1. The Certificate of Environmental Compatibility and Public Need previously granted in this proceeding to Consolidated Edison Company of New York, Inc. (the Applicant) is hereby modified to include the amended conditions set forth in Appendix A to this Order. The Applicant shall file, within 30

⁶ PSL §168(2)(c)(ii).

⁷ PSL §168(2)(c)(iv).

days after the date of issuance of this Order, a written acceptance of the certificate as amended, pursuant to 16 NYCRR §1000.14(b).

2. Upon acceptance of the certificate as amended and granted by this Order or at any time thereafter, the Applicant shall serve copies of its compliance filing(s) in accordance with the requirements set forth in 16 NYCRR §1003.3(c) and Certificate Condition II(C). Pursuant to 16 NYCRR §1003.3(d), parties served with the compliance filing(s) may file comments on the compliance filing within 15 days of the service date of the filing.

3. This proceeding is continued.

By the New York State Board
on Electric Generation Siting
and the Environment for
Case 99-F-1314

(SIGNED)

JANET HAND DEIXLER
Secretary to the Board

APPENDIX A

AMENDED CERTIFICATE CONDITIONS

III. Air Resources

- B. The Certificate Holder shall implement the measures identified in its letter dated November 21, 2000 (as modified with respect to the limitation of the use of fuel oil in Unit No. 6 by the Supplemental Joint Stipulation dated March 13, 2002), to reduce projected emissions from existing sources at the East River Generating Complex (the “Complex”), namely: (i) boiler tuning and control enhancements for existing Units Nos. 6 and 7; (ii) pressure part refurbishment and burner upgrades for the South Steam Station; (iii) Unit No. 6 condenser replacement and (iv) limiting use of fuel oil in Unit No. 6 during the period April 1 through November 14 so that 90 percent of the fuel combusted in Unit No. 6, on a heating value basis, will on average be natural gas during that period, based upon a three season averaging period.
- C. The Certificate Holder shall install induced flue gas recirculation equipment (“IFGR”) for Unit No. 7 at the Complex and limit the use of fuel oil in Unit No. 7 during the period April 1 through November 14 so that 90 percent of the fuel combusted in Unit No. 7, on a heating value basis, will on average be natural gas during that period.
- D. The Certificate Holder shall use best efforts to use natural gas rather than fuel oil at existing Units Nos. 6 and 7 at the Complex during the period November 15 through March 31 to the extent that such use of natural gas is consistent with its obligation to ratepayers to generate steam and electricity in a reliable and economic manner.

AMENDED CERTIFICATE CONDITIONS

VI. Land Use & Local Laws

- E. As part of the reasonable and prudent cost of obtaining approval for and implementing the Project, the Certificate Holder shall, subject to receipt of all necessary governmental approvals for the Project:
1. Provide funding to the City of New York ("City") in the amount of \$500,000 towards the cost of widening the East River Esplanade in the vicinity of the Project.
 2. Provide funding in the amount of \$20,000 for scoreboards for the ballfields located immediately north of the East River Complex.
 3. Provide funding in the amount of \$2,750,000 towards the combustion of natural gas in place of residual oil in Unit Nos. 6 and 7 at the East River Generating Station (the "Fuel-Switching Account") during the period November 15 through March 31 (the "Winter Period"), to be expended as follows:
 - a. The Certificate Holder shall use the Fuel-Switching Account to purchase natural gas in lieu of residual oil for Unit Nos. 6 and 7 in order to seek to ensure as a target that the fuel oil burned in Unit Nos. 6 and 7, on a heating value basis, will on average be not greater than forty-five percent of the fuel used at these units during each Winter Period, subject to the provisos set forth below.
 - b. After the end of each month during the Winter Period, the Certificate Holder shall calculate the amounts to be deducted from the Fuel-Switching Account for such month using the formula set forth in Paragraph VI.E.3.e below. The Certificate Holder shall institute appropriate accounting procedures to track the monthly and yearly deductions from, and remaining balance in, the Fuel-Switching Account.
 - c. The Certificate Holder shall not purchase natural gas for the purpose of meeting the fuel oil target set forth in Paragraph VI.E.3.a above whenever the price of natural gas exceeds the price of fuel oil by 50¢/Dth or more.
 - d. Unless Manhattan Community Board 3 ("CB3") designates an alternative range, the Certificate Holder shall seek to ensure that it does not draw down the Fuel Switching Account by more than \$600,000 during any Winter Period; the Certificate Holder shall also seek to ensure that at least \$400,000 from the Fuel-Switching Account is expended each Winter Period, if necessary, to achieve the fuel oil target set forth in Paragraph VI.E.3.a above. Prior to September 15 of each year, CB3 may, by written

notice to the Certificate Holder, the City and the New York State Department of Public Service ("NYSDPS"), modify the annual draw down range of \$400,000 - \$600,000 to a different range for the next Winter Period, so long as the \$200,000 differential between the lower and upper limits of the range is maintained.

- e. If the average price of natural gas during any Winter Period month (expressed in \$/MMBTU) is greater than the average price of residual oil during such month (expressed in \$/MMBTU), then (i) the differential fuel costs for that month shall be calculated by subtracting the average price of residual oil for that month (in \$/MMBTU) from the average price of natural gas for that month (in \$/MMBTU) and (ii) the draw down from the Fuel-Switching Account for that month shall be calculated by multiplying the differential fuel costs (in \$/MMBTU) by the total MMBTUs of natural gas combusted in Unit Nos. 6 and 7 during such month.
- f. No provision of this Certificate relating to the Fuel-Switching Account shall require the Certificate Holder to forego the combustion of fuel oil whenever the supply and/or delivery of natural gas to the East River Complex has been interrupted, curtailed or suspended. Any period of interruption, curtailment, suspension, or when the price of natural gas exceeds the price of fuel oil by 50¢/Dth or more shall not be considered in assessing achievement of the fuel oil target set forth in Paragraph VI.E.3.a above.
- g. So long as the Fuel-Switching Account is in effect, the Certificate Holder shall, after the Project commences commercial operation and subject to the provisos in this Paragraph VI.E.3, seek to achieve the target set forth in Paragraph VI.E.3.a above. In any Winter Period in which the Certificate Holder draws down the Fuel-Switching Account by an amount not less than the lower end of the range specified in Paragraph VI.E.3.d above, or in which the Certificate Holder has otherwise achieved the target set forth in VI.E.3.a above, the Certificate Holder shall be deemed to have met its fuel-switching obligation for that Winter Period.
- h. On or before May 1 of each year, the Certificate Holder shall send a summary of the fuel oil and natural gas burned at Unit Nos. 6 and 7 and total draw down of the Fuel-Switching Account during the preceding Winter Period to the City, CB3, and NYSDPS.
- i. CB3 may, by written notice to the Certificate Holder, the City and NYSDPS, designate that a specified portion of the remaining balance of the Fuel-Switching Account be placed in the Steam Conversion Account discussed in Paragraph VI.E.4 below or used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in Paragraph VI.E.6 below.

- j. The Fuel-Switching Account shall remain in effect and continue during each annual Winter Period for the purpose described in this Paragraph VI.E.3 until the earliest of the following dates, at which time it shall be terminated: (i) the Fuel-Switching Account is exhausted; (ii) CB3 provides written notice to the Certificate Holder that the remaining balance of the Fuel-Switching Account is to be placed in the Steam Conversion Account or used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in Paragraphs VI.E.4 and VI.E.6, respectively; or (iii) the ten year anniversary of the commercial in-service date of the Project, at which time any remaining balance in the Fuel-Switching Account shall be used for alternative air quality improvement projects, as set forth in Paragraph VI.E.6 below.
 - k. Upon the termination of the Fuel-Switching Account for any of the reasons set forth in the preceding paragraph, the Certificate Holder's requirements and obligations under this Paragraph VI.E.3 shall cease.
- 4. Provide funding in the amount of \$480,000 and use efforts consistent with the Certificate Holder's normal business practices to encourage the conversion of on-site oil-fired apartment building or community facility boilers in the geographic area of CB3 and/or the general neighborhood of the East River Complex to the Certificate Holder's steam system (the "Steam Conversion Account"). If CB3 and NYPIRG jointly provide written notice to the Certificate Holder requesting that the Certificate Holder cease such efforts, any remaining balance in the Steam Conversion Account shall be used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in Paragraph VI.E.6 below.
 - 5. Provide funding in the amount of \$500,000 towards the installation of a nozzle in Stack 3 at the East River Generating Station (Stack 3) similar in design to the nozzle presently installed in Stack 4 at the East River Generating Station (the "Stack 3 Nozzle Account"), subject to the following terms and conditions:
 - a. The Certificate Holder shall use the Stack 3 Nozzle account for the installation of a nozzle in Stack 3 so that the nozzle is in place within six months of the commercial in-service date for the Project, unless CB3 provides written notice to the Certificate Holder on or before December 1, 2002 that such monies should be used for alternative community benefit projects as set forth in Paragraph VI.E.7 below.
 - b. To the extent the actual installation cost of a nozzle in Stack 3 exceeds \$500,000, then such excess amounts shall be deducted from the balance remaining in either the Fuel-Switching Account or the Steam Conversion Account, as specified in writing by CB3. To the extent the actual installation cost of a nozzle in Stack 3 is less than \$500,000, the remaining balance in the Stack 3 Nozzle Account shall be credited towards either the

Fuel-Switching Account or the Steam Conversion Account, as specified in writing by CB3.

6. The expenditure of funds from the foregoing accounts for alternative air quality improvement projects in the general neighborhood of the East River Complex must be prudent. The Certificate Holder must approve as prudent expenditures any project(s) proposed by CB3 and the City prior to the expenditure of any funds under this Paragraph VI.E.6.
7. The expenditure of funds from the foregoing accounts for alternative community benefit projects must be prudent and must relate to local air quality improvement, health improvement, or amenities programs in the vicinity of the East River Complex. The Certificate Holder must approve as prudent expenditures any project(s) proposed by CB3 and the City prior to the expenditure of any funds under this Paragraph VI.E.7.
8. The Certificate Holder shall not be obligated to fund the Fuel-Switching or Steam Conversion Accounts prior to the commencement of commercial operation of the Project. The Certificate Holder shall not be obligated to fund the Stack 3 Nozzle Account prior to the commencement of commercial operation of the Project, if it receives the notice from CB3 set forth in Paragraph VI.E.5.a above. The funding with respect to each account will be provided as such amounts are needed to satisfy the obligations set forth in Paragraphs VI.E.3 through VI.E.8.

APPENDIX B

NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT

Department of Public Service
Case No. 99-F-1314

Application of Consolidated Edison Company of New York, Inc.
for a Certificate of Environmental Compatibility and Public Need
to Repower its East River Generating Station Located in the Borough
of Manhattan, New York City.

SUPPLEMENTAL JOINT STIPULATION

March 13, 2002

SUPPLEMENTAL JOINT STIPULATION

Consolidated Edison Company of New York, Inc. (hereinafter, “Con Edison”), as the Applicant for a Certificate of Environmental Compatibility and Public Need (“Certificate”), the staffs of the New York State Department of Public Service (“NYSDPS”), New York State Department of Environmental Conservation (“NYSDEC”), and New York State Department of Health (“NYSDOH”) (together, the “Agencies”); The City of New York; the intervening parties East River Environmental Coalition (“EREC”), Manhattan Community Board 3 (“CB3”), New York Public Interest Research Group, Inc. (“NYPIRG”), Environmental Defense, and Assemblyman Steven Sanders (together, the “Intervenors”), and the other signatories hereto, including Manhattan Community Board 6 (collectively, the “Parties”), agree to the following Stipulation (“Stipulation”), submit it to the Presiding and Associate Examiners for their review and consideration, and request that the Examiners submit such Stipulation to the New York State Board on Electric Generation Siting and the Environment (the “Siting Board”), along with their recommendation that it be approved.

WHEREAS, Con Edison submitted to the Siting Board on June 1, 2000 an Application (the “Application”) and supplemental information dated July, August and December 2000, for a Certificate to repower its East River Generating Station located in the Borough of Manhattan, City of New York (the “Project”); and

WHEREAS, the East River Complex is a steam and electric generating facility that includes two existing generating units (identified as Unit Nos. 6 and 7), and an assembly of package steam boilers known as the “South Steam Station”; and

WHEREAS, included in the Application were applications for permits required from NYSDEC with respect to the Project (the “NYSDEC Permits”); and

WHEREAS, on August 16, 2001, the NYSDEC Commissioner determined the NYSDEC Permits should be granted and, on August 21, 2001, submitted the air permits to the Siting Board, pursuant to Public Service Law (“PSL”) § 172(1); and

WHEREAS, subsequent to its receipt of the NYSDEC Permits, the Siting Board issued an Opinion and Order on August 30, 2001 (“Opinion”), making each of the statutory findings required by PSL § 168, including those related to public health, and granting a Certificate for the Project, subject to certain conditions set forth in Appendix B to the Opinion (the “Certificate Conditions”); and

WHEREAS, EREC, NYPIRG, Assemblyman Sanders and CB3 timely submitted petitions for rehearing of the Siting Board’s decision to issue the Certificate (the “Rehearing Petitions”); and

WHEREAS, such Rehearing Petitions requested that the Siting Board reopen the hearing record to allow for additional testimony on PM_{2.5}, noise, modifications to the existing East River Generating Station, alternatives, and environmental justice; and

WHEREAS, on January 24, 2002, upon further consideration and pursuant to its authority under PSL § 170, the Siting Board issued an order granting rehearing in part, which directed that an evidentiary hearing be convened “solely on the issue of air quality impacts of PM_{2.5} as it relates to the Project”; and

WHEREAS, all parties agree that this Stipulation creates, in conjunction with the record established prior to August 30, 2001, a sufficient record in this proceeding to resolve the issues raised in the Rehearing Petitions and provides a sufficient basis for the Siting Board to make all findings required by PSL § 168;

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings set forth herein, the signatories hereto agree as follows:

I. Con Edison's Obligations

1. Con Edison shall, in lieu of the commitments set forth in paragraph VI.E.2 of the Certificate Conditions dated August 30, 2001 (relating to a \$2,500,000 funding commitment to the New York City Economic Development Corporation) provide funding: (i) in the amount of \$2,750,000 towards the combustion of natural gas in place of residual oil in Unit Nos. 6 and 7 at the East River Generating Station during the time period from November 15th through March 31st of each year (the "Winter Period") (the "fuel-switching account"), subject to the additional terms and conditions discussed below; (ii) in the amount of \$480,000 towards the conversion of apartment building or community facility boilers in the geographic area of CB3 and/or the general neighborhood of the East River Complex from fuel oil to steam service (the "steam conversion account"), subject to the additional terms and conditions discussed below; and (iii) in the amount of \$500,000 towards the installation of a nozzle in Stack 3 at the East River Generating Station similar in design to the nozzle presently installed in Stack 4 (the "Stack 3 nozzle account"), subject to the additional terms and conditions discussed below.

2. The time period during which Con Edison shall limit the use of fuel oil in Unit Nos. 6 and 7 pursuant to paragraphs III.B and III.C of the Certificate Conditions dated August 30, 2001, shall be extended to November 14th of each year.

3. With respect to the fuel-switching account, Con Edison shall use these monies to purchase natural gas in lieu of residual oil for Unit Nos. 6 and 7 in order to seek to ensure as a target that the fuel oil burned in Unit Nos. 6 and 7, on a heating value basis, will on average be not greater than forty-five percent of the fuel used at these units during each Winter Period, subject to the provisos set forth below. After the end of each month during this period, Con Edison shall calculate the monies used for this purpose during the preceding month so as to keep a running tally of the draw down of the \$2,750,000 funding commitment and shall send a summary of same for the Winter Period (which shall include the actual fuel mix for the Winter Period) to the City of New York, CB3, and the staff of the NYSDPS by May 1st of each year. Upon such request as the Intervenors may make, Con Edison shall provide, not more than every two months, documentation with respect to fuel use and fuel costs of Unit Nos. 6 and 7 to the Intervenors for their use in connection with tracking Con Edison's activities under this paragraph. The Intervenors shall not share any information Con Edison has designated as confidential with any third parties, except as required by law. Con Edison shall not purchase natural gas for the purpose of meeting the gas/fuel oil ratio of this paragraph at such times as the price of natural gas exceeds the price of fuel oil by 50¢/Dth or more. In addition, unless CB3 designates an alternative range as set forth below, Con Edison shall seek to ensure that it does not draw down more than \$600,000 each Winter Period but shall seek to ensure that at least \$400,000 of monies are drawn down from the fuel-switching account each Winter Period, if necessary to achieve the goal of combusting not more than forty-five percent fuel oil during the

Winter Period. If the average price of natural gas during the month (expressed in \$/MMBTU) is greater than the average price of residual oil during the month (expressed in \$/MMBTU), then (i) the differential fuel costs for that month shall be calculated by subtracting the average price of residual oil for that month (in \$/MMBTU) from the average price of natural gas for that month (in \$/MMBTU) and (ii) the draw down from the fuel-switching account for that month shall be calculated by multiplying the differential fuel costs (in \$/MMBTU) by the total MMBTUs of natural gas combusted in Unit Nos. 6 and 7 during that month. In the event that Con Edison, the Intervenors and NYSDPS all agree that a modification to the foregoing formula is appropriate, by unanimous agreement of these parties the formula shall be so modified. An inability of such parties to agree on any proposed modification to the formula shall not be a dispute or controversy subject to Section IV of this Stipulation or other review. No provision related to the fuel-switching account shall require Con Edison to forego the combustion of fuel oil during such time, if any, during which the supply and/or delivery of natural gas to the East River Complex has been interrupted, curtailed or suspended. Any period of such interruption, curtailment or suspension, and any period in which the price of natural gas exceeds the price of fuel oil by 50¢/Dth or more, shall not be considered in assessing achievement of the goal of using less than forty-five percent fuel oil during the Winter Period. In any Winter Period in which Con Edison draws down an amount from the fuel-switching account not less than the lower end of the \$200,000 range applicable to that Winter Period, Con Edison shall be deemed to have met its fuel-switching obligation for that Winter Period. Prior to September 15th of each year, CB3 may, by written notice to Con Edison, the City and the NYSDPS, modify the annual draw down range of \$400,000 - \$600,000 to a different range for the next Winter Period, while maintaining the \$200,000 differential between the lower and upper limits. CB3 may, by written notice to Con

Edison, the City and the NYSDPS, designate that a specified portion of the balance of the fuel-switching account should be placed in the steam-conversion account or should be used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in paragraph 7 below.

4. The use of the monies in the fuel-switching account shall continue during each annual Winter Period for this purpose until the earliest of the following dates, upon which time the fuel-switching account shall be terminated: (i) the fuel-switching account of \$2,750,000 is exhausted; (ii) CB3 provides written notice to Con Edison that the remaining balance of the fuel-switching account should be placed in the steam conversion account (at CB3's option) or should be used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in paragraph 7 below; or (iii) the ten year anniversary of the date on which the Project commences operation, at which time any remaining balance of monies in the fuel-switching account shall be used for alternative air quality improvement projects, as set forth in paragraph 7 below. Upon the termination of the fuel-switching account for any of the above reasons, the fuel mix provisions set forth in this Stipulation shall no longer apply for the Winter Period and the obligations shall cease thereunder.

5. With respect to the steam conversion account, Con Edison shall use commercially reasonable efforts to use these monies to encourage the conversion of existing oil-fired apartment building or community facility boilers in CB3 to the steam system, unless CB3 and NYPIRG jointly provide written notice to Con Edison that any remaining balance of the steam conversion account should be used for alternative air quality improvement projects in the general neighborhood of the East River Complex, as set forth in paragraph 7 below.

6. With respect to the Stack 3 nozzle account, Con Edison shall use these monies to pay for the installation of a nozzle on Stack 3 of the East River Generating Station, unless CB3 provides notice to Con Edison on or before December 1, 2002 that such monies should be used for alternative community benefit projects, as set forth in paragraph 8 below. Prior to making such decision, CB3 shall (i) consider any information NYSDEC and Con Edison provide to it concerning the effectiveness of the nozzle in improving air quality; and (ii) convene a meeting of the community to present such information. To the extent that the actual installation cost of a nozzle in Stack 3 exceeds \$500,000, then such excess amounts shall be deducted from the balance remaining in either the fuel-switching account or the steam conversion account, at the option of CB3. To the extent that the actual installation cost of a nozzle in Stack 3 is less than \$500,000, then the difference between \$500,000 and such actual cost shall be credited towards either the fuel-switching account or the steam conversion account, at the option of CB3.

7. In the event that any monies remaining in any of the foregoing accounts are re-designated for alternative air quality improvement projects in the general neighborhood of the East River Complex, no such projects shall be funded with such monies unless they are first identified by CB3 and the City of New York, and approved by Con Edison as prudent expenditures.

8. In the event that any monies remaining in any of the foregoing accounts are re-designated for alternative community benefit projects, no such projects shall be funded with such monies unless they assist the local community in the development and implementation of projects such as local air quality improvement, health improvement, or amenities programs in the vicinity of the East River Complex and have been first identified by CB3 and the City of New York, and approved by Con Edison as prudent expenditures.

9. Con Edison shall not be obligated to begin spending monies for fuel-switching or steam conversions (or alternative air quality improvement projects or alternative community benefit projects) prior to the commencement of commercial operation of the Project. Unless CB3 provides notice that the monies in the Stack 3 nozzle account should be used for alternative community benefit projects, Con Edison shall install the nozzle in Stack 3 so that it is in place within 6 months of the date on which the Project commences commercial operation. The funding with respect to each account will be provided as such amounts are needed to satisfy the obligations set forth in Section I of this Stipulation.

10. Con Edison, the City, the Intervenors, and NYSDPS, in consultation with NYSDEC, agree to work together to seek additional funding from the New York State Energy Research and Development Authority and other sources for steam conversions and other air quality improvement projects.

II. PSL § 168 Findings

1. The Intervenors agree that this Stipulation resolves all issues they have raised, or could have raised, in this proceeding. Accordingly, they: (i) withdraw and/or waive all objections to the issuance of the Certificate; (ii) confirm that they have no objection to the Siting Board making findings with respect to the Project under § 168 of the Public Service Law, including in particular, findings pursuant to PSL § 168(2)(c)(ii), taking into account the factors set forth in PSL § 168(2)(b); and (iii) support the modification of the Certificate for the Project by the Siting Board to reflect the commitments set forth in Section I hereof. The Intervenors' commitments in this paragraph are made cognizant of the fact that the various accounts identified in Section I are likely to be depleted prior to the end of the useful life of the Project.

2. The parties to this Stipulation, other than the Intervenors, agree that the terms and conditions of the Certificate, as such terms and conditions would be modified by this Stipulation, adequately address the concerns raised in the Rehearing Petitions, and permit the Siting Board to reaffirm the findings required by PSL § 168 that the Project will be compatible with public health and safety.

3. The Parties jointly request that the Siting Board waive its requirements that: (i) the NYSDEC submit a report providing background information on PM_{2.5}; and (ii) a hearing be conducted to answer the questions posed on page 3 of its January 24, 2002 Order in this proceeding.

III. Release by Intervenors

1. (a) Each of the Intervenors hereby releases and discharges Con Edison and its successors and assigns from any and all actions, claims, petitions, demands, suits, and proceedings, whether arising in equity or in law, or under any statute or regulation, with respect to any and all claims, matters or issues they raised or could have raised in proceedings before the NYSDEC with respect to the NYSDEC permits for the East River Complex approved by the NYSDEC Commissioner's Decision in this matter on August 16, 2001;

(b) Each of the Intervenors hereby releases and discharges Con Edison and its successors and assigns from any and all actions, claims, petitions, demands, suits, and proceedings, whether arising in equity or in law, or under any statute or regulation, with respect to any and all claims, matters or issues that they either have raised or could have raised in this Article X proceeding for the East River Complex;

(c) Each of the Intervenor agrees to waive its right to object to the proposed Clean Air Act Title V operating permit issued by NYSDEC in January 2002, for the East River Complex;

(d) This release shall not constitute a waiver by Intervenor of any rights they may have:

i. to participate in, comment on, and/or challenge any permit or approval required in connection with a modification or operational change to the East River Complex (other than such modifications or operational changes as are contemplated by the Certificate and the NYSDEC Permits) subsequent to the date hereof; provided, however, that the Intervenor shall not assert in such proceedings that currently permitted air emissions from the East River Complex, in combination with the Project: (a) violate any law or regulation in effect on the date of this Stipulation or (b) are inconsistent with the finding required by PSL § 168(2)(c)(ii);

ii. to enforce compliance with the terms and conditions of the Certificate, NYSDEC permits, and/or permits from any other agency in accordance with relevant provisions of law; or

iii. to participate in any administrative process held in connection with any revision proposed by the NYSDEC or the United States Environmental Protection Agency (“USEPA”) to the New York State Implementation Plan under the Clean Air Act.

2. Intervenor agrees not to bring any action or proceeding concerning the East River Complex against the USEPA, the NYSDEC, or the New York City Department of Environmental Protection that they could not bring directly against Con Edison pursuant to the

release set forth in paragraph 1, or any action or proceeding precluded by the release in which Con Edison would be considered a necessary party.

IV. Dispute Resolution

In the event of any dispute or controversy between Con Edison and any of the Intervenors arising out of or relating to Section I of this Stipulation, such parties agree to first meet at their earliest mutual convenience to attempt to resolve the dispute through negotiations. In the event such negotiations do not resolve such dispute after a reasonable time period, the matter shall be submitted to binding arbitration under the procedures of the Public Service Commission before NYSDPS and NYSDEC Administrative Law Judges, to be appointed by the NYSDPS and NYSDEC, respectively. The parties agree that the ALJs' decision shall be final and binding and shall not be subject to appeal or any further administrative or judicial review.

V. Cooperation of the Parties

The Parties recognize that certain provisions of this Stipulation require that actions be taken in the future to fully effectuate their agreements. Accordingly, the Parties agree to cooperate with each other in good faith in taking such actions. Without limiting the foregoing, no Party shall: (i) object to the modification of the Certificate by the Siting Board, to insert the provisions set forth in Section I hereof in place of the commitments currently appearing in paragraphs III.B, III.C and VI.E.2 of the Certificate Conditions; (ii) with respect to matters covered by this Stipulation, submit any statement to the Siting Board that is inconsistent with this Stipulation; or (iii) commence any action or proceeding challenging the validity of the Certificate or the NYSDEC Permits. Con Edison, the City and CB3 shall, upon the reasonable request of any Party, from time to time meet for the purpose of exchanging readily available non-confidential information for the purpose of implementing this Stipulation.

VI. Miscellaneous

1. The Parties have negotiated and accepted this Stipulation in toto with each provision in consideration for, in support of, and dependent on the others. If the Siting Board does not approve this Stipulation in its entirety, without modification, any Party may withdraw its acceptance of this Stipulation by serving written notice on the other Parties, and shall be free to pursue its position in this proceeding without prejudice. If the Siting Board approves this Stipulation or modifies it in a manner acceptable to the Parties, the Parties intend that this Stipulation thereafter be implemented in accordance with its terms. If a material modification is thereafter authorized or required by the Siting Board that is unacceptable to any Party to this Stipulation adversely affected by such modification, then, in addition to any other remedies a Party may have, such Party may withdraw from this Stipulation and will not be bound thereafter to its provisions.

2. The Parties hereby acknowledge that the expenditures Con Edison has agreed to make pursuant to Section I of this Stipulation, plus the expenditures heretofore incurred under paragraph VI.E.2 of the Certificate Conditions dated August 30, 2001, represent reasonable and prudent costs associated with the Project and the operation of the East River Complex.

3. None of the terms or provisions of this Stipulation (excepting paragraph VI.2) and none of the positions taken therein by any Party may be referred to, cited, or relied upon by any other party in any fashion as precedent or otherwise in any other proceeding before the Siting Board or any other regulatory agency or before any court of law for any purpose, except in furtherance of ensuring the effectuation of this Stipulation.

4. This Stipulation may be executed in counterpart originals, and shall be binding on each Signatory Party when the counterparts have been executed.

5. Notices pursuant to Section I hereof shall be submitted to Con Edison by the Intervenor as follows:

(a) Such Notice shall be submitted by:

FOR NYPIRG

Lisa Garcia, Esq.
New York Public Interest Research Group
9 Murray Street
Third Floor
New York, New York 10067-2272

FOR CB3

Manhattan Community Board No. 3
Attn: Community Board Chair
59 E. 4th Street
New York, New York 10003

(b) Such Notice shall be submitted to:

FOR CON EDISON

Peter Garam, Esq.
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003-3589

FOR CITY OF NEW YORK

Richard B. Miller
Senior Vice President, Energy
New York City Economic Development Corporation
110 William Street
New York, New York 10038
rmiller@nycedc.com

or to such other person hereinafter identified by such Party.

CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.

NEW YORK STATE DEPARTMENT OF
PUBLIC SERVICE

By: s/Jeffrey L. Riback
Its Associate Counsel

By: s/Kevin M. Lang
Its Assistant Counsel

Dated: 3-13-02

Dated: 3/13/02

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

NEW YORK STATE DEPARTMENT OF
HEALTH

By: s/Wm. G. Little
Its Associate Attorney

By: s/David W. Quist
Its Senior Attorney

Dated: 3/13/02

Dated: 3/13/2002

THE CITY OF NEW YORK

EAST RIVER ENVIRONMENTAL COALITION

By: _____
Its _____

By: Edward Lloyd
Its Counsel

Dated: _____

Dated: March 13, 2002

MANHATTAN COMMUNITY
BOARD 3

ENVIRONMENTAL DEFENSE

By: Edward Lloyd
Its Counsel

By: Edward Lloyd
Its Counsel

Dated: March 13, 2002

Dated: March 13, 2002

NEW YORK PUBLIC INTEREST
RESEARCH GROUP, INC

ASSEMBLYMAN STEVEN SANDERS

By: Edward Lloyd
Its Counsel

By: Edward Lloyd
Its Counsel

Dated: March 13, 2002

Dated: March 13, 2002

MANHATTAN COMMUNITY
BOARD 6

By: _____
Its

By: _____
Its

Dated: _____

Dated: _____

By: _____
Its

By: _____
Its

Dated: _____

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