



# DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642  
(630)834-0100 Fax: (630)834-0120

NOTICE IS HEREBY GIVEN THAT A SPECIAL MEETING OF THE DUPAGE WATER COMMISSION WILL BE HELD AT 5:30 P.M. ON THURSDAY, FEBRUARY 24, 2011, AT 600 EAST BUTTERFIELD ROAD, ELMHURST, ILLINOIS 60126. THE AGENDA FOR THE SPECIAL MEETING IS AS FOLLOWS:

## AGENDA

**DUPAGE WATER COMMISSION  
SPECIAL MEETING  
THURSDAY, FEBRUARY 24, 2011  
5:30 P.M.**

**600 EAST BUTTERFIELD ROAD  
ELMHURST, IL 60126**

I. Call to Order and Pledge of Allegiance

II. Roll Call

(Majority of the Commissioners then in office—minimum 7)

III. Executive Session

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**RECOMMENDED MOTION: To go into Executive Session to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2) (Roll Call).**

**RECOMMENDED MOTION: To come out of Executive Session (Voice Vote).**

IV. General Manager Appointment

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

V. Resolution No. R-11-11: A Resolution Approving and Authorizing the Execution of a Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program

(Concurrence of a Majority of the Appointed Commissioners—7)

**RECOMMENDED MOTION: To adopt Resolution No. R-11-11: A Resolution Approving and Authorizing the Execution of a Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program (Roll Call).**

All visitors must present a valid driver's license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

- VI. Resolution No. R-12-11: A Resolution Approving and Authorizing the Execution of A New Pricing Schedule to the Master Electricity Supply Agreement with Constellation NewEnergy, Inc.

(TO SUSPEND PURCHASING PROCEDURES: 2/3 Majority of those Commissioners Present, provided there is a quorum—minimum 5)

(TO APPROVE: Concurrence of a Majority of the Appointed Commissioners—7)

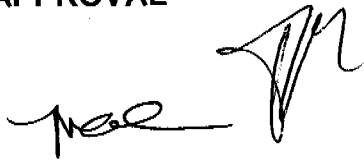
**RECOMMENDED MOTION: To adopt Resolution No. R-12-11: A Resolution Approving and Authorizing the Execution of A New Pricing Schedule to the Master Electricity Supply Agreement with Constellation NewEnergy, Inc. (Roll Call).**

- VII. Adjournment

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

DATE: February 22, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b> V	<b>ORIGINATING DEPARTMENT</b> Operations
<b>ITEM</b> A Resolution Approving and Authorizing the Execution of a Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program  Resolution No. R-11-11	<b>APPROVAL</b> 
<p>Account Number: 01-60-6612.01</p> <p>The Commission's new back-up generation facility is one of the best and most flexible "inside the fence" electric generation facilities in Northern Illinois. Now that the Commission's generation facility is available for operation, the Commission has the ability to interrupt its load at anytime it is necessary. As a result, this generation facility will allow the Commission to participate in Commonwealth Edison Company's Capacity-Based Load Response &amp; System Reliability Program (CLR) under a Firm Service Level Option. Under this Option, the Commission agrees to drop its load to not more than 200 kW, upon not less than 30 minutes advance notice, for no more than 15 events consisting of up to eight hours each during weekday hours of 11:00 A.M. to 7:00 P.M. CPT.</p> <p>According to ComEd, and based upon current prices, participating in the CLR will pay the Commission just under \$340,000 for the twelve months beginning May, 2011. The annual payout will be made by December 31, 2011, less a 0.05% administrative fee and any penalties for failure to fulfill a curtailment request.</p> <p>ComEd's administrative role will be to provide all services to facilitate the Commission's participation in the program, including registration, enrollment, and curtailment notification, and to liaison with PJM* for the Commission.</p> <p>Resolution No. R-11-11 would approve and authorize the execution of a Firm Service Level Rider CLR Election with ComEd, which agreement includes industry-standard and ICC approved limitation of liability, and hold harmless and indemnity, provisions. It is also important to note that, once the election is made, it is irrevocable and any regulatory changes subsequently made to the Interruptible Load for Reliability Program of PJM shall apply automatically (e.g. compensation, number and duration of events, notices, etc.).</p> <p>* PJM is a regional transmission organization (RTO) that coordinates the movement of wholesale electricity in all or parts of 13 states, including Illinois, and the District of Columbia.</p>	
<b>MOTION:</b> To adopt Resolution No. R-11-11.	

## DUPAGE WATER COMMISSION

## RESOLUTION NO. R-11-11

A RESOLUTION APPROVING AND AUTHORIZING  
THE EXECUTION OF A FIRM SERVICE LEVEL RIDER CLR ELECTION  
UNDER COMMONWEALTH EDISON COMPANY'S CAPACITY-BASED  
LOAD RESPONSE & SYSTEM RELIABILITY PROGRAM

WHEREAS, as a result of installing a back-up generation facility at the DuPage Pumping Station, the Commission has the ability to interrupt its load at anytime it is necessary which will enable the Commission to participate in Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program (CLR); and

WHEREAS, the Commission has determined that it would be in its best interest to participate in the CLR under a Firm Service Level Option;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are hereby incorporated herein and made a part hereof as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: A Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program, in substantially the form attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1, shall be and it hereby is approved.

SECTION THREE: The Acting General Manager of the DuPage Water Commission shall be and hereby is authorized and directed to execute the Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program, in substantially the form attached hereto

Resolution No. R-11-11

as Exhibit 1. Upon execution by the Acting General Manager, the Firm Service Level Rider CLR Election under Commonwealth Edison Company's Capacity-Based Load Response & System Reliability Program, and all things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

SECTION FOUR: This Resolution shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/R-11-11.docx

**Rider CLR – Capacity-Based Load Response and System Reliability Program  
2011 (Rider CLR)  
CUSTOMER ELECTION**

**Firm Service Level (FSL) Option**

## RIDER CLR ELECTION

By this Rider CLR Election, herein called the "Election", dated February 22, 2011, between DUPAGE WATER COMMISSION ("Participant") Participant elects to participate in Commonwealth Edison Company's (the "Company's") Capacity-Based Load Response & System Reliability Program under the Company's Rider CLR at the premises occupied by the Participant at 600 E BUTTERFIELD RD, ELMHURST ("Premises").

**1. Applicable Tariff.** Participant acknowledges that its participation in the Company's Capacity-Based Load Response & System Reliability Program is governed by the provisions of the Company's Rider CLR, and all other applicable rates and riders set forth in the Company's Schedule of Rates. Any changes to Rider CLR, applicable rates and riders and other applicable portions of the Company's Schedule of Rates shall be applicable to participation hereunder. If a matter or item is addressed in the Company's Schedule of Rates but is not specifically addressed herein, the treatment of such matter or item as set forth in the Schedule of Rates shall apply. If a conflict exists or develops between the provisions of this Election (on the one hand) and the Schedule of Rates (on the other hand), then the provisions of the Schedule of Rates shall prevail. Participant's participation in the Company's Capacity-Based Load Response & System Reliability Program may be terminated, inter alia, as provided for in the Company's Schedule of Rates.

**2. Term.** The term of participation shall be the one-year period commencing with the start of business on June 1, 2011 and ending upon the close of business May 31, 2012 ("Term").

**3. Definitions.**

"Event" or "Test" shall mean a mandatory Interruption, as called by the Company under the provisions of Rider CLR.

"Interrupt" or "Interruption" shall mean the acts necessary to be undertaken by Participant in order to reduce its requirement for the supply of electric capacity during an Event.

"PJM" shall mean PJM Interconnection, L.L.C.

Definitions for the following terms are found in the following documents: Capacity Auction Value (CAV), as defined in the Company's Rider CLR tariff. Peak Load Contribution (PLC), as defined in PJM Manual 18: Load Data Systems ("M-18"). Firm

Commonwealth Edison Company

Service Level (FSL), as defined in the Company's Rider CLR tariff. Annual Revenue Rate (or total credits), as defined in the Company's Rider CLR tariff. Installed Capacity (ICAP), as defined in PJM Manual 35. Unforced Capacity (UCAP), as defined in PJM Manual 35. Non-Utility Generator (NUG), as defined in PJM Manual 35. Forecast Pool Requirement (FPR), as defined in PJM Rate Schedule FERC No. 44. Demand Resource Factor (DR Factor), as defined in PJM Rate Schedule FERC No. 44. Demand Response Compliance Deficiency Rate, as defined in M-18.

**4. Load Response Quantity - Firm Service Level (FSL).** Upon receipt by the Participant of an Event notice pursuant to Section 7 hereof, the Participant shall Interrupt all load exceeding its Firm Service Level (FSL) of 200.00 kilowatts (kW). Load in excess of the Participant's FSL shall remain interrupted throughout the duration of the Event. The Participant shall be solely responsible for ensuring that its load does not exceed its FSL during such Event.

**5. Event Frequency.** There will be no more than ten (10) PJM initiated Events under its Interruptible Load for Reliability (ILR) Program during the Term, with each Event consisting of up to eight hours duration during the weekday hours of 11:00 A.M to 7:00 P.M. Central Prevailing Time (CPT), excluding applicable PJM holidays. In addition, there will be no more than five (5) Company initiated non-ILR Events, during the Term with each Event consisting of up to eight hours duration during the weekday hours of 11:00 A.M to 7:00 P.M. (CPT). At the time of this Election, these conditions are consistent with the current provisions of the Interruptible Load for Reliability Program of PJM, as referenced in Rider CLR. Subsequent changes to those provisions will be applicable to participation hereunder.

**6. Compensation for Load Response Participation.** In consideration for the Participant's obligation to interrupt its electric service in accordance with the terms and conditions of this Election, the Participant shall receive a single annual payment equal to Participant's Adjusted Firm Service Level [Participant's Firm Service Level (200.00) kilowatts X Participant's Capacity Loss Factor (1.07523)] subtracted from Participant's Peak Load Contribution (8.382) equaling ICAP at the MW level using normal rounding convention (8.167)MW X Forecasted Pool Requirement (FPR) (1.0833) X Demand Response Factor (DR Factor) (0.955) equaling UCAP at MW level rounded using normal rounding convention (8.449)MW X the Capacity Auction Value 40160.00 per MW (\$40.16 per kW) equaling the Annual Revenue Rate in the amount of (\$339,311.84) less the PJM Administrative Fee and any penalty(s) for failure to comply with any Event(s) during the four-month period ending on September 30<sup>th</sup> of the Term. All payments and invoices for balances will be sent to the Participant by December 31<sup>st</sup> of the Term for all Event(s) during the four-month period ending on September 30<sup>th</sup> of the Term.

**7. Notice.** Notice of an Event shall be provided by the Company to the Participant no less than 30 Minutes (select 30 minutes OR 90 minutes only), in advance of an Event. Participant will provide the Company, in writing, with the names, Internet accessible paging device addresses, and phone numbers of the individuals to whom the Company shall provide such notification. Oral notification to



any one of said individuals at any time of day, any day of the week, shall be sufficient to trigger Participant's obligation to interrupt its load.

**8. Penalty for Participant's Failure to Interrupt.** The Participant will be responsible for any penalties or other economic consequences assessed to the Company by PJM as a result of the Participant's failure to comply with an Event initiated by PJM or the Company.

**9. Company Access to Meters.** Participant shall provide the Company with access during business hours to all meters measuring electric service at the Premises, such as but not limited to meters inside gated areas, behind locked doors, in vaults, etc. If access to any meter is not granted to or withheld from the Company, the Participant's Event performance shall be considered non-compliant.

**10. Limitation of Liability - Load Response Enhancement.** In consideration of the benefits to Participant provided by ComEd's implementation of its Load Response Enhancement ("LRE") System to control Participant's load shedding during a Test or Event, Participant releases and agrees to hold the Company harmless from any liability related to a failure of the LRE system or equipment. Moreover, Participant agrees that it will still be liable for any non-compliance penalties where Participant's non-compliance is due to a failure of the LRE system or equipment.

**11. Termination.** The Participant may unilaterally terminate this contract by giving written notice, hand delivered to the Company account manager, by no later than 5:00 P.M. CST March 16, 2011. The Company may terminate Participant's participation in the Capacity-Based Load Response & System Reliability Program at any time on thirty (30) day notice if the Company becomes aware of circumstances under Participant's control that, in the Company's sole discretion, negate the value of load response provided.

**12. Signatory's Authority.** The undersigned certifies that he/she is authorized to execute this Election on behalf of Participant.

**PARTICIPANT:**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature


\_\_\_\_\_  
Date

**2917170004**

\_\_\_\_\_  
CIMS Account Number

Commonwealth Edison Company

# REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b> VI	<b>ORIGINATING DEPARTMENT</b> Operations
<b>ITEM</b> A Resolution Approving and Authorizing the Execution of A New Pricing Schedule to the Master Electricity Supply Agreement with Constellation NewEnergy, Inc.  Resolution No. R-12-11	<b>APPROVAL</b>  

Account Number: 01-60-6612.01

The Illinois Electric Customer Choice and Rate Relief Law of 1997 (the "Law") restructured the Illinois electric utility industry to offer customers choices about who supplies their electric power, competitive prices for that power, and new services. As a result of the Law, the Commission retained the services of the consulting firm of SPI Energy Group (SPI) to evaluate the Commission's energy needs to determine whether the Commission's energy costs could be reduced by choosing a different supplier of electric power as allowed under the Law. SPI is also the Commission's Illinois electric market consultant designated pursuant to Resolution No. R-73-00.

The Commission's current electric power supply agreement expires on March 24, 2011. After several years of obtaining the Commission's power supply from Exelon Energy, SPI solicited proposals from a broad group of market suppliers. After a detailed evaluation of the five responses received in October 2010, SPI believes that Constellation New Energy can provide the best pricing options for the Commission, having continuously submitted the lowest rate quotations from among the three most favorably-ranked suppliers since the October proposals were opened.

Because Constellation NewEnergy was the Commission's power supplier prior to moving to Exelon Energy, the Master Electric Supply Agreement with Constellation NewEnergy can continue to be used with the approval of a new Pricing Schedule to the Agreement that establishes the new pricing terms and length of service.

Resolution No. R-12-11 would suspend the purchasing procedures of the Commission's By-Laws and approve and authorize the execution of a new Pricing Schedule.

**It is important to note that the final Pricing Schedule, including the length and cost of service and allowances for the Commission to generate its own power in emergencies and under load curtailment programs, will be delivered on Thursday, February 24, 2011.**

**MOTION:** To adopt Resolution No. R-12-11.

## DuPAGE WATER COMMISSION

## RESOLUTION NO. R-12-11

A RESOLUTION APPROVING AND AUTHORIZING  
THE EXECUTION OF A NEW PRICING SCHEDULE TO THE  
MASTER ELECTRICITY SUPPLY AGREEMENT WITH  
CONSTELLATION NEWENERGY, INC.

WHEREAS, pursuant to Resolution No. R-77-04, the Commission entered into a Master Electricity Supply Agreement with Constellation NewEnergy with specific pricing terms and length of service to be established by entering into Pricing Schedules as needed from time to time; and

WHEREAS, through March 2008, four such Pricing Schedules have been recommended by SPI Energy Group (SPI), the Commission's Illinois electric market consultant, and accepted by the Commission; and

WHEREAS, in 2007, the Commission went through a proposal process in the selection of its current power supplier, Exelon Energy Company; and

WHEREAS, the Commission's current electric power supply agreement with Exelon Energy Company expires on March 24, 2011; and

WHEREAS, in October 2010, the Commission solicited new proposals from a broad group of market suppliers and, based upon the recommendations of SPI, the Commission determined that Constellation New Energy could provide the best pricing options for the Commission, having continuously submitted the lowest rate quotations from among the three most favorably-ranked suppliers since the October proposals were opened;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are hereby incorporated herein and made a part hereof as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: A new, fifth Pricing Schedule to the Master Electricity Supply Agreement between the DuPage Water Commission and Constellation NewEnergy, Inc., in substantially the form attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1 with such modifications as may be required or approved by the Acting General Manager, shall be and it hereby is approved; provided, however, that except as specifically approved by the Board of Commissioners of the DuPage Water Commission (a) the energy price component of the total electric cost shall not exceed 5.70 cents per kWh and (b) the length of service shall not exceed 12 months, shall be and it hereby is approved.

SECTION THREE: The Acting General Manager of the DuPage Water Commission shall be and hereby is authorized and directed to execute the fifth Pricing Schedule to the Master Electricity Supply Agreement between the DuPage Water Commission and Constellation NewEnergy, Inc., in substantially the form attached hereto as Exhibit 1 with such modifications as may be required or approved by the Acting General Manager, shall be and it hereby is approved; provided, however, that except as specifically approved by the Board of Commissioners of the DuPage Water Commission (a) the energy price component of the total electric cost shall not exceed 5.70 cents per kWh and (b) the length of service shall not exceed 12 months. Upon execution by the Acting General Manager, the fifth Pricing Schedule to the Master Electricity Supply Agreement between the DuPage Water Commission and

Resolution No. R-12-11

Constellation NewEnergy, Inc., and all things provided for therein, shall be deemed accepted by the DuPage Water Commission without further act.

SECTION FOUR: This Resolution shall be in full force and effect from and after its adoption by a vote of two-thirds of the Commissioners present or the concurrence of a majority of the appointed Commissioners, whichever is greater; the Board of Commissioners of the DuPage Water Commission hereby suspending the purchasing procedures contained in Article VIII of the Commission's By-Laws.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/R-12-11.docx

Exhibit 1



**Agreement is Not  
Valid Unless  
Executed by  
NewEnergy**

**Constellation NewEnergy, Inc.  
Fixed Price Solutions Pricing Schedule**

**MRESA Reference.** This Pricing Schedule is entered into pursuant to and in accordance with a Master Electricity Supply Agreement executed on November 6, 2007, by and between Constellation NewEnergy, Inc. ("NewEnergy") and DuPage Water Commission ("Customer"), and is subject to all of the provisions, terms and conditions of such Master Electricity Supply Agreement. Notwithstanding anything to the contrary, any conflict between this Pricing Schedule and the Master Electricity Supply Agreement will be resolved in favor of this Pricing Schedule, but only with respect to the Account(s) listed on this Pricing Schedule. This Pricing Schedule supersedes all prior agreements and understandings with respect to the Account(s), and may not be contradicted by any prior or contemporaneous oral or written agreement. Capitalized terms used herein but not defined will have the meanings ascribed to them in the Master Electricity Supply Agreement.

**Price Terms.** NewEnergy will supply, and Customer will purchase, on an exclusive basis, Customer's full requirements for electricity for the Account(s) listed on the Account Schedule below. The prices contained in the Account Schedule include all the costs listed below as "Fixed", meaning that they will remain constant for the existing term of this Pricing Schedule and may only be subject to change as a result of a Change in Law as described in the Master Electricity Supply Agreement or a Material Change as described in Section PS 2.7 of this Pricing Schedule. Costs listed below as "Passed Through" means that charges for these costs will change during the existing term of this Pricing Schedule to the extent the related charges assessed or charged to NewEnergy vary for any reason, including but not limited to the types of changes described in Section PS 2.7 hereof or in the Change in Law Section of the Master Electricity Supply Agreement. Customer is also responsible to pay (1) Taxes - which NewEnergy will pass through to Customer on Customer's bill or reflected as part of the price of electricity, as required by Law, and (2) Delivery Charges for delivery/distribution services if NewEnergy provides a single bill that includes Delivery Charges. The Delivery Charges (if any) and Taxes are charged to Customer as "Passed Through." At any time during the term of this Pricing Schedule, Customer may request the purchase of renewable energy certificates in an amount equal to a prescribed percentage of Customer's load volume by entering into one or more Retail Trade Transactions ("RTTs") between Customer and NewEnergy. If the Parties agree to the pricing and terms of the renewable energy certificates purchase, a separate RTT Confirmation signed by Customer and NewEnergy will document each such purchase, and such RTT Confirmation shall be incorporated herein.

**Cost Components.** For each of the items listed as Fixed below, this means the item is included in Customer's contract prices as set forth in the Account Schedule. For each of the items listed as Passed Through below, this means that Customer will be charged the costs associated with the line item in accordance with the definitions of each item in Section PS1.2, Market Definitions of the General Terms and Conditions.

Energy Costs	Fixed
Ancillary Services And Other ISO Costs	Fixed
Capacity Costs	Fixed
Transmission Costs	Fixed
Line Loss Costs	Fixed
RMR Costs	Passed Through

The contract prices contained in the Account Schedule have been reduced to reflect a fixed credit to Customer for the Auction Revenue Rights and Transmission Loss Credits associated with the Account(s). The prices also include any credit costs, margin, or costs associated with meeting Renewable Portfolio Standards ("RPS") at the levels required by currently applicable Law.

**GENERAL TERMS AND CONDITIONS**

**PS 1.1. General Definitions.**

**"Covered Bandwidth"** means the monthly usage for each Account plus or minus twenty percent (20%) based on NewEnergy's commercially reasonable calculation of the anticipated monthly consumption for the Accounts. In making this calculation NewEnergy may (but is not required to) consider: (a) anticipated consistency with or deviations from past electricity usage patterns, (b) variations in anticipated weather patterns, (c) general economic conditions or conditions affecting the specific industry(ies) in which Customer operates, and/or (d) any other factors NewEnergy deems appropriate.

**"Delivery Point"** means existing and future points of interconnection between the ISO-controlled grid or a third party transmission system and/or distribution system, as applicable, and the Utility's transmission system and/or distribution system.

**"Holdover Costs"** means the sum of all costs and charges incurred by NewEnergy for the retail delivery of energy, including, without limitation and as applicable, charges related to capacity, ancillary services, transmission, metering, the Federal Energy Regulatory Commission, renewable portfolio standards, and any similar charges that may be imposed on NewEnergy with respect to the Accounts (whether by the ISO or the Utility) from time to time. NewEnergy will pass Holdover Costs through to Customer on Customer's invoice without mark-up as part of Customer's Holdover Rate.

**"Holdover Rate"** means a rate calculated by NewEnergy in its sole discretion for each billing cycle as  $\{(\text{Metered Usage}) \times (\text{Market Price} + \text{Holdover Costs} + \$0.00525 / \text{kWh}) + \text{Taxes}\}$ .

**"ISO"** means PJM, or other successor or replacement entity, public or private, administering transmission reliability and control of the electricity grid.

**"Late Payment Charge"** means 0% of the total dollar amount set forth on Customer's invoice as due and payable from Customer.

"**Market Price**" means the ISO-published Real Time Locational Based Marginal Price for the ISO zone identified in the Account Schedule, expressed in \$/kWh, except for NYISO Zone J, where Market Price means the ISO-published Day Ahead Locational Based Marginal Price for the ISO zone identified in the Account Schedule, expressed in \$/kWh. Market Prices are published hourly or sub-hourly depending on ISO. If Customer's Account(s) are not equipped with meters that provide an hourly reading, NewEnergy will use either the load profiles provided by the Utility for Customer's class or, in the absence of such load profiles provided by the Utility on a timely basis, an otherwise reasonable allocation method established by NewEnergy, in order to apply Market Prices to Customer's monthly usage.

"**Metered Usage**" means Customer's kilowatt-hour usage at the Account(s) during the applicable billing period, as adjusted by the applicable line loss factor(s).

"**NewEnergy Electricity Charges**" means for purpose of this Pricing Schedule all Fixed cost components identified in the "Price Terms" Section above at the prices identified in the Account Schedule below multiplied, as applicable, by Customer's usage, demand, number of Accounts or other factor shown on the Account Schedule for such Fixed price during the applicable period.

"**Notice Period**" means, unless a longer period is required by applicable Law, the five day period following written notice from NewEnergy informing Customer of any amounts past due under this Agreement.

"**Payment Date**" means the date **twenty (20)** days following the invoice date, by which Customer's payment to NewEnergy is due without offset or reduction of any kind.

#### **PS 1.2. Market Definitions.**

"**Ancillary Services And Other ISO Costs**" means for any billing period the applicable charges regarding ancillary services as set forth in the applicable ISO Open Access Transmission Tariff ("OATT") and for other ISO costs not included in the definition of Capacity Costs, Energy Costs, and Transmission Costs. If Ancillary Services and Other ISO Costs are Passed Through, NewEnergy will determine Customer's monthly Ancillary Services And Other ISO Costs based on Customer's \$/kWh share of NewEnergy's cost for Ancillary Services And Other ISO Costs incurred with respect to all of NewEnergy's customers within the applicable ISO service territory or in the form of an otherwise reasonable allocation method as NewEnergy may determine from time to time based on how Ancillary Services And Other ISO Costs are assessed by the ISO.

"**Auction Revenue Rights**" are revenue credits resulting from the annual financial transmission rights auction conducted by the ISO that are awarded to NewEnergy with respect to NewEnergy's customers' transmission peak load contribution.

"**Capacity Costs**" means a charge for fulfilling the capacity requirements for the Account(s) imposed by the ISO or otherwise.

"**Energy Costs**" means a charge for the cost items included in the Locational Marginal Price for the ISO zone identified in the Account Schedule

"**Line Loss Costs**" means the distribution charges imposed by the Utility in connection with the supply of electricity by NewEnergy to Customer in accordance with this Agreement, which are calculated based on a percentage of Customer's kilowatt-hour consumption during the applicable period times.

"**Non Time Of Use**" or "**NTOU**" means all hours of each day.

"**RMR Costs**" or "**Reliability-Must-Run Costs**" means the generation deactivation charges and other such charges, if any, imposed by the ISO on load served in a particular load zone to recover the cost for any generation units that plan to retire but are required by the ISO to run for reliability purposes beyond their intended retirement date, in accordance with the applicable ISO rules and OATT provisions.

"**Transmission Costs**" means the charge for Network Transmission Service as identified in the applicable OATT Tariff for the provision of transmission service by the ISO within the Utility's service territory.

"**Transmission Loss Credits**" are amounts credited to NewEnergy by the ISO under the ISO's marginal loss construct for the load served by NewEnergy.

"**UDC**" means Utility

"**UDC Peak**" means the hours designated as peak from time to time by the Utility.

"**UDC Off Peak**" means all hours other than UDC Peak hours.

**PS 2.1. Initial Term.** With respect to each Account set forth in the Account Schedule below, the term of this Pricing Schedule shall commence on or about the date set forth under "Start Date", and end on or about the date set forth under "End Date." Service may be extended for a Holdover Term as described in this Agreement. The dates set forth in the Account Schedule below are based on the information currently available from the Utility, and actual meter read dates are determined by the Utility. If a meter read date schedule has not been published by the Utility, NewEnergy shall use its best estimate of the scheduled meter read date. The actual meter read date may occur on, before, or after the date set forth in the Account Schedule. The exact Start and End Dates under this Pricing Schedule will be determined in accordance with the Utility's actual meter read dates for the Account(s).

NewEnergy will use commercially reasonable efforts to begin service to the Account(s) on the actual meter read dates that occur on or closest to the Start Date(s) set forth below, unless off cycle dates are agreed by the Parties. If, as a result of circumstances beyond NewEnergy's control NewEnergy is unable to enroll one or more of the Accounts so the term can begin on or about the Start Date in the Account table, the Start Date(s) will commence on the next regularly scheduled Utility meter read date following successful enrollment of such Account(s), but the End Date(s) will remain the same. Circumstances beyond NewEnergy's control include, but are not limited to: (i) Customer's failure to timely provide NewEnergy with all Account related information necessary to successfully enroll the Account(s) with the Utility; (ii) Customer's failure to assist and or confirm, as needed, NewEnergy in notifying the Utility that it has selected NewEnergy as its supplier or (iii) any acts or omissions of the Utility (including a change in an Account's meter read cycle). NewEnergy will not be responsible for any gaps in service that may occur between the termination of Customer's service from a prior supplier and the commencement of supply from NewEnergy.

**PS 2.2 Renewal Terms.** Nothing in the Agreement (including this Pricing Schedule) shall be deemed to require or otherwise obligate NewEnergy to offer to extend the term of this Pricing Schedule.

**PS 2.3 Invoicing and Payment.** For amounts due under this Pricing Schedule and the Agreement, unless otherwise agreed to by the Parties, Customer will receive two invoices, one from NewEnergy for all charges applicable to Customer's electricity usage, which consists of the NewEnergy Account Representative: [E49789](mailto:E49789) | FORM: Siebel - 1-876788765 | Page - 2 - of 5 | Printed: 2/14/2011 | E14987

©2010 Constellation Energy, Inc. All rights reserved. The offering herein is sold and contracted by Constellation NewEnergy, Inc., a subsidiary of Constellation Energy Group, Inc. Errors and omissions excepted. **Non-Std (22c, 24d) ES** Std. Pricing Schedule Rev. 1.3 Apr-19-2010



Electricity Charge plus all charges identified as a Passed Through in the "Price Terms" Section above, and one from the Utility for the Delivery Charges. If Customer has elected to receive a single bill from NewEnergy for one or more of the Account(s) served hereunder, NewEnergy will invoice Customer for all Delivery Charges and related Taxes for those Account(s); otherwise, the Utility will invoice Customer for all Delivery Charges and related Taxes for those Account(s). Customer acknowledges that NewEnergy's ability to invoice Customer is dependent on the Utility's or ISO's ability to furnish NewEnergy with all necessary information. In the absence of such information, NewEnergy shall have the right to invoice Customer based on estimated meter readings or other estimated information. Customer's invoice will be adjusted the next billing cycle after which NewEnergy receives the actual consumption amount and other necessary information from the Utility or ISO, to reconcile any difference between estimated consumption and actual consumption or other matters. To the extent that dollar amounts included on an invoice are for the benefit of the Utility, Customer shall also comply with the standard terms and conditions of the Utility applicable to payments owed to it. Payments to NewEnergy are subject to adjustments in subsequent invoices if, on the basis of verified information provided by the ISO, the Utility or otherwise, the amount of electricity delivered to the Customer is adjusted. Customer shall have full responsibility for payment of any existing amounts owed to Utility.

To the extent that Customer receives a single bill from NewEnergy and fails to comply with the provisions of this Section PS 2.3, NewEnergy reserves the right to cease providing Customer with a single bill and the Customer will be invoiced directly by the Utility for all Delivery Charges and other charges related to use of the Utility's distribution system and NewEnergy will invoice Customer for NewEnergy charges only. Notwithstanding anything to the contrary in this Section PS2.3, to the extent that Customer fails to timely remit payment to NewEnergy, NewEnergy reserves the right to withhold any payments due and owing to the Utility until such payments are received by NewEnergy from the Customer. Customer acknowledges that the failure to timely remit payment to NewEnergy of amounts due and owing to the Utility may result in the Utility requesting that Customer provide a deposit and/or face disconnection of service by the Utility.

**PS 2.4 Usage Variance.** Customer acknowledges that NewEnergy determined the fixed component(s) of the NewEnergy Electricity Charge calculation, in part, based on Customer's historic and/or estimated monthly usage for each Account. Consequently, Customer agrees to bear any additional charges and costs to NewEnergy arising from, or relating to, usage outside the Covered Bandwidth, including without limitation, circumstances in which electric usage by one or more Accounts declines to *de minimis* levels or ceases altogether (for any reason other than Force Majeure). If one or more of Customer's facilities which are receiving electricity supply hereunder are closed, vacated, sold, consolidated or otherwise disposed of, then Customer may, to the extent permitted by applicable Law, terminate this Pricing Schedule with respect to the corresponding Account(s) upon 30 days written notice to NewEnergy, in which event Customer may be liable to make an early termination payment to NewEnergy under Section T2.3 of the Master Electricity Supply Agreement. Customer shall use reasonable efforts to provide NewEnergy prompt prior written notice (but in no event less than 30 days) by facsimile or electronic mail before any significant change in the anticipated usage of electricity for any facility receiving service under this Pricing Schedule, including without limitation changes due to equipment outages, plant or facility shutdowns, or changes in the operating hours of a facility.

**PS 2.5 Switching Onto and Off of Utility Supply Service.** To the extent permitted by Law, NewEnergy reserves the right, in its sole discretion and in accordance with applicable Law, to arrange for the supply of electricity to be provided to the Account(s) and to move the Account(s) onto and off of the Utility's electric tariff service, during the term of this Pricing Schedule. Customer agrees to execute in a timely manner any authorizations necessary to effectuate this process. Notwithstanding any move to the Utility's electric tariff service, the amount Customer shall be obligated to pay for such electric energy shall not exceed what Customer would pay under the prices and terms of this Pricing Schedule, and to the extent necessary NewEnergy shall credit against amounts Customer owes to NewEnergy, or if no such amounts are due to NewEnergy, pay to Customer, on a monthly basis, an amount equal to the difference between the amount charged Customer by the Utility for such electricity (the "Utility Electricity Charge") and what Customer would pay under the prices and terms of this Pricing Schedule, so long as the Utility Electricity Charge is greater than the amount Customer would pay under the prices and terms of this Pricing Schedule.

**PS 2.6 Certain Customer Acknowledgements.** Customer acknowledges and agrees that (a) NewEnergy is not acting as Customer's consultant or advisor for any purpose, and Customer will not construe or rely on any information provided or statements made by NewEnergy, including without limitation as to the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other statements or information, as advice or representations of any sort; and (b) Customer is making its own decisions based solely upon its own analysis and the advice of its own advisors, if any, and is not relying on NewEnergy in any way in making its decision to enter into this Pricing Schedule or in making any other decision or taking any other action under this Pricing Schedule.

**PS 2.7 Material Changes.** If the Utility changes the designated rate class, the locational deliverability area or the assigned transmission and capacity obligations for an Account, or if the ISO changes capacity compensation, NewEnergy reserves the right to adjust its prices, and any such adjustment will reasonably reflect the incremental cost to NewEnergy. Any such change and corresponding adjustment by NewEnergy shall not be considered a "Change in Law" subject to Section T2.5 of the Master Electricity Supply Agreement.

**PS 2.8. NewEnergy and Utility Contact Information.** Customer may contact NewEnergy regarding its invoice or other matters concerning this pricing Schedule at NewEnergy's Customer Service Department by toll-free telephone at 888-635-0827, or email at [customercare@constellation.com](mailto:customercare@constellation.com). **CUSTOMER AGREES TO CONTACT ITS UTILITY IN THE EVENT OF A POWER OUTAGE OR OTHER ELECTRICITY RELATED EMERGENCY AT THE FOLLOWING TELEPHONE NUMBERS:**

Utility Name	Utility Abbreviation	Contact Numbers
Commonwealth Edison	COMED	Emergency: 8003347661

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.]

Each party has caused this Agreement to be executed by its authorized representative on the respective dates written below.

CONSTELLATION NEWENERGY, INC.

Customer: DuPage Water Commission

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:  
Title:  
Date:  
Address: 1221 Lamar St. Suite 750  
Houston, Texas 77010  
Attention: Contracts Administration  
Facsimile: (866) 470-0482  
Telephone: (312) 704-9200

Name: Terrance McGhee  
Title: Acting General Manager  
Date:  
Address: 600 East Butterfield  
Elmhurst IL 601264642  
Attention:  
Facsimile: (630) 824-0120  
Telephone: (630) 834-0100  
Email Address: [mcghee@dpwc.org](mailto:mcghee@dpwc.org)